United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, MAY 12, 2005 No. 62

Senate

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

PRAYER

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

Let us pray.

Almighty God, our refuge and strength, a very present help in the time of trouble, we thank You that You have set the star of hope in our life's sky, that in the darkness we can see Your brightness, that in times of shadow we can enjoy Your leading and guiding.

Lord, yesterday we were again reminded that life is fragile. As alarms sounded and brave people prepared for the worst, we could sense the uncertainty of our existence. Remind us daily that human flesh is as fleeting as fading flowers and withering grass. Teach us to number our days, to labor not simply for time but for eternity.

Protect our Senators in their going out and coming in, in their rising up and lying down. Give them the wisdom to believe that nothing can separate them from Your love. In a special way, bless our Capitol Police who daily labor with courage, competence, and commitment.

We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the last half under the control of the Democratic leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a 1-hour period for the transaction of morning business. Following that time, we will begin an hour of debate prior to the vote on invoking cloture on the substitute amendment to the highway bill. Senators can expect the cloture vote to begin sometime between 11:30 and 11:45 this morning. I expect cloture will be invoked and we will then be on a glidepath to finishing the bill. Once cloture is invoked, if invoked, I will be consulting with Chairman INHOFE and the Democratic leader to determine how much work is left before we are able to complete the bill.

I anticipate votes on amendments throughout the day today and into the evening, if necessary, to bring the bill to a close. Although a large number of amendments were filed to the highway bill yesterday, I believe Members will show restraint and not offer many of those that were submitted to the desk.

We are closing in on our second week of consideration of the highway bill and I look forward to completing the bill and getting this measure to conference as quickly as possible.

VISIT TO CAIRO, EGYPT

Mr. FRIST. Mr. President, the past 2 days I have taken the opportunity to come to the Senate to discuss my recess trip last week to the Middle East. As I mentioned yesterday, it was a fascinating experience that allowed me a firsthand glimpse of the complicated challenges facing the region. At each of my stops I had the opportunity to meet with top officials, community leaders, and I made a point of visiting with opposition candidates. With each conversation I became more convinced that despite the deep differences that divide them, each party wants peace, wants prosperity, and each side knows that dialog is the way forward.

Tuesday I spoke of my meetings in Israel. Yesterday I reported on my visit to the West Bank. Today I will briefly comment on my time in Cairo, Egypt.

We arrived on May 5 to a jampacked city of over 20 million people. We first met with President Hosni Mubarak, a lively and engaged and obviously well-informed man. We had an open and frank discussion about many of the issues facing the country, as well as the region at large.

In particular, President Mubarak expressed his strong belief in American leadership in the issues surrounding the Israeli-Palestinian peace efforts. We both agreed America is uniquely positioned to help both the Israelis and the Palestinians bridge their differences. We also agreed Egypt is critical to advancing this peace. As the regional Arab power broker and the first Arab country to make peace with Israel, this will be particularly true in the period following Israel's disengagement from Gaza.

There is great concern among Israelis that once they withdraw, Gaza will be used as a platform to launch attacks into Israel. President Mubarak stressed to me his commitment to keep this from happening. He stressed it is in Egypt's own interest to prevent Gaza from descending into chaos and lawlessness. That is why his country is prepared to field a border security force of 750 guards to stop weapons

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

smuggling into Gaza and to prevent other criminal acts.

We also discussed the upcoming Egyptian Presidential elections. President Mubarak has asked his legislature for a change in the Constitution to allow multiple candidates to run for the Presidency. This is an important step toward full democracy. I applaud his efforts. I am disappointed, however, by reports that the Constitutional amendment just approved by Egypt's upper house requires Presidential candidates to meet certain conditions to win a place on the ballot. It is widely believed these regulations will prevent any serious contenders from running for President. In short, unless this amendment is modified, its final approval will practically guarantee the ruling party will select its own token competitors and continue its domination of the Presidency.

Meaningful reform means free and fair elections. Opposition candidates must be able to declare their candidacy freely. They must be allowed to broadcast their message through the media. And they must be permitted to acquire the resources necessary to run a genuine campaign.

Jailing opposition candidates, such as Ayman Nour, whom I had the opportunity to meet with in his apartment, and who recently declared from prison his intention to seek the Presidency, undermines the true meaning of democracy, and it undermines the people's faith that the Government is working on their behalf.

Egypt has been a close ally and good friend of the United States, but it still has a long way to go on the path toward political reform. After my meeting with President Mubarak, I held talks with Prime Minister Ahmed Nazif. He is pushing strong economic reforms throughout the country. He is lowering taxes and lowering other economic barriers, stripping away unnecessary regulations, and it is working.

According to the Prime Minister, the public sector used to contribute 70 percent to the GDP and the private sector 30 percent. Now those numbers are reversed, with the private sector contributing 70 percent and the public sector 30 percent. The economy is growing.

Lowering taxes and breaking down these barriers to opportunity are the keys to prosperity. It is gratifying to see this basic principle being embraced around the world. After failed experiments in socialism, as well as nationalism, Egypt appears to finally be embracing the power of free markets.

I am hopeful that as economic opportunity flourishes, the allure of extremism will fade, and the people and the leadership will be inspired to secure ever greater political freedoms.

While in Cairo, my group and I also visited the El Gallaa Maternity Teaching Hospital—the largest of its kind in the region. It is a large public teaching hospital. Over 20,000 babies are born there each year.

As I toured the hospital, I had the opportunity to meet with Egyptian doctors and nurses and other health professionals. I was also taken to the pediatric intensive care unit where dedicated health professionals worked to keep premature babies and at-risk newborns healthy. Their determination was inspiring, especially surrounded as they were by less-than-ideal conditions in downtown Cairo.

All in all, I came away from my stop in Egypt convinced that this historic country has the potential to set a positive example for the rest of the Middle East, and it is doing so. Egypt has been a trusted partner in the Middle East peace process and an important ally in the war on terrorism.

The United States must continue to promote democracy and freedom around the world.

As Egypt embraces these reforms, I am confident our two countries can form a stronger and more dependable relationship. I am confident that together we can achieve peace, security, and prosperity for the people of the Middle East.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from South Carolina.

JUDICIAL NOMINATIONS

Mr. DEMINT. Mr. President, in January of this year, I stood in this very Chamber, placed one hand on the Bible, and raised the other hand. In taking my oath of office, I made a simple pledge to uphold the Constitution of the United States of America. However, only 4 months later—because of the partisanship of some—I am prevented from fulfilling my oath.

It is interesting to observe what the Constitution requires of the Senate and what it does not. Nowhere does it say that Congress must pass new laws. But it does specify Senators must ''advise and consent'' on the President's judicial nominees.

How can I perform my constitutionally mandated duties to advise and consent without the ability to vote on the nominees sent to us by the President? How can I represent the people of South Carolina, who elected me to serve their interests, without the ability to vote yes or no?

Today, 41 Senators are preventing a bipartisan majority from carrying out the duty we were elected to fulfill. This is outrageous.

The President of the United States is given the authority, under the Constitution, to choose his own nominees. We have an obligation to vote on those nominees. Forty-one Senators are trying to thwart the will of the American people and the Constitution.

Beginning in 2003, Democrats used the filibuster to block up-or-down votes on 10 nominations to the Federal appeals courts. All had bipartisan, majority support. Do not be fooled by the misinformation of a few. Never in history has a judicial nominee with clear majority support been denied confirmation due to a filibuster.

Throughout my campaign, and each time I have been home this year, folks in South Carolina have told me how furious they are that the President's nominees are being denied a vote. Democrats have chosen to throw 200 years of tradition out the window by refusing to give judicial nominees a vote, and Americans are simply tired of the partisan obstruction.

Before I was elected, I said the Senate had become a ''graveyard of good ideas'' due to partisan liberal obstruction. Unfortunately, it has now become a ''graveyard of good nominees,'' such as Janice Rogers Brown.

California Supreme Court Justice Brown was nominated to the DC Circuit by President Bush in 2003. The first African American to serve on the California high court, Justice Brown received public support from 76 percent of California voters and is widely respected as a leading intellect on the bench. She has been unanimously voted as ''well qualified'' by the American Bar Association, which has been described by those who oppose her nomination as the ''gold standard'' of judicial ratings.

The daughter of sharecroppers, Justice Brown was born in Greenville, AL, in 1949. During her childhood, she attended segregated schools and came of age in the midst of Jim Crow policies in the South.

She has dedicated 24 years to public service, serving as legal affairs secretary to California Governor Pete Wilson; deputy secretary and general counsel for the California Business, Transportation, and Housing Agency; deputy attorney general in the Office of the California Attorney General; and as deputy legislative counsel in the California Legislative Counsel Bureau.

Just what is it that opponents of Justice Brown claim is their reason to deny her a fair vote? They obviously could not attack her experience or her character or her education or her intelligence, which are all impeccable.

Instead, they have used the political equivalent of a desperate ''Hail Mary Pass.'' They labeled Justice Brown as ''out of the mainstream.'' Really? Out of the mainstream?

Were three-quarters of Californians out of the mainstream when they elected her overwhelmingly to the State supreme court? She was elected by the largest margin of any of the judges up for retention that year.

Despite the claims of her opponents, her record demonstrates a commitment to interpreting the law, not legislating from the bench.

If the obstructionist Senators who are vehemently opposed to her nomination feel so strongly that she is out of the mainstream, then they should put their money where their mouth is and come down to this floor and make their arguments against her nomination, then allow all of us to draw our own conclusions and cast our vote.

If Justice Brown is so truly unqualified, then surely her opponents would

be confident of convincing a majority that this is the case. Otherwise, they are simply smearing the integrity of a highly respected jurist in order to score political points against the President at the expense of vandalizing the Constitution.

One of my goals as a Senator is to confirm highly qualified judges by ensuring timely up-or-down votes for all nominees no matter who is President, no matter which party is in the majority. That is my commitment, and I have encouraged Senator FRIST to consider all options, including the constitutional option, to end the undemocratic blockade of judicial nominees. Senators were elected to advise and consent, not to grandstand and obstruct.

I would like to say something to my colleagues across the aisle. There is a reason George W. Bush was elected to serve as President of the United States. It is because the majority of Americans trusted him to nominate judges.

There is a reason the American people elected a majority of Republicans to the Senate. They trusted our judgment to vote on judicial nominees.

There is a reason the Democratic Party is in the minority in Congress. It is because the American people did not trust them to make these decisions.

It is not a trivial matter. The issue of judicial nominations was at the forefront of every Senate campaign in the last two cycles. Voters across our Nation witnessed the obstruction of the Democrats over the last 4 years, and they rendered their judgment at the polls.

In 2002, they returned the Republicans to the majority in the Senate. Then, after 2 years of unprecedented and, in my opinion, unconstitutional denials of simple votes on judicial nominees, Americans elected an even larger majority of Republicans. In fact, the Democrat leader, former Senator Tom Daschle, was defeated by my colleague, Senator JOHN THUNE, in large part due to his high-profile obstruction of judicial nominees.

In my own campaign, I spoke frequently about the need to give every nominee a fair up-or-down vote. It was consistently the main issue voters brought up with me one-on-one.

Now that the American people have clearly spoken, by democratically electing a Republican President and a Republican majority in the Senate, 41 Senators are attempting to deny the will of the people. Forty-one Senators believe they know better than the majority of Americans. Forty-one Senators seem to think the elections and constitutional duties we have do not matter. What matters to these 41 Senators is petty partisan politics.

This temper tantrum must end. The Democrats must accept the judgment of the American people. They cannot disregard election results simply because things did not go their way.

Now let me speak to my own party's leadership. It is time for the Republican Party to lead, as Americans have elected us to do. We were not sent to the Senate as a majority to quibble about process and procedure. We were entrusted to carry out the duties laid out in the Constitution.

We ran on a platform of ideas to secure America's future, and the Nation largely agreed with our vision. We also ran on the need to give the President's nominees a fair up-or-down vote. The Senate Republican majority must stand up for the Americans who elected us. We must have the courage and conviction to uphold the Constitution and end the partisan obstruction. The time to act is now.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I am pleased to take the floor again on the matter of judicial nominations. As the emotions and politics of this issue keep building up, it is important we not lose sight of what this is all about. We have all heard the grim, little joke about the doctor who said: The operation was a complete success, but the patient died.

Sometimes we get so caught up in process that we ignore the reasons we are here in the first place: to achieve an outcome for the American people to get things done, to make a difference.

The outcome the people want, the outcome the President deserves, and the outcome the Constitution demands is an up-or-down vote—a simple up-or-down vote—on each of the appointments the President has submitted to us.

A couple years ago, I stood right over there, in front of that desk, and swore an oath to the Constitution of the United States of America. The Constitution directs each Senator to ''advise and consent'' on judicial appointments by the President, not to advise and obstruct, not to advise and block, but simply advise and consent—which simply means, and has always meant in the history of this country, up until last year, the opportunity for an up-or-down vote.

If you ask me, the term ''nuclear option'' belongs to the tactics taken by the minority, unfortunately, in the last 2 years. I would say they are treading on the traditions of this body, the balance of power between the branches, and the Constitution that we are sworn to uphold.

As the Bible says, what you sow, you will reap. When some in the minority decide to flaunt the historical procedures and understandings of this body, they should not be weeping and wailing and gnashing their teeth when the majority steps up to restore—to restore—200-plus years of accepted practice in this body, which is an up-or-down vote on judicial nominees once they have passed through committee. If the minority is feeling injured, they brought it on themselves.

Mr. President, I want to illustrate what a dramatic departure from historical precedent some in the minority have embarked upon in the last year when 10 of the President's judicial nominees were filibustered. For the first time, 10 circuit court nominees, at the level right below the Supreme Court, were filibustered.

Just look back a few years to the nomination of Clarence Thomas to the Supreme Court in 1991. It was a media circus, riven with charges, accusations, and controversy. Clarence Thomas was confirmed with a vote of 52 to 48. If the Democrats had wanted to defeat him, they simply could have filibustered his nomination. But they did not.

They could have filibustered his confirmation, but they did not. Did they fail to do so because they simply wanted to be nice? No. It is fair to state that they didn't filibuster because at that time, in 1991, it wasn't even conceivable, it wasn't in the history and tradition of this body that nominees who get through committee or to the floor would fail to get an up-or-down vote, 52 to 48. Have no doubt about it, if what is going on today was going on then, Clarence Thomas would have been filibustered. It did not happen. At that time, my colleagues did the right thing. They honored two centuries of tradition and allowed him an up-or-down vote.

I have done some quick research. Of the 109 Justices of the Supreme Court, my staff counted 55 Supreme Court Justices who could have been defeated if one of the parties had adopted the nuclear option, the filibustering of nominees, now employed by some in the Senate minority. Half of the Supreme Court Justices in our Nation's history might never have served. Who could that have cost us? Benjamin Cardozo, nominated by President Hoover, who gave us proximate cause, a cornerstone of today's tort law. Every college kid in America, including me, read Cardozo's opinion. How about Justice Marshall Harlan, appointed by President Hayes. He was the lone dissenter in Plessy v. Ferguson which upheld segregation policies. Fortunately, we did not force Justices Cardozo or Harlan or other Justices to overcome a partisan filibuster. It was not done. In fact, not only did we not filibuster the other party's nominees, we often elevated them, as was the case with Harlan Fiske Stone, who was appointed by a conservative President, Calvin Coolidge, and then elevated to Chief Justice by Franklin D. Roosevelt.

I could go on. Does anybody in this Chamber doubt in today's environment that William O. Douglas would never have made it to the Supreme Court, that his nomination would have been filibustered? Does anyone in this Chamber doubt for a moment today that Justices Antonin Scalia and William Rehnquist would not have a chance to serve on the Supreme Court because of a filibuster?

We have to think about the consequences of this dangerous precedent that unlimited debate be used to deprive the whole Senate of an up-or-

down vote. The consequences are that individuals with strong opinions—and they may be liberal or conservative—and great intellect would not have an up-or-down vote.

There has been an ebb and flow in American politics.

The Bible says there is a time for every season. There are Republican Presidents. There are Democratic Presidents. There is ultimately a balance. What is happening today, what happened last year with the unprecedented filibustering of judicial nominees was an attempt to change the Constitution, to require a supermajority for Supreme Court and circuit court nominees. We are changing the flow, changing the balance. We are getting rid of and will deprive this Nation of people with great intellect and passion because they won't be able to get past the roadblock of the minority.

The caution I hope some in the minority will take to heart is, what happens when the shoe is on the other foot. How would they feel if a future Democratic President's nominees were treated in the same fashion? In this body, we have to live with the precedents we set. The whole concept of due process is about guaranteeing a set of procedures which reach a fair outcome. It is not about guaranteeing one particular outcome.

Some in the minority are so bent on defeating a few of the President's nominees that they will distort the process to achieve the outcome. They will distort precedent and tradition. They will distort what has given us a balance of great intellect and passion and great minds on the Supreme Court. We will lose that. That would be a terrible thing.

We are stewards not only of government but of the Constitution. It is our solemn oath to maintain the orderly completion of the Senate's business, specifically the fulfillment of our constitutional responsibility. Today, we are on the cusp of having to assert the constitutional option. I hope it will not come to that.

Now I hear rhetoric from some Members of the minority that they are prepared to compound their error by killing the remainder of the jobs agenda that we are ready to pass in the Senate. The National Association of Manufacturers said this week that passage of the jobs agenda items—including the highway bill, the Energy bill, the asbestos reform bill, and telecom rewrite—would be a $1 trillion jolt to the American economy, to the U.S. manufacturing industry. Any Senator from States that don't need manufacturing jobs should feel free to object.

We need to focus not on the process but the result. I have a responsibility to advise and consent on the appellate judges the President has submitted. I will exercise that responsibility whether there be a Democratic President or a Republican President. I will look to their qualifications and then give them what they deserve: an up-or-down vote.

If need be, I support my leadership taking necessary steps to allow me to reach that constitutional decision with a simple up-or-down vote. That is all we are asking for.

I yield the floor.

The PRESIDING OFFICER. The majority whip is recognized.

VACANCIES ON THE SIXTH CIRCUIT

Mr. MCCONNELL. Mr. President, for the last 4 years, I have taken to the Senate floor from time to time to decry the crushing burden under which the Sixth Circuit Court of Appeals operates. The year has changed, but one seemingly immutable fact remains: The Sixth Circuit is the slowest judicial circuit in the country by far.

The Sixth Circuit has 16 seats. It covers Michigan, Ohio, Kentucky, and Tennessee, with a population of over 30 million people. For the last 3 years, the Sixth Circuit has been trying to function with 25 percent of its seats empty. Twenty-five percent of the Sixth Circuit is vacant. The vacancy rate is, as it has been for much of this dispute, the highest of any circuit in the Nation.

Not surprisingly, the judicial conference has declared all four of these vacant seats to be judicial emergencies. According to the Administrative Office of the Courts, last year, as the year before it, the Sixth Circuit was a full 60 percent behind the national average. According to AOC, the national average for disposing of an appeal is 10½ months, but in the Sixth Circuit, it takes almost 17 months to decide an appeal, 16.8 months. That means that in other circuits, if you file your appeal at the beginning of the year, you get your decision around Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you get your decision after the following Memorial Day, over a half a year later.

As the obstruction drags on year after year after year, things have gone from bad to worse. In 2001 and 2002, the Sixth Circuit was also the slowest circuit in the country. In those years, the average time for decision in the Sixth Circuit was 15.3 and 16 months respectively. In 2003, the average length of time for decision in the Sixth Circuit jumped to almost 17 months, 16.8—again, the slowest in the country.

I guess things have now hit rock bottom because the AOC reports that last year, 2004, the Sixth Circuit suffered from the same delay, almost 17 months, 16.8. Yet again, it was the slowest circuit in the Nation.

We all know the old saying that justice delayed is justice denied. The 30 million residents of the Sixth Circuit have been denied justice due to the continued obstruction of Sixth Circuit nominees by our Democratic colleagues.

What is the reason for this sorry state of affairs? An intradelegation spat from years ago when a quarter of the current Senate wasn't even here, nor was the current President. This dispute drags on year after year after year. I don't know who started it. I do know that with respect to nominees not getting hearings, the Democrats do not have a monopoly on disappointment. I also know that the obstruction that some of my colleagues are practicing on the Sixth Circuit is out of proportion to any alleged grievance.

My Democratic colleagues continue to block four Sixth Circuit nominees from Michigan: Henry Saad, David McKeague, Richard Griffin, and Susan Neilson. They are also blocking three district court nominees: Thomas Ludington, Dan Ryan, and Sean Cox. In fact, no Federal judges from Michigan have been confirmed during the Bush administration. Of the seven vacancies the Democrats refuse to let the Senate fill, five of the seats were not even involved in this dispute. Let me repeat that. Of the seven vacancies the Democrats from Michigan will not let be filled, five of the seven were not even involved in whatever this ancient dispute was.

President Clinton never nominated anyone to the seat to which Henry Saad was nominated. The seat to which David McKeague was nominated did not even become vacant until the current Bush administration on August 15 of 2001, and the three district court seats that are being blocked are not involved in the dispute, either. So five of the seven seats had absolutely nothing to do whatever with this dispute that went back to the Clinton years.

What the Michigan Senators are doing is holding up one-fourth of an entire circuit in crisis, along with three district court seats, because of internal disputes about two seats, the genesis of which occurred years and years ago. This is an absolutely embarrassing situation.

What are our friends from Michigan demanding in order to lift the blockade? They want to pick circuit court appointments. Let's get back to first principles. As much as they would like, Democratic Senators do not get to pick circuit court judges in Republican administrations. In fact, as much as we would like on this side of the aisle, Republican Senators do not get to pick circuit court judges in Republican administrations. In short, circuit court appointments are not Senatorial picks. Article II, section 2, of the Constitution clearly provides that the President and the President alone nominates judges. It then adds that the Senate is to provide its advice and consent to the nominations the President has made. By tradition, the President may consult with Senators if he chooses, but the tradition of consultation does not transform individual Senators into co-Presidents. We have elections for that, and President Bush has won the last two.

Finally, the Democrats have recently indicated that they will afford three of the circuit nominees an up-or-down

vote along with one of the other filibustered nominees if we abandon our efforts to ensure that all nominees receive an up-or-down vote. The Democrats don't care which of the other four nominees are put on the bench because they let us pick the nominee.

Well, we are not going to toy with these people's careers. They have waited patiently for years to receive the simple dignity of an up-or-down vote, and we are working to restore the norms and traditions of the Senate that existed prior to the previous Congress so they may receive one. But the fact that our Democratic colleagues are now willing to afford one or more of the individual filibustered nominees the courtesy of an up-or-down vote but not allow the same nominees collectively to receive up-or-down votes shows that our Democratic colleagues recognize that each of these nominees is deserving of an up-or-down vote. More than that, it shows the partisan and political nature of the opposition.

Last year, our Democratic colleagues said all seven of these judicial nominees were ''too extreme.'' Now they say only three are too extreme. So one of the following three statements is true: The nominees changed, or the Democrats' definition of what constitutes extremism has changed, or they never really meant it in the first place. Let me repeat that. One of three things is true: Either the nominees who were extreme last year are not extreme this year, the Democrats' definition of what constitutes extremism changed between last year and this year, or they never really meant it in the first place.

It is no wonder many people concluded that what is at work is really just partisan politics. Mr. President, we should not play partisan games with the nomination process. We should take our constitutional duties seriously.

I ask our Democratic colleagues to afford these nominees collectively what they are willing to afford each of them individually; that is, a simple up-or-down vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

TERRORISM RISK INSURANCE EXTENSION ACT OF 2005

Mr. SCHUMER. Mr. President, I ask unanimous consent that Mr. REID from Nevada be added as a cosponsor of S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by my friend, Senator DODD of Connecticut.

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

Mr. SCHUMER. Mr. President, we still live in America, and particularly in my city of New York, in the shadow of 9/11, of the terrorism that occurred. Obviously, the thousands of families who have had a loved one taken from their midst live with it every moment of their remaining lives, but the rest of us live with it, too, not only in empathy for them but also in terms of the economic consequences of terrorism.

The bottom line is very simple, and that is, because of terrorism, the insurance industry, in terms of insuring risk of large structures in America—whether it be large buildings that make us so proud of the Manhattan skyline, or large arenas such as the football stadiums that dot America, or larger facilities such as Disneyland, Disney World, and amusement parks—all have difficulty getting insurance.

Insurers are worried that if, God forbid, another terrorist act occurs it will be so devastating that it will put them out of business. So they either provide no insurance or provide it at such a high rate because of the downside risk. Small as it may be—and we hope it is—it is still possible that an act so enormous that if, God forbid, it occurs, they do not want to be involved.

So 2 years ago, the Senate, House, and the President got together at sort of the end of the day and passed terrorism risk insurance. It has been a large success. Insurance rates have come down, terrorism insurance is available, and insurance companies know if, God forbid, the worst happens there will be a backstop, and they are willing to issue policies. In turn, that means developers, builders who want to build new large structures in America, will do so, employing thousands and thousands of people, creating profits and new businesses as well.

We now come to the fact that this legislation expires—it was passed as an experiment; those who were dubious of it said, Let's see how it works—in December. But the urgency to act is much sooner than December because policies are not written for 6 months. If right now you are a business and you want to renew your insurance against risk for 1 year or 2 years or 3 years, that policy would go beyond December.

What the insurers say to many is, ''I will raise your rate dramatically'', which will raise costs and shut down construction, or ''I will not insure you at all'', which certainly shuts down construction. It means nothing will get built. So we should move this legislation quickly.

I stress we do not need to repeat last year by delaying and delaying. Last year, we began to witness, when we delayed a great deal, a loss in economic activity in the larger cities of this country in particular, even though we were well aware that ultimately this had to be done.

There are really only two alternatives. One is going to be no terrorism insurance. The private market will not fill the gap. That will prevent tens of billions in projects from going forward this summer and this fall, not next year but right now.

The second is that the market will fill the gap but only at such extraordinary prices and only in unique situations that the same thing would happen.

Why are we sitting in the Senate and in the House twiddling our thumbs? Our economy is squishy, oil prices are up, other economies outside of Asia are down, including Japan's actually, and, therefore, we are worried about the economy, and here we are putting another log on the tracks in the way of economic recovery.

There can be no dispute that terrorism insurance works, and there can be no dispute that if we do not renew it, there will be trouble. The ratings agencies have said in no uncertain terms that come December 31, if there is no terrorism insurance, they are not going to be able to give any kind of decent rating to any insurance offer.

These guys are insurers. They look for risk. They live with risk. They wake up in the morning thinking a risk, they go to sleep at night thinking a risk. We can say, oh, well, and have an ideological debate about how much should the Government be involved, or we can say, actually, people are not as worried about terrorism. It does not matter what you think, Mr. President, or what I think, it is what these insurers think. If the rating agencies say they are not going to give a decent rate to insurers, it is over, and we will not have it.

Moody's noted in an insurance brokers report that up to 75 percent of the policies written since January 1 have adopted a conditional endorsement that voids terrorism coverage if TRIA is not renewed. As we go through the year, the number of endorsements, they said, is expected to increase.

The report specifically stated these conditional endorsements appear to be an indication that unless terrorism insurance is renewed, premium spikes or a sharp reduction in the availability of coverage may result.

The report warns—this is very important—that Moody's is unaware of any viable private market initiative that would take the place of TRIA.

There are some who say: Let it expire and let's see what the market does. That is taking a huge risk because if the market does not come in, then we have hurt construction workers, laborers, and all those who would work in these buildings.

Alan Greenspan, the Chairman of the Federal Reserve, is a very well-respected voice around here, as he should be, in my opinion. He is a free-market guy. He does not like Government involvement. Right now, I am going toe to toe with him about Fannie Mae and Freddie Mac. He would like to curb their role because he does not like the Government involved. I think they are needed in the housing market. But on

terrorism insurance, even Alan Greenspan admits it is needed. Here is what he said:

> This is a very difficult issue, because remember that the private markets work exceptionally efficiently in a civilized society in which domestic violence or violence coming from abroad is not a central factor.
>
> You cannot have a voluntary market system and the creation of markets, especially insurance markets, in a society subject to unanticipated violence. And as a consequence, there are certain types of costs, which is what we have the Defense Department protecting us from, which we essentially choose to socialize.
>
> The less of that we have, the better off society is.

Of course, this is his view, and he wants to make sure you know he does not want us to do this everywhere.

> There are, nonetheless, regrettable instances in which markets do not work, cannot work. And while I think you can get some semblance of terrorism insurance, I have not been persuaded that this market works terribly well.

It is pretty clear, we need to renew this legislation, and it is likely we will renew it. What is so incredible is we are waiting and waiting, and every day we wait causes damage to jobs and the economy.

The bottom line is that financial dislocation caused by another possible terrorist attack—God forbid—is too much for our country to risk. I urge the entire Senate to pass this legislation quickly. It is cosponsored by 25 of my colleagues, and we should move it without delay and let the markets, let the insurance world, and, most of all, let jobs and construction go forth.

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

The PRESIDING OFFICER. The clerk will call the roll.

The Journal clerk proceeded to call the roll.

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

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

Mr. REED. Mr. President, I would like to be recognized as in morning business.

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

Mr. REED. Mr. President, I rise to discuss the Terrorism Risk Insurance Act, or TRIA. This law is necessary to make our economy function smoothly and effectively and to protect it from the risk of a terrorist attack.

After 9/11, we enacted a number of measures including the Terrorism Risk Insurance Act, to enhance and stabilize the security of our citizens and our economy. TRIA provided a high-level Federal backstop that allowed private insurance and reinsurance markets to return and to allow American businesses to overcome the shock of September 11. TRIA seems to have performed exactly as we intended, but as we all know the program expires at the end of this year. I am getting concerned that we are fast approaching the point where we need to move forward and reauthorize the TRIA. We can't allow this program to expire without a short-term extension or longer term solution to be put in place.

But as we consider whether to extend TRIA, we should look closer at the two main goals we tried to accomplish with the law. First, as I just noted, we wanted to make sure that the market and the economy functioned in the wake of 9/11 and in the face of the threat of terror. After 9/11, the insurance companies looked at their risk for the first time in the context of a mass casualty destructive act that would destroy buildings, that would kill perhaps thousands of people, and they decided that they alone could not take this risk. In light of the new conditions, the passage of TRIA, provided a necessary backstop, and allowed the private insurance companies and the market to function effectively.

One of the areas that I became concerned about was workman's compensation. Most people would say: What does that have to do with a major attack that falls upon a large building or a major city or some other key facility? The point is thousands of workers are covered by workman's compensation. Those deaths and injuries would trigger workman's compensation. That is just one example of the situation caused by 9/11, the situation of uncertainty, the situation of potentially huge losses which never before were fully calculated by the insurance companies. That part of the purpose of TRIA has worked very well. Our insurance markets are functioning smoothly today.

But there is a second important reason, and that second important reason is that many of us felt that we needed to have a policy in place all the time to allow the economy to rebound more quickly in the unfortunate event of another terrorist attack here in the United States.

Let me just remind you, as we left this Chamber yesterday morning, as we moved to assembly areas, as we evacuated all these buildings, the notion of a further terrorist attack was not something hypothetical or remote. For an instant there, there was real concern that we would be struck again. And if we are struck again and we do not have in place a terrorism reinsurance program, the insurance industry will once again face the same dilemma we saw on 9/11: we can't cover these risks; we are overexposed; we can't provide insurance in the future. That slows the economy down and potentially in many different ways. TRIA has to be in place. As long as we are sincerely persuaded that there is a terrorist threat, and I know I am, then we have to have this TRIA program in place.

Some opponents of the extension argue that TRIA should be a temporary program because by ending it private terrorism insurance markets will be forced to stabilize and provide adequate capacity to meet the demand for coverage. I do not think that will happen. I think the markets will stabilize because companies will not write risks. And if you are trying to build a major building in a major city, guess what? Try to get insurance. If you propose to put in a major office complex with thousands of workers, try to get workman's compensation insurance. You will not get it. That is the way the market will respond to the uncertainty caused by the potential attack of terror, and that will hurt our economy grievously. I think we have to recall and realize that we still are under the threat. I think we have to also be conversant with the fact that there will be dramatic economic effect even if a small attack is waged by terrorists because the psychological dimension is just as important in many respects as the physical damage. So we have to have in place this terrorism reinsurance program, and we are running out of time to do it right, carefully, thoroughly, and get it done before the end of the year. As you may know, the Treasury Department is required to report to Congress by June 30 of 2005 on issues associated with the act and its purposes. While I am looking forward to the conclusion of the Treasury Department study, it will have little, if anything, to do with the second aim of the law; namely, having a policy in place in the event there is another attack in the United States.

It is this ''preparedness'' reason that most compels me to believe that we need to continue a Federal terrorism insurance program. This Congress, Senator DODD and Senator BENNETT reintroduced the extension bill, S. 467, the Terrorism Risk Insurance Extension Act of 2005, of which I am an original cosponsor. In addition to extending TRIA to 2007, this bill establishes a Presidential working group on financial markets to submit a report to Congress containing recommendations to address the long-term availability and affordability of terrorism risk insurance.

The administration thus far has been silent on extending TRIA. It is essential that the administration lead rather than follow in this process of legislative deliberation. Furthermore, vacancies in key administration positions have led to a vacuum in leadership and communication needed for good policymaking as we approach deliberations on TRIA. Extending TRIA is absolutely the right thing to protect the economic security of our country. I urge my colleagues to take a close look at this legislation and join us in supporting it.

I thank the Chair. I yield back my time.

Mr. REID. Mr. President, I ask unanimous consent to include in the RECORD at the conclusion of my remarks a written statement that I submitted at a symposium sponsored by the U.S. Chamber of Commerce on extending the Terrorism Risk Insurance Act, or TRIA, and a letter signed by seventy-four CEOs of the largest integrated financial services companies in

the country which provide banking, insurance and investment products and a second letter from the Coalition to Insure Against Terrorism, CIAT, which represents over seventy-five companies and major associations, a virtual cross section of the U.S. economy, both of which express strong support for extending the terrorism insurance program.

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

(See exhibit 1.)

Mr. REID. Mr. President, in 2002 I cosponsored, and Congress passed, the Terrorism Risk Insurance Act, commonly referred to as TRIA. This important legislation provided a government backstop for the terrorism insurance market that disappeared after the attacks of September 11. TRIA is working. Today, because of TRIA, terrorism risk insurance is available and businesses have meaningful access to coverage. The primary purpose behind TRIA, and the reason it needs to be extended, is to make sure that the American economy and markets function in the face of a terrorist threat. There needs to be a mechanism in place to allow the economy to rebound more quickly and to protect American jobs in the unfortunate event of another terrorist attack here in the United States. The threat of an attack has not gone away and will not go away when TRIA expires at the end of 2005.

While some in Washington continue to hope that a private market will develop in the absence of TRIA, let me quote from two reports put out recently by those who are in the business of watching markets. The first is a Special Report by the rating agency Moody's Investors service dated April 28 which expressed concern about the potential effects of the pending expiration of the Terrorism Risk Insurance Act, TRIA.

Moody's noted, that insurance brokers report that up to 75 percent of policies written since January 1st have adopted a conditional endorsement that automatically voids terrorism coverage if TRIA is not renewed, and that the number of conditional endorsements is expected to increase as the year progresses. The report stated, ''These conditional endorsements appear to be an indication that unless TRIA is renewed, premium spikes, or a sharp reduction in availability of coverage, may result. The report warns, ''Moody's is unaware of any viable private market initiative that would take the place of TRIA.''

Secondly, Marsh Inc., in a report released on April 25, entitled Marketwatch: Terrorism Insurance 2005, concludes: ''If TRIA is not extended, the stand-alone insurance market is unlikely to have sufficient capacity to satisfy all of the expected demand at commercially viable prices.''

The Bush administration official who spoke at the recent U.S. Chamber symposium on TRIA simply gave those in attendance a history lesson on the issue, but refused to give any indication whether the administration would support or oppose an extension of TRIA. Policy holders from major sectors of the economy—real estate, financial services, energy, entertainment, hotel, and hospital industries—feel like they are being left to twist in the wind wondering whether the administration and the Congress are going to take the necessary action so that they can properly and responsibly protect their properties. There is absolutely no sense of urgency by this White House and I think they would like to see this issue quietly go away.

The financial dislocation caused by another possible terrorist attack is too important to ignore and we should not continue to delay action on an issue that is so important to our economy and the American workforce. We should act on extending TRIA and act promptly.

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

CHAMBER OF COMMERCE TERRORISM REINSURANCE CONFERENCE

REMARKS BY SENATOR HARRY REID

(Thursday, March 17, 2005)

I was a co-sponsor of the Terrorism Risk Insurance Act (TRIA), which Congress passed in 2002, and I strongly agree with many of you, that we need to extend this important program as soon as possible.

After the attacks of September 11th, private insurance was no longer available to cover losses caused by terrorist attacks. It became impossible to purchase property and casualty insurance to cover losses to real property and the people in those buildings because the risk was too difficult to measure. This created serious problems in the real estate and commercial development sectors and essentially stopped construction of new buildings because banks would not loan money for projects that could not be insured.

When a meaningful market for terrorism insurance failed to develop after several months, it became clear that Congress needed to do something to prevent continued disruption to the economy.

We passed TRIA and it is working today.

Because of TRIA, terrorism risk insurance is available and businesses have meaningful access to coverage. I don't think we can underestimate its impact on the economic recovery we have seen in Nevada and other parts of the country.

As you know, TRIA is set to expire at the end of 2005. Its looming expiration has huge implications for our economy and job creation. Already I have heard reports that insurance providers will not write terrorism insurance policies in large, metropolitan markets such as Las Vegas, Chicago and Washington, DC in light of TRIA's near expiration. I regret that this is taking place, and I worry about the impact this will have on our economy if the insurance they need is not available.

The White House seems to be content on waiting for the Treasury Department's report on the terrorism insurance market before making any decision. That report is not due until June 30th. That's too late and waiting until this summer to make a decision creates too much uncertainty for the real estate, construction and insurance industries.

When many of us voted for TRIA, we did so for two principle reasons. First, we wanted to make sure that the markets functioned in the face of the threat of terrorism. We wanted to restart the construction industry and get people back to work. But the second important reason for this legislation—and I believe President Bush stated this when he signed the bill into law—was that many of us felt that we needed to have a policy in place to allow the economy to rebound more quickly in the unfortunate event of another terrorist attack here in the United States. We felt that having an insurance program in place would ensure that economic activity would continue after a terrorist attack.

And this second reason is why I am so concerned about the President's ''wait and see'' approach to extending TRIA. The Treasury department's study—whatever it finds—is only focusing on the first reason that TRIA was put in place. It has little, if anything, to do with the second reason for the Act.

It is this ''preparedness'' reason that is the real convincing reason that causes me to say we need to continue a Federal terrorism insurance program, and we do not have to wait for the Treasury department to further the debate on that.

I also support inclusion of group life coverage in the TRIA bill when it is reauthorized. There continues to be a lack of available catastrophe reinsurance coverage for the group life insurance industry and the absence of reinsurance coverage poses a significant risk for the 156 million American families who rely on the promised survivor benefits of their group life insurance policies.

If the President is serious about creating jobs and maintaining the health of the U.S. economy, he needs to get behind efforts to extend this law now. Otherwise, it is just not going to happen. American businesses are already being told by insurers that they face the prospect of going without terrorism coverage by year-end.

Prior to TRIA's enactment in 2002, $15 billion in real estate transactions were cancelled or put on hold because there was no terrorism insurance available. Commercial construction was at a six-year low. According to the White House, over 300,000 construction jobs were lost or put on hold because there was no terrorism insurance available. Bond rating agencies downgraded $12.5 billion worth of commercial mortgage-backed securities because of the lack of available terrorism insurance. Lenders began to ''force place'' terrorism insurance coverage on many properties, despite the fact the only available terrorism coverage was deficient, defective and priced at levels that negatively affected the economics of the underlying properties.

Extending TRIA makes good economic sense, and I hope the White House and my Republican colleagues who control its fate will work with our caucus and move swiftly to extend it.

THE FINANCIAL SERVICES ROUNDTABLE,
Washington, DC, April 27, 2005.

Hon. BILL FRIST,
Hon. HARRY REID,
U.S. Senate, Washington, DC.
Hon. J. DENNIS HASTERT,
Hon. NANCY PELOSI,
House of Representatives, Washington, DC.

DEAR MAJORITY LEADER FRIST, SPEAKER HASTERT, MINORITY LEADER REID AND MINORITY LEADER PELOSI: We are writing in support of an extension of the Terrorism Risk Insurance Act (TRIA).

The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer.

TRIA is not likely the long term answer to how policy holders, insurers and the government deal with terrorism coverage. It is,

however, a program that keeps policy holders from bankruptcy, insurers from insolvency, and taxpayers from paying the full cost of a catastrophic terrorist event. From this standpoint, it has been a success and it is essential that the program be extended for a determinant period of time.

An extension should meet the following principles:

It should extend the current program for a reasonable period of time;

It should hold retention levels at the current program limit;

It should provide a backstop for group life policies; and

It should require stakeholders to determine the nature of a public private partnership going forward (including, specifically, a study of how to deal with threats posed by nuclear, biological, chemical and radiological attacks).

We recognize that TRIA is not working perfectly for all stakeholders. For some insurers the retention levels require companies to underwrite as if the program does not exist, and any increase in retention levels will render the program useless. But we believe that TRIA has helped to stave off the economic dislocation that could have filled the vacuum left by drain of insurance industry capital post-9/11. In instances where states have granted exclusions, insurers who otherwise could have walked away from this type of risk have not because of TRIA. In states where no exclusion exists, or for those carriers who write worker compensation coverage, the backstop is insurance against insolvency.

Thank you for your attention to this important issue. Please do not hesitate to contact us if we may be of assistance on this or other issues.

Best regards,

STEVE BARTLETT,
President and CEO.

Also signed by 74 others.

COALITION TO INSURE
AGAINST TERRORISM,
Washington, DC, April 26, 2005.

DEAR SENATOR REID: The Coalition to Insure Against Terrorism (CIAT), a broad-based coalition of business insurance policyholders representing a significant segment of the nation's GDP, strongly supports S. 467, the Terrorism Risk Insurance Extension Act of 2005, introduced by Senators Bennett and Dodd. As the principal consumers of this vital insurance coverage, CIAT urges you to cosponsor this important legislation.

With the Terrorism Risk Insurance Act (TRIA) set to expire at year-end, there is no evidence to suggest that insurance markets will be able to provide adequate insurance against catastrophic acts of terrorism without a federal reinsurance backstop. Based on recent testimony from senior Administration officials, the threat of terrorism within our homeland remains as high as it did on 9/11. Earlier this year, CIA Director Porter Goss said before the Senate Intelligence Committee: ''It may be only a matter of time before al-Qa'ida or another group attempts to use chemical, biological, radiological and nuclear weapons'', and ''al-Qa'ida is intent on finding ways to circumvent U.S. security enhancements to strike Americans and the Homeland.''

This stark reality, together with the unique factors that make the terrorist threat akin to the risk from war, continues to prevent insurers from effectively modeling and pricing the risk of future catastrophic terrorism attacks, thereby seriously hampering the development of any viable catastrophic reinsurance alternatives to TRIA.

To date, the terrorism reinsurance program established by TRIA has achieved the goals envisioned by President Bush and bipartisan leaders in Congress in 2002. First, it has helped keep the economy going in the face of continued terrorist threats by ensuring that businesses across America can secure this essential coverage, saving countless jobs in the process. Second, it serves as an important tool to minimize the severe economic disruption that almost certainly will occur should there be a future terrorist attack of catastrophic proportion.

S. 467 would extend the current TRIA program for a short period of time while also creating a group of insurance and risk management experts to work with the Presidential Working Group on Financial Markets to develop a longer-term solution. If enacted, this legislation will ensure that the nation's workers and businesses will be able to secure adequate and affordable insurance coverage against terrorism after year-end, and that the nation has a sound policy in place to enable the economy to quickly recover should another terrorist attack occur in the U.S.

CIAT believes that it is absolutely critical that Congress act quickly to extend the Terrorism Risk Insurance Act (TRIA) beyond December 31, 2005. Extending TRIA is an essential part of our nation's economic preparedness against terrorism, as well as an essential element of our nation's economic security. With only a few months left, American businesses and property owners face the threat of going without adequate and affordable terrorism insurance coverage next year. Without a federal terrorism risk reinsurance program in place, our economy will be needlessly disrupted and significant U.S. economic interests and jobs are likely to be exposed to the uninsured costs of a major terrorist event.

To this end, CIAT respectfully requests that you cosponsor S. 467.

Sincerely,

THE COALITION TO INSURE
AGAINST TERRORISM.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Pending:

Inhofe amendment No. 605, to provide a complete substitute.

Dorgan amendment No. 652 (to amendment No. 605), to provide for the conduct of an investigation to determine whether market manipulation is contributing to higher gasoline prices.

Nelson (FL) (for Feingold) amendment No. 610 (to amendment No. 605) to improve the accuracy and efficacy of identity authentication systems and ensure privacy and security.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the Senator from Oklahoma and the Senator from Vermont or their designees prior to the vote on the motion to invoke cloture on the pending substitute amendment.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, those of us who are in the managing positions want to explain what it is about and why the cloture is very important. However, we do want to accommodate the Senator from Arizona, who is busy with a markup right now, and if there is no objection, I would recognize him for up to 8 minutes.

Mr. McCAIN. Mr. President, I thank the Senator from Oklahoma and the Senator from Missouri for their courtesy, and I will try to be brief in my statement.

Nearly 50 years ago, the Federal-Aid Highway Act of 1956 was enacted into law. As I mentioned during last year's debate, the 1956 act added up to a mere 29 pages—a tiny fraction of this year's highway bill. But what it accomplished truly changed this country. The act created programs that led to the construction of the Interstate Highway System, the largest civil works project ever undertaken by the United States. The 1956 act was the brainchild of President Eisenhower to establish the highway trust fund, financed by taxes on gasoline to fund this massive undertaking. The act required the construction of an interstate highway system using a uniform design that would be safer than most U.S. highways in existence at that time.

Mr. President, today we are all the beneficiaries of the foresight of President Eisenhower and of the Congress that helped to shepherd the legislation through to enactment. The Interstate System today is 47,000 miles long, comprised of 62 superhighways crisscrossing the Nation in a grid. Twenty-four percent of all travel occurs on the interstates, and the system has obtained a record of being twice as safe as other highways.

Unfortunately, when people look back 50 years from now at the highway legislation that the Senate will consider shortly, I doubt that history will remember this as having helped improve on President Eisenhower's ''grand plan.'' We are no longer focused on building a unified transportation system to improve the safety, security, and economy of our Nation as a whole. Instead, we are faced with legislation that redistributes funding to the States in an unfair manner.

Approximately every 6 years we reauthorize our Nation's multiyear highway, transit, and safety programs. We last reauthorized these programs in 1998 with the enactment of TEA–21 following extensive debate in the Senate. In the 108th Congress we did not reauthorize these programs, and, instead, Congress passed a series of short-term extensions of TEA–21, and this happened for good reason. The bill brought to the Senate floor in the last Congress would have increased overall funding to $318 billion, $100 billion over the TEA–21 enacted level.

I commend the chairman of the Environment and Public Works Committee for reducing the authorized number to match the President's fiscal 2006 budget proposal of $284 billion in the version of the bill reported by his committee. Reduction in the overall size of the bill was a significant improvement over the legislation presented to the Senate last year. Fiscal discipline is a key component of this debate. As Alan Greenspan warned some days ago, ''Under existing tax rates and reasonable assumptions about other spending, projections make clear that the Federal budget is on an unsustainable path in which large deficits result in rising interest rates and ever growing interest payments that augment deficits in future years.''

We need to control our spending. We must. And that is why the overall size of this bill should not be inflated. We are considering a substitute amendment to the bill that as proposed increases obligations by $11 billion, and I think that is wrong.

According to the Statement of Administration Policy regarding the highway bill, ''Should the obligation or net authorization levels that would result from the final bill exceed (that amount), the President's senior advisors will recommend that he veto the bill.''

Apparently, we are now going to test whether the President will veto the bill.

Fiscal prudence is crucial, but even if the conferees act sensibly and recognize the need for an agreement that would be acceptable to the President, that alone would not make the legislation adequate.

Equity is also crucial and, unfortunately, the highway bill that is before us retains unfair features of past bills. In some cases, it is even more unfair than last year's legislation. This year's highway bill perpetuates the historical discrepancy between donor States and donee States.

Remarkably, not only does the bill continue the disparity, it actually exacerbates it. Whereas the bill that was passed last year by the Senate would have increased theoretically every State's rate of return to 95 percent in the final year of the bill, the substitute amendment before the Senate only promises a rate of 92 percent in 2009 for those States. Until then many States would linger at a rate of return of 90.5 in the first year and 91 percent thereafter while others receive more—in some cases much more than what they contribute to the highway trust fund. As if that were not enough, this year's bill would actually propose to create further disparities between States. Although ''equity'' is in the title of the legislation, the number of donor States would increase from 28 under current law to 31. Under the Environment and Public Works Committee's so-called formula, which is less a formula than it is a series of calculations consisting of arbitrary funding caps and floors, some States would actually receive a greater rate of return than they would have under last year's bill, despite the fact that this year's overall funding is less. That is remarkable.

My colleagues may wonder how this is possible, and they may question my facts. But as hard as this may be to believe, it is true. For example, the State of Missouri, which currently receives a rate of return of 91 percent, would have received an increased rate of return of 95 percent immediately and then throughout the reauthorization. Under the substitute amendment before us, Missouri will go from a rate of return of 91 percent to 99 percent immediately.

Despite Missouri's good fortune, five States would continue to linger at the bottom of the barrel for 4 years. In the fifth year, at least theoretically, these States would increase their rates of return to 92 percent, a modest increase of 1.5 percent over current law; 1.5 percent when other States enjoy a rate of return of over 200 percent, in one case almost 530 percent, in that final year. They say that beggars can't be choosers, but this legislation shouldn't be passed solely to prove that point. States like Arizona, California, and Texas should not be in the position of begging for their fair share of contributions to the highway trust fund.

I fully recognize that during the years when the Federal Government was building the interstate system, a redistribution of funding between the States may have made sense. Clearly, it would have been very difficult for the State of Montana, for example, with fewer than a million people, to pay the full cost of building its share of the intestate system. But that era is over. Congress declared the construction of the interstate system complete in 1991. Yet here we are, almost 15 years later, and donor States are still expected to agree to the redistribution of hundreds of millions, if not billions, of dollars to other States regardless of the already enormous transportation needs of donor States.

Let me be clear. Today, the need is in the highest growth States, which face some of this Nation's toughest transportation challenges. According to the most recent Census Bureau projections, Florida, Texas, and Arizona, all superdonor States receiving the minimum rate of return, will be among the five fastest-growing States over the next 25 years. Yet the donee States, many with shrinking populations, continue to receive growing subsidies from donor States. Meanwhile, States like Florida, Texas, and Arizona, and others including Colorado and Indiana, would be held for no apparent reason at the bottom. Other States, including Georgia, Illinois, Maryland, Minnesota, Nevada, New Jersey, North Carolina, South Carolina, and Virginia also would continue to get shortchanged. This is not the right approach, it is unfair, and we should do everything we can to ensure that any bill voted off this floor is more equitable for all States.

Now, I am sure we will hear about the great transportation needs of the States that receive more funds than they contribute. And I have no doubt that those States do, in fact, have significant needs. But how was it determined that California, for example, should have an average of $260 million per year of its funding redistributed as the EPW-reported bill would direct? Why aren't California's transportation needs as worthy of receiving the same percentage of Federal funds as provided to meet the transportation needs of a State like New York, for example, which is scheduled to receive a rate of return of 111 percent, or an average of over $140 million per year more than it contributes. This significant rate of return isn't the product of savvy investment. It is a guaranteed rate of return well above 100 percent that is built on the backs of donor States.

Why should a State like Alaska receive a rate of return in 2009 of almost 530 percent when it currently already receives a return of 500 percent? Why should Montana receive a rate of return of almost 228 percent, or Vermont a rate of over 212 percent? These figures defy any reasonable explanation other than the following: This bill is less about the integrity of our Nation's transportation system than it is about maximizing the amount of money going to some States at the expense of others.

I support a long-term reauthorization of our Nation's surface transportation programs and I understand the vital nature of this funding to our States. But before we take action on this bill, I urge my colleagues to start asking questions and to take seriously the consequences of increasing the size of this bill beyond the $284 billion level and of perpetuating the inequitable distribution of funds under this legislation.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Oklahoma.

AMENDMENT NO. 636 TO AMENDMENT NO. 605

Mr. INHOFE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order to call up Ensign amendment No. 636.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for Mr. ENSIGN, proposes an amendment numbered 636.

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

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

The amendment is as follows:

(Purpose: To authorize the State of Nevada to continue construction of the US-95 Project in Las Vegas, Nevada)

On page 410, between lines 7 and 8, insert the following:

SEC. ____. US-95 PROJECT, LAS VEGAS, NEVADA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the project identified

as the preferred alternative in the document entitled ''US–95 Project in Las Vegas, Nevada'', as approved by the Federal Highway Administration on November 18, 1999, and selected in the record of decision dated January 28, 2000, shall be considered to meet all requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any related laws with respect to the determination contained in the record of decision.

(b) AUTHORIZATION.—The State of Nevada may continue construction of the project described in subsection (a) to completion.

Mr. INHOFE. I ask unanimous consent that that amendment be set aside.

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

Mr. INHOFE. Mr. President, I have a couple of brief comments. I know how sincere the senior Senator from Arizona is concerning this bill, and it does demonstrate that it is very difficult when we are trying to be fair and we are trying to do a formula to make everybody happy. Probably every Senator is a little bit unhappy with it. That is what makes it, perhaps, a fair formula.

It is true—the Senator was accurate—as far as the history of the Interstate System back in the Eisenhower administration and the redistribution of funds. This is what we have to keep in mind, though: Yes, the Interstate System is complete, but it still must be maintained.

He talked about the State of Montana. Yes, it is true the State of Montana does not have the population to support the highways, and yet they have to have the highway system. That system, even though it may be complete, must be maintained.

In defense of the formula, there are two ways of doing this. One way, we could do what has been customary in the other body, and that is come out with a group of projects, take care of a certain number of people in the passed bill, and then walk away from it. That would be very easy.

I will tell my colleagues, what would be easy is to go ahead and distribute a bunch of funds to 60 Senators and then sit back and say: The rest of you guys, that is your problem. But we do not do it that way. Instead, in looking at the formula and the factors, it is an incredibly difficult thing we are dealing with. We have factors that have to do with the donor status of the State, the number of miles in the State, the age of the State, the passthrough provisions of the State, and the fatalities per capita of the State. My State of Oklahoma has a higher per capita fatality rate, and therefore one has to come to the conclusion that there is a reason for that. So all of these factors are a part of a very complicated formula.

It may be that people will look at it and say: You do not treat—it is kind of interesting. I will hear from people from the fast growing States who say, We do not get as high as we need to get in our donor status relief, and yet at the same time we hear from some of the Eastern States that are complaining because the floor is too low. So I would think that everyone should realize that there is not going to be a perfect formula that makes everybody happy.

It is a formula that is as fair as we can come up with. We have been working on this for 3 years. This is not something that just came out. When the Senator from Arizona says that last year's bill was guaranteed to raise the donor status floor to 95 percent, that is easy because we had the money to do it. This year, we do not have the money to do it. Even with the amendment that was passed, all that does is raise it from 90.5 percent to 92 percent. It is a very difficult thing.

I do not want to use up an inordinate amount of time, but I will talk about why we have to do this today. The only alternative to passing a bill is to have another extension. If we have another extension, we do not really get into the problem. We do not take care of the donor State rate of return. We do not have any of the new safety core programs. We have literally spent months putting this together. Of course, those provisions were in the Commerce Committee. We need to respond to the deaths on the highways. If we do not pass the bill, we are not going to have any kind of streamlining of environmental reviews. We are not going to have any increase in the ability to use the innovative financing systems which are included.

This bill contains the establishment of a national commission to explore how to fund transportation in the future. As the Senator from Arizona said, 50 years ago we started this system, back during the Eisenhower administration. He recognized there was a problem back when he was Major Eisenhower and he was trying to move goods and services around. He recognized there was a problem, but we have not changed the way we are funding highways for 50 years.

This bill establishes a commission to come up with more innovative ways and allows the States to participate. People are concerned about things such as Safe Routes to School. If we go on an extension instead of a bill, we are not going to have Safe Routes to School. There is uncertainty that is out there. I know my State of Oklahoma is not any different from the rest of the States. We are on our sixth extension now. If we are operating on an extension, it could be a 1-month extension, it could be a 1-year extension.

There is no certainty by which we can plan the construction and maintenance of highways and do something about the bridges. The bridges in Oklahoma are worse than any of the bridges in the Nation. It is a life-and-death situation. People are dying. We have had two deaths in Oklahoma just because of the condition of the bridges. So we are going to have to do something. If we operate on extensions, we are not going to be able to have any of those improvements.

As far as the border program, the States that are complaining about this program are actually border States. They are States that have the benefit of some of the provisions to take care of the borders. NAFTA has been passed, and there is increased road travel. We will not have a borders program if we do not pass a bill. It would just be an extension of the old program.

Lastly, the firewall protection—we need to make sure that people quit robbing the highway trust fund. I was in disagreement with the distinguished chairman of the Budget Committee, and I said the problem we have been having is people are taking money out of the trust fund and using it for purposes to establish and support policies that have nothing to do with transportation. These are the things that concern me.

We want to stay within our timeframe. Before turning to Senator BOND, I guess Senator JEFFORDS is not in the Chamber, so we will turn to Senator BAUCUS. After that, I ask unanimous consent that we stay on this course and first recognize Senator BAUCUS, and that after his completion we recognize Senator BOND for up to 10 minutes.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, it is quite clear, especially based upon the vote on the point of order yesterday where 76 Members of this body voted to waive that point of order indicating their support for this program, that there is not a lot of controversy remaining on this bill. There are important amendments, clearly, that will be offered by Members, but I believe all of us in this body know that this bill must be passed and must be passed quickly. It should be passed today, and it probably will be passed today, both because it is important and also to avoid the May 31 date when current law expires. Hopefully, we will get a conference that will bring back a conference report so we can pass this legislation and send it to the President's desk by that time.

There is one point I wish to make, though. There is some concern that this bill is not fair to every State. We hear this in the committee. We who are managing this bill hear that statement often from a lot of Senators. I understand it. Every Senator is doing what he or she should do, and that is to fight for his or her State. I compliment those Senators. It is our job as managers of the bill and also our job as a body to do the very best we can to be as fair as possible to all concerned and get this legislation passed.

I will say a word or two in defense of the Western States that are large in area but small in population as to why this national highway program is fair to us—I represent the State of Montana—and why it is also fair to some of the more populous States.

We do not have a lot of people in Montana. Our population density is about six people per square mile. There are not very many States with a population density lower than ours. We are

a huge State in area. In fact, the length across our State of Montana is as great as the distance from Washington, DC, to Chicago. It is that far to drive across Montana. In addition, if one were to overlay Montana over the New England States, the State of Montana would include New York and all the other New England States, and also include Pennsylvania. I think it would include about half of New Jersey. So it is a large area but very low in population density. The State of Arizona, for example, has 45 people per square mile. Montana, as I mentioned, has about six people per square mile.

This is a national program. We are trying to get all States included. New Jersey, I might add, has a population density of about 1,100 people per square mile. New York has about 401 people per square mile. Again, Montana has six people per square mile. This is a national highway program. We want Americans to be able to travel freely across all States, the more populated States and also the less populated States. We want our commerce to travel nationwide, for truckers to be able to drive their vehicles across the United States virtually unimpeded. We do not want a situation where some States have the resources to build nice new highways and other States, just because there aren't any people there, do not have the resources to build highways, so it would be an uneven system.

Clearly, not everybody is unhappy. We have done the best we can to make this as balanced as it could possibly be. I think the vote yesterday, while it is not a direct vote, is an indirect indication that most Senators are pretty satisfied. When 76 Senators vote to waive the point of order that was made yesterday, that is a vote in favor of the highway bill. I think that is a pretty good indication this is a fair and balanced bill.

Different States have different State gasoline taxes to help pay for the highways in their States, matching along with the Federal contributions. We in the State of Montana pay a lot also per capita in our contributions to State and Federal highway trust funds, a lot more than most other States. In our State of Montana we spend about $360 per person per year in contributions to the highways. The national average is about $250 per person per year. We in Montana spend $360 per person per year. I point out that the folks in Arizona are actually below the average. The contributions the people in Arizona pay to the highway trust fund, both to the State and Federal highway trust funds, is about $235 per Arizonan per year. That is below the national average.

That is fine. That is a decision in large part the people in Arizona are making because of their State gasoline taxes. But it is also a consequence of a lot of other factors in the formula for the States. The long and short of it is Arizonans pay less than the national average per capita in their contributions to Federal and State highway funds, whereas folks in other States pay much more. Montanans, as I mentioned, pay $360. South Dakotans pay a lot more for highways, more than the national average. People in South Dakota pay about $312 per person. It is interesting—New Yorkers actually are very low. New Yorkers pay only about $152 per person in their contributions to the highways in the State of New York. That is half what it is in some other States.

Everybody can bring out figures and statistics. But I do think, for the sake of equity and fairness, it makes sense to get a good bit of these statistics out in the open, on the record, so we all understand and realize it is not a perfect bill, but it is a bill that by and large accomplishes what it is intended to accomplish—that is provide the resources so we can build and maintain our highways, our mass transit, and some of the other programs affiliated with the highway program.

I thank the chairman, who is doing a great job managing this bill. I also very much thank Senator JEFFORDS, the ranking member of the Environment and Public Works Committee, for excellent leadership. Also I give special thanks to my colleague on the Finance Committee, Senator GRASSLEY. He and I have worked closely together to provide the revenue for this bill and it is basically through gasoline taxes and other excise taxes.

I remind my colleagues this legislation before us does not add to the Federal deficit, not at all. In fact, it reduces the Federal deficit. It reduces the Federal deficits; that is, our national debt, by about $14 billion over 10 years. We reduce the national debt—not by a lot, but we reduce it. We do not add to the debt. We reduce the debt by about $14 billion over 10 years.

Those who are concerned that this is a spending bill, that this bill adds to the national debt and deficit, that is not accurate. As a reminder, this bill does not add at all to Federal deficit, not one dime. It is all paid for.

I know a lot of proposals a lot of Senators have, either to lower taxes or spend money on something, are not paid for. This big highway program is all paid for. It is jobs for America. It is infrastructure for America so we Americans can live the life we want to lead, have the highways we want to have, and compete in the modern world and off in the future with a good highway system.

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized.

Mr. INHOFE. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Thirteen minutes. The Senator from Missouri.

Mr. BOND. Mr. President, my thanks to the chairman and also to my colleague on the Transportation Infrastructure Subcommittee, the Senator from Montana. As I say, it helps to have a cousin in the business. It helps to have a ranking member who is also ranking on Finance with Senator GRASSLEY. Senator BAUCUS and Senator GRASSLEY have done a great job. It is a pleasure to work with him, with Senator GRASSLEY, Senator JEFFORDS and, of course, our chairman, Senator INHOFE.

I hope everybody has been having as enjoyable a time as those of us who have been trying to lead this bill from the various committees—EPW, Commerce, Finance. I know this is a very pleasurable experience. But the time has come for it to end. It is time for us to invoke cloture. That is why we are asking our colleagues to put an end to this. All good things have to come to a close. If we are to get this bill done, we need to invoke cloture and give it a timeframe. We have already limited the number of amendments.

The simple fact is we have to get this bill to conference. We have to go to work with the House to come up with a very important surface transportation bill, known as SAFETEA, this year. The extension expires in May. We are operating on our sixth extension. The original bill, the last bill, ran out on September 30, 2003. We have had extensions. We have missed the deadline. We absolutely have to get this bill passed.

If the extension expires and we do not do anything, not only does the U.S. Department of Transportation shut down but States would not be able to issue new contracts for summer construction programs on Federal aid highways. We would have a significant economic blow to our country as well as a delay in the building of our necessary roads.

Cloture will enable us to get to conference. It is going to be a very different conference. The House has a measure that is essentially project oriented. As has been stated by my colleagues on both sides of the aisle here, we have attempted to achieve equity by a very complex formula. The Senator from Montana made a very important point. When we came to the floor, we added $11 billion. Why did we do this? The administration's own Department of Transportation puts out annually a conditions and performance report. Even with the $11 billion we added to the base number of $284 billion, according to the administration's own report, it still is not enough money even to maintain our current system. That is why money was added. That is why the Finance Committee was given the authority under the Talent-Stabenow amendment to add money. That is why we waived the point of order—because this money is important.

We heard my good friend, the Senator from Arizona, complaining about adding money, implying it was adding to the deficit. You have already heard that is pure nonsense. There is, as a matter of fact, a positive impact because the Finance Committee has not only added money to the highway trust

fund, but to make sure there was no shortfall in the general revenue sections, they added more general revenue. There is more general revenue coming in than before as a result of this amendment we adopted, and there is more money in the highway trust fund.

Regarding the point made by the Senator from Arizona, if the situation were not so serious, it would be funny. There is nothing like a good joke like having a Senator complaining he is not getting enough money and complaining we added money when adding that money brings the State of Arizona increase from last year's bill to 40.6 percent. They do fantastically well. They are one of the top three winners in the whole bill—top four, and he is complaining we added money.

You know the old story about the boy who kills his parents and when charged with murder he throws himself on the mercy of the court because he is an orphan. You can either complain about not getting enough money or you can complain about having more money added to the bill; you cannot do both at the same time. You have to pick one side of the fence or the other.

This bill does have very important aspects. First and foremost, the economic impact—47,500 jobs are created for every $1 billion spent. That is immediate economic impact. The longer term economic impact of a good transportation bill, as I have pointed out on the floor before—as a former Governor of my State, I know if you want to know where economic growth is going to occur, where jobs are going to grow, you take a look at the transportation system. You have to have good transportation to create good jobs and to have a strong economy.

There are also aspects of this bill, of course, that improve our environment, because we are reducing congestion. We are putting environmental planning at the start of the planning process so we can take care of environmental concerns sooner.

But the real name of this bill is the SAFETEA bill, and safety is probably the most important part of this bill as far as my State is concerned. I have told this body several times of the number of friends I have lost on highways in Missouri. You can travel many national highways, Federal aid highways in Missouri, that are two-lane roads with traffic that merits having four lanes. Do you know what happens when you have a slow-moving livestock truck or piece of equipment, construction equipment or farm equipment, on a narrow two-lane road? Traffic backs up and backs up and somebody—very often a stranger to the area—tries to pull out and pass, with tragic results. We see white crosses marking our highways where people have lost their lives. Unfortunately, the number of those white crosses grows.

The Senator from Arizona has complained about the criteria used in the formula for money going to States that have greater than 1 fatality per 100 million vehicle miles traveled. That is Missouri and it is 17 other States. Actually it is Arizona as well.

If this is a SAFETEA bill, shouldn't you consider safety? I certainly think so. Some of the border State people say we need more money because we are on the borders. I will have a chart this afternoon that shows an interesting point of information. Some of the heaviest traffic—some of the heaviest tie-ups, the bottlenecks—is in the middle of America where East and West, North and South, Southwest and Northeast traffic all come together. When you look at the traffic in trucks on our highways on a U.S. Department of Transportation map, there is a great big artery clog right in the heart of America, in Missouri, in Oklahoma, in Illinois. That is where the traffic is the heaviest. We need a crossroads factor in the formula.

It is not the border States alone that have needs. We in the middle of Nation need that formula. Missouri has the fifth worst roads in the Nation; 65 percent of its roads are in fair to poor condition, requiring immediate repair. Missouri also ranks fourth from the bottom in number of structurally deficient and functionally obsolete bridges.

I say that humbly, knowing that my colleague's—the chairman of the committee—home State of Oklahoma ranks below Missouri.

Yet for all the complaining about how well our States do, we grow at the average rate of 30.40 percent. We grow in that neighborhood. Yet we are at the bottom of the list of worst roads and worst bridges in dangerous condition.

That is why this bill is so important. I urge my colleagues to invoke cloture, and I reserve the remaining time on this side.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Minnesota desires.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I salute the chairman and the ranking member for this excellent legislation. I will support a cloture motion.

It is very important we pass this legislation as expeditiously as possible for States such as Minnesota which have a short highway construction season.

I wish we had been able to put into place the Senate version a year ago. I salute Chairman INHOFE for his tireless efforts, working with his associates in the House and also the administration, in an effort to pass what would have been an excellent Senate bill a year ago.

This bill is as good as it could be, given some of the pressures. It is a mystery to me, knowing the serious state of disrepair of our highways in Minnesota and the lack of funding at the State and particularly the local level—it is hard to imagine how any other State could be so far advanced beyond Minnesota's highway construction situation that the money the Senate wanted a year ago, that would be providing for needs this year if not for certain pressures—and is beyond the realm of common sense not to have passed this. So be it.

I thank the chairman and the ranking member for, as I understand it, accepting an amendment I offered, along with Senator LUGAR, also cosponsored by my colleague from Minnesota, Senator COLEMAN, Senator HARKIN, Senator GRASSLEY, Senator DURBIN, Senator BROWNBACK, and Senator BINGAMAN. It is a simple amendment that calls for cars produced starting the model year of 2007 to have a sticker in two different locations indicating the presence of a flexible fuel engine that allows a car or other gasoline-consuming vehicle to use regular gasoline or up to 85-percent ethanol, which in Minnesota is called E–85 which is 85-percent ethanol, 15-percent regular unleaded and is used as a substitute for regular unleaded gasoline in vehicles that have these flexible fuel engines.

I have two cars, factory-produced Ford Explorers—one in Washington, DC, where unfortunately I cannot find the fuel, and one in Minnesota, where I can—which are as efficient as my previous vehicles using regular gasoline, and presently in Minnesota between 30 and 40 cents a gallon cheaper than regular unleaded.

Consumers will use this fuel as a lower cost alternative if they have cars or vehicles that can use it, which is why I have another amendment to offer to the Energy bill that requires vehicles produced starting model year 2007 or thereafter to all carry a flexible fuel engine so consumers have this lower cost option. At least those who buy these vehicles will be aware they have a flexible fuel engine and can take advantage of this much lower cost fuel.

This amendment is supported by the National Ethanol Vehicle Association, by the National Corn Growers Association, by the Governors Ethanol Coalition which Governor Pawlenty from Minnesota chairs, the Renewable Fuels Association, National Farmers Union. The automakers are neutral to it.

I thank the Chair and ranking member for accepting it and hope it will be enacted soon.

I ask unanimous consent Senator BROWNBACK be added as a cosponsor to the Lugar Dayton amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 574, 598, 624 AS MODIFIED, 628, 634 AS MODIFIED, 643, 670 AS MODIFIED, 681 AS MODIFIED, 621, 622, 666 AS MODIFIED, 685, 694, 705 AS MODIFIED, 708 AS MODIFIED, 713 AS MODIFIED, 737, 725, 726 AS MODIFIED, AND 755 TO AMENDMENT NO. 725

Mr. INHOFE. Mr. President, I have a series of amendments that have been cleared on both sides. I ask unanimous consent the pending amendments be set aside provided, further, that the list of amendments I have sent to the desk, including modifications to some of those amendments, be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements relating to the amendments be printed in the RECORD.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 574

(Purpose: To allow States to own the entire interest of a real estate investment trust without tax consequences in order to assist the State in preserving its railroad infrastructure, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens,

then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term ''real estate investment trust'' has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term ''non-operating class III railroad'' has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term ''State'' includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation's board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

AMENDMENT NO. 598

(Purpose: To provide a 90 percent Federal match for bridge projects on the Interstate Highway System)

In section 120(a)(1) of title 23, United States Code (as amended by section 1301), insert ''a bridge project or'' before ''a project to add''.

In section 144 of title 23, United States Code (as amended by section 1807(a)(9)), strike subsection (r) and insert the following:

''(r) FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under section 120(d).

''(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be the share applicable under section 120(a).''.

AMENDMENT NO. 624, AS MODIFIED

At the end of subtitle H of title I, add the following:

SEC. 18___. ALASKA WAY VIADUCT STUDY.

(a) FINDINGS.—Congress finds that—

(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;

(2) an effort to address the possible repair, retrofit, or replacement of the Alaska Way Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and

(3) as a result of the efforts referred to in paragraph (1), a locally preferred alternative for the Alaska Way Viaduct is being developed.

(b) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Highway Administration.

(2) CITY.—The term ''City'' means the city of Seattle, Washington.

(3) EARTHQUAKE.—The term ''earthquake'' means the Nisqually earthquake of 2001.

(4) FUND.—The term ''Fund'' means the emergency fund authorized under section 125 of title 23, United States Code.

(5) STATE.—The term ''State'' means the Washington State Department of Transportation.

(6) VIADUCT.—The term ''Viaduct'' means the Alaska Way Viaduct.

(c) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator, in cooperation with the State and the City, shall conduct a comprehensive study to determine the specific damage to the Viaduct from the earthquake that contribute to the ongoing degradation of the Viaduct.

(2) REQUIREMENTS.—The study under paragraph (1) shall—

(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the Fund, consistent with the emergency relief manual governing eligible expenses from the Fund; and

(B) determine the amount of assistance from the Fund for which the Viaduct is eligible.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the findings of the study.

AMENDMENT NO. 628

(Purpose: To reestablish the University of Buffalo as an appropriate research center for research on the impact of seismic activity on the Federal-aid highway system)

On page 439, line 3, insert ''and the National Center for Earthquake Engineering Research at the University of Buffalo,'' after ''Reno,''.

AMENDMENT NO. 634, AS MODIFIED

After Sec. 7260 of title VII:

SEC. 1623. IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.

(a) IN GENERAL.—Section 32908 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsection (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

''(e) IDENTIFICATION OF CERTAIN ALTERNATIVE FUELED VEHICLES.—A manufacturer shall affix, or have affixed, to each dual fueled automobile manufactured by the manufacturer (including each light duty truck) that may be operated on the alternative fuel described in section 32901(a)(1)(D)—

''(1) a permanent label inside the automobile's fuel door compartment that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) states that the automobile may be operated on the alternative fuel described in section 32901(a)(1)(D) and identifies such alternative fuel; and

''(2) a temporary label to the window or windshield of the automobile that—

''(A) meets the requirements of the regulations prescribed by the Administrator for such label; and

''(B) identifies the automobile as capable of operating on such alternative fuel.''.

(b) REGULATIONS.—Not later than March 1, 2006, the Administrator of the Environmental Protection Agency shall promulgate regulations—

(1) for the label referred to in paragraph (1) of section 32908(e) of title 49, United States Code, as amended by subsection (a), that describe—

(A) the language that shall be set out on the label, including a statement that the vehicle is capable of operating on a mixture of 85 percent ethanol blended with gasoline; and

(B) the appropriate size and color of the font of such language so that it is conspicuous to the individual introducing fuel into the vehicle; and

(2) for the temporary window or windshield label referred to in paragraph (2) of such section 32908(e), that—

(A) prohibit the label from being removed by any seller prior to the final sale of the vehicle to a consumer; and

(B) describe the specifications of the label, including that the label shall be—

(i) prominently displayed and conspicuous on the vehicle; and

(ii) separate from any other window or windshield sticker, decal, or label.

(c) COMPLIANCE.—

(1) IN GENERAL.—A manufacturer shall be required to comply with the requirements of section 32908(e) of title 49, United State Code, as amended by subsection (a), for a vehicle that is manufactured for a model year after model year 2006.

(2) MODEL YEAR DEFINED.—In this subsection, the term ''model year'' shall have the meaning given such term in section 32901(a) of such title.

(d) VIOLATIONS.—

(1) IN GENERAL.—Section 32908(f) of title 49, United States Code, as redesignated by subsection (a), is amended by inserting ''or (e)'' after ''subsection (b)''.

(2) CONFORMING AMENDMENT.—Section 32911(a) of such title is amended by inserting ''32908(e),'' after ''32908(b),''.

AMENDMENT NO. 643

(Purpose: To establish the Federal share of the cost of constructing a bridge in the State of North Dakota)

On page 410, between lines 7 and 8, insert the following:

SEC. ___. BRIDGE CONSTRUCTION, NORTH DAKOTA.

Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.

AMENDMENT NO. 670, AS MODIFIED

On page 635, between lines 3 and 4, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, CNG, LNG, LPG and hydrogen.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

AMENDMENT NO. 681, AS MODIFIED

Beginning on page 267, strike line 18 and all that follows through page 270, line 15 and insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies that are—

''(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(II) funded, in whole or in part, under this title; or

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

''(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

''(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

''(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(B) funded, in whole or in part, under this title.

''(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

''(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

''(B) shall—

''(i) consider guidance issued by the Administrator under paragraph (5);

''(ii) limit technologies to those identified by the Administrator under paragraph (5);

''(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

''(iv) give special consideration to small businesses that participate in projects funded under this title;

''(v) place priority on the use of—

''(I) diesel retrofit technologies and activities;

''(II) cost-effective strategies;

''(III) financial incentives using CMAQ resources and State resources; and

''(IV) strategies that maximize health benefits; and

''(vi) not include any activities prohibited by paragraph (4).

''(4) STATE LIMITATIONS.—Emission reduction strategies may not—

''(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

''(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

''(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

''(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

''(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

''(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

''(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

''(D) options and recommendations for the structure and content of emission reduction strategies including—

''(i) emission reduction performance criteria;

''(ii) financial incentives that use CMAQ resources and State resources;

''(iii) procedures to facilitate access by contractors to financial incentives;

''(iv) contract incentives, allowances, and procedures;

''(v) methods of voluntary emission reductions; and

''(vi) other means that may be employed to reduce emissions from construction activities; and

''(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

''(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

AMENDMENT NO. 621

(Purpose: To provide for the conduct of a community enhancement study)

At the end of subtitle H of title I, add the following:

SEC. 18___. COMMUNITY ENHANCEMENT STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study on—

(1) the role of well-designed transportation projects in—

(A) promoting economic development;

(B) protecting public health, safety, and the environment; and

(C) enhancing the architectural design and planning of communities; and

(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of those projects for communities.

(b) CONTENTS.—The study shall address—

(1) the degree to which well-designed transportation projects—

(A) have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities;

(B) protect and contribute to improvements in public health and safety; and

(C) use inclusive public participation processes to achieve quicker, more certain, and better results;

(2) the degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future; and

(3) methods of facilitating the use of successful models or best practices in transportation investment or development to accomplish—

(A) enhancement of community identity;

(B) protection of public health and safety;

(C) provision of a variety of choices in housing, shopping, transportation, employment, and recreation;

(D) preservation and enhancement of existing infrastructure; and

(E) creation of a greater sense of community through public involvement.

(c) ADMINISTRATION.—

(1) IN GENERAL.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization with expertise in the design of a wide range of transportation and infrastructure projects, including the design of buildings, public facilities, and surrounding communities.

(2) FEDERAL SHARE.—Notwithstanding section 1221(e)(2) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), the Federal share of the cost of the study under this section shall be 100 percent.

(d) REPORT.—Not later than September 20, 2006, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section.

(e) AUTHORIZATION.—Of the amounts made available to carry out section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note), $1,000,000 shall be available for each of fiscal years 2005 and 2006 to carry out this section.

AMENDMENT NO. 622

(Purpose: To provide for the development of a comprehensive coastal evacuation plan)

At the end of subtitle H of title I, add the following:

SEC. ___. COMPREHENSIVE COASTAL EVACUATION PLAN.

(a) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security (referred to in this section as the ''Secretaries'') shall jointly develop a written comprehensive plan for evacuation of the coastal areas of the United States during any natural or man-made disaster that affects coastal populations.

(b) CONSULTATION.—In developing the comprehensive plan, the Secretaries shall consult with Federal, State, and local transportation and emergency management officials that have been involved with disaster related evacuations.

(c) CONTENTS.—The comprehensive plan shall—

(1) consider, on a region-by-region basis, the extent to which coastal areas may be affected by a disaster; and

(2) address, at a minimum—

(A) all practical modes of transportation available for evacuations;

(B) methods of communicating evacuation plans and preparing citizens in advance of evacuations;

(C) methods of coordinating communication with evacuees during plan execution;

(D) precise methods for mass evacuations caused by disasters such as hurricanes, flash flooding, and tsunamis; and

(E) recommended policies, strategies, programs, and activities that could improve disaster-related evacuations.

(d) REPORT AND UPDATES.—The Secretaries shall—

(1) not later than October 1, 2006, submit to Congress the written comprehensive plan; and

(2) periodically thereafter, but not less often than every 5 years, update, and submit to Congress any revision to, the plan.

AMENDMENT NO. 666, AS MODIFIED

(Purpose: To improve the high-speed magnetic levitation system deployment program)

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

"§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

''(A) is not a State-designated authority; but

''(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

''(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

''(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

''(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed MAGLEV project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the MAGLEV project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

''(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) and the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $6,000,000 for fiscal year 2005; and

''(II) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $25,000,000 for fiscal year 2005;

''(II) $37,000,000 for fiscal year 2006;

''(III) $21,000,000 for fiscal year 2007; and

''(IV) $9,000,000 for each of fiscal years 2008 and 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $500,000,000 for fiscal year 2005;

''(II) $650,000,000 for fiscal year 2006;

''(III) $850,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $600,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $13,000,000 for fiscal year 2005;

''(II) $16,000,000 for fiscal year 2006;

''(III) $8,000,000 for fiscal year 2007; and

''(IV) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

''(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

AMENDMENT NO. 685

(Purpose: To increase an amount made available for the Alaska Highway System)

On page 50, strike lines 16 through 18, and insert the following:

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''$18,800,000 for each of fiscal years 1998 through 2002'' and inserting ''$30,000,000 for each of fiscal years 2005 through 2009''.

AMENDMENT NO. 694

(Purpose: To provide for an off-system bridges pilot program)

On page 353, strike lines 6 and 7 and insert the following:

Secretary determines that the State has inadequate needs to justify the expenditure.

''(C) PILOT PROGRAM.—Not less than 20 percent of the amount apportioned to the States of Colorado, _____, and _____, for each of fiscal years 2005 through 2009 shall be expended for off-system bridge pilot projects.'';

AMENDMENT NO. 705, AS MODIFIED

On page 270, after line 15, add the following:

(d) In addition to other eligible uses, the State of Maine may use funds apportioned under section 104(b)(2) to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

AMENDMENT NO. 708, AS MODIFIED

On page 40, strike lines 16 through 20 and insert the following:

authority has not lapsed or been used;

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and

(11) section 1106 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.

On page 60, between lines 14 and 15, insert the following:

SEC. 1106. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FUNDS.—

(A) IN GENERAL.—The term ''eligible funds'' means excess funds or inactive funds for a specific transportation project or activity that were—

(i) allocated before fiscal year 1998; and

(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.

(B) INCLUSION.—The term ''eligible funds'' includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.

(2) EXCESS FUNDS.—The term ''excess funds'' means—

(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or

(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be carried out certifies are no longer needed for the project or activity.

(3) INACTIVE FUNDS.—The term ''inactive funds'' means—

(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and

(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.

(b) AVAILABILITY FOR STP PURPOSES.—Eligible funds shall be—

(1) made available in accordance with this section to the State that originally received the funds; and

(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.

(c) RETENTION FOR ORIGINAL PURPOSE.—

(1) IN GENERAL.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.

(2) REPORT.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.

(d) AUTHORITY TO OBLIGATE.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—

(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or

(2)(A) deobligate the funds; and

(B) reobligate the funds for any eligible purpose under that section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies only to eligible funds.

(2) DISCRETIONARY ALLOCATIONS; SECTION 125 PROJECTS.—This section does not apply to funds that are—

(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or

(B) made available to carry out projects under section 125 of title 23, United States Code.

(f) PERIOD OF AVAILABILITY; TITLE 23 REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—

(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and

(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to cost-sharing.

(2) EXCEPTION.—With respect to eligible funds described in paragraph (1)—

(A) section 133(d) of title 23, United States Code, shall not apply; and

(B) the period of availability of the eligible funds shall be determined in accordance with this section.

(g) SENSE OF CONGRESS REGARDING USE OF ELIGIBLE FUNDS.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.

AMENDMENT NO. 713, AS MODIFIED

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

AMENDMENT NO. 737

(Purpose: To improve the bill)

On page 38, line 8, strike ''$9,386,289'' and insert ''$8,386,289''.

On page 327, line 18, strike ''under section 204''.

On page 417, line 24, strike ''209'' and insert ''2009''.

On page 418, line 13, strike ''$2,000,000'' and insert ''$3,000,000''.

On page 558, line 17, insert ''and Boating'' before ''Trust''.

On page 558, line 23, strike ''2004'' and insert ''2005''.

On page 633, line 15, strike ''by all States''.

On page 652, line 23, strike ''Section'' and insert ''(a) IN GENERAL.—Section''.

On page 653, between lines 8 and 9, insert the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

On page 807, after line 16, insert the following:

(h) CONTRACTED PARATRANSIT PILOT.—

(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of title 49, United States Code, in an urbanized area with a population of 558,329 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of title 49, United States Code, for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the implementation of this section and any recommendations of the Secretary regarding the application of this section.

On page 846, after line 6, insert the following:

(m) MIAMI METRORAIL.—The Secretary may credit funds provided by the Florida Department of Transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

On page 872, strike line 24, and insert the following:

tives.

''(e) STUDY OF METHODS TO IMPROVE ACCESSIBILITY OF PUBLIC TRANSPORTATION FOR PERSONS WITH VISUAL DISABILITIES.—Not later than October 1, 2006, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the effectiveness of alternative methods to improve the accessibility of public transportation for persons with visual disabilities. The report shall evaluate a variety of methods and techniques for improving accessibility, including installation of Remote Infrared Audible Signs for provision of wayfinding and information for people who have visual, cognitive, or learning disabilities.''.

On page 900, line 18, strike ''and''.

On page 900, line 22, strike the period and insert ''; and''.

On page 900, after line 22, insert the following:

(5) by adding at the end the following:

''(1) NOTIFICATION OF PENDING DISCRETIONARY GRANTS.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriation of the House of Representatives.''.

On page 944, after line 21, insert the following:

SEC.___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

SEC.___. FUNDING FOR FERRY BOATS.

Section 5309(i)(5) of title 49, United States Code, as amended by section 6011(j) of this Act, is amended to read as follows:

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

''(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

''(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

''(C) $5,000,000 shall be available in each of fiscal years 2006 through 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998, as amended (42 U.S.C. 3121 note), for docks, waterfront development projects, and related transportation infrastructure.''.

On page 1291, strike lines 12 through 16 and insert the following:

(1) For fiscal year 2005, $7,646,336,000.
(2) For fiscal year 2006, $8,900,000,000.
(3) For fiscal year 2007, $9,267,464,000.
(4) For fiscal year 2008, $10,050,700,000.
(5) For fiscal year 2009, $10,686,500,000.

AMENDMENT NO. 725

(Purpose: To provide for the construction of improvements to streets and roads providing access to State Route 28 in the State of Pennsylvania)

On page 410, between lines 7 and 8, insert the following:

SEC. 1830. PRIORITY PROJECTS.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended in item 1349 of the table contained in that section by inserting '', and improvements to streets and roads providing access to,'' after ''along''.

AMENDMENT NO. 726, AS MODIFIED

On page 297, between lines 9 and 10, insert the following:

SEC. 16___. CLEAN SCHOOL BUS PROGRAM.

(a) DEFINITIONS.—In this section:

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

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means—

(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;

(B) methanol or ethanol at no less than 85 percent by volume; or

(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.

(3) CLEAN SCHOOL BUS.—The term ''clean school bus'' means a school bus with a gross vehicle weight of greater than 14,000 pounds that—

(A) is powered by a heavy duty engine; and

(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.

(4) ELIGIBLE RECIPIENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''eligible recipient'' means—

(i) 1 or more local or State governmental entities responsible for—

(I) providing school bus service to 1 or more public school systems; or

(II) the purchase of school buses;

(ii) 1 or more contracting entities that provide school bus service to 1 or more public school systems; or

(iii) a nonprofit school transportation association.

(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.

(5) RETROFIT TECHNOLOGY.—The term ''retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses.

(B) BALANCING.—In awarding grants under this section, the Administrator shall, to the maximum extent practicable, achieve an appropriate balance between awarding grants—

(i) to replace school buses;

(ii) to install retrofit technologies; and

(iii) to purchase and use alternative fuel.

(2) PRIORITY OF GRANT APPLICATIONS.—

(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.

(3) USE OF SCHOOL BUS FLEET.—

(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.

(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.

(4) RETROFIT GRANTS.—The Administrator may award grants for up to 100 percent of the retrofit technologies and installation costs.

(5) REPLACEMENT GRANTS.—

(A) ELIGIBILITY FOR 50% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.

(B) ELIGIBILITY FOR 25% GRANTS.—The Administrator may award grants for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for —

(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—

(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and

(II) .01 grams per brake horsepower-hour of particulate matter; or

(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.

(6) ULTRA-LOW SULFUR DIESEL FUEL.—

(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—

(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and

(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.

(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall, to the maximum extent practicable—

(A) achieve nationwide deployment of clean school buses through the program under this section; and

(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.

(8) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—

(i) evaluates the implementation of this section; and

(ii) describes—

(I) the total number of grant applications received;

(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(III) grants awarded and the criteria used to select the grant recipients;

(IV) certified engine emission levels of all buses purchased or retrofitted under this section;

(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and

(VI) any other information the Administrator considers appropriate.

(c) EDUCATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.

(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.

(3) COMPONENTS.—The outreach program shall—

(A) inform potential grant recipients on the process of applying for grants;

(B) describe the available technologies and the benefits of the technologies;

(C) explain the benefits of participating in the grant program; and

(D) include, as appropriate, information from the annual report required under subsection (b)(8).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $55,000,000 for each of fiscal years 2006 and 2007; and

(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.

AMENDMENT NO. 755 TO AMENDMENT NO. 725

(Purpose: To reprogram funds made available for Interstate Route 75 and North Down River Road, Michigan)

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking ''Conduct'' and all that follows through ''interchange'' and inserting ''Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area''.

AMENDMENT NO. 670, AS MODIFIED

Mr. OBAMA. Mr. President, we have all heard from folks back home about the high price of gasoline. When you pull into a gas station to fill up your tank, you're now paying some of the highest prices of all time.

This amendment is designed to do something about that—by promoting a choice at the pump that will allow consumers to choose a fuel that today is 50 cents per gallon cheaper than regular gasoline.

That's why I would like to thank the chairman of the Finance Committee, Senator GRASSLEY, and the ranking member of the Committee, Senator BAUCUS, for their advocacy of this amendment. I also want to thank the manager of the transportation bill, Chairman INHOFE, for working with us on this proposal. These Senate leaders are all committed to addressing high gas prices, and their work on this amendment is an example of that commitment.

I would like to thank my fellow authors of this amendment, Senator TALENT, as well as my distinguished colleague from Illinois, Senator DURBIN, for their hard work in getting this provision passed. And I thank the cosponsors of this amendment, also longtime supporters of ethanol, Senators LUGAR,

HARKIN, BAYH, COLEMAN, SALAZAR, DAYTON, and NELSON of Nebraska.

And of course, I would like to thank the excellent staff work of Elizabeth Paris, Matt Jones, and Russ Sullivan on behalf of this provision.

I am sure many of us in this Chamber, and many watching these proceedings, would jump at the chance to fill our cars and trucks with fuel that is 50 cents cheaper than current prices. What many consumers may not know is that that option is available today. It is known as E–85, a fuel comprised of 85 percent ethanol. And I suspect most Americans would agree that a fuel made of 85 percent Midwestern corn is a lot more desirable than one made from 100 percent Middle Eastern oil.

Right now, there are millions of cars and trucks that can run on E–85. They are known as ''flexible fuel vehicles,'' and the auto industry is turning out hundreds of thousands of them every year. These cars and trucks aren't more expensive to operate than regular cars—in fact, for just a one-hundred-dollar adjustment, even regular cars could run on E–85. And if E–85 is good enough for the Indianapolis 500—which just announced their cars will run on this fuel—then you can be sure that E–85 will work great in a flexible fuel vehicle.

The only problem now is our short supply of E–85 fuel stations. While there are more than 180,000 gas stations all over America, only about 400 offer E–85.

The amendment adopted by the Senate today addresses this problem by providing a tax credit to encourage the installation of more E–85 fuel pumps at your local gas station. Its enactment will not only give motorists another option at the pump, it will also send a clear message that the U.S. Senate is serious about reducing our country's dangerous dependence on imported oil.

Again, I thank my colleagues who have worked to adopt this amendment to help make America energy independent.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent the two live quorums be waived.

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

Mr. INHOFE. All time is yielded back.

The PRESIDING OFFICER. All time is yielded back. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending substitute to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, J.M. Inhofe, David Vitter, Thad Cochran, Norm Coleman, Jim DeMint, Richard Shelby, Orrin Hatch, Kit Bond, Chuck Grassley, Pete Domenici, Jim Talent, Richard G. Lugar, John Thane, Bob Bennett, George Allen, Mitch McConnell.

The PRESIDING OFFICER. The mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 605 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRASSLEY. Mr. President, I want to respond to the distinguished Chairman of the Budget Committee. Yesterday afternoon, my colleague responded to my defense of the merits of the Finance Committee title in Chairman INHOFE's substitute.

Since Chairman GREGG's response came shortly before the session ended last night, I am responding this morning.

I respect Chairman GREGG's efforts in his initial year as chairman of the Budget Committee. I congratulate him now as I have in the past on his victory in achieving a budget resolution. I was proud to support him in committee, on the floor, and in conference on the resolution.

As a senior member of the Budget Committee, I take its role seriously. I respect the Budget Act and the importance of the tools of fiscal discipline that points of order and other enforcement devices bring to the legislative process. I also respect the key role of the Budget Committee chairman and his staff under the Budget Act.

A careful and fair review of my statement will show that it is consistent with these long-held views. My statement did not claim that there was no valid Budget Act point of order against the Finance title of the Inhofe substitute. My statement did not question the authority of the Budget Committee chairman in raising the point order.

My statement responded to several very specific assertions against the Finance Committee title. One assertion, made quite passionately by Chairman GREGG, was that the Finance Committee amendment was a product of accounting gimmicks. Another assertion was that the amendment was not offset. I responded to the two main assertions ad relied on the Congress' official tax policy scorekeepter, the Joint Committee on Taxation. Chairman GREGG is right that, under the Budget Act, it is the Chairman Budget Committee chairman that the Senate parliamentarian looks to determine whether a point of order is well-founded. The Joint Committee on Taxation, however, determines the scoring of revenue measures.

I will not go into the other points of disagreement in our statements because the statements speak for themselves.

In sum and substance, my statement defended the Finance Committee title on its scoring by the Joint Committee. My statement did not dispute that the amendment spending level was above those contemplated by the Budget Resolution or the spending level agreed to by the administration and congressional Republican leadership. Of course, Finance Committee jurisdiction extends only to the cash flow of the Highway Trust Fund. The Finance Committee title added additional cash inflow, trust fund receipts, and additional cash outflow, trust fund outlays. The Finance Committee title balances additional trust fund receipts and outlays. That was the job we were asked to do and we did it in a fiscally responsible manner.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM).

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

The yeas and nays resulted—yeas 92, nays 7, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—92

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

NAYS—7

Cornyn	Kyl	Sununu
Gregg	Martinez	
Hutchison	McCain	

NOT VOTING—1

Santorum

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 7. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank those who voted the right way to come to a conclusion on this bill. This is likely the most important bill we will deal with this entire year. Right now we have a distressingly large number of

amendments out there that are germane that people could come and offer. We are not going to have enough time to do it. As is usually the case, there are many out there who are not serious about their amendments. It is currently being hotlined to try to find out who is serious and who is not. I am going to be talking to individuals, but I would say, if you are serious about your amendment, and you want it considered, bring it to the floor. I am sure I speak on behalf of Senator JEFFORDS as well. We want these amendments brought to the floor, and we also want to know how many are out there that may not be serious amendments.

Mr. JEFFORDS. Mr. President, I agree with the Senator. Please, everyone, expedite.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. INHOFE. I yield.

Mr. BYRD. I have an amendment. I would like to offer it at a time when it would be mutually agreeable to the managers.

Mr. INHOFE. I suggest that it is mutually agreeable to send it to the desk and that it be considered.

Mr. BYRD. Very well. I will get my amendment, if the two managers will consent that I be recognized to offer it.

Mr. INHOFE. Yes.

Mr. BYRD. Mr. President, I will very shortly. In the meantime, might I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I will shortly call up an amendment. Before doing so, I would like to recall a statement by the late Reverend Peter Marshall, possibly, even probably, the most famous and well known of the Senate chaplains, who offered this prayer at the opening of the second session of the 80th Congress:

> Let us not be content to wait and see what will happen, but give us the determination to make the right things happen.

Sometimes we can do that, sometimes we can't, but at least we can try. For too many months now, the Congress and the administration have taken a ''wait and see'' approach when it comes to today's life-altering price of gasoline.

The administration has pinned its rhetoric to an energy plan, waiting and hoping to tout a reduced dependence on foreign oil, while conceding that no energy plan will provide immediate relief to high prices at the pump.

The American people have waited and have waited and have waited for the United States to get tough on OPEC and other nations responsible for the recent spike in gasoline prices. Their elected leaders offer explanations and more explanations and still more explanations and equivocations about why such action has not reduced prices at the pump.

The American people are out there listening and they are watching; they see what is going on here on the Senate floor. They watch us through those electronic lenses behind the Chair, the Presiding Officer. The American people waited anxiously for the President's prime-time news conference, hoping to see at last that somebody would proffer some kind of relief from high gas prices. My, how they do hurt. How they do pinch, don't they? Yes. Ultimately, the American people were disappointed as their pleas for relief were again rebuffed. The people have waited, they have waited, they have waited, and they are still waiting. They waited while gas prices have gone up and up and up. The patience of the American people is running out. When will it end?

The American people watched incredulously as the House of Representatives passed an energy bill last month, including $8 billion of energy tax cuts. These are tax cuts for many of the corporate conglomerates who are enjoying record-breaking profits from today's oil prices. Yet the Congress declines—it declines, it declines, and it declines again and again—to provide relief to the workers who must bear the brunt of these price spikes at the pump. I am talking about the working people of America, people whose hands are soiled with honest toil, the working people in America. They are in South Carolina, North Carolina, and West Virginia.

While the big oil companies are making big money, hand over fist, from high gas prices, the only relief the Congress has seen fit to provide is to the very oil companies—not the people—making all the money. They are making all the money.

The irony is incredible, but not only is it incredible, it is contemptible. It is the little guy who is getting the shaft because we refuse to stand up for him or her. Well, the time has come to take a stand. This Congress continues to ignore the working man and the single mother. There are lots of them out there and they have to go through this every day when they drive up to the pumps. Think of them. Who is here to take a stand for them—the little guys? There are lots of them out there. The little guy is getting the shaft because we refuse to stand up for him. Again, this Congress continues to ignore the working man and the single mother. This administration continues to ignore the working man and the single mother, and it continues to ignore the outdoorsman who can no longer afford to fill up his pickup truck or SUV for a weekend of work—yes, they even work on the Sabbath; they have to sometimes—or for a weekend of hunting and fishing.

If the Congress cannot wave a magic wand to lower prices at the pump—and it cannot—at least we can provide short-term relief to compensate workers, and that relief ought not be delayed. We have those workers in Texas, we have them in Oklahoma, and we have them in West Virginia. I talk with them every day. The time has come; the clock is moving. Relief ought not be delayed. The time has come for the Congress to take action. We must take action. We have heard that television statement: Do it now, do it here.

I addressed the Senate last month about this issue, highlighting the impact that high gas prices have had on rural States such as mine, rural States such as New Hampshire. Yes, there are rural areas all over this country.

When gas prices soar, the impact on rural families can be devastating and can be cruel. In my State of West Virginia, the impact has been brutal. It saps the economic strength of the State. It squeezes anybody who owns a vehicle, and it chips away at the income of workers who must commute. They have to commute, there is no way around it. Think of those mountains, those stately, majestic mountains in New Hampshire, West Virginia, and Tennessee. It chips away at the income of workers who have to commute to and from and across and in between those mountains. Households must curtail essentials, and families must do without other things. They have to get that gasoline, they have to get to work, they have to get that bread and butter on the table. Businesses lose customers. Think about that. I was once in a small business. I was once a small, small businessman. I know what it is. You have to meet a one or two or three-person payroll. And business includes customers. As the pocketbook strings tighten more and more, profits decrease, operating expenses sore, workers' paychecks suffer more and more.

Residents of rural States must drive longer distances to and from work, inflicting burdensome costs on commuters. I am talking about the States of Virginia, Georgia, New Hampshire, as well as West Virginia—not just West Virginia.

Rural States have less access to public transportation. What does that mean? That means subways and buses and car pooling are not usually available to rural commuters. I am talking about the States of South Carolina; Kansas; Iowa, where the tall corn grows; Oklahoma, as well as West Virginia. Not just West Virginia. Hear me now, it is not just West Virginia. In Appalachia—13 States are in Appalachia. West Virginia is the only one wholly in Appalachia.

In Appalachia, rural roads, twisting and winding and bending around the hills and mountains, exacerbate the financial pain. I am talking about the States of Tennessee, Kentucky, Mississippi, yes, as well as West Virginia. Not just West Virginia; other States as well.

When gas prices spike, rural commuters often have no disposable income to absorb the price flux. What

does this do? It forces painful cuts in essential expenditures. I am talking about the States of Idaho, North Carolina—where I was born—Ohio, South Dakota, as well as West Virginia. So it is not just West Virginia.

The people of these States and all across America, all across the Great Plains and the prairies, the mountains, the Ozarks, the Rocky Mountains, all throughout the land, people in these States are crying out for action by Congress. So today I offer an amendment to answer that call. We hear you, we should say. Yes, we hear you. So I have an amendment that says we hear you.

My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week to and from work. Isn't that a reasonable approach, a temporary $500 tax credit for commuters who travel 250 miles per week, and many of them travel more than that? Oh, yes. But we put a limit on it, for commuters who travel 250 miles. If you travel 240 miles, that is not enough. So we try to be very reasonable.

Why shouldn't a man or woman who travels 240 miles a week be helped, too? We know how difficult it is to move legislatively. I have only been in this Chamber 47 years, 47 years looking around these walls. ''Novus ordo seclorum,'' it says on that wall, ''a new order for the ages.'' And ''in God we trust.'' ''In God we trust.'' I have seen these walls for 47 years. Yes, I came over from the other body where I used to say: Thank God for the Senate. I never thought of coming over here to change the Senate rules to make us another House of Representatives. No, I said thank God for the Senate.

Here we are. My amendment would provide a temporary $500 tax credit for commuters who travel 250 miles per week. What does that amount to per day? Mr. President, $50 for a 5-day week; is that what it is? It is $50 a day for a 5-day week. The credit would be available in rural, low-income States where public transportation is not readily available. Go down to Welch, WV. Travel into the hills and mountains of New Hampshire. The credit would be available in rural, low-income States where public transportation is not readily available. The credit would be limited to the tax year 2005, 1 year, and it fits within the congressional budget so as not to worsen projected deficits. That is reasonable, isn't it? This is not a complicated proposal. The arguments in favor of providing relief to workers is obvious, having been made by Members of Congress and the administration for many months now. So we put off action day to day, month to month, year to year, waiting for supposed long-term solutions to take effect while we are recreant, while we refuse to provide relief for the immediate hardship.

Let us not delay any longer. Let us not equivocate about economic theories that clearly are working to the detriment of the American workers. Now is the time, and it may be the only time, to vote to provide relief from high gas prices. Now is the time to vote to recognize the plight of workers at the gas pump.

Oh, they say, well, this amendment may not be germane. Oh, this would set a precedent. What is wrong with that? How are precedents set? What is a precedent, if it isn't something new, if it isn't something that goes against the grain of something that has gone before? That is how we get precedents. I have seen many precedents set in this Senate, so do not come here with that argument. I do not know, the Chair may rule this amendment is not germane. I suppose someone might even ask the Chair.

Now is the time to provide relief, a vote to forgo a policy of wait and see. It is time to show determination in making the right things happen.

AMENDMENT NO. 635 TO AMENDMENT NO. 605

(Purpose: To amend the Internal Revenue Code of 1986 to allow a credit for rural commuters)

Mr. BYRD. Mr. President, I call up my amendment No. 635 and ask that the clerk read the amendment.

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

Mr. BYRD. I make that consent request, Mr. President. I thank the Chair.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 635:

At the appropriate place, insert the following:

SEC. ___. TAX CREDIT FOR RURAL COMMUTERS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

''SEC. 25C. RURAL COMMUTER CREDIT.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible commuter, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500.

''(b) ELIGIBLE COMMUTER.—For purposes of this section:

''(1) IN GENERAL.—The term 'eligible commuter' means an individual who, during the taxable year—

''(A) resides in an eligible State,

''(B) drives an average of more than 250 miles per week for purposes of commuting to and from any location related to the employment of such individual, and

''(C) has an adjusted gross income of less than—

''(i) in the case of a joint return, $100,000,

''(ii) in the case of a head of household return, $75,000, and

''(iii) in any other case, $50,000.

''(2) ELIGIBLE STATE.—

''(A) IN GENERAL.—The term 'eligible State' means any State with respect to which—

''(i) the percentage of the population residing in urban areas is less than the national average,

''(ii) the disposable personal income per capita is less than 114 percent of the national average, and

''(iii) the use of public transportation by the population for the purpose of commuting to and from work is less than the national average.

''(B) DETERMINATION OF ELIGIBLE STATES.—The Secretary shall determine which States are eligible States under subparagraph (A) based on the most recent data available from the Bureau of the Census.

''(3) STATE.—The term 'State' means the 50 States of the United States.

''(c) TERMINATION.—This section shall not apply to any taxpayer for any taxable year beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENT.—The table of section for subpart A of part IV of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Rural commuter credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I commend the Senator from West Virginia for what he is attempting to do for rural America. That happens to be me, rural America. I am certainly in sympathy with this issue. The problem I think is going to be the cost. The cost is somewhere around $5 billion. Since this affects the finance title of the bill, I am looking to see if Senator BAUCUS and Senator GRASSLEY can come by and visit a little bit. If the Senator would like to continue explaining his amendment, or we could try to get hold of the two Senators from the Finance Committee.

Mr. BYRD. Mr. President, if the Senator will yield.

Mr. INHOFE. Yes.

Mr. BYRD. I will yield to the good judgment of the managers of the bill. If you would like to wait until the arrival of those two Senators, that is fine for me. May I take this moment to congratulate him and congratulate his comanager sitting by my side, the very distinguished Senator from New Hampshire. Mr. President, you are doing your duty, I say, speaking in the second person, which I am not supposed to do in the Senate. I hope they will come to the floor and make themselves heard.

Mr. INHOFE. Mr. President, I appreciate that and will wait until we have an opportunity to speak to those managing the finance title of the bill. That being the case, let me renew our invitation for people to bring their amendments to the floor. Right now we have hotlined trying to determine who is serious about his or her amendment. We have a lot to get done. The sooner anyone who has an amendment gets down here for the consideration of that amendment, it will be very helpful.

Mr. BYRD. Will the Senator yield for a correction?

Mr. INHOFE. Yes.

Mr. BYRD. I have done what Senators sometimes do. They make a mistake. They have done it to me, too, in referring to a Senator's State as a wrong State. Sometimes they say I am from the State of Virginia. I count that as a great compliment, but I am from the great State of West Virginia.

In this case, I have mistakenly referred to the distinguished Senator from Vermont as the Senator from New Hampshire, both great States. I am talking about the Senator from Vermont. I believe I referred to him as the Senator from New Hampshire. OK, the Senator from Vermont. I correct the RECORD.

Mr. INHOFE. Mr. President, I will just observe that they have covered bridges in both New Hampshire and Vermont.

Mr. BYRD. And West Virginia.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, can I have the attention of the Senator from West Virginia, please. The Senator from West Virginia does not need to respond to this, but I just want to make sure. First, I rise because about 6 o'clock yesterday afternoon, I promised the Senator from West Virginia that I would get back with him and hopefully have Senator BAUCUS with me to discuss whether we could go along with his amendment.

I got the amendment over to my staff, as I promised I would, about that time, but it was 9:30 this morning before I was able to get the two staffs together. I never did get together with Senator BAUCUS so I could come over and visit with the Senator personally about it.

We have found a cost argument, not an argument against the Senator's point of view on the substance of his amendment, but it is my responsibility as chairman of the Senate Finance Committee to find offset. Now, I do not say this to denigrate the Senator's efforts—the Senator does not have to worry about offsets; that is my job—but if I were going to go along with the amendment of the Senator, I would have the responsibility to find an offset.

So I apologize, first, for not getting back to the Senator as I promised I would last night. But based upon some of the arguments that Mr. INHOFE gave but more importantly related to the work of my committee—and I cannot speak for Senator BAUCUS, but I think there is an agreement among our staff, and I do not want to put a figure on it without having the Joint Tax Committee actually score something, but this is a tremendously expensive amendment, not that it is not justified.

I would have to come up with a fairly large figure that my staff tells me would be close to what we have already raised to bring more money into the transportation fund so that we can get more money for the Senator's State and my State, and more money even for the transit that is a basis for the Senator's argument because he does not have the mass transit—and we do not have the mass transit in Iowa as well, so Iowans would benefit from the Senator's amendment. But I just cannot find that money, and it would detract from all the money we previously had raised.

I do not know what the course of action is, but I would have to take the position of advising people not to vote for the Senator's amendment.

Mr. BYRD. Mr. President, would the Senator yield?

Mr. GRASSLEY. Yes.

Mr. BYRD. Mr. President, I respect the very able Senator for the position he has taken. I can understand that position, and I appreciate it. I have discussed this with the Senator. I do not have a suggestion for an offset. I commend the Senator and Senator BAUCUS on what they have jointly done to advance this bill and what they have jointly done to increase the amounts of money available. I understand completely the Senator's position. I do not blame him for it. He states it correctly, but I will say that the amendment does not worsen projected deficits. The amendment fits within the congressional budget. That is why it is not subject to any budget points of order. Deficit projections within the congressional budget will not worsen if this amendment passes.

I do respect the Senator. I know we are both in sympathy with what the people in the mountains, the prairies, the plains, and valleys of this great country have to deal with. I am sorry that the amendment is not germane. I understand that. At least I do not think it is. Perhaps the Senator would like to have a ruling from the Chair. I would hope the Chair would say that the amendment would be germane.

I thank the Senator.

Mr. GRASSLEY. Mr. President, I am not going to raise any more issues. I have expressed why I cannot support the amendment, and I will reserve any other action at the time we vote. I thank the Senator from West Virginia for being understanding of why I did not get back to him.

Mr. BYRD. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

JUDICIAL NOMINATIONS

Mr. REID. Mr. President, I once again want to persuade my Republican colleagues that the so-called nuclear option to break the Senate rules regarding judicial nominations is unnecessary and unwise. Earlier this week, I came to the floor of the Senate and offered to enter into a unanimous consent agreement that will allow an up-or-down vote on controversial nominee Thomas Griffith to the DC Court of Appeals.

We have confirmed 208 of President Bush's nominations to the Federal court, but this record near 100 percent is enough, and the Republican leaders have brought us to the brink of a nuclear showdown. There will be a lot of nuclear fallout if this happens, which would be bad for the Senate and bad for the country.

As I said on the Senate floor earlier this week, Democrats understand the meaning of checks and balances and our constitutional role in ensuring a fair and independent judiciary. We know the difference between opposing nominees and blocking nominees. We will oppose bad nominees, but we will only block unacceptable nominees. Unfortunately, my effort to demonstrate good faith to this point has been rejected.

My statement earlier this week was immediately rejected. The distinguished majority leader, my friend, has indicated that the Senate would not be allowed to vote on Griffith unless Senate Democrats agree to an up-or-down vote on all judicial nominees. What that means is the majority leader will not compromise unless Democrats agree to give up the last check in Washington against abuse of power: the right for extended debate. This is not about seven radical judges. In some people's minds, it is paving the way to the Supreme Court.

Our position is clear: Let us find common ground and confirm judges. Their position appears to be: Let us threaten to break the rules until we get everything we want.

Let us find common ground to confirm judges. That does not mean everybody. If we cannot find compromise, as I said 2 days ago, then we have to vote. We will fight to protect the Nation's constitutional system of checks and balances and depend on Republicans of good will who serve in the Senate who do not want to break the rules to change the rules. That is what the people sent us to do, and we will live up to our responsibility to the American people.

Today, I want to try to do what my Republican colleagues say they want to do, and that is confirm Federal judges. Today, I am prepared to enter into an agreement that would be in respect to two and possibly three nominees to the Sixth Circuit Court of Appeals, which has had tremendous problems for going on 13 years. David McKeague, Robert Griffin, and likely Susan Neilson, Sixth Circuit nominees from Michigan, have been caught up in a dispute that began when the Republican Senate failed to vote on either of the two eminently qualified women President Clinton had nominated to the Michigan seats on that court: Helene White and Kathleen McCree Lewis.

Helene White is a distinguished judge on the Michigan Court of Appeals. Her nomination was pending in the Senate Judiciary Committee for more than 4 years—I repeat, more than 4 years. Kathleen McCree Lewis is a highly regarded appellate litigator at a prominent Detroit law firm. Her nomination was pending for more than a year.

Despite their outstanding qualifications, both of these nominees, along

with over 60 other Clinton nominees, were buried in the Republican-controlled Judiciary Committee. They were never given the courtesy of consideration by the Judiciary Committee, not even a hearing, much less the courtesy of an up-or-down vote by the full Senate.

It seems as if each day a Republican Senator comes to the floor and says that every judicial nominee is entitled to an up-or-down vote on the Senate floor. I challenge these Senators to explain why Helene White, Kathleen Lewis, and 67 others were denied up-or-down votes on the Senate floor.

I have said that what was done in the last 12 years let us put behind us. The 69 Clinton nominees and the 10 Bush nominees, let us put them behind us and go forward. We have a new Congress. We have new leaders, at least two new leaders, Senator DURBIN and I, and we have a number of new Senators. Let us move forward on a new note.

The failure of the Senate to confirm these two outstanding Clinton nominees meant that there were vacancies on the Sixth Circuit when President Bush took office more than 4 years ago. President Bush nominated candidates to fill those unjustified vacancies, and as other judges have left the court, the President has eventually sent four Sixth Circuit nominees to the Senate. In light of the shameful treatment of President Clinton's Sixth Circuit nominees, Senators LEVIN and STABENOW objected to the Bush nominees to this court, and three of them were filibustered in the last Congress. They were determined that the GOP tactic of denying hearings and votes to qualified nominees should not succeed.

I have talked about these on the Senate floor earlier. These were procedural objections. It had nothing to do with the qualifications of two of these Sixth Circuit nominees.

I supported the two Senators from Michigan. They have been fighting a grave injustice that has been perpetrated on White and Lewis. They have been fighting for the principle of fair treatment. I and all Democrats have been proud to stand with them in that fight.

Now with the Senate facing the threat of a nuclear option, we have to remember why we are here. We are here to govern, not endlessly engage in political bickering that brings us to the brink of a Republican shutdown. The American people face great challenges each and every day: escalating health care costs; record high gas prices; skyrocketing tuition; as we learned today on the national news, pensions that are being thrown out the windows of major companies that have tens of thousands of employees; mounting debts that will be handed down to our children and our grandchildren. Under President Bush's leadership, middle-class Americans have gone backward, not forward. Instead of helping them, we are bickering over seven judges and, in my estimation, many radical judges.

For the sake of the American people and the dignity of the Senate, Democrats have been and will be reasonable. We believe too much is at stake. Our very system of constitutional checks and balances is at stake in this dispute. In granting an up-or-down vote on two and likely three of these circuit court judges—and let me say, the nominee I have talked about, Susan Neilson, from everything we know, is a fine woman. She was just grievously ill, and therefore she was not able to have the hearing before the Judiciary Committee. We are confident that will take place quickly. Once that is done and the two Senators from Michigan have had a chance to vet her, that will take care of our being able to move forward on three, not just two.

Henry Saad would have been filibustered anyway. He is one of those nominees. All one needs to do is have a Member go upstairs and look at his confidential report from the FBI, and I think we would all agree that there is a problem there.

The other two nominees, Griffin and McKeague, would not have been filibustered but for the treatment of the Clinton nominees.

Accordingly, I want the majority leader to be aware that Democrats are prepared to enter into the following unanimous consent agreement: If the nominations of Griffin, McKeague, and Neilson are reported from the Judiciary Committee, we agree to limit floor debate on all three nominations to a total of 6 hours equally divided. Following the use or yielding back of that time, there would be a vote on each of these three nominations. Once again, I say to my Republican colleagues, do they want to confirm judges or do they just want to provoke a fight?

We have confirmed all but four of the judicial nominees the majority leader has brought to the Senate floor this year. We are prepared to vote on the nomination of Griffith to the DC Circuit. We are prepared to vote on two and likely three of the nominees to the Sixth Circuit. Why are we being denied the opportunity to confirm these judges? We have already confirmed 208 of President Bush's judicial nominations. If the majority leader will accept our offer to vote on Griffith and these Sixth Circuit nominees, we would have confirmed 212 of President Bush's nominees and rejected only 5. Is the majority leader prepared to break the rules and violate 217 years of Senate tradition, all for five extreme judges? I hope not.

I have great admiration and respect for my Republican counterpart, and I am hopeful and confident that somehow we can work our way through this morass.

In a New York Times op-ed 2 days ago, former Senator George Mitchell, who was the majority leader in this body, quoted from a famous speech delivered by one of his predecessors, former Senator Margaret Chase Smith, whom I did not have the opportunity to meet, but I wish I could have. In her famous ''Declaration of Conscience'' speech against the terrible McCarthyism then practiced by members of her own party, she said:

> I don't believe the American people will uphold any political party that puts political exploitation above national interest. Surely we Republicans aren't that desperate for victory. While it might be a fleeting victory for the Republican Party, it would be a more lasting defeat for the American people. Surely it would ultimately be suicide for the Republican Party and the two-party system that has protected our American liberties from the dictatorship of a one-party system.

Today, the Senate is not plagued by McCarthyism but by what some believe is an abuse of power.

Lord Acton, whom we studied in college—I thought it was just something the teacher had me think about that had no practical application to my life's work, but it has. Lord Acton: ''Power tends to corrupt.'' Lord Acton: ''Absolute power tends to corrupt absolutely.''

We have now a legislative body that is controlled by the Republicans in the Senate by a significant majority, by a significant majority in the House of Representatives, seven of the Supreme Court Justices across the street are Republican appointees, the White House is Republican. Let's not have Lord Acton's theory come to be.

Today, the Senate is not plagued by McCarthyism but by what some believe is abuse of power. Still, Senator Margaret Chase Smith, this great Republican Senator, her words ring true. I hope there are enough modern-day Senator Margaret Chase Smiths who will be guided by the interests of the Nation, not partisan politics.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The majority leader.

Mr. FRIST. Mr. President, I will be brief. I was just talking to my staff and to the Democratic leader to see exactly what offer was made. I did not know exactly what offer had been made, but he reviewed it with me.

Let me make a statement because it is important for people to know the Democratic leader and I are in constant conversation about what is a very important issue to this institution, to the culture of this institution, to the past and traditions which are important, but ultimately it is what we do in the future because that is what we can control today. It is our responsibility to do so.

As we walk the Halls, people come up all the time and say there are outside groups putting pressure on people to behave in certain ways, or to vote in certain ways in terms of this important issue. I have told them, all day and each and every day, ultimately how we handle judges in these judicial nominees is determined, as set out in the Constitution, by the 100 Senators who are here today. That is what we are working with and discussions are ongoing.

Having not heard the specifics of the proposal, the Democratic leader and I

will continue conversations on the proposal that he has put forth. But I do want to draw back and say that the more and more I listen to all the recent discussions about the President's judicial nominees, the more disturbed I become and the more upset I have become. Indeed, as I think about it now, it angers me to think about it, much of it, because quite frankly a real injustice, a real injustice is being done to our Nation's system of justice.

The reputation and the records of some of America's finest jurists, seven of them we talked about in the last Congress and over the last several weeks—in fact, for months now in morning business we have talked about how outstanding many of these jurists are—those reputations are being sullied and they are being smeared and we have talked among ourselves, not necessarily on the Senate floor but in private as we do on both sides of the aisle.

This has an impact on individuals, on their lives. Yes, their careers, but their lives, their personal lives, their lives with family members. And it is inexcusable, I believe.

It is time, in fact, I think it is long past time, for the majority of this Senate to come to their defense and to be able to express that on the floor of the Senate. I believe it betrays the great heritage of this country to drag a person's good name through the mud using the media and the coverage of that, and then deny them the right to be defended on the floor of the Senate and voted on on the floor of the Senate.

We look at the individuals. I use the word ''smeared'' because I believe that is the level that much of the discussion has risen to in this body. It disturbs me. It is time for us to address this, and that is why, once we finish the highway bill, we have to work together and address this much larger issue, larger than much of the legislation that is brought to this floor in the course of our daily operations. This betrayal of the country's heritage is not the way we are supposed to do things in this body, in the Senate. It is not the way we are supposed to do things in America. It is not the idea of fairness—I am going to use that word, ''fairness''—that I was accustomed to before coming to this body in the Senate.

It is not the level of fairness that you expect in a doctor-patient relationship, and thus America doesn't understand it, why we cannot bring somebody to the floor and vote on them—fair vote, up or down. It is our responsibility.

We hear again and again about minority rights. The Constitution was written to ensure the rights of the minority. We respect that. Both sides of the aisle respect that. It is much of the tradition of this body. But the Constitution was written—I guess it was neither written, nor has it operated in 214 years, in a manner that denies the majority of people in this body the right to hold a vote, yes or no, confirm or reject—confirm or deny—up or down—on a President's most important nominations. These are the most important nominations of a President of the United States. These are the nominations to our Nation's highest judicial offices.

Yes, justice must be independent. Yes, justice must be blind. But I cannot and I do not think we as a body can turn a blind eye to the continued attacks on innocent people who are willing to dedicate their lives. Let's have that debate on the floor of the Senate, bring them up in a regular order, have as much time as it justifies, listen to both sides, see if the smears and the accusations are real, and then have a vote. And however the vote falls, we are willing to accept that. Confirm them or reject them, we will accept the vote. That is the way this body expresses itself.

The Democratic leader and I will continue our discussions. Again, it is one of the great pleasures to be able to talk back and forth. But I, based on whether it is individual proposals or the larger discussion of what to do with the seven judicial nominees, or as we look ahead—what I propose we do is roughly the following: If Members of the minority want to make their case—I will tell you a lot of times we hear the case of extremist, out of the mainstream—if they want to make their case that the American Bar Association is wrong in the recommendations they have given, or in one instance in California 76 percent of the California voters are wrong, let them do so and we will do them nominee by nominee and have the courage to do so on the floor of the Senate, with plenty of time for debate—we can agree on how much time for debate on each one—and then have a vote.

America understands having a vote, having heard the case made by both sides. America does not understand how we cannot, how we can deny them that vote.

For our part, you will hear us defend the President's nominees. We will rebut and refute the attacks. Sometimes we believe, and I think America believes when they hear them, they are scurrilous attacks. We will do it point by point. Then, after we do that, we will have that vote. All 100 people in here will be able to vote yes or no, and then we will move to the next nominee in an orderly, systematic way, the ones who are on this Executive Calendar who have been considered by the Judiciary Committee, and then we will start bringing them out. I am confident, if we do that—I am very confident we will be able to judge those nominees on their merits—not because they are the President's nominees; not because people voted a certain way, even in the last Congress when things were very partisan, when a lot of it was in the heat of those elections, but in an environment of renewed civility, of being able to work together the way the Democratic leader and I are in our conversations every day—every day we sit down and discuss how to address this problem. I think that is the same civility colleagues on both sides of the aisle feel deep inside.

They do not want things to come to a head. We all know the partisanship, as the other distinguished Senator from Nevada said, Mr. ENZI described it—well, the partisanship started and other people 3 years ago didn't even think about filibusters. I don't think they thought about filibustering Supreme Court nominees or circuit court nominees. It didn't enter their head. Things have gotten so difficult and so challenging and so partisan and so locked down that it has been elevated up to where, on a routine basis—a routine basis, one out of three to one out of four of the circuit court nominees that came from the President were filibustered, were blocked, were denied an up-or-down vote.

I think everybody agrees that was excessive. I will not go into the past because I think we need to project to the future, but now is the time to get through that and to get over that. I think anything less than that at this point of allowing people to come to the floor, debate them fully, and have them voted on—and I think the American people will recognize—is a sham. I am not saying we should not come to an agreement of exactly how we should do it, but the American people understand at this juncture—they may not understand the filibuster, or rules of the Senate, and many have not gone back and read the Constitution, but what they do understand is full debate and a vote for people who have been nominated by the President of the United States to the highest courts in this country is fair and it is the right thing to do. Anything less than that is a sham. It involves hypocrisy. Hypocrisy must, in this Senate, come to an end.

If it comes to an end—on both sides in terms of the hypocrisy—if it comes to an end, we have a great year and a half to address immigration, to address energy, to address the health care issues that mean so much to me with 40 million people uninsured out there; we have been able to do class action, bankruptcy and the fifth fastest budget on time and the supplemental supporting our troops overseas and we are working on asbestos in committee and we are making great progress. It is time to move beyond this.

The hypocrisy must and will end. Each nominee is entitled to and must receive a full and just consideration of his or her candidacy and then a fair up-or-down vote.

Again, I was not in the Senate, and I did not realize the Democrat leader would make the specific offer. We have talked about much of what he said. I came over as soon as he began to talk, and I appreciate his offer for Senate debate and votes on some of the President's judicial nominees, but say once again that it is that principle of an up-or-down vote that is going to govern this side of the aisle. I believe it is what the American people expect.

With that, I am happy to turn back to the Democratic leader. Again, I look forward to our further discussions on addressing the issue that both he and I understand have to be addressed right now so we can move forward and address the many other issues. Doing that in a mutually acceptable way earns the respect of the American people and this great institution we serve.

The PRESIDING OFFICER. The minority leader.

Mr. REID. I, frankly, wish I could spend more time on the most important highway bill. I was chairman of the full committee on two separate occasions, and I am interested in the jurisdiction of the highway bill. I am sorry my attention is diverted from all we are doing on judges.

Let me say this to my distinguished counterpart, the Republican leader, the senior Senator from the State of Tennessee, I have said in the Senate on a number of occasions, I cannot justify what went on during the 8 years Clinton was President. I am not here to go into a dissertation of what happened the last 4 years during the Bush years.

But I say this: We never got into any problem with filibusters during the Clinton years because these people never got any kind of attention. They were buried in the committee. I hope the American public understand that 69 people were nominated by a President of the United States, nominations came to the Hill and were lost. Some of them waited years and years, almost 5 years. We are not here to debate every 1 of the 10. We have narrowed it down to a fairly small number.

We have to go forward. I don't know if the distinguished Republican leader and I can come up with a formula that satisfies our two caucuses. We realize the time is of the essence. Not only has the country had enough of the judicial problem we call the nuclear option, but the Senator from Tennessee and the Senator from Nevada have had enough. We have to move on. We have work we have to do in this Senate. The Republican leader has mentioned the things we have been able to accomplish so far. It hasn't been easy what we have been able to do but we put the record of our accomplishments this quarter about as far as one could go in saying we have done a pretty good job.

We have a lot of other things to do. He has mentioned a few things. But whether or not we can get things done in this Senate means we have to move beyond this problem.

Some have said that the Senate will stop. The Senate is not going to stop. It is a body that has lots and lots of rules and procedures and things are going to slow down. It will make it very hard to get things done.

We are now approaching June. After we finish 2 more weeks of work, we have 7 weeks remaining until the August recess—7 weeks to do all the things we need to do. Then we come back, and it is time to finish our appropriations bills. We have so, so much to do.

This is not to make me look good or the Senator from Tennessee look good. We have the people's business to do. We are chosen, as indicated by the vision of our Founding Fathers, to represent States. The State of Nevada has about 2.5 million people. The State of New York has 19 million. The State of California has 35 million. In the little State of Nevada, I have as much power as Senators from heavily populated states.

I hope that Senator FRIST and Senator REID can work a way out of this. I don't know if we can. We have met on this. Our conversations, I am sorry to say, are completely filled with discussion of this. We have talked about every possible avenue we think is a way to get my caucus and his caucus out of this.

I have come to one conclusion: If we work out a deal, there are not going to be many happy people around here. We will have to work something out that is a good compromise. As I have said in the Senate before, what does that mean? Both sides are unhappy.

I hope we do not have to come here and I have to look to six Republicans to stop a change of the Senate as we have known it. I hope we do not get to that point.

I have said, with the majority leader off the floor and I say it when he is in the Senate right here, I have the greatest respect and admiration for this man.

I have said it in my private conversations with others, I have said it in the Senate again today. He chose public service for the right reason. Senator FRIST is an accomplished surgeon, in a specialty, transplant surgeon. He is a man of means. He does not have to come here. He did it because he wanted public service. I have admiration for him. I wish we could move past this and move on with the business at hand.

I, again, say I cannot justify what went on during the Clinton years. It was bad. As the distinguished Senator mentioned, people's lives were disrupted and changed. They quit jobs and then they had no job. They waited in limbo for years. It affected people's lives. He and I have discussed how it affected individual human beings to their detriment.

I know for the people we are talking about, the Republicans—I am sorry, the people nominated—I don't know if they are Republicans; I assume they are—by President Bush, this has had an adverse effect on some of their lives, not all of them but some of them. So we have to move on. When we move on, we have to have the Senate we have always known.

We need the partisanship to continue. There is nothing wrong with partisanship. We are the envy of the rest of the world because of our two-party system. We are not like the parliamentary system in Great Britain where they have three parties, and Blair, with his party, barely got a majority. We are not like India or Great Britain.

Mr. President, what a wonderful country this is. President Bush was elected with fewer votes than the person he beat. His case was decided in the Supreme Court of the United States. I did not like the decision they made, but I felt like the rest of Americans—it was all over with. There was not a car burned, no fire started. There were no demonstrations. He became our President the minute that decision was made.

But the fact that we are partisans in protecting this great two-party system we have does not mean we should not work together on issues for this country. We need to do that. I hope we can do that. As the distinguished majority leader said, we are coming down to where the rubber hits the road. I would think next week there will be a decision made on this one way or the other. I hope it is something that is good for the American people. I am going to do my level best to work with my 44 Senators to see that is the case. I know he will work with his 54 Senators to see that is the case. And history will determine how the Senator from Nevada and the Senator from Tennessee fared on this issue, whether we were able to come through on an issue of tremendous importance, because the microscope is on the Senate of the United States as we speak.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I know we are on the highway bill. Senator BYRD is about to speak. So I think at least from my standpoint we will continue our discussions. As you can see, we both feel passionately about this issue, understanding it is our responsibility as leaders to lead on an issue that affects this country in a very dramatic way. It affects the future of this institution in a dramatic way.

Just to clarify, I believe we both agreed that we are going to all keep working together to address this, but we do need to bring some sort of closure to this. Therefore, after the highway bill, at the appropriate time, we will spend—it is going to probably take a week, or I don't know exactly what it is going to take, but next week—and I would hope we would engage in regular order and that we have people on the Executive Calendar and we can do what we have always done, bring them up. And as to which one, and how we go about it, would be in discussion.

But you can tell from my remarks, I believe what the American people expect is we will have full debate and expect an up-or-down vote on those, go through the normal course of business. People will be able to judge. And I hope and pray people will be able to express themselves through a vote on the floor here in the Senate.

Thank you.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted

to address a question to the distinguished minority leader without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask my minority leader, what was his proposition that he recommended?

Mr. REID. This was only a minor issue. What we have done, I say to my distinguished friend through the Chair, and my former leader, is that we have three judges, one for the DC Court of Appeals and two for Michigan, probably three for Michigan, who we said we have no objection—they are all circuit court judges—to move forward on. What Senator FRIST has said in reply is that he wants to have all the judge issues resolved before we move to any of these circuit court judges. That is what he said and that is what I said.

Mr. BYRD. Mr. President, may I address a question to the distinguished Republican leader without losing my right to the floor?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. Leader, what is wrong with that? What is wrong with the proposition that the minority leader has suggested?

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, we will continue the discussion. I would prefer to, as leader, take the Executive Calendar and take the people on the Executive Calendar, who have gone through the Judiciary Committee, who have been debated—it is the way we have always done business or should do business—go through committee and have them voted on. If they are voted on, they come to the calendar. At that point in time, you would look at that list, and you would bring them to the floor, and you would have the debate, and you would vote. That is what I would much prefer.

The specifics, just like you asked, I have heard, and we will consider that. But why not take Priscilla Owen for the Fifth Circuit, who is on this calendar, who has waited 4 years, rather than other judges, if we are going to be addressing judges? Or Janice Rogers Brown, who is a sharecropper's daughter, who is at the Supreme Court of California, with 76 percent approval, who is on the Executive Calendar? All she is waiting for—all she is waiting for—is a vote. Why can't we address Janice Rogers Brown?

William Pryor—we had a recess appointment; he has done an outstanding job; I was just talking to our distinguished Senators from Alabama—was marked out of the Judiciary Committee today.

So what I would like to do—again, I am not going to rule out anything. And I understand the Michigan judges in this Congress may be viewed a little differently than last Congress, and I appreciate that. I think once we can discuss how we are going to deal with those on the Executive Calendar—bring them to the floor—that we will be able to move very quickly on all of these, I am hopeful.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened to this discussion with considerable dismay. I hope that both leaders will not leave the floor.

I cannot understand why we can't proceed a little at a time. If we are seeking to—

Mr. REID. Mr. President, may I respond to my distinguished friend?

Mr. BYRD. Yes. May I retain my right to the floor?

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

Mr. REID. Mr. President, the majority leader and I have had, as I have indicated, many conversations. I think we should proceed one by one. The distinguished majority leader wants to resolve this issue once and for all. So I accept him at what he wants to do. I am going to work with him over the next several days—hopefully, it doesn't take that long—to see if we can resolve this in some manner. If not, we both agreed that this matter is going to end sometime next week anyway. We would hope that in the meantime we can resolve this. We are on the highway bill. We have a lot of work to do on that. In the interim, I would hope that we can work something out. If we can't, next week we will have a showdown.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I would like to avert a showdown, if we can do it. Why do we have to have a showdown?

Mr. REID. Senator BYRD, if I could be rude and interrupt, through the Chair, without the Senator losing his right to the floor.

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

Mr. REID. Senator BYRD, I feel this very way, very strongly. I say, respectfully, to a man who is the dean of the Senate today, has been in the Senate almost 50 years, who I have the widest respect for, we are not going to resolve this issue right now. We are trying to do that. We are going to have some private conversations. What I am saying to my distinguished leader, give us a little bit of time.

Mr. BYRD. Well, Mr. President, I have no quarrel with giving the Senators time. But I hope we will attempt, in every way possible, to avoid that showdown the distinguished minority leader has referred to.

This matter—

Mr. FRIST. Mr. President, let me just interrupt. The majority leader did not say anything about a showdown.

Mr. BYRD. Well, Mr. President, I know of nothing in my 47 years in this body, in my 53 years in this Congress, that has pained me more than this issue. I am pained, pained by the political partisanship. What this country needs is not partisanship but statesmanship. I have great faith in the Senate. I have great faith in the two leaders. The minority leader has made a suggestion. Why don't we proceed with it?

I am sorrowful we have come to the point where we seemingly forget the American people. We talk about the feelings of those nominees who have not been given an up-or-down vote. I am sorry about their feelings. But Senators have a right to speak, have a right to object.

And the distinguished Republican leader talks about the need for an up-or-down vote, an up-or-down vote, an up-or-down vote. I have heard the President say something about that.

Mr. President, here is my guide, the Constitution of the United States. What does it say? Does it say that each nominee shall have an up-or-down vote? Does it say that? I ask the Senator from Tennessee, I ask any Senator to respond to that question. Does this Constitution accord to each nominee an up-or-down vote on the Senate floor?

Mr. FRIST. Mr. President, I would be happy to respond to the question that has been directed to me.

Mr. BYRD. I ask unanimous consent that I may yield without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Tennessee is recognized.

Mr. FRIST. To the question, does the Constitution say that every nominee of the President deserves an up-or-down vote, the answer is, no, the language is not there. Up-or-down vote, that is the language we use to signify that when the President of the United States sends a nominee to the highest court in the land, which is his or her responsibility, which is in the Constitution, they send it to this body for advice and consent. It is common sense to me, it is fairness to me that when they come over to give advice and consent, we go through the Judiciary Committee. If they make it out of the Judiciary Committee, the way we give advice and consent on this floor is a vote. That is what we are elected to do. Or vote no. I don't mean you have to vote yes on them, but advice and consent.

To the American people who are listening now, when they elect us here, what is fair, what is our responsibility, what is our duty is to vote. That is how we give voice. You can't cut these nominees in half; you can't reshape them; you can't amend them; you can't send them to conference—all of those things. That is why I am a tremendous advocate for the filibuster for legislative matters. But when you have a nominee that comes over, all you can do is shine the light. You examine them. You debate it, unlimited debate—unlimited debate—and then to give advice and consent, which is in that Constitution, the advice and consent is right there. How do you do it? Vote yes, vote no. Confirm, reject. We

accept it. One hundred people have spoken, and then we move on to the next nominee.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this says that he, the President, shall have the power to nominate and, by and with the consent of the United States Senate, shall appoint. To give consent, we may vote. But to deny consent doesn't require a vote. It does not require a vote and the record shows that. The record shows that Republicans and Democrats have, from time to time, the leadership has denied a vote to a nominee simply by bottling up that nominee in the committee. That denies the nominee a vote. The Senate speaks, as it were, and refuses to give its consent by just saying nothing; thus, keeping those nominees in the committee. That has been done from time immemorial and more recently in increasing measure.

Many nominees under the Clinton administration were not given an up-or-down vote. They were sent up here by the President of the United States. They were not given an up-or-down vote. They were kept in committee.

Mr. FRIST. Will the Senator yield for a question?

Mr. BYRD. Let me finish. I will be happy to yield. They were not given an up-or-down vote. So the Senate did not give its consent. That is all right. That is within the Constitution. The Senate did not give its consent. So what is the difference, if the Senate, through its committee system, decides not to give a presidential nominee an up-or-down vote in the committee, then? The Senate may decide not to indicate its confirmation by an up-or-down vote, just simply be silent. It has not confirmed, has it? It has not given its consent, has it? So what is the difference?

If a nominee is not given confirmation by a committee, what is the difference? You are not giving consent there. If you are not given an up-or-down vote on the committee, what is the difference? I am unable to understand the difference.

Let's do what the Constitution says. Let's do what the Constitution says. When we talk about what these nominees deserve, what do the American people deserve? That should matter. What do the American people deserve? They deserve to move on. Look at the problems that confront this country.

Mr. FRIST addressed the Chair.

Mr. BYRD. Mr. President, if the Senator wishes me to yield, I would be glad to. I have the floor.

Mr. FRIST. Yes, sir.

Mr. BYRD. I ask unanimous consent that I may yield to the distinguished majority leader for a statement without losing my right to the floor.

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

Mr. FRIST. Mr. President, through the Chair to the distinguished Senator from West Virginia, why does Priscilla Owen—through advice and consent, who has gone through Judiciary Committee—not deserve the fairness—yes, the fairness—of an up-or-down vote, where every Senator can speak for or against on the floor of the Senate? Why does Priscilla Owen not deserve—she has waited 4 years—an up-or-down vote? How can you explain to the American people at this juncture, after what I would call an unprecedented number of filibusters in the last Congress, that Priscilla Owen does not deserve a vote? It is our responsibility to give advice and consent. How does she not deserve a vote in the Senate next week or the following week?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, what does the Constitution say? By and with the consent, the President shall have the power, and by and with the consent of the United States Senate, shall appoint. Now, we can wrangle until the crack of doom about why so and so and so and so were not given an up-or-down vote in the Senate. One could ask that question ad infinitum about those many nominees that were sent to the Senate by President Clinton. They never got up-or-down votes. I didn't take the floor and urge that they deserved this or that.

The Senate should be guided by this Constitution. If it elects not to confirm by simply withholding its voice, it can do so. I commend both leaders for their efforts. But I am telling you, the American people deserve something. That is what we should think about. The American people deserve action by the Senate to get on with the business of the people. Look at these high gas prices. We can talk about immigration policy. We can talk about access to health facilities. The American people deserve action on the part of the Senate, and here we are wrangling over a half-dozen nominations for judgeships. That is just a shirttail full of nominations, and they have been sent to the Senate already. In the first administration, if the Senate saw fit not to give its confirmation to them, why should the President send the same nominations back up to the Senate? There are plenty of people in this country who are able—many lawyers and judges who are able. There are plenty of people the President could nominate that would not have a problem getting confirmation in the Senate. Why do we have to send the same ones back here? That is up to the President. If he wants to send the same ones, he can.

I am saddened by this threat to use the so-called nuclear option. The distinguished majority leader prefers to call it the ''constitutional option.''

Mr. INHOFE. Will the Senator yield for a point of order?

Mr. BYRD. Not yet. I have not said much on this question, but I want to say a few things today. The Republican leader refers to it as the ''constitutional option.'' I refer to it as ''constitutional folly.'' We talk about freedom of speech in the Senate. Roots run deep with respect to freedom of speech. When the distinguished Republican leader first became leader, and even before he became leader, he visited my office and we had a good conversation. I believe he asked my thoughts on whether he might be a good leader of the Senate. I said give the Senate the opportunity to debate and to amend. That is what we are talking about here—the right to amend, the right to debate. Yet they are talking about the nuclear option.

Don't kill freedom of speech in the Senate. That great compromise that was entered into on July 16, 1787, is why we are here today. If it hadn't been for that compromise, the Senator who sits in the chair would not be sitting there. The distinguished Democratic leader would not be the leader in this body. There would be no Senate, and there probably would not be a Republic. The great compromise said there shall be two Houses, and the membership number of one shall be determined on the basis of population; the other will be a forum of the States in which each State is equal to every other State and each Senator is equal to every other Senator.

We talk a lot about tradition. I say to my good friend—and he is my friend—the distinguished Senator from Tennessee, I have heard a good many Senators on the floor talking about tradition. Well, tradition in the Senate means freedom of debate going back to the beginning of this Republic; and the Articles of Confederation, the first Constitution of the United States—going back to the Articles of Confederation, back to the House of Commons, the people of England who were in this country, especially those who decided on this Constitution, were British subjects.

So the roots of freedom of speech are deep. They go back to 1689, to the time when the English offered to William III, of Orange, and Mary the opportunity to be joint sovereigns. The proposition was that there must be freedom of speech in the Senate. Those two sovereigns—that was one of the items that was to be agreed to, freedom of speech in the House of Commons. That was on, I believe, February 13, 1689. On December 16 of that year, a statute was passed incorporating those rights into a statute. That was the Bill of Rights of our English forebears. As I say, that common thread of freedom of speech runs deep, deep in the House of Commons, and we ought to honor it here.

We are talking about cutting off the rights of Senators and about what the nominees deserve. What do the American people deserve? Well, let's adhere to tradition. There wasn't any limitation on speech until 1917 in the Senate. First, they had the previous question. Aaron Burr said in 1805, when he made his departing speech from the Senate—I am just hoping I might have the attention of Senators. I have not had much to say on this question, although it has kept me awake many nights. I

have spent sleepless hours worrying about this thing of killing debate, freedom of speech in the Senate. Who wishes, Mr. Leader, to have that kind of a legacy to confront him—to help to kill freedom of speech in the Senate? You don't want that legacy. I don't want to see you have that legacy—freedom of speech in the Senate killed.

Aaron Burr urged the Senate to do away with the previous question. They still have the previous question in the House of Representatives and in the House of Commons in England. The previous question had been on the books for a few years, but it hadn't been used, so Aaron Burr, in 1805, urged the Senate to do away with the previous question by which they could shut off debate. In 1806, in that first revision of the Senate rules, it was left out. No more could a Senator move the previous question in this body.

That was the end of it until 1917. Then, when President Wilson sought to arm merchant ships, there was a filibuster by a few Senators. Thank God. I came over here from the House like a lot of Senators have. Some want to make the Senate another House of Representatives.

The Founding Fathers did not want to do that. But when I came to the House, I did not come over here chewing at the bit to change the Senate rules and make this a second House of Representatives, only smaller. I said thank God for the U.S. Senate many times when I was in that other body. Thank God for the U.S. Senate.

Why did I do that? Because over here, a man or woman may stand on his or her feet so long as their lungs, their brass lungs, will carry their voice, and they can object.

And may I say to the distinguished majority leader, he made mention of the late Senator SMITH from Maine. I was here when she was here. What a grand woman that one, a great Senator, Margaret Chase Smith. I wish she were here today, Margaret Chase Smith. I wish those Senators of that day were here. They would not stand still for a minute to throttling freedom of speech in the U.S. Senate.

May I say to the distinguished Senator from Tennessee, please think about this. Think about this. Don't leave this as your legacy. No, try to find a way around this freedom of speech in the United States Senate. Let's don't throttle it. We have come to a time, we say we are going to try to work this out. This ought not be all that difficult to work out. As I said to the President of the United States in the presence of the distinguished Senator from Tennessee: Mr. President, tell your leadership up there not to push this, not to push this on the American people. It is their freedom. The day may come when—and it has been in the past—the day may come when the Senator from Tennessee wishes to stand and use that filibuster.

The filibuster is not a very popular thing out there in the country maybe.

Mr. FRIST. Mr. President, will the Senator yield?

Mr. BYRD. Not yet, if I may respectfully decline. I will shortly. The Senator from Tennessee may wish to stand on his feet and defend the beliefs, the opinions, the rights of the people of Tennessee from a majority. Over there is the majoritarian body, the House of Representatives. There is where majority rules. This is the forum of the States. It is a forum for minorities, where we can have dissent on the part of a minority. The majority is not always right. The majority has been wrong before. And so I say, let's protect the rights of the minority to filibuster, if I may use that word.

Yes, we have engaged in filibusters on judicial matters before. I was here when the President of the United States wanted to make Abe Fortas the Chief Justice. I voted on that. That was a filibuster.

Mr. FRIST. Mr. President, will the Senator yield just for a quick question?

Mr. BYRD. Mr. President, yes, I yield. I ask unanimous consent that I can yield under the rules for a question, without losing my right to the floor.

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

Mr. FRIST. Mr. President, I have a very brief question. The Senator from West Virginia mentioned what he said in my presence and the presence of other Senators yesterday. We were at the White House talking about important issues—foreign affairs—but he, I think very appropriately, brought up this issue. The Senator from West Virginia did make the point that he just made about the importance of not leaving a legacy, as you described it. My legacy would be very different because of the principle of a fair, up-or-down vote, after freedom of speech, extended debate for as long as is reasonable in terms of getting all the issues out there. That is what the American people want. They want a nominee to come over, be fully debated, everything about them, counter, debate, back and forth, freedom of speech.

The Constitution, the wonderful history you just gave us——

Mr. BYRD. Praise God. Here it is, freedom of speech.

Mr. FRIST. Freedom of speech. Let's see it next week. Take someone who is on the Executive Calendar now. Take them to the floor, and let's have freedom of speech—somebody who has waited 4 years for the appropriate freedom of speech coming to the floor—and then do—this is my question. I do not want to go into a long speech because I know we all have other engagements we need to get to. Let me ask the question. Didn't you also say, as the other part of that statement to the President of the United States, being critical of the potential legacy I might leave in order to stand up for fairness and principle, didn't you also say you would give all of these nominees an up-or-down vote on the floor of the U.S. Senate?

Mr. BYRD. I am willing to give nominees, if there is a handful of them—

Mr. FRIST. An up-or-down vote on the floor of the U.S. Senate. Isn't that what you said yesterday to the President of the United States?

Mr. BYRD. I said I am willing to give them an up-or-down vote, just a handful.

Mr. FRIST. Thank you.

Mr. BYRD. I don't mean six of them, five of them, or four of them or three of them. I have never attacked the Senator's desire to be looked upon as a leader who was fair. I have never attacked him.

Mr. FRIST. Mr. President, another quick question, reserving the Senator's right to the floor. Yesterday, in the Senator's statement to the President of United States, it was to the seven nominees he delivered to us about whom the distinguished Senator from West Virginia said: I want them, or I am willing to have—I don't know if the Senator wants or is willing to have an up-or-down vote on the seven nominees—didn't the distinguished Senator from West Virginia tell the President of the United States and other Senators that at the same time he addressed my legacy?

Mr. BYRD. Just as the Senator has had a little difficulty in recalling whether I said this or that, I didn't have a written text before me when I spoke to the President. I don't remember if I said a few or all or three or four. I don't remember. I am willing to have some votes up or down.

Let's get around this Damocles sword that hangs over the Senate of the United States and act as reasonable men and women and vote some of them up or down. Whatever the leader decides is fine. Let's don't talk about this nuclear option. Let's don't bring that down at this time. I am not referring to the legacy of the distinguished Senator in a disparaging way. I am not doing that at all. The leader——

Mr. FRIST. One more brief question.

Mr. BYRD. Yes, but let me finish my sentence.

Mr. FRIST. Yes, through the Chair.

Mr. BYRD. The leader has it within his power to go forward on all seven or six or five or four, whatever it is, or he has the power to do it on less than that number. It seems to me that a reasonable compromise could be reached among Senators. I am interested in helping to effectuate such a compromise. If it means an up-or-down vote on one or two or three or four, whatever, it seems to me to be reasonable if we can give and take—that is what we are expected to do, give a little here, give a little there—and let's get out of this morass, this terrible threat to the freedom of speech in the Senate of Senators. That means freedom of speech on the part of my people back home who expect me to speak for them.

I hope the leader will think about that. My goodness, they have a shirt

tail full of nominees, and we are going to wreck traditions? Talking about traditions, the tradition of the Senate is freedom of speech, freedom of debate, freedom to dissent.

Mr. President, this reminds me very much of a book in the Bible, a book that is titled Esther, the Book of Esther. I think it would be especially good for the distinguished majority leader to be reminded of the Book of Esther in the Bible.

I won't go into it all here, but Esther was a Jew. She had a cousin who sat at the king's gate every day. He was a Jew. His name was Mordecai. The word went out that a man who had been favored by the king, a man named Haman—H-A-M-A-N, I believe it is. Here is my Bible. This is the King James version of the Bible. I don't read any other version of the Bible except the King James version. I speak as a born-again Christian. We hear that thrown around a lot around here. I am a born-again Christian and have been since 1946.

My wife and I will soon be married, the Lord willing, in about 16 or 17 more days, 68 years. We were both put under the water in that old churchyard pool under the apple orchard in West Virginia, the old Missionary Baptist Church there. Both Erma and I went under the water. So I speak as a born-again Christian. You hear that term thrown around. I have never made a big whoop-de-do about being a born-again Christian, but I speak as a born-again Christian. Hear me all you evangelicals out there, hear me.

So here we were, we were baptized. But getting back to Esther, her cousin, Mordecai, sat at the king's gate day after day, and he refused to do homage to the king. The king was Ahasuerus, and his wife's name was Vashti. The king asked Vashti to come in before all the big shots in the kingdom, and she refused to come. So his advisers advised him to put her away and get a new queen. So they brought in all the beautiful virgins—perhaps not all of them, but they brought enough to dazzle the king's eyes—and they chose Hadassah, that is Esther, after whom the book is titled.

She was the king's new queen and she got word from Mordecai that word was going out from the king's top man named Haman that all the Jews were to be killed on a certain day. So Mordecai told her that, and she told the king and the king said: Who did this? Who said that?

So the finger was put upon Haman. Haman was the chief leader there of King Ahasuerus. Well, time went on and old Haman was advised by his people to build a gallows and hang on those gallows Mordecai, and on that same day to kill all the Jews throughout the 127 provinces of Persia.

I will go to the point of the story quickly. It ended with Haman, the man who built the gallows on which to hang Mordecai, himself being hanged on those gallows. It did not stop there. The ten sons of Haman were executed on those gallows, also.

I say this to the distinguished Senator, hear me, hear me. I am willing to give some up-and-down votes on some judges. That is a little thing. But it is a big thing if it is carried too far. Judges do not have to go before the people to be voted on like the Senator from Tennessee, the Senator from Nevada, and I have to do. They are appointed for life, and this is the only place where they can be scrutinized.

Well, in the case of Haman, he was executed on his own gallows. I say to the leader of the Republican Party in this Senate, the worm turns and there will come a day when the majority leader of the Senate will be on this side of the aisle. I have seen it happen back and forth time and again. It can happen again. That worm will turn.

I say to the leader, please do not ''Hamanize,'' if I may coin a word, the Senate. Remember Haman. The leader and his party may someday be on the same gallows that we in the minority find ourselves on today, ''Hamanized.'' Do not travel that path because the leader and his party may someday be executed on the same gallows. Think about it. Do not ''Hamanize'' the Senate of the United States.

I thank the distinguished leaders for listening. I hope my words will not have been in vain. I plead with them, please do not ''Hamanize'' the Senate of the United States. Take us out of that straitjacket. I know both leaders have been working but work some more. If I can help, let me in, count me in. I want to help.

Talking about the American people, they are the ones who are suffering from this delay. We could be doing something about matters that confront most people every day. I appeal to both leaders to let reason reign for a while. Let us reach a judgment to get on with the business of the Senate, but for Heavens' sake do not kill freedom of speech in the Senate.

Do I still have the floor, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I say, finally, my apologies to the Republican leader and to the minority leader, and thank them for listening. But how much land does a man need? How much land does a man need? Tolstoy wrote a great story. How much land does a man need?

The PRESIDING OFFICER. Senators should be advised that the Senator's hour of postcloture time has expired.

Mr. REID. I yield the Senator another hour.

Mr. BYRD. I thank the distinguished leader. I have the floor. Thank God for the Senate, I said, when I was in that body over there.

Finally, I say to my good leader, I will pose a rhetorical question. How much land does a man need? Leo Tolstoy wrote a story about a man named Pahom, I believe it was, but regardless of the man's name, this man had orchards and fields of grain and lands, but he had land hunger. He wanted more land. He kept getting more land, but he always wanted more land. The upshot of it was there appeared before him one day a stranger who offered him all the land that he could cover in a day, like that Tennessee land.

Mr. FRIST. Good land.

Mr. BYRD. He offered him all the land he could cover in a day for a thousand rubles.

He thought, this is my chance. So he took off on an early morning and he had never seen land so rich as this was. So he decided he would walk 3 miles. He left his servant there with the stranger. The 64-dollar catchword was, he had to be back at the starting point before the sun went down or he would lose his thousand rubles.

So he started out and he decided he would walk 3 miles. After he walked the 3 miles, it looked so good he thought he would walk 3 more miles, and he walked 3 more miles until he had covered 27 miles before he turned up on the second side. He covered the second side, and he sat down and he ate from the humble bag of provisions that his good wife had prepared for him, a little cheese and bread, and then he launched out on the third side of the square and he covered the third side. But as the long afternoon wore on, the land became less hilly, more rocky. So he struggled to reach the end, to reach the starting point before the sun went down because otherwise he would lose all. He would lose his thousand rubles, and he would lose the land that he covered.

Mr. President, I see the leader has left. He left me all alone here. What about this? Hey, where is my adversary? Where is my worthy adversary? Come on now. Where is the leader? Am I to be left here alone to be gored by the horns of those—where is my adversary? He is not to be found.

Anyhow, let me bring this long story to an end. In the end, the man was crawling on his hands and knees. The sun was going down. He looked ahead of him and he saw the starting point. He saw the dim face of the stranger waiting on him at the starting point, the stranger who had offered him all the land that he could cover in a day for a thousand rubles. He saw a grim smile on the face of that stranger. So, painfully, he inched himself forward little by little. His arms were bleeding from the rocks and the briers and the sticks that had gone through his skin. He reached the starting point just as the Sun went down, but he fell dead on the spot.

The stranger said: I promised him all the land he could cover. You see how much it is: 6 feet long and 2 feet wide. The stranger, called Death, said: I have kept my pledge.

So, Tolstoy asked, How much more do you want? How many nominees have we confirmed in this Senate? How many? May I ask the question without losing my right to the floor.

Mr. REID. It is 208.

Mr. BYRD. And how many have not been confirmed?

Mr. REID. Ten.

Mr. BYRD. And 7 of those are back before the Senate, out of 218? My, how much land does a man need? How many nominees do they want? Mr. President, just send up some new nominees; it is that simple.

Mr. President, I thank all Senators. I am ready to proceed on the amendment, if the Senator would like.

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

I inquire of the Chair, are we still on the Byrd amendment?

The PRESIDING OFFICER. We are.

Mr. INHOFE. Let me just make one answer on the question you had, How much more land? I refer to Jabez, you are familiar, in the First Chronicles. They say: ''Expand my territory.'' So we want more.

I make a point of order the pending Byrd amendment is not germane.

Mr. BYRD. Mr. President, I ask unanimous consent I may speak for 1 minute.

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

Mr. BYRD. Mr. President, I made my case. I think it is a good case. I do recognize that some amendments that are offered are not germane. It was my hope that, by presenting the amendment, the Chair will rule it is germane. I will accept the ruling of the Chair. I will not attempt to override the Chair's ruling if he rules against my point, but I have made my case. I thank the distinguished Senator, and also I thank Senator BAUCUS, the manager on this side, for the consideration they have given. I will abide by the decision of the Chair.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane. The point of order is well taken, and the amendment falls.

Mr. INHOFE. Mr. President, I don't know if we have people on the floor with amendments. I am hoping that we do. While all these subjects we are addressing are important, we are operating under some real time constraints. We have been on this bill now almost 2 weeks. We have worked on the bill for 3 years. This is probably the most significant piece of legislation we will be handling, and I encourage my colleagues to confine their interests to this bill and encourage as many of them as have amendments that they seriously want to be considered that they bring those amendments to the floor. We have the list now down to about 140 amendments. I know from past experience just a fraction of those will want to have serious consideration.

I make that request and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, with all due respect to my friend from Oklahoma, several days ago Senator HATCH and I were told that we could speak on the floor at 2:15. So I ask unanimous consent that I can speak as in morning business, that I will be followed by Senator HATCH, and in deference to our friend from Oklahoma, who makes a very good point, that this time be charged postcloture.

Mr. INHOFE. Reserving the right to object, I inquire of my friend from Oregon how much time he is requesting as in morning business.

Mr. WYDEN. As I said or touched on in my earlier comment, Senator HATCH and I had talked several days ago with the cloakrooms on both sides. We do want to be sensitive to our colleague. His point is valid. I think both of us could finish our remarks in about 10 minutes each, or thereabouts.

Mr. INHOFE. That is 10 minutes for each of you?

Mr. WYDEN. Yes.

Mr. INHOFE. Mr. President, I will not object. Let me propound a unanimous consent request; that is, the combined remarks of the Senator from Oregon and the Senator from Utah not extend beyond 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon is recognized.

CITIZENS' HEALTH CARE WORKING GROUP

Mr. WYDEN. Mr. President, Senator HATCH and I are taking this time to prepare our colleagues in the Senate and the public for a health care revolution that is long overdue. Right now, just over the river in Arlington, a group of dedicated citizens from every corner of the country is preparing to do something that has never been done before, and that is to tell the American people the hard truths about where nearly $2 trillion in health care goes each year and then to walk the public through the tough choices that must be made to create a health care system that works for all Americans.

The Citizens' Health Care Working Group was created by a law that I wrote with Senator HATCH. That law is just now beginning to be implemented. Beginning this week, the American people will have a place to go to find out more about the working group. I encourage them to take the opportunity to go to this Web site and learn about a very fresh approach to delivering health care for all of our citizens.

For 60 years, our country has tried the same thing. Literally from Harry Truman in 1945, in the 81st Congress, through 1993 and 1994 in the Clinton administration, the effort was to write legislation in Washington, DC. Then the American people would find it hard to understand, various interest groups would attack the legislation and each other, and everything would die.

Under the law I have written with Senator HATCH, this approach is turned on its head. Instead of starting in Washington, DC, the Health Care That Works for All Americans law begins outside the beltway. I would say to the Senate, I think health care reform has been like getting dressed in the dark for both the public and for policymakers. The American people have never been told where the money is going, so how can they, in a thoughtful way, offer suggestions on what needs to be done to improve the system? Without this essential information from the American public, how then can policymakers write legislation that thoughtfully addresses the public's concerns and garners the public's support?

This time, beginning in the fall, that is going to change. In senior centers and libraries, at business organizations, online and offline, a Health Care Report to the American People will lay out the facts for the first time. The public is going to be told in understandable language the facts as to where the $1.8 trillion spent each year on health care goes. Then the American people will have the opportunity—again offline and online—to give their ideas about how to create a health care system that works for everyone. For the first time, public involvement will be followed by political accountability.

Under the law, once Americans learn where the health care dollar is going and they have the chance to talk about how they would rather spend those dollars, Congress must follow up. All the committees of jurisdiction have to hold hearings within 60 days of the recommendations coming from the citizens of our country.

Once there is a clear citizens' roadmap to health care that works for all Americans, it will be hard for Congress to reject the citizens' health care needs. Congress can continue to ignore what the citizens are calling for, but with genuine public momentum behind this effort, Congress will ignore the citizens at its peril.

For the first time, with this approach, there is the potential to create a true juggernaut to get a bill a President of either political party can sign. It is about time.

If Americans do not have their health, we all understand nothing else matters. Before I had the honor of coming to the Congress, I served as director of the Oregon Gray Panthers. I saw then how important it was that a fresh, innovative approach be taken in this area.

Two weeks ago, the chairman of Starbucks sat in my office. This is a company that gets it when it comes to health care. They are doing something that is hard for any company to do, providing health insurance not only to their full-time employees but to their part-time workers. They have done this because their founder, Howard Schultz, remembers what it was like to grow up in a family at risk because they did not have health care. He believes a secure, covered workforce contributes to his company's great business success. But Howard Schultz will tell us, just as other concerned business leaders will tell us, they may not be able to keep that commitment if costs continue to grow exponentially.

What I appreciate about what Starbucks is saying is they are not

waiting for the bottom to fall out. Mr. Schultz has come to Washington to ask that the Congress and the executive branch partner with businesses that want to do the right thing and to cover their employees. He does not have all the answers, but he told me and Senator HATCH as part of this bipartisan law that makes a break with 60 years of failure in this area, he wants to try fresh approaches. Since millions of Americans come in contact with Starbucks each week, that is a pretty darned big contribution and an indication of what the business community is willing to do as we take a fresh look at coming up with health care that works for all Americans.

Frankly, what we have heard from Starbucks and others is exactly the kind of teamwork we wanted when we wrote the law. We are talking about a unique approach where the public has the facts, where the public gets a chance to weigh in, where Congress then has to act. This kind of approach, where you rewrite the book with respect to health care reform, is long overdue. There are going to be tough choices. Senator HATCH and I have acknowledged that at the very beginning. Certainly end-of-life issues present us with some very difficult, gut-wrenching concerns but establishing this kind of process is, in the view of myself and Senator HATCH, absolutely critical if our country is to move and to move quickly to deal with the health care challenge in the days ahead.

This health care wrecking ball is not going to hit in 2040 or 2050, colleagues. We are going to get clobbered on New Year's Day 2007 when 70 million baby boomers start retiring.

I see my friend Senator HATCH is here and Senator INHOFE has been so kind to give this time so I will wrap up. I encourage each Senator to urge their citizens at home to get involved with the Citizens' Health Care Working Group. They are going to be getting out into the communities across the country, making their information available online. This is their Web site. I encourage Senators to have folks at home ready to pitch in.

I thank my partner in this effort, Senator HATCH. If we look at the important health care legislation in the last few years, Senator HATCH's name is virtually always on it, whether it is programs for kids or how to address issues relating to pharmaceuticals. I could not have a better partner in the Senate as we try to break new ground in health care.

I yield now so Senator HATCH can have the time. I do it with my thanks.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator has just over 10 minutes.

Mr. HATCH. I will not take all that. I apologize to the managers of the bill for taking this time.

For over 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of this bill is that instead of relying on Washington for answers, we rely on the people.

I compliment my colleague from Oregon for coming up with this idea. I am very happy to sign on and help him with it, the Health Care That Works For All Americans: Citizens' Health Care Working Group legislation. It was created in order to hear what people like and do not like about the current health care system.

It is our hope this working group of citizens will have at least one townhall meeting in every State in the Union, pick the brains of all Americans, and see if we can come up with answers to our health care problems. We provide a mechanism once they do for the Congress to at least consider it and see what we can do to go from there.

This is one of the biggest issues we all have to face.

Mr. HATCH. Mr. President, everywhere I go in Utah, people tell me how concerned they are about health care. They are worried about the lack of health insurance, skyrocketing premiums, and unaffordable prescription drugs. They are worried that if they are diagnosed with a serious disease like cancer, they will be wiped out financially, even if they have health insurance. They are worried about losing their family doctor because he or she can no longer afford medical liability premiums.

There is no question there are problems with America's health care delivery system. And we have even more problems when the Government tries to impose a one-size-fits-all program on country. That's why Senator WYDEN and I reached across the aisle to start a meaningful national discussion with every day people.

A few years ago, Senator WYDEN came to my office and told me he had a ''terrific idea'' and that he wanted me to be a part of it. I am glad he did. I came to learn that we both have a strong desire to get past the partisan bickering and forge a consensus that would address the problems plaguing our health care system. We both decided to take this problem right to the American people. We want those who deal with these issues day in and day out to have their say. And, hopefully, when the process is finished, we will have a national consensus on how best to improve our health care system.

The Health Care That Works For All Americans: Citizens Health Care Working Group legislation was created in order to hear what people like and don't like about the current health care system. It is our hope that there will be at least one town hall meeting in each State. The working group members will hear from the full range of people within our health care system—including health care consumers, health care providers, and others who are impacted by health care.

For nearly 60 years, Washington has tried to come up with a way to provide access to health insurance for all Americans. The premise of the Wyden-Hatch bill is that instead of relying on Washington for answers, the working group should hear from people outside of Washington regarding our health care system. The voices of all Americans, insured and uninsured, must be heard and that this issue needs to be addressed.

Today, 45 million Americans are uninsured and 8 million of the uninsured are children. We cannot allow these individuals to go without health care coverage. That is why I sponsored the CHIP legislation in 1997 to address this serious matter for children.

To me, the most appealing aspect of this Citizens Working Group is that it is unique from other previous commissions that were run by Washington insiders. This working group is composed of individuals from all over the country who have had experience with the current health care system. These are people who have had dealings with different facets of our health care system, and they want to make it better. They will talk to people from all over the country about what is working and what isn't working. And then they will put together recommendations, based on what they heard from their fellow citizens, for Congress and the administration to consider. Again, let me emphasize that the recommendations will come from the bottom-up, rather than being imposed from Washington. This is crucial because one of the first tasks of the working group is not only to get the views from the public but also to help them better understand our health care system. And once these recommendations are issued, Congress will hold hearings to address them.

This week, the Citizens' Health Care Working Group members are being briefed on various issues related to our health care system including an overview of the health care system, public health insurance programs such as Medicare, Medicaid, and the State Children's Health Insurance Program, the private health insurance market, the uninsured, and drivers of health care costs. In addition, the working group will be discussing the future field hearings, the required report to the American people, and begin consideration of approaches for conducting the community meeting.

Again, I am very hopeful about the innovative health care proposals that will be produced by the citizens' working group and want to encourage my colleagues to familiarize themselves with this important effort.

Mr. INHOFE. Mr. President, I thank the Senator from Oregon and the Senator from Utah. They have a great deal of passion on their subject and they have worked long hours. I appreciate the fact they recognize we are considering what many people consider to be the most significant bill this year.

Again, we will renew our request for Members to come down with their amendments. We have hotlined it

twice. I want to make sure I say that enough times for Members. Senator JEFFORDS joins me in this. They have hotlined it on their side. If Members want their amendments considered, if Members want floor time, if Members want a vote, come down, bring it down. I am waiting for that to happen. We are open for business. We encourage Members to come.

Mr. JEFFORDS. Will the Senator yield?

Mr. INHOFE. Yes.

Mr. JEFFORDS. I agree with the Senator's statement and call upon Senators to be here so we can get this work done.

Mr. INHOFE. It is urgent. Let me state why it is urgent. We have a deadline. We are on not our fourth, fifth, but our sixth extension right now. When you operate on extensions, as we have said over and over again, you cannot get anything done, you cannot have any of the reforms, you cannot take care of donor States, you cannot have innovative methods of financing. That is all in the bill. Core safety provisions are in the bill. None of that will be a reality if we do not get this bill.

Why is it such a rush? This extension expires on the 31st of May. That is 19 days from now. We have to get this done. If we get this bill finished tonight, we will have time to have it over into conference and start working on it in conference in time to get the conference report back to the House and back to the Senate and to the President's desk prior to the expiration of this extension on May 31.

Mr. JEFFORDS. Mr. President, I emphasize we are running out of time. We cannot keep going this way without getting anything done. We have a responsibility to do so. I urge Members who have issues they want to raise, please come now.

Close to 50 years ago, Congress passed and President Dwight D. Eisenhower signed into law the Federal Aid Highway Act of 1956.

As Chairman INHOFE has pointed out a number of times during the debate on this bill, that legislation is one of the greatest public works projects in history and is credited with the creation of one of the biggest transportation systems in the world.

President Eisenhower was a thoughtful man, but his first realization of the value of good highways was noted in 1919, when he participated in the U.S. Army's first transcontinental motor convoy from Washington, DC, to San Francisco.

When Eisenhower and a friend heard about the convoy, they volunteered to go along as observers ''partly for a lark and partly to learn,'' Eisenhower later recalled. On the way West, the convoy experienced all the woes known to motorists, and then some: an endless series of mechanical difficulties; vehicles stuck in the mud or sand; trucks and other equipment crashing through wooden bridges; roads as slippery as ice or dusty or the consistency of ''gumbo''; extremes of weather, from desert heat to Rocky Mountain freezing; and, for the soldiers, worst of all, speeches and speeches and more speeches in every town along the way. On September 15, 1919, after 62 days on the road, the convoy reached San Francisco, where it was greeted with medals, a parade, and more speeches.

During World War II, General Eisenhower saw the advantages Germany enjoyed because of the autobahn network. He also noted the enhanced mobility of the Allies when they fought their way into Germany.

These experiences shaped Eisenhower's views on highways. ''The old convoy,'' he said, ''had started me thinking about good, two-lane highways, but Germany had made me see the wisdom of broader ribbons across the land.''

Thankfully, these experiences helped guide President Eisenhower as he developed and pushed for the creation of the Federal-Aid Highway Act. In 1955, President Eisenhower said:

> Together, the united forces of our communication and transportation systems are dynamic elements in the very name we bear—United States.
>
> Without them, we would be a mere alliance of many separate parts.

We stand here now on this Senate floor, 50 years later, trying to improve and maintain the roads and highways created by the legislation inspired by President Eisenhower.

The bill before us makes great strides in State efforts to reduce traffic congestion and make our roads and bridges safer. It will help maintain and expand our mass transit systems, and it creates jobs and helps our economy. This bill will improve transportation in every State and have an impact on every American in one way or another.

Once again, I thank Chairman INHOFE and Senators BOND and BAUCUS for their efforts in moving this bill forward. We have made good progress this week, and I know the momentum will continue today, and hopefully it will start soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for an excellent statement. That historic perspective is important for a number of reasons. The whole highway system under Eisenhower came as a result of a quest for national security. That was almost 50 years ago, and we have been funding highways the same way we did 50 years ago. We have not changed at all.

We have this excise tax. In the bill we are to pass—and hopefully it will get passed today and sent on to conference—we have new and innovative ways of financing. We allow the States to use their ways. We give them more latitude toward their methods of financing highways. We also appoint a national commission to study how we could do this in the future so we will not be standing up here 6 years from now talking about the same problems we have today.

If we operate on an extension, that is not going to happen. I made a list of all these things that are not going to happen if we have just another extension. We are on the sixth extension right now.

Let me, first of all, encourage anyone who is going to offer an amendment to come down and do so.

JUDICIAL NOMINATIONS

But while we are waiting, Mr. President, let me respond to one of the statements that was made about an hour ago—or was it 2 hours ago—when they were talking about a floor vote.

Regardless of how you interpret the Constitution on advice and consent, sometimes I say I am a very fortunate person in this body because I am one of the few Members of the Senate who is not a lawyer. So when I read the Constitution, I know what it says. It says we are supposed to advise and consent. It means a majority of us are going to have to determine whether a nominee who is presented by the President of the United States is one who is, in fact, acceptable.

What we have been asking for, as our leader articulated many times—and apparently the senior Senator from West Virginia agreed with the President yesterday—is just an up-or-down vote. That is all we want, an up-or-down vote.

Now, is this so outrageous? I will go back and quote some of my good friends on the Democrat side who are opposed to an up-or-down vote.

Senator BIDEN, on March 19, 1997, said:

> But I also respectfully suggest that everyone who is nominated ought to have a shot, to have a hearing and to have a shot to be heard on the floor and have a vote on the floor. . . .

Senator BOXER said, on May 14, 1997:

> It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Senator DURBIN, who has been very outspoken, said, on September 28, 1998:

> Vote the person up or down. They are qualified or they are not.

Mrs. FEINSTEIN, one of our fine colleagues, the senior Senator from California, on September 16, 1999, said:

> A nominee is entitled to a vote. Vote them up; vote them down. . . .

Now, apparently, their interpretation of the Constitution is what mine is.

Senator KENNEDY, on January 28, 1998, said:

> But we should resolve these disagreements by voting on these nominees—yes or no.

I agree with Senator KENNEDY.

Senator KOHL, on August 21, 1999, said:

> These nominees, who have to put their lives on hold waiting for us to act, deserve an ''up or down'' vote.

Senator LEAHY, on October 22, 1997, said:

> I hope we might reach a point where we as a Senate will accept our responsibility—

That is us.

and vote people up or vote them down.

Senator SCHUMER, on March 7, 2000, said:

I also plead with my colleagues to move judges with alacrity—vote them up or down.

So I am saying that I agree with all of my good Democrat colleagues that we should give them an up-or-down vote, and I have no question but that the American people feel the same way. You see different polling data, but when they are asked the question, Should these people be entitled to a vote up or down? they overwhelmingly believe they should.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Mississippi.

Mr. LOTT. Mr. President, I actually came over to have a little discussion with the distinguished chairman of the full committee who has brought this legislation forth, Senator INHOFE. I thank him for the work he has been doing. We had an issue we have been discussing, and I think we have something identified to be helpful.

I came to talk about the highway bill, and I will do it to this extent: We need a bill. It is an overdue bill. It is important to our country. It is important to have infrastructure. It is important for job creation. It is important for economic development. And it is important for safety.

We ought to do this bill. I just cannot understand why the Senate still heaves away from getting this extremely popular, overdue, and highly necessary piece of legislation passed.

I urge my colleagues, if they have good amendments, let's do them. If we can't get it completed this afternoon, let's do it as soon as possible. It is critical for our country.

We are speaking on time on the highway bill, but actually other subjects have been introduced. I would like to comment on that.

Mr. INHOFE. Will the Senator yield?

Mr. LOTT. I am glad to yield.

Mr. INHOFE. Mr. President, we have been pleading with our colleagues to bring amendments down. Will the Senator, in the event an amendment comes to the floor, then yield for consideration of that amendment?

JUDICIAL NOMINATIONS

Mr. LOTT. I want this legislation so bad, I would even stop talking myself. That would be a major sacrifice, but yes, I would be glad to yield. But since the opportunity presents itself and I missed the opportunity to engage in the discussion an hour or so ago—not that it was needed—I have had very little to say on the floor of the Senate about the discussion about judges. There are a lot of different viewpoints. I am not going to refer to what others have said and I am not going to suggest I am a great constitutional scholar or that I am so steeped in all of the rules and traditions of the Senate. But I have studied this issue.

I have been in the Congress for now going on 33 years. I have read the Constitution over and over again, particularly on this subject, article II, section 2. I am somewhat familiar with the traditions and rules of the Senate. I am chairman of the Rules Committee. I have been in leadership roles. I must say that while we have had our disagreements and while I have seen us make mistakes and while I have seen injustices heaped on each other, on the people who are affected by issues we deal with, I don't believe I have ever seen anything as unfair and wrong as what I have seen happening to these circuit court nominees over the past 4 years. This has been going on for 4 years.

I was stunned when it started happening with Judge Charles Pickering of Mississippi and Justice Priscilla Owen of Texas. I thought maybe that was something aimed at me or maybe it was aimed at the Fifth Circuit Court of Appeals, or maybe it was a fit of anger about some of the nominees from President Clinton who didn't get out of the Judiciary Committee, but it would be a passing break from tradition. But no, this has continued right on through the 108th. We need to find a resolution that is fair to all concerned.

I wanted to correct a couple misimpressions, perpetuated primarily by the media. The proposal to put the tradition back in place that we don't filibuster Federal judicial nominees is not an end of the filibuster. Some of the media—accidentally, I am sure—suggested this is a debate over whether to have the filibuster. No, it is limited to the Federal judiciary. It won't affect our ability to continue to filibuster legislation or other executive branch nominations, although I have to confess, I think there should be some reasonable limits on that also. I am not a guy who gets so caught up in the institutional rights that I forget considering the rights of people and right and wrong. Does that have a place here in the Senate?

These good men and women and minorities have been maligned, mistreated, have had their lives disrupted, some of them for 4 years. Some of the best possible nominees such as Miguel Estrada said: Well, I have to go on with my life. And he withdrew.

There has been a misimpression given about how this would limit the filibuster. It would only apply to these judicial nominees.

The other thing is, Senator FRIST and the Republicans are considering changing the rules. Actually what we are considering doing is putting tradition back in place. The tradition has not been to filibuster Federal nominees. The tradition has not been to filibuster appellate court nominees. Not one time during the 6 years or so I served as leader did we have a filibuster. We are trying to go back to where we were. You can argue over this example or that example or we should retain that right. No, that has not been the right. That has not been the tradition. What has happened is wrong.

I saw somebody last night on one of the talk shows saying everything that happens in Washington is about something else. This lady suggested this whole debate is about the next Supreme Court nomination. Maybe that is true. Maybe there are a couple other things it is about, but in the meantime, innocent and qualified, good people are having their lives disrupted and smeared by this process.

I acknowledge this sort of thing has been going on ever since I have been in the Senate. Every time we have a filibuster or kill somebody or embarrass somebody in our process, whether it is Senator John Tower to be Secretary of Defense or Clarence Thomas to be on the Supreme Court, Judge Bork as a nominee, every time we seem to drop down another level. Sure, a lot of the Clinton nominees were held up in the Judiciary Committee. Maybe this is retaliation for that. What is going to be the next retaliation? How low can we go before we stop this tit for tat?

Now is the time to end it and go back toward greater comity between the parties and the people involved in these discussions. I haven't been sitting on the sideline saying: Let's impose this rule. Let's comply with the Constitution, which I think we should do. I want to make that perfectly clear. I have one goal and only one goal, ultimately, in this area, and that is to stop filibusters of these Federal judges. I don't particularly care how we get there, but that is the right thing to do. I am determined to get there.

As chairman of the Rules Committee, we had hearings on and moved legislation 2 years ago, sponsored by Senator FRIST and Senator Zell Miller, to try to come to a fair conclusion about how these judges would be handled. It was a process that said the first vote on cloture would require 60 votes, then 57, then 55, but ultimately get to an up-or-down vote, a majority, but an elongated process to make sure everything that needed to be said could be said. It could be fully scrubbed, and at some point you get to conclusion. A filibuster, the way it is being used, is guaranteeing we never get to conclusion. It goes on and on from one Congress to the next.

We reported out a bill. That apparently wasn't acceptable to the minority, the Democrats. So I started looking for other solutions. I did talk to Senator BEN NELSON and others: Is there some way we can address some of these concerns; is there some way we can guarantee that these nominees are not unfairly held permanently in the Judiciary Committee?

We came up with a process that said after 90 days, if the appropriate blue slips have been returned by the Senators from the State of the nominee affected, then they would come to the floor. They could not be held in committee indefinitely, but if there was a problem that came up and they needed

an additional 90 days, agreed to by the chairman and ranking member, then it could be extended. Ultimately, they would have to come out of committee and be considered by the full Senate. That would address one of the concerns that has been pointed out by Senator REID and Senator LEAHY and other Democrats. There is some merit to what they are saying. Let's fix that.

The second problem was freedom of speech, the great tradition in the Senate of endless debate. Give me a break. At any rate, to say the majority leader could not even file cloture for at least 24 hours after a nomination was called up—it could be longer—and then he could file cloture, and after 2 days we would eventually get to an up-or-down vote, but have a week for debate. By the way, Senator FRIST subsequently suggested that be moved even further. Every Senator would get an hour if he wanted it, full debate. I hate the thought of that, too, having to listen to 99 other speakers on a judge. Think about the sacrifice the majority leader has to make. When the majority leader has to give 100 hours to anything, how many judges could do you that on? It would be another impediment. But we would have full debate and then a vote. That was the key. Fairness on the committee, full debate on the floor, but ultimately a vote. That was rejected.

A lot of different ideas have been explored. A lot of Senators would like to find a way to stop the way we have been doing business but doing it where everybody could have some degree of comfort. I think time is running out. I think we have to make a decision on this and move on. Some people would say: Oh, my goodness, the Senate will be stopped, slowed down, with different agendas offered. How will we get anything done? The last time I checked, we have done four bills this year. We are not exactly burning up the woods. How do you slow down from almost a dead stop? So there is a little bit of a temerity—I will not use names to describe what the Senate is doing.

I think we need to work together. We have done it many times across the aisle. We have worked with Senator BAUCUS of Montana on issue after issue. Senator GRASSLEY won't have it any other way, to his credit. We ought to find more ways to do it. We ought to find a way to do it on Social Security. We have done it before. It took courage. We have done it on trade and we are going to do it again. It will take courage, sacrifice, and we are going to have to work to find a solution. We can do that here.

But I guess the thing that really gets me the most is when we put our description of tradition and the great institution ahead of human beings. When we have this debate, I see faces, people; I see Janice Rogers Brown, from California, who has an incredible story to tell. She is being maligned. Is she a conservative African-American woman? Yes. Is that disqualifying? It should not be. You may not agree with her opinion of Franklin Roosevelt, but isn't she entitled to an opinion? All the while, perhaps, she is ruling very fairly or even ruling against her personal beliefs, if that is what the court precedent calls for.

Mr. President, I don't necessarily mean this as critical of the institution or any one individual, but I think there is an awful lot of pontificating that has gone on too long here. Priscilla Owen, a supreme court justice in Texas, deserves a vote. She deserves to be confirmed. Somebody said she is too probusiness, she has a conservative viewpoint. Is that now disqualifying? I don't think so.

I have voted for judges I didn't agree with, perhaps on labor law. I point out over and over again that I voted to confirm Justice Ruth Bader Ginsburg. Certainly, she would not have been my pick, but she was qualified, experienced, and had proper decorum, and she was ethical. President Clinton won the election and so, based on that, I voted for her.

Surely, we can find a way to work this out. I think it has gone on long enough. I have tried not once, twice, but three times to find a way that we can get the right result, which is an up-or-down vote on these judges, and I have not been able to be successful yet. A lot of people have tried, and I think they deserve recognition. Those of us who have worked to try to find compromise have not been working against the interests of our leadership. We told them what we were trying to do. That is in one of the finer traditions of the Senate. But I cannot find a solution that I think is fair, other than to make it clear that these nominees deserve an up-or-down vote.

The Senate should vote. Some of them won't be confirmed, I predict. One or two of the seven—the magnificent seven—that have been renominated may not be confirmed. I would not be surprised to see that. I have voted for judges and against judges, but all of a sudden we don't want to do that.

Let the Senate do what it is supposed to do. Let's ante up and kick in. Let's vote and solve this issue, get it done, and let's move on and legislate for the best interests of our children and grandchildren.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I thank the Senator for his remarks. This bill is urgent. We have been, as I said, hotlining it. We have done it twice on our side. I am waiting for responses to see what kind of progress they are having on the other side of the aisle.

I want to get on record here so that Members can all be aware it appears we are down to about 10 amendments right now on this side of the aisle. I think it would be very wise to continue to talk about this because we will be getting to a point where we are going to have to draw this to a conclusion, and now it seems like it may be some workable number.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

THE FILIBUSTER

Mr. INOUYE. Mr. President, on January 31, 1963, I gave my maiden speech in the Senate. That is over 40 years ago—42 years ago. At that moment, the Senate was embroiled in a very heated debate on civil rights. The question before the Senate was the filibuster because many of my colleagues, especially those who were designated as liberals, looked upon the filibuster as the major obstacle to the granting of civil rights to the oppressed minority of this Nation. On that day, I was given the right to the floor and I gave a short speech. I think it is quite relevant at this moment. If I may, these are the words of 31 January 1963:

Mr. President, I fully understand the respected custom of this body which advises a new member to sit in his chair, to listen quietly and learn before he rises to speak to the Senate himself.

There is wisdom in that custom, as there is in most customs which last through years of trial and experience. I would not willingly break that honored silence, but because this debate calls to question the place of the minority in a democratic political system, I feel I must say these few words in deep but passionate humility, for I am a member of a minority in a sense few other Senators have ever been.

I understand the hopelessness that a man of unusual color or feature experiences in the face of constant human injustice.

I understand the despair of a human heart crying for comfort to a world it cannot become a part of and to a family of man that has disinherited him.

For this reason, I have done and will continue to do all that one man can do to secure for these people the opportunity and the justice that they do not now have. But if any lesson of history is clear, it is that minorities change, new minorities take their place, and old minorities grow into the majority.

One can discern this course in our own history by observing the decisions of the Supreme Court, where the growth of the Nation's law so often takes the form of adopting as the opinion of the Court the dissenting view of the earlier decision.

From this fact, we discern the simple example of a vital democratic principle. I have heard so often in the past few weeks eloquent and good men plead for the chance to let the majority rule. That is, they say, the essence of democracy. I disagree, for to me it is equally clear that democracy does not necessarily result from majority rule but rather from the forged compromise of the majority with the minority.

The philosophy of the Constitution and the Bill of Rights is not simply to grant the majority the power to rule, but is also to set out limitation after limitation upon that power.

Freedom of speech, freedom of the press, freedom of religion: What are these but the

recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law.

This power given to the minority is the most sophisticated and the most vital power bestowed by our Constitution.

In this day of the mass mind and the lonely crowd, the right to exercise this power and the courage to express it has become less and less apparent. One of the few places where this power remains a living force is in the United States Senate.

Let us face the decision before us directly. It is not free speech, for that has never been recognized as a legally unlimited right. It is not the Senate's inability to act at all, for I cannot believe that a majority truly determined in their course could fail eventually to approach their ends. It is instead the power of the minority to reflect a proportional share of their view upon the legislative result that is at stake in this debate.

To those who wish to alter radically the balance of power between a majority in the Senate and a minority, I say, you sow the wind, for minorities change and the time will surely come when you will feel the hot breath of a righteous majority at the back of your own neck. Only then perhaps you will realize what you have destroyed.

As Alexis de Tocqueville said about America in 1835: ''A democracy can obtain truth only as the result of experience; and many nations may perish while they are awaiting the consequences of their errors.''

The fight to destroy the power of the minority is made here, strangely enough, in the name of another minority. I share the desire of those Senators who wish to help the repressed people of our Nation, and in time, God willing, we shall effectively accomplish this task. But I say to these Senators, we cannot achieve these ends by destroying the very principle of minority protection that remains here in the Senate.

For as de Tocqueville also commented: ''If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority.''

I thank the Chair.

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

Mr. INOUYE. I will be happy to yield.

Mr. REID. That speech was given 41 or 42 years ago?

Mr. INOUYE. Forty-two years ago.

Mr. REID. I say to my distinguished friend, we have heard a lot of speeches in the last several months on this subject, but I have to say candidly that this is the best speech we have heard. This is outstanding, especially coming on the footsteps of the great Senator ROBERT BYRD who made a statement about the right to free speech.

As I look back at a very young Senator from a very small State taking on people who had been here a long time, going against a majority of his party, in a sense, certainly a lot, as a young Senator, shows why 20 years prior to giving this speech he was a hero on the battlefield for America and why he has been a hero on the battlefields of the Senate for all these many years.

Mr. INOUYE. Mr. President, I thank the Senator.

Mr. JEFFORDS. Mr. President, will the Senator yield?

Mr. INOUYE. Yes.

Mr. JEFFORDS. I echo the comments of my good friend. The Senator from Hawaii has given us an opportunity to listen to the goodness he has given us in many speeches. I thank the Senator for what he has done today.

Mr. INOUYE. The Senator from Vermont is very kind. I should point out, I was very proud of my speech, but the consequences are rather sad because my so-called liberal friends avoided me for a few weeks after that.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, before I suggest the absence of a quorum, let me also echo my good friend. One of the real thrills I have had since I came from the other body was when Bob Dole was here with the Senator from Hawaii, and the two of them made such a spectacular image of everything that is good about this country and how good we feel. Every time I look at the Senator from Hawaii, I see a true American hero.

Mr. INOUYE. Mr. President, I thank the Senator from Oklahoma very much.

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

The PRESIDING OFFICER (Mr. BURR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Vermont.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 1011 are located in today's RECORD under ''Statements on Introduced bills and Joint Resolutions.'')

Mr. INHOFE. Mr. President, I renew our plea for Members to bring their amendments down. We are making progress in terms of shortening the list. I would like to announce on our side we have hotlined it twice and we are down to 11 amendments by 9 different authors, different Senators. I encourage those nine to come to the floor while we have ample time. It is my understanding that after a couple of hotlines on the other side of the aisle, they only have about six amendments. That being the case, we could actually move the bill, if we can get these people down and get them to offer their amendments.

Mr. JEFFORDS. That is correct. We have only six we know of.

Mr. INHOFE. We have made progress, anyway, looking at who is serious about their amendments. I hope any staff or Members watching now would be encouraged to bring their amendments down.

I yield the floor to the senior Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, America has come a long way since the first State safety belt laws were passed two decades ago. I am speaking today not just as a proponent of reauthorizing the highway bill, but also to express my strong support for provisions in this bill designed to promote primary safety belt laws in the States. These laws help prevent fatalities and crippling, disabling injuries when auto accidents occur.

As many of you know, primary safety belt laws allow police officers to stop and issue citations to motorists they observe who are not buckled up. Secondary safety belt laws, on the other hand, require a motorist be pulled over for another offense before he or she can be issued a ticket for failing to wear a safety belt.

Today, 21 States, the District of Columbia, and Puerto Rico have primary belt laws and we know these laws are working. I am proud that in my home State of North Carolina—our home State, Mr. President—which enacted a seatbelt law in 1985, belt use rose to 86 percent in 2004.

Let me review a little history. It was in July 1984, during my first full year as Secretary of Transportation under President Reagan, that we issued rule 208, resulting in the installation of airbags in passenger vehicles and the enactment of safety belt laws across the country. Rule 208 was designed to save as many lives as possible as quickly as possible. It successfully resolved a 17-year dispute that spanned four administrations.

The rule recognized the role of the States in automotive safety. Not a single State at the time had passed a safety belt law. Usage was at only 13 percent, and airbags were virtually nonexistent. In fact, I remember having to search high and low to find an airbag-equipped car so I could put it on the White House lawn for President Reagan and the Cabinet to go out and examine.

There was very little consumer acceptance at the time. Many folks feared when they crossed the railroad tracks that the airbag would go off. Today, motorists regard automotive safety quite differently. Most of us get in a car and we barely notice that the vehicle has an airbag. And most of us innately fasten our safety belts.

Statistics prove we have made great progress increasing safety belt usage and saving lives on our Nation's roads since those first State safety belt laws were enacted.

Now, over 20 years later, we need to urge more States to take their laws to the next level by enacting primary safety belt laws. The National Highway Traffic Safety Administration estimates if all States enacted primary safety belt laws, more than 1,200 deaths and 17,000 injuries would be prevented annually.

I take this opportunity to thank the folks at NHTSA, and especially Administrator Dr. Jeffrey Runge, for their continued hard work and leadership to increase safety belt usage throughout our country. According to NHTSA estimates, in this year alone, 15,000 lives will be saved—15,000—by wearing safety belts. The economic costs associated with belt usage are significant as well. NHTSA estimates safety belt usage

saves America $50 billion in medical care, lost productivity, and other injury-related costs. By contrast, fatalities and injuries resulting from not wearing a safety belt generate $26 billion in economic costs annually. These costs include higher taxes and higher health care and insurance costs.

The fact is safety belts reduce the risk of death in a severe crash by 50 percent. We must urge folks to use their safety belts. Increased usage rates and primary belt laws have a proven track record of doing just that.

With this legislation, States that chose to adopt primary safety belt laws would receive a one-time grant equal to 500 percent of the highway safety money they received in 2003. States that already have primary safety belt laws would receive 250 percent of the 2003 level in highway safety money. At the end of the bill's reauthorization in 2009, any leftover safety funds will be distributed to States that have enacted primary belt laws.

With this increased funding, States can spend more on highway safety improvements and make our roads even safer. NHTSA Administrator Runge best described the importance of safety belt usage in April of this year, when he told the Senate Commerce, Science and Transportation Committee:

> Unlike a number of complex issues facing the Nation today, we have at least one highly effective and simple remedy to combat highway deaths and fatalities. Wearing safety belts is the single most effective step individuals can take to save their lives. Buckling up is not a complex vaccine, doesn't have unwanted side effects, and doesn't cost any money. It is simple, it works, and it is lifesaving.

I could not agree more. After two successful decades of State-implemented belt laws, it is now time for this Nation to further improve safety on our Nation's roads. We have accomplished many things to advance automobile and road safety over the last 20 years, and now we must act on this opportunity to do even more.

I ask unanimous consent that NHTSA Administrator Runge's letter to me on this matter be printed in the RECORD, and I yield the floor.

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

> U.S. DEPARTMENT OF TRANSPORTATION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
> *Washington, DC, May 11, 2005.*
>
> Hon. ELIZABETH DOLE,
> *U.S. Senate, Washington, DC.*
>
> DEAR SENATOR DOLE: I am writing to bring to your attention my strong support for the safety belt State incentive grants contained in S. 732, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA).
>
> The Bush Administration, along with the National SAFE KIDS Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Traffic Safety, the National Safety Council, the American Insurance Association, Advocates for Highway and Auto Safety, the Automotive Occupant Restraints Council, the American College of Emergency Physicians, the Alliance of Automobile Manufacturers, and the National Automobile Dealers Association all support this provision. They support it because it will save more lives, and do it faster and cheaper than any other proposal the Senate will consider this Congress, and perhaps this decade. If all States adopted a primary enforcement safety belt law, 1,275 deaths and 17,000 serious injuries would be prevented every year. No other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.
>
> While deaths per vehicle mile traveled are at an all-time low, the carnage on our highways is still too high. In 2003, 42,463 people died and 2.9 million were injured due to motor vehicle crashes. The cost to our economy was over $230 billion.
>
> With the number of vehicle miles traveled increasing each year, if we as a Nation are going to reduce the fatalities on our streets and highways, safety belt use must also increase. No vehicle mandate, no complex rulemaking, no public education campaign will save as many lives as a meaningful incentive to pass primary safety belt laws. Congress has the power to grant the incentives and that power will save lives.
>
> I urge you to support the safety belt incentive grants in S. 732 and reject any amendments. Thank you for your consideration.
>
> Sincerely yours,
>
> JEFFREY W. RUNGE, M.D.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DEWINE. Mr. President, the SAFETEA bill in the Senate today is a good bill. I strongly support its passage.

I thank Senator INHOFE, Senator JEFFORDS, Senator BOND, and Senator BAUCUS for their good leadership and their good work, particularly on the Environment and Public Works title of this bill. The roadway safety and funding provisions they have crafted are vitally important.

Let me also thank Senators STEVENS, LOTT, INOUYE, and MCCAIN for their hard work on the Commerce Committee vehicle and behavioral safety title.

Finally, let me thank Senator ROCKEFELLER for his support as the lead cosponsor of the safety provisions I have authored that are part of this bill.

Staff on both the Commerce Committee and the EPW Committee also deserve praise and thanks for their hard work on this bill. In particular, I thank Ruth Van Mark, Chris Bertram, David Strickland, and James O'Keeffe and JC Sandberg for their willingness to work with my office on portions of the bill I wanted included. These are portions of the bill I will describe in a minute that have to do with highway safety, provisions that I believe truly will save lives. I thank them for their very good and diligent work.

I also thank Kevin King of my staff for his hard work on these safety provisions in the bill.

While certainly we would like to include more funding for highway and transit projects, I commend my colleagues for doing an excellent job in stretching the funding that is available as far as it can go.

The language Senators GRASSLEY and BAUCUS have drafted adding additional funding helps. I am a strong supporter of their efforts. We need the funding that the managers' package provides to improve the rate of return for donor States, such as my home State of Ohio, to get those levels up as high as possible.

Additionally, the managers' package contains the Commerce Committee title of the bill relating to safety programs. This title is comprehensive and deserves the full support of the Senate.

I will take a few minutes now to talk about the safety provisions I have asked to be included in the bill. First, I will say something about Senator LOTT's provisions on the Primary Safety Belt Incentive Grant Program.

I thank Senator LOTT. I congratulate him for including this provision, a provision that will clearly save lives. Senator LOTT came to the Senate floor earlier and spoke about the importance of this provision. I must say what Senator LOTT said is absolutely correct. This provision must be kept in the Senate bill. It must be kept through conference. Efforts to modify or remove primary safety belt incentive grants will undermine the national goal of reaching 90 percent safety belt usage. Encouraging States to aim low when it comes to saving lives makes no sense. Such efforts to change this language in the bill must be opposed.

Some States already have primary enforcement laws. Those laws are the single cheapest and most effective means for saving lives on our Nation's roads. Those States that have already enacted primary seatbelt laws have seen lives saved. Other States, such as my home State of Ohio, do not have primary seatbelt laws. These States would benefit tremendously in terms of lives saved and financial bonuses under Senator LOTT's program. The incentive program may be the only way to get some States to adopt primary laws.

In Ohio alone, it is estimated we could save nearly 100 lives per year if we added primary belt laws. If we maintain this provision, countless lives will, in fact, be saved. The highway experts, the people who study this issue, who understand it, tell us this is the simplest, cheapest, easiest way to save lives. It is the one thing we could do to save lives in this country the easiest way.

So I thank Senator LOTT and commend his efforts and urge my colleagues, if there is an amendment offered to take this provision out, that they oppose that amendment.

Let me say a few things about the provisions in the bill that I have been working on and I have asked to have included and that have, in fact, been included. First, Senator ROCKEFELLER

is the lead cosponsor on our provision that we call Stars on Cars. While the name is kind of cute, its focus is quite serious.

Today, when you go to buy a new car, we all know there is a large label on that car, a large label on the window telling the price, the features, and other information about the vehicle. Most of the content on the sticker is actually mandated by the Federal Government. The sticker has to tell you whether the vehicle has a stereo, the car's mileage, how many miles per gallon, and so on. But one piece of vital information, amazingly, is not there, and that is the safety ratings. How safe is that car? That piece of information is not on the sticker.

Citizens have a right to know this information, and our provision would provide, for the first time, that information would be available right on that car, right in the showroom when you walk in to buy the car. Taxpayers have already paid to have the National Highway Traffic Safety Administration, NHTSA, test cars for this information. We have already paid for the information. In fact, NHTSA has put this information up on the Internet. It is available on the Internet now. But, nonetheless, this information is not available to the American consumer in the one place where it would be most helpful, the one place where it would truly make a difference: where you buy the car, on the face of the car when you buy it at the dealership.

Our provision would add a new section to the label that would clearly lay out information from each of the crash tests. You would have the information about frontal crash impact, side impact, and rollover resistance. It would show the test results as star ratings on the label, just like many automakers already do in their commercials. This is a commonsense provision, and it is one that will allow consumers the opportunity to make more informed decisions for themselves and their families.

We have found over the last few years that consumers are much more conscious about the safety of the cars they buy, wanting to put their families in safe cars. This is a proconsumer, prosafety provision that makes good common sense. I congratulate the committee for including it in this bill.

Another provision in this package that Senator ROCKEFELLER has cosponsored with me is what we call the Safe Kids and Cars Act. Now, according to NHTSA, automobile crashes are the leading cause of death for those ages 4 to 34. More than cancer, more than fire, more than anything else, auto accidents are the source of child fatalities. We all know that.

The focus of the child safety initiative we have incorporated in this bill is on an emerging danger for small children that is often overlooked. It is referred to as ''nontraffic, noncrash'' accidents. What are those? Well, these are incidents in which there is an interaction between an automobile and a child which leads to injury or death when the vehicle is not on the road or there is no actual crash which has occurred. Instead, these are accidents that happen inside parked cars, in driveways, or other common, potentially deadly situations.

We provide two different things in this title. The title includes two very different sections relating to the Safe Kids and Cars initiative. The first one directs NHTSA, for the very first time, to perform regular collection of data on nontraffic, noncrash injuries and deaths. We need that information. We need that as a matter of public policy. If we are going to prevent them, we have to understand them. We are not collecting the data today. We do not fully understand it.

Further, we have another section that deals with the so-called back-over deaths and requires NHTSA to investigate this issue and the technologies that might help prevent such accidents in the future. These back-over deaths occur in driveways, people's homes. Quite often, every year, a child is backed over and killed. They are becoming more frequent, as people have vans where you cannot see out of the back of the van very well.

We need to better understand the cause of these accidents. We need to have better information. NHTSA needs to investigate this issue and needs to look at the technologies that might help prevent such accidents.

Another provision we have included in this bill we call dangerous roads and intersections. Senator ROCKEFELLER and I have worked on this provision. Every State in the Union, of course, has dangerous roads, dangerous intersections. Most States, fortunately, rank these. Most States come up with a list of what are the dangerous roads, the most dangerous places in the State. They keep a list of them. But, amazingly, there are many States that keep this information secret and never tell the public.

Citizens have a right to know this information. What would you do with the information? Well, if you are a parent, you might tell your child to avoid a certain road: Don't go that way to the movie. Don't go that way to the restaurant. Don't go that way on a date. Go a different way. You have a right to know that information. Or if the public knew about a road that was statistically very dangerous or the State knew that it was dangerous, maybe the public would demand that road be fixed. That is the type of vital information the public has every right to know.

Our provision requires that safety information be disclosed to the public as an eligibility requirement for a new Federal safety funding program, the Highway Safety Improvement Program. States seeking additional Federal dollars for safety construction projects will have to identify their danger spots, rank them according to severity, and then disclose them to the public. It is pretty simple. Most States are already doing it; they just have to disclose it. This is another commonsense provision that truly is going to save lives. I am pleased it has been incorporated into this highway bill.

The fourth issue covered by language in the bill that I included, along with Senator ROCKEFELLER, has to do with driver education and licensing. Teen driving is an area where the fatality rates are very high. Unfortunately, current programs are many times not getting the job done. Higher crash and fatality rates for teenage drivers can be reduced if we work at it. The Federal Government can't run driver education. It is a State responsibility to set standards. But the Federal Government can play a small yet significant role and a productive role. Revitalized driver education needs to be data driven. We can help teenage drivers avoid high-risk situations, particularly in the first 6 months behind the wheel. Integration of driver education with graduated licensing must also be addressed.

The language we have included in the bill creates a driver education and licensing research program within NHTSA. This program will go out and test what works and what doesn't and come up with a ''best practices'' model that States can implement. The time has come to take serious action on driver education and licensing. This program is a solid first step. We need to have scientific data, and the Federal Government is in a good position to come up with this data to assist States as they develop good criteria.

Finally, I have worked with Senator LAUTENBERG to include a provision in the highway bill to reduce the number of drinking and driving deaths and injuries each year. Statistics are staggering. In 2003, 17,013 Americans died in what we believe were alcohol-related incidents. NHTSA projects this number dropped to 16,654 in 2004, a 2.1-percent reduction. While this is good news, it certainly is still too high. We do want to see the trend continue. To help accomplish that, the language we have supported requires NHTSA to work with the States to conduct combined media-law enforcement campaigns aimed at reducing drunk driving fatalities.

Specifically, the law enforcement portion of this bill consists of sobriety checkpoints in the 39 States that allow them. In the States that don't allow them, it provides for saturation patrols. The Centers for Disease Control estimates the sobriety checkpoints may reduce alcohol-related crashes by as much as 20 percent. That is a significant amount. We should do all we can to help States reduce drinking and driving. This provision will do that.

In conclusion, the fact is that auto fatalities represent the No. 1 killer in this country of those between the ages of 4 and 34. In 2004, NHTSA projects that almost 43,000 people were killed on our Nation's roads. In 2003, the number

was 42,643. In fact, in the next 12 minutes, at least one person will be killed in an automobile accident, while nearly 6 people will be injured in the next 60 seconds. This is a tragedy we as a society are much too willing to tolerate. It is so common we kind of shrug it off and put up with it. These auto fatalities occur every day, every hour. And yet somehow we all have become immune to it. This year's highway bill takes some positive steps toward reducing those deaths.

I thank the sponsors for working with me on these safety measures that truly will save lives. I commend them for their efforts and for including these provisions in the bill. I urge my colleagues, once this bill goes to conference, to continue to include these provisions in conference.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, I was able to listen to the Senator from Ohio, Mr. DEWINE. He has always led this body in the concern for safety. He points out the critical need to finish this bill. Hopefully, today we will finish this bill because we have the longest, most comprehensive safety core section, title, in this bill that has ever been offered in any reauthorization since Eisenhower. That is why we say, as I think Senator DEWINE was pointing out, lives can be saved or lives can be lost, depending on whether we pass this bill.

We will not have the safety core programs if we merely have an extension. Right now we are on our sixth extension. An extension is nothing but a defeat, an admission that we are not able to get a bill through so let's have what we had before. That's actually an extension of what we passed 7 years ago. It doesn't have any of these things in it. If we have an extension, none of the safety core programs Senator DEWINE was talking about would be included.

I can tell you—and I think everyone knows—statistically, it is an absolute that people will die; not just adults driving, but one of the things in this bill is the Safe Routes to School provision which would save young lives—kids going to school. So it is a life-or-death matter that we pass this bill and pass it very soon.

When I say ''very soon,'' we ought to pass it today because the extension, this sixth extension I refer to, is going to expire on May 31. If that happens, that means we will be forced to do another extension. What happens when you do extensions? Back in the States, they do not have any certainty in planning. It is not as if you can say: We know now that we have an extension for 6 months, we can spend X dollars for 6 months. You can't do it that way, and everyone knows that. You have to plan way in advance because you have to get the labor pool together, get the contractors together, you have to get the bids out. In this bill, we do have a provision that would have some projects that are ready to go, so the second this is signed into law we are going to start construction.

People will use this and say this is, in fact, a jobs bill—and it is. It is probably the biggest jobs bill we have had at one time since the WPA. For every $1 billion of road construction, that translates into 47,500 jobs, new jobs, good-paying jobs. Without this bill, of course, that is not going to happen.

We have a lot of people who are concerned, as I am, about donor State status. I can remember when we only had written into the law that each State would get back 75 percent of what they actually collected in their State. Slowly, over the years, I have watched it get increased. It has gotten up to the point where it is today, and this was passed 7 years ago. This was 90.5 percent; that is to say, every donor State will get back at least 90.5 percent of what they pay in.

The bill we had last year was enhanced up to $318 billion. That would provide every State got back a minimum of 95 percent. As it is now, with the smaller number, even with the enhanced number from yesterday's amendment, that brought it up by $11 billion to $295 billion. That still only brings the donor status to 92 percent. But that is better than 90.5 percent, where we are today.

If we have an extension, it will be 90.5 percent. There will not be any change.

The streamlining provisions of this bill will allow us to actually pave, construct a fairly decent percentage more highways and bridges than we would otherwise be able to do. Without this, and if we have an extension, we will not have this, and none of the environmental streamlining provisions will be there.

There are two different sections of the bill that relate to the financing. We have not changed our method of financing roads in 50 years. Since the Eisenhower administration it has been the same. We know there are better ways of doing it where you can have partnership types of arrangements, something that would be very good for our system. Without a new bill, that is not going to happen.

A lot of the States are on the border. We have a border program, a recognition that since NAFTA we have a lot of traffic through no fault of the States. You have to improve the NAFTA corridors we are talking about in this bill. Without this bill, we will not have that.

The chokepoints are not currently corrected. That is why we call this an intermodal bill. It is not a highway bill, not just a transportation bill, it is an intermodal bill because it is all types of transportation and the chokepoints in between. A lot of our problems are because of the chokepoints.

Last, we have firewall protection in this bill. The firewall protection provides if you pay money into the trust fund when you are getting 1 gallon of gas, that money is ensured to go toward building new roads. There are many in this body who do not think that is necessary. Many think we can go ahead and fund any kind of programs not relating to transportation out of the trust fund, and they have been doing it.

In fact, one of the Senators the other day was saying how offended he was that we are taking some of the fix that is there that is not in use; in other words, there is about a 5-cent credit that goes in and comes out of the highway trust fund. That has nothing to do with transportation. If you are going to establish a policy, pay for the policy but do not pay for it out of the highway trust fund.

I have often said this is a moral issue. There may be loopholes that allow politics to steal money out of the trust fund, but it is still a moral issue.

This bill has the firewall protection to make sure, for the first time, people cannot raid the highway trust fund. All these things are in the bill. If we do not pass the bill, we will have an extension, and none of these things are in the bill.

This is necessary to get this done, to pass this legislation, and not just go for another extension.

AMENDMENTS NOS. 569, AS MODIFIED, AND 602, AS MODIFIED, EN BLOC

Mr. President, I ask unanimous consent the Chambliss amendment numbered 569 and the Cornyn amendment numbered 662 be modified with changes at the desk and agreed to, that the motions to reconsider be laid upon the table en bloc.

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

The amendments as modified en bloc are as follows:

AMENDMENT NO. 569, AS MODIFIED

On page 217 after the matter preceding line 1, insert the following:

SEC. . 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a route linking Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a route for the 14th Amendment Highway, from Augusta, Georgia, to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a

route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee (Formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesville, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

AMENDMENT NO. 662, AS MODIFIED

Strike section 1802(c).

Mr. INHOFE. I have left instructions if Senators arrive, interrupt us. We want to consider amendments. I am hoping I did not chase away anyone who is offering an amendment. We have about 10 amendments on the Republican side and about 10 amendments on the Democrat side. That is much better than yesterday with 173 amendments out there. We have made progress.

We agreed to two of these. If we can get the Members who are serious about their amendments to bring them down, this is the time to do it. I anticipate, as is normally the case, at the last minute Members will come down and say: I have to have time to present my amendment, and it will be too late. Now it is not too late. There is time to consider any amendment that is a germane amendment that is on the list.

What we have done is very difficult. We have worked on this bill for 3 years. We had this bill passed out of this Chamber and to conference a year ago this month. In conference, they dropped the ball, and we were unable to get it through.

This time, the conferees have learned we will be able to get it back to the House and back to the Senate, get it passed in both Houses, and have it signed by the President in time for the current extension that expires May 31. That is ambitious, but it can be done. We try to figure this out day by day and what can be done each day. I believe that will happen.

The reason this bill is better than most bills is historically we have not gone with formulas; we have gone with political projects. Some people call them pork. I don't call building a road pork.

What we could have done—we need to have 60 Senators to agree to this—we could have gone to 60 Senators and said, all right, we have a pot of money, and we will take care of your problem in Louisiana, your problem in Oklahoma, your problem in Arkansas, and get up to 60 Members, 30 States, and we will pass the bill and forget about the other Members. That is not fair. Historically, that has been done.

We tried to take every conceivable thing into consideration. The Presiding Officer represents a small northern State. We have provisions for the colder States, provisions for States out West, many of which, like my State of Oklahoma, are donor States. These are factors in the bill, in the formulas.

The formula for allocation also has such things in it as per capita fatality. My State of Oklahoma has a high fatality rate. What does that tell you? It tells you we have a problem with bridges and roads. That is a factor in how much money is distributed to the States.

The number of interstate lane miles is a consideration. The weighted nonattainment and maintenance area population is considered. The nonhighway recreation is a consideration. Regarding low-income States, mine is below the average in the State of Oklahoma. Low-population States—Senator BAUCUS has been very helpful in this bill. He is from Montana. Montana has less than a million people, but they have to have roads to connect all the interstate roads. Consequently, they will be in a position where it has to be a consideration that a low-population or low-density population State is going to be able to be treated fairly.

There are about 20 different considerations, but the bottom line is, you are never going to come up with a formula where everyone says this is perfect, this is just what we want, my State is being treated fairly. There are many things in the formula I do not like as chairman of the Environment and Public Works Committee, this Senator from Oklahoma. Nonetheless, I know everyone cannot be satisfied.

We have a good bill before the Senate. Members should realize how significant it is that we pass this bill and not just go to another extension.

Let me renew my request, as we will be doing every 15 minutes, for Members to bring their amendments. I know Members are out there and hiding. We will find you. We are open for business. We want you to come down and offer your amendment. We will have plenty of time to do it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I cannot commend the chairman of the Environment and Public Works Committee enough. He has worked extremely hard on this legislation. He is exactly right, if we are going to finish this bill, it is incumbent upon Senators to bring their amendments to the floor. It is the only way we are going to finish this bill.

As Mr. INHOFE, the Senator from Oklahoma, is imploring Senators to come down, I very much hope they heed his words. I thank him for those words because it is so important to get this legislation done now. It is Thursday afternoon, and it seems to me there is a lot of time to get most of this bill done today.

RULES OF THE ROAD ON JUDICIAL NOMINATIONS

Mr. President, this Nation's fast transportation system works. Why does it work? Because every day millions of individuals choose to abide by the rules of the road. On our Nation's highways, millions of people safely move great distances, at great speeds, in no small part because drivers respect other drivers and abide by the rules that oblige them to stay within the white and yellow lines painted on concrete and asphalt.

When you stop to think about it, it is incredible. Here are thousands of pounds in one car and another car hurtling toward each other, at high speeds, yet they do not hit each other. They miss because the drivers know they must stay, in America, on the right side of the road, in their lane, which prevents a catastrophe. It is amazing when you stop to think about it.

When drivers come to an intersection with a red and white stop sign, what happens? Drivers stop. Those of us on a cross street depend on drivers stopping. The other cars at a stop sign on other streets of the intersection also depend on that.

When folks come to a red light, they stop. They wait for a green light. They let the cars come through from the other direction. Few things create more danger in traffic than running a red light.

Mr. President, the Senate works much the same way. The Senate gets things done because day in and day out Senators choose to abide by the Senate's rules. The Senate has rules. We abide by them, and that enables us to get things done.

Every year, the Senate confirms hundreds of nominations, addresses hundreds of amendments, and enacts hundreds of laws because Senators respect other Senators and abide by the rules of the road.

In the 108th Congress alone, the Senate confirmed nearly 1,800 nominations, agreed or disagreed to nearly 1,800 amendments, and enacted nearly 500 laws. Yet in the 108th Congress, the Senate conducted just 675 rollcall votes.

So what does that mean? That means in the 108th Congress alone, the Senate made more than 4,000 decisions with fewer than 700 rollcall votes. In the 108th Congress, the Senate made more than 3,300 decisions by voice vote or by unanimous consent.

These numbers demonstrate what most Senators know in their bones: Five times out of six the Senate gets things done not by confrontation but by Senators abiding by the rules of the road and cooperating with other Senators.

That is why it is so troubling that some in this Senate now threaten to try to change the Senate rules by breaking the rules. They plan to disregard the rules and disregard the precedents. They want to run the red light.

The Constitution gives the Senate the power to set its own rules. Article I, section 5, of the Constitution says:

Each House may determine the Rules of its Proceedings. . . .

The Senate has determined its rules through adopting the standing rules of

the Senate. The Senate has readopted or made general revisions of its rules only seven times since 1789. The most recent general revision was in 1979.

The standing rules of the Senate continue from Congress to Congress. As Senate rule V says:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Rule V: ''The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.''

Now, Senators have the right to debate changes to the rules. Standing rule VIII spells out that, even under circumstances where Senators may not normally debate:

> motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.

Standing rule XXII provides the procedure for bringing debate to a close on:

> any measure, motion, [or] other matter pending before the Senate.

Senate rule XXII provides that ''any . . . matter'' includes nominations. That is how it is that Senators can debate at length any nomination that comes before the Senate, unless 60 Senators vote to bring that debate to a close.

And ''any measure . . . [or] matter'' within the meaning of rule XXII on debate also includes a proposal to change the standing rules of the Senate because rule XXII of the Senate's standing rules spells out the procedure for changing the standing rules. When it addresses bringing debate to a close through cloture, rule XXII says:

> [O]n a measure or motion to amend the Senate rules . . . the necessary affirmative vote shall be two-thirds of the Senators present and voting.

That is rule XXII. That is in the Senate rules, which continue over from Senate to Senate.

The Senate's rules, thus, provide a procedure for changing the rules. That procedure involves the regular legislative process. That procedure involves fair and potentially extended debate. And that procedure requires, if it comes to extended debate, ''the . . . affirmative vote . . . [of] two-thirds of the Senators present and voting.''

That is the way Senators can change the rules, if they choose to respect other Senators, if they choose to abide by the rules of the road, if they choose not to run that red light.

But what some are talking about is very different. What some are talking about is using brute force to change the rules. What some are talking about is running the red light.

Here is what they would do. They would use the raw power of the Vice President to sit in the chair of the Presiding Officer. They would have the Vice President make a ruling that bypassed the Senate's rules for amending the Senate's rules. They would have the Vice President make a ruling that bypassed the Senate rules for how long Senators could debate. They would have the Vice President make a ruling that broke the Senate's rules.

Now, article I, section 3, of the Constitution provides:

> The Vice President of the United States shall be President of the Senate. . . .

But that does not mean that the Vice President can make up the Senate's rules anew every day. The Vice President, just like any Senator, must abide by article I, section 5, of the Constitution, when it says:

> Each House may determine the Rules of its Proceedings. . . .

And when the Vice President acts as President of the Senate, the Vice President, just like any Senator, must abide by the standing rules of the Senate. To do otherwise, would be an abuse of power.

Mr. President, I urge my colleagues to resist those who would break the rules to change the rules.

Sir Thomas More, the British statesman and Lord Chancellor, resisted King Henry VIII when More felt that Henry had broken the law. In Robert Bolt's great play about More called ''A Man for All Seasons,'' More speaks about the importance of abiding by the law.

The character William Roper asks More:

So now you'd give the Devil benefit of law?

More counters:

Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper replies:

I'd cut down every law in England to do that!

More responds:

Oh? And when the last law was down, and the Devil turned round on you where would you hide . . . , the laws all being flat? This country's planted thick with laws from coast to coast . . . and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.

The Senate's rules protect us all. They protect the ability of the Senate to get things done through working together, not through majorities that cut down all the opposition.

For two centuries, the Senate's rules have protected the rights of the minority party, for Democrats and Republicans alike. After two centuries, it would be a mistake to cut down those rules.

At the center of that forest of Senate rules are two mighty oaks. But don't take my word for it. Let me quote the Senate majority leader.

In a forward that the senior Senator from Tennessee, the majority leader, wrote to a book published last year entitled ''Senate Procedure and Practice,'' the majority leader wrote:

> [A]bove all, together the Senate's rules and practices form a whole. It is a whole that faithfully reflects the Framer's design and ambition for the body. It is a whole that remains true to the Senate's two paramount values: unlimited debate and minority rights.

''[U]nlimited debate and minority rights.''

''[U]nlimited debate'' allows Senators to protect ''minority rights.'' The Senate's rules thus help to protect personal rights and liberties. The Senate's rules help to ensure that no one party has absolute power. The Senate's rules help to give effect to the Framers' conception of checks and balances.

Even law school dean and former judge and special prosecutor Kenneth Starr told CBS News that changing unlimited debate might damage the Senate. He said:

> It may prove to have the kind of long-term boomerang effect, damage on the institution of the Senate that thoughtful Senators may come to regret.

The Senate's right of unlimited debate is particularly important in the context of nominations for the lifetime jobs of Federal judges. The Senate's involvement in the confirmation of judges has helped to ensure that nominees have had the support of a broad political consensus. The Senate's involvement has helped to ensure that the President could not appoint extreme nominees. The Senate's involvement has helped to ensure that judges have been freer of partisanship and more independent.

The Framers wanted the courts to be an independent branch of government, helping to create the Constitution's intricate forest of checks and balances. The Senate's involvement in the confirmation of judges has helped to ensure that the judiciary can be that more independent branch. And that independence of the judiciary, in turn, has helped to ensure the protection of personal rights and liberties from the winds of temporary majorities.

It is easy to push down the accelerator and cross that white line of paint, running across the concrete or asphalt. It is easy to push down the accelerator to run through that stop sign. It is easy to push down the accelerator and run through that red light.

But once one has been hit by a car running a red light, can one ever look at an intersection the same way?

The Senate works because, day in and day out, Senators choose to respect other Senators and abide by the Senate's rules of the road. If and when the Vice President and Senators start breaking those rules to change the rules, the Senate will never be the same. Once they run that red light, the rule of the road can never be the same.

I urge my colleagues to slow down, take their foot off the accelerator, and stop, before it's too late.

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

The PRESIDING OFFICER (Mr. CORNYN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ISRAELI INDEPENDENCE

Mr. DEWINE. Mr. President, one of the most gratifying aspects of serving in the U.S. Senate is the opportunity to come to this Chamber and talk about and celebrate the great events in American and world history. One such event occurred 57 years ago today, and that is the creation of the nation of Israel, the only democracy in the Middle East and the eternal homeland for all Jews around the world. Israel, our enduring friend and everlasting ally, was reborn from its biblical birthright on this day in 1948.

Two years ago on the 58th anniversary of the end of World War II in Europe and again this week on its 60th anniversary, I spoke about how American soldiers successfully fought both the fascism in Europe that spread like a cancer across that continent and Adolf Hitler's efforts to eradicate the Jewish race.

Last week, we honored the souls of those murdered in the holocaust on Yom Ha-shoa—the Day of Remembrance. And today we celebrate the result of all of this history which is Israel's independence.

My father, Richard DeWine, when he was serving in World War II in K Company, which was part of the Army's 103rd Infantry Division, went into one of the Nazi concentration camps—Dachau—after it had been liberated. Although K company did not participate in the liberation of Dachau, the 411th Regiment of their 103rd Division did liberate the camp at Landsburg, Germany.

When my father was at Dachau, a camp where over 28,000 Jews had perished, the prisoners had already left the camp. He has a vivid recollection, though, of seeing the ovens that the Nazis used to burn the bodies of so many of the prisoners.

He can still picture in his mind the devices they used to slide the bodies into the ovens and the many urns that contained the prisoners' ashes. He remembers going into a room next to the ovens and seeing fixtures on the walls that looked like showerheads. Those at the camp told him the prisoners were taken into these rooms and the prisoners were told they were going to take showers, but instead of water coming out of the nozzles, poisonous gas was emitted, killing them.

My dad remembers walking down the road near the camp and encountering a very weak, emaciated man who had, a short time before that, been a prisoner. My dad and his buddies talked to the man and gave him food and cigarettes. They asked the man, who a short time before had been a prisoner, if they could take his picture. He said, yes, as long as it is with an American soldier. So they did. My dad still has that picture today.

Carl Greene, who was also a member of K Company, remembers their visit to Dachau. He says some of the former prisoners in the camp still wearing those unforgettable striped uniforms actually served as their guides to show them around the camp, showing them the gas chambers and the crematorium and the area in the camp where the Nazis would shoot prisoners in the back of their heads.

K Company member Al Eucare, Sr., who was 18 years old at the time, remembers what he describes as one-man pillboxes that stood outside the gates of Dachau. These were cylindrical pipes that stood upright, just big enough for a man to fit inside. They were something of a sentry post. Each of these concrete tubes contained an open slat at the top and the bottom, where guns were placed to shoot at prisoners if there was a disorder as the prisoners went in and out of the gates.

Like my dad, Al also remembers the ovens at Dachau. He said when he was there, even though it was after the camp was liberated and the war had ended, there were still ashes and skeletal remains inside those horrible ovens.

Al also remembers seeing hooks—something akin to meat hooks—that the Nazis would hook dead bodies on like cattle, to move them more easily. He said they would put the bodies on by hooking them right underneath the jaw. He had heard stories that sometimes live Jews were placed on the hooks and left until they died.

General Dwight Eisenhower visited some of the death camps and reported back what he saw. In one of his reports, this is what the general described:

> On April 12, 1945, I saw my first horror camp. It was near the town of Gotha. I have never felt able to describe my emotional reactions when I first came face to face with indisputable evidence of Nazi brutality and ruthless disregard of every shred of decency. Up to that time, I had known about it only generally or through secondary sources. I am certain, however, that I have never at any other time experienced an equal sense of shock.
>
> I visited every nook and cranny of the camp because I felt it my duty to be in a position from then on to testify at firsthand about these things in case there ever grew up at home the belief or assumption that ''the stories of Nazi brutality were just propaganda.'' Some members of the visiting party were unable to go through the ordeal.
>
> I not only did so, but as soon as I returned to Patton's headquarters that evening, I sent communications to both Washington and London, urging the two governments to send instantly to Germany a random group of newspaper editors and representative groups from the national legislatures. I felt that the evidence should be immediately placed before the American and British publics in a fashion that would leave no room for cynical doubt.

That was Dwight David Eisenhower.

To think about it now, it defies credulity to consider that these atrocities were occurring and there were those who questioned their reality or those who today even question their reality. My father said that was one of the things that struck him when he visited Dachau 60 years ago—the idea that there were townspeople right there who would never admit the death camp was out there. He talked to people and they would not admit it. They said they didn't know anything about it. They didn't know what was going on so close. They acted as though it didn't exist.

Fortunately, the world came to reveal what was happening. The world knew, and although the rebirth of Israel came upon the heels of the modern tragedy of the Nazi death camps, it is important to remember that the Jewish people have struggled to regain their homeland ever since biblical times. The year 1948 marked the culmination of those efforts. After 6 million Jews were murdered in World War II, surviving Jews from across Europe and Asia made the trek to the holy land. They sought their homeland and peace. They obtained the former but not the latter.

One such man seeking a homeland and peace was Mark Steinbuch, the late father of one of my Judiciary staffers, Robert Steinbuch. Born in Poland, Mark and his family lived under Nazi occupation, relocated to Siberia shortly after the start of World War II, and then traveled for 2 weeks by cattle car to live in Soviet Kazakhstan.

Mark's extended family faced some horrific challenges. Many were killed by the Nazis. His cousins, the Hershenfis family, were forced into labor in the Pionki ghetto in Poland. In 1941, the family was shipped off to Auschwitz. Hanna and her brother Harry were separated from each other and from their parents Fay and Harvey. Fay and Harvey never made it out of the death camp. Hanna, tattooed with the number A14699, was shipped to an intermediate camp and then Bergen-Belsen. Harry—B416 to the Nazis—worked hard labor in Auschwitz for 4 years, and then, in 1944, was sent to another camp called Mauthausen.

On May 3, 1945, the Nazis fled the camp. That night, the skies opened and sent down a rainfall as if the world were being cleansed from the horrors it had seen. The next morning, the Americans arrived and the 11th Armored Division liberated the camp. Three days later, Harry turned 26.

After 5 weeks in an American hospital, Harry spent the next 3 years in a displaced persons camp in Austria. In 1949, Harry's wishes were answered, and he set off for America. Four years later, when Hanna also came to the United States, the siblings were reunited for the first time since they were shipped off to Auschwitz 13 years prior. Harry is 86 now and Hanna is a few years younger. Both are alive and well. Harry's sense of humor is strong, and he plays down the difficulties he faced. But we all know better.

Upon the defeat of the Nazis, Mark Steinbuch's immediate family went to Germany because, as Mark described it, ''that is where the Americans were

and, if you wanted to live, you went to the Americans.'' From there, Mark joined the Zionist youth movement and set off for Israel.

That, however, was no easy task. Traveling across Europe, often on foot to a southern port, he, his brother, and many others like them boarded an overloaded freighter renamed the ''Theodore Hertzl,'' after the founder of the Zionist movement. Upon the ship's arrival in Israel, the British quickly arrested its passengers and sent them to a holding camp in Cypress. Months later, Mark and the others were allowed to enter Israel.

Upon the joyous declaration of independence, seven Arab nations invaded Israel, and Mark quickly joined the army. Underage and flatfooted, he fought for the independence of this new democracy.

Mark's story is by no means unique. It not only represented the goals and desires of the Jews of postwar Europe but the dreams of a nation of people dispersed from their homeland for millennia.

Mark's dreams were realized a year later when armistice was struck. Israel survived its first challenge. It, like the Jewish people after the Holocaust, was still alive.

Since then, Israel's existence has been continuously challenged. Israel defended itself from foreign aggression during the Suez Canal crisis, the Six Day War, the War of Attrition, the Yom Kippur War, the war in Lebanon, and periods of extreme terrorism. Israel survived it all. OPEC blackmailed the world by withholding oil from the West because of their support for Israel. Israel's Olympic athletes were murdered by terrorists. And the United Nations equated Zionism with fascism. Israel survived it all and much more.

Israel is a survivor, but it is also so much more. The people of Israel have forested the desert, revived their language, built cities, and established a vigorous and ever-growing community.

We support Israel because it is a democracy, because it shares our values and ideals, because it has been willing to suffer attacks at our request, and because simply it is our friend. We welcome other nations to choose to be the same, and for the many that have, we share the same relationship.

America is a nation of justice, fairness, and principles. So is Israel. And on this day, we wish our friend a happy and joyous anniversary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

RETIREMENT SECURITY

Mr. DURBIN. Mr. President, I rise this afternoon to speak to the Senate and those following this debate about a dramatic change that is taking place in America, even as we meet and discuss so many other important issues. One of the pillars of family security in America is crumbling. Retirement security in this country is in a crisis. The defined benefit plan, the kind of pension plan that guarantees a retirement amount to a worker who gives a lifetime of loyalty to his company or his employer, is becoming an endangered species.

The number of employees covered by employer-paid defined benefit plans has fallen from 30 million to 22 million in the last 20 years. By contrast, the number of people in defined contribution plans, into which both worker and employer pay with no guaranteed payout, has grown to about 55 million from 19 million.

This trend, along with the steep losses that people with defined contribution plans, such as 401(k)s, have experienced in the last few years, and President Bush's plan to shift part of the Social Security guarantee into private accounts, frankly, means that we are going to put at risk retirement security in America, more than we have seen in modern times.

Tuesday night, a bankruptcy court decided to allow United Airlines to shift responsibility for its defined benefit pension plan to the Federal pension insurance system. United Airlines moved all four of its pension plans into the Pension Benefit Guaranty Corporation with the promise that United Airlines would pay that corporation $1.5 billion. The willingness of PBGC to accept this arrangement, unfortunately, rings the death knell for defined benefit pension plans in America.

United is the latest and the largest example of the fact that corporations are no longer keeping their promises to employees, and the Government insurance system that was designed to protect employees in the case of such catastrophe has become overused and underfunded to a critical State. And this, coupled with the lack of personal savings, with the dramatic increase in consumer debt of families across America, with the growing vulnerability of families to medical bills, and with the assault on guaranteeing benefits of Social Security by this administration, is leading this Nation to a point that could not even have been imagined just a few years ago.

There used to be a three-legged stool that you could count on for your future. Everybody knew it. You went to work; every payroll you paid into Social Security, which would be there when it came time to retire; you took some of your paycheck and you paid into your pension system, if the company provided one, and then, if you could, put some money into savings. The idea is that all three would come together to give you a sense of security and comfort in your old age.

The Chicago bankruptcy court that decided Tuesday night that United Airlines could walk away from its pension commitments unfortunately foreshadows many changes to come, and none of them positive, for working people and working families across America.

United Airlines, the second largest airline in America, is in bankruptcy. It took the pension liability which it had into the bankruptcy court and said: We have to walk away from it. The bankruptcy court agreed. And when United Airlines turned over all of its pension plans to the Pension Benefit Guaranty Corporation, it basically said it would save $645 million a year that it would not have to put into the promised payments to pension plans for its employees.

Judge Eugene Wedoff presided over that decision. To an overflow courtroom on Tuesday, he said this was unavoidable. To quote him exactly:

> The least bad of the available choices here has got to be the one that keeps an airline functioning, that keeps employees being paid.

And that was the choice. From his point of view, to ask United to pay what it promised to pay to its employees and to its retirees would mean that the airline may cease to exist. But to walk away from those responsibilities for the employees and to say instead that the airline would survive certainly raises many troublesome questions.

The way that the Pension Benefit Guaranty Corporation is structured, it only guarantees that a part of pension plans it took over from United and other companies based on a pretty complicated formula would actually be paid to the employees. So many employees, whether United Airlines employees or others whose plans are taken over by this corporation, lose part of their pensions. In this case, it is estimated that United employees will lose an average of 25 percent of their pensions under this arrangement.

Keep in mind what these employees have been through. They have been battered by record layoffs. They have made voluntary pay and benefit reductions for years. They have increased their hours. They have made a lot of personal sacrifices to reach this point. And now, as it appears their airline was nearing the end of bankruptcy, comes this decision to walk away from the pension obligation.

United is the second largest airline. It operates more than 3,400 flights a day to more than 200 destinations. It is based in my home State of Illinois. It has 60,000 employees and thousands of retirees, all of whom will be affected by this decision.

Let us take a look at each of the groups of employees at United and how they will be impacted. The United flight attendants pension plan covers 28,600 participants. Under this Government takeover of the pension plan, the most senior flight attendants will receive about $500 less a month than the $2,500 they were promised in pension payments, about a 20-percent cut. This is significant because most of them have never earned more than $40,000 a year. Flight attendants who are less senior and have less flying hours with the company could lose up to half of what they would receive with their promised pension plan. They have said

they may strike on this. I hope it does not come to that, not just because of the fact that it is a corporation in my State but because I am a loyal customer of United.

Sixteen Senators recently joined me in a letter to the Pension Benefit Guaranty Corporation asking for that agency to explain why it agreed with United to turn over all four pension plans since as recently as 2 weeks ago officials of the same agency told negotiators they thought each plan should be considered separately. The flight attendants were told at the time their pension plan might have been saved, but now, sadly, it has been lumped in with all the pension plans at United and faces dramatic cuts.

Take a look at the ground employees, the mechanics, the people who fix the airplanes and maintain them and handle the bags. There are 36,100 of them at United, both active and retired. They were promised benefits of $4 billion. Their plan has only $1.3 billion in assets. So based on this agreement with the Pension Benefit Guaranty Corporation, on average, they will lose about 25 to 27 percent of their pension benefits. Retired members were promised an average benefit of $1,400 a month, and they could lose on average 19 percent of that promise.

While United was back in court on Wednesday asking for further concessions from the unions on their contracts, the International Association of Machinists and Aerospace Workers announced that 94 percent of its United members had authorized a strike if their contract to work was cancelled. The machinists may feel they have no choice. This, of course, would throw United's financial future into more uncertainty and jeopardy.

The United pilots have a pension plan that covers 14,100 people. The pilots reached a deal with United last year to save much of their benefit, but it is unclear how that will be affected by this new agreement with the Pension Benefit Guaranty Corporation. Pilots have generous pensions. They fly some of the most demanding routes. They have to be well trained and well skilled, and they, of course, are examined constantly to make certain they have the skills to be pilots. They would normally expect to see anywhere from $80,000 to $100,000 of pension benefits after a lifetime of service to the airline, but if this Government agency takes over, the maximum guarantee the Government offers is no more than $45,613 per person for those who retire at age 65 in the year 2005. Keep in mind, pilots are forced to retire at age 60 under rules governing pilots in America, so they would receive less than $45,613. A Government takeover would cut most of their anticipated pension benefits by as much as half.

Under the management plan, there are 42,700 participants encompassing administrative and public contact employees. This is more difficult to quantify in terms of their pension loss. However, the machinists union, which represents some of these workers, says the ramp employees could lose up to 59 percent of their promised pensions, and public contact representatives could lose up to 55 percent. These estimates take into account the likelihood that United will offer a 401(k)-type plan once it emerges from bankruptcy. As we know, there are no guarantees with a 401(k) any more than there is a guarantee that if one buys a mutual fund or a stock today that it will be worth more tomorrow. It is a gamble. It is a risk. It can play an important part in savings toward retirement, but it certainly does not provide any guaranteed benefits such as those that existed for employees who worked at United for decades. It is a gamble that the President is contemplating to bring to Social Security by privatizing Social Security: Let us move from guaranteed benefits in Social Security to the possibility that one will do well in the stock market.

Well, if a person's pension is in trouble now, and it may not survive the bankruptcy court, and the future of Social Security under the President's plan puts one at that same risk when it comes to investment, how can a person be certain they will ever be able to retire? How did we reach this point?

Pension promises that in hindsight may have been unrealistic were made. The terrorism of 9/11 changed the market for airlines across America. High fuel costs, increased competition from startup carriers all contributed to the losses that brought United into bankruptcy.

Last year, I supported a measure known as the Pension Funding Equity Act. We passed it hoping that we could temporarily use an alternative calculation to lower pension liability payments and to make our way through this stormy situation. It did not work. Now United Airlines is not alone in this predicament. Delta Airlines' pension plans are underfunded by $5 billion, and it has threatened to file Chapter 11. Northwest Airlines may be in trouble, too, according to equity researchers at Bear Stearns. And we should believe that a lot of other airlines are looking with great interest at United Airlines and its current situation.

Some people at American Airlines have said they want to keep their pension plans, but they are concerned about the competitive advantage United will now have because it does not have to fund its own pensions.

After the airlines, retirement experts say the auto industry may be the next to default on its defined benefit plans, leaving virtually no companies left that offer guaranteed retirement benefits. Let me give some illustration of this.

Today's Wall Street Journal says:

> By far, the industry accounting for the biggest portion of underfunding is auto makers and automotive-parts companies. The plans of those companies are $45 billion to $50 billion shy of promises made to workers.
>
> Delphi Corp., the No. 1 U.S. auto supplier, is struggling with declining sales at its top customer and former parent, General Motors Corp., plus big pension obligations and higher raw-materials cost. Delphi has an unfunded pension liabili-ty of $4.3 billion and $9.6 billion in retiree health-care liabilities. . . .

We are in the midst of debating the asbestos bill. It is interesting on this asbestos bill the lineup of groups supporting it. That is another outstanding liability for companies like General Motors. Many of us believe the trust fund in the asbestos bill is underfunded. We believe many major corporations with asbestos liability are anxious to sign up for the trust fund because they will be the benefactors more than smaller and medium-sized corporations. So both General Motors and the United Auto Workers have endorsed the asbestos bill.

Certainly, they have to look forward and say asbestos liability will threaten the payment of health care benefits and retirement benefits to the workers. So here there is a situation where victims of asbestos exposure may receive limited compensation under the trust fund plan that has been endorsed by companies that expose them to asbestos because those companies want to limit their liability in the future because of such things as pension liabilities.

As we can see, this is a free-for-all and the losers ultimately are going to be either victims of asbestos exposure, in this instance that I used, or the workers themselves and we'll see retiree benefits disappearing.

The United Airlines deal is the largest pension default in the history of the United States. Before it, Bethlehem Steel's $3.6 billion pension default in 2002 set the record. There is a pattern, and the pattern is that the workers get hurt the most.

I am offering legislation with Senator KENNEDY and Congressman GEORGE MILLER of California that would attempt to make it more difficult for corporations to offer superior pension deals to their high-ranking directors and officers while the company is shifting its unfunded pension liabilities to the Government or treating older workers unfairly during a conversion from a traditional defined benefit plan to a cash balance plan.

Why in the name of fairness and justice should the officers of a bankrupt corporation be receiving superior pension deals and bonuses while the people who faithfully worked for that company for decades are being cut loose, their jobs eliminated, or the promised retirement benefits are not paid? If there is any justice in this done, we should demand of these corporate officers that they at least sacrifice to the same level as the employees who are the victims of their mismanagement. Rank-and-file workers should not be sent to the back of the line in bankruptcy court while executives get a free pass. Time and again, workers have faced the back of the line in this country.

Mr. President, you may remember an amendment I offered to the bankruptcy bill a few weeks ago. It was rejected overwhelmingly by the Senate. Let me tell you how radical this amendment was. It would have allowed bankruptcy courts to reach back and take the sweetheart deals that were given to these officers and CEOs and put the money back into the corporation to benefit the employees and the retirees.

I gave the example of several CEOs, including Ken Lay of Enron, who abuse their companies. You remember reading about Dennis Koslowski of Tyco. This man had a unique lifestyle at the expense of his corporation. He had the corporation buy his family a shower curtain. Well, what is wrong with that? Mr. Koslowski did some pretty shrewd shopping. He found a $30,000 shower curtain. That takes some doing. He took the money out of the corporation, while it was facing financial trouble, and then turned and said to the employees: Sorry, we are going to cut you loose. Retirees, we can't pay what we promised you, and shareholders, you lose, too. So for his shower curtain deal and a lot of other things, I think Mr. Koslowski should have been held accountable. He was in criminal court, but he certainly should be held accountable.

Bernie Ebbers, CEO of WorldCom, didn't piddle around with a shower curtain; he took $408 million out of a company right before it went into bankruptcy court. How can we sit around and say: That is OK, that is management; those guys are in the boardroom; don't worry about them; but say to the worker out in the plant or to the retiree who is counting on a retirement benefit plan or the shareholder: You are going to have to lose because Mr. Ebbers needed $408 million out of the company before he dumped it in bankruptcy? We should have recaptured the assets he took out of the corporation before it went into bankruptcy. Maybe it would not have made the corporation solvent, but at least it would have been a fair allocation of the resources of that corporation to the people who deserve the benefits from them in bankruptcy.

My amendment lost on a vote of 40 to 54. It was entirely too radical for the Senate, to think that these CEOs would be held accountable for their conduct, that they would accept personal responsibility for what they did. No way. Yet their workers and their retirees had to pay the price. They were held responsible for this terrible mismanagement.

We also tried to raise the minimum wage during that bankruptcy debate. I guess we are just wasting our time in this place. It has been over 8 years since we raised the minimum wage in this country. We were told the head of a family who works 40 hours a week at a minimum wage and has two or three kids should not be able to lift his family above poverty. At a time when we have record productivity in our corporations and record corporate profits, why in the world can't we bring ourselves to make certain that workers in America get fair compensation? I don't understand it. If we value work and value families and value children, why aren't we paying a decent wage to many people who get up and go to work every single day, sometimes two jobs a day? But, no, we can't pass that here. That is too radical.

Now the President wants to privatize Social Security. He wants to make sure that two of the sources of retirement security—Social Security and pensions—will no longer have guaranteed benefits. The third source, of course—private savings—has never been guaranteed. President Bush says that is part of the ownership society. But, unfortunately, we are headed for a society for the owners, by the owners, and of the owners, where the workers are more vulnerable than they have ever been in generations in America.

We ought to step back for a second. We ought to try to decide what is important in this society in which we live. Is it important for us to protect the CEOs from their mismanagement of these companies? Is it important for us to say to Mr. Bernie Ebbers, You won't be held accountable for taking $408 million out of the corporation you dumped in bankruptcy? Is it important for us to make sure that people who make more than $1 million a year get handsome tax cuts while we are deep in debt as a nation, trying to come up with the money to fight a war, or is it more important for us to give fair compensation to people who go to work? Is it more important for us to step up and talk about guaranteeing and securing the pensions of hard-working people, who stayed with a job year after weary year because a husband says to his wife: Honey, I am going to hang in there for 2 years because I get my retirement. And look what happens. Months before you retire, or even months after you retire, they pull the rug out from under you.

This is a looming retirement security crisis. Baby boomers are set to retire in large numbers in just a few years. This country is not saving for retirement. Our 401(k)s have taken a huge hit in the last 5 years. Defined benefit pension plans are almost extinct. Medicare is running a huge deficit. And Social Security has been targeted for benefit cuts. The three-legged stool of retirement security is looking a bit wobbly today.

Listen to what people around the country are saying about retirement insecurity. An editorial in the Denver Post said this:

> The retirement benefits offered by Social Security were originally designed as one leg of the three-legged stool that also included a worker's pension and a family's private savings. But American families don't save like they used to, and the national saving rate has been declining for the last 35 years. At the same time, American companies as a whole have been cutting back—or in some cases defaulting—on the pension coverage they once offered employees.

Listen to this letter to the Contra Costa Times in Walnut Creek, CA:

> I am a retired 74-year-old woman and get Social Security benefits, a private pension, payments from 401(k)s. Prior to the dot-com disaster a few years ago, my 401(k) was worth almost $300,000. It quickly dropped to half, [that value] and is slowly recovering. If it were not for my pension and Social Security, I would be very, very nervous about how I would survive what remains of my life.

Another letter to the editor dated March 16 from a Shreveport, LA, paper:

> In this time of corporate scandals, lost pensions, and stagnant wages, working people need something that is guaranteed and risk-free; that was always the genius of Social Security. . . . Social Security does need improvement, but that should mean ensuring benefits, not putting them on a Wall Street roller coaster. There are plenty of opportunities to invest in the stock market. Congress and the president should strengthen Social Security to make sure working people get the benefits we've paid for. We deserve it.

We owe it to our workers and their families to take an honest look at these issues and come up with some real solutions. We need to take a look at the Pension Fairness and Full Disclosure Act. We need to strengthen Social Security, not weaken it by privatizing it. We should encourage people to save for retirement, create incentives, tax incentives and other payroll incentives, for people to save. And we should encourage companies to pay what they promised workers and not allow them to get away with underfunding their pension plans.

As part of the reform of the Pension Benefit Guaranty Corporation, premiums are necessarily going up, and the companies that underfund their pension plan will have to pay more into it so the guarantee of this Pension Benefit Guaranty Corporation is worth something. We need to make sure that this agency meets its obligation to all American workers.

Today, the Pension Benefit Guaranty Corporation is $23 billion in debt. Who is going to bail it out? At a time when we are going to give $32 billion in tax cuts next year to people making over $1 million a year—$32 billion to people making over $1 million a year—at a time when we are facing record deficits, at a time when we are concerned about the survival of Medicare and Medicaid, it is clearly time for some thoughtful leadership in this country.

What happened with United Airlines, sadly, is a symptom of a real problem that is undermining the retirement security of every American family. We have been diverted from looking at the broader retirement security issues by the administration's Social Security privatization proposal. It is time to look at how to address the entire retirement income equation and provide more security, not less.

There was a time in America when we valued work, we valued workers, we valued the worker's family, and we said: We are going to provide you with basic dignity. You get up and go to work every single day, you set a good

example for your family, you contribute to your company and your community, and America will be a better place and we will stand behind you. We will make certain that when the day comes for retirement, no matter what happens, Social Security will be there to provide some basic safety net for you and your family. We will watch the workplace for you, too. We will do our best to make sure it is safe so you are not injured while you are working on the job. If you are injured, we will see you are compensated fairly.

When it comes to the wage you earn, we hope you will do better than the minimum wage, but we will guarantee there will be a minimum wage in America so there will be some basic dignity in work and the hardest working people in America, trying to raise a family, can get by.

It was part of a social contract. It was America as a family, coming together. We were protecting our own. We were committed to our own. But there is a new attitude in Washington. You can feel it. That attitude of the so-called ''ownership'' society says, remember this, we are all in this alone. We do not come together to help one another, to protect one another, to care about one another. That is abandoning a fundamental principle in America.

We believe in the goodness of the people who live in this country. We believe in the fairness of our economic system. We believe the Government should stand for justice in a system where unjust things are occurring. But if you look at what happens in the Senate and the House day in and day out, time and time again, one wonders if we walked away from that commitment. We wonder if we are not dealing with some situation of noble savages being turned loose in a wilderness with the hope they survive. I hope it does not come to that.

Sadly, for tens of thousands of United Airline employees who just a few years ago were glorying in the fact that they work for one of the best airlines in the world, the bottom is falling out. The pension they worked for, for a life, is disappearing. They have taken wage cuts. The future is totally uncertain.

There are no guarantees in a free market system. There are winners and losers. But when you have made a promise to an employee, shouldn't you be held to that promise? Shouldn't you have a social contract, a binding contract, that the promise won't be broken?

I am afraid it has been broken here. This pillar of family security in America is crumbling. What will your Congress do to deal with it?

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I rise to make a few comments about the SAFETEA legislation. I thank the managers of the bill for working with us in trying to address some of the concerns I had about the prior legislation from last session.

As I stood here over a year ago when we debated this bill, I spoke very critically of that legislation and the damage that legislation did to Pennsylvania. Thanks to the Senator from Oklahoma and the Senator from Missouri, in particular, we have been able to address some of what I consider to be inequities in this legislation.

The point I made a year ago was that one of the major reasons for a Federal tax on gasoline in a Federal highway bill was the idea of promoting interstate commerce. Originally, the interstate system was certainly put in place for military purposes—at least ostensibly for military purposes—to move things around the country in a national emergency.

Obviously, the more pedestrian reason, if you will—probably that is a bad word to use when we talk about highways, but nevertheless, the reason that is most often used is because it is for interstate commerce, to move goods around the country, to move people around the country, for travel and tourism, a whole host of other reasons.

When you look at why the Federal Government does that, you have to step back and say transportation is a State function. Every State in the country has a transportation department. Why do we need a Federal transportation department? We need it because we have to make sure the goods that are produced in New Jersey can get to Ohio to Texas, or the goods produced in California can get to Georgia.

The fact is it is important for us to be connected. If there are situations where States are in financial difficulty and they let their roads degrade, particularly the major interstates—for example, my State is occupied increasingly with traffic that does not stop in Pennsylvania—there would be much more of an impetus if you were a local legislator to invest money on roads which Pennsylvanians used and invest a lot less money on roads that are used by folks out of State.

So we put together a Federal tax system, a gas tax, as well as Federal transportation legislation, to promote on the highway side—the transit is another piece, but we will talk about highways for a moment—to promote interstate commerce.

So we have a situation where we have States that shoulder a large burden when it comes to that interstate commerce and we have other States that are the great beneficiaries as to the burden those States shoulder in getting a lot of what is referred to as passthrough traffic. That is traffic that does not stop in your State, does not benefit your State economically, to speak of, but, in the case certainly of trucks, beats the heck out of your roads. So you are in a sense carrying the load for States that are the economic beneficiaries, whether they are the originator of the freight or the destination of the freight, whether you are a State that is a passthrough State for travel and tourism. Those are the States you want to pay particular attention to. Again, the nature of the program is to make sure we have a seamless highway system, that we have good interstate commerce.

The reason I came to the floor last year was to point out that Pennsylvania is a State that certainly shoulders the lion's share or certainly major share of this passthrough traffic. We have in Pennsylvania about as many interstates as any State in the country. I think there are three States that have more interstate miles. Texas, California and Illinois are the only three that have more interstate miles than Pennsylvania. We have 22 interstates in Pennsylvania. Actually, another one is under construction.

There are only four States that have a higher number of ton-miles than Pennsylvania. Again, they are much bigger States than little old Pennsylvania, Texas, California, Ohio and Illinois.

I will show a chart that shows the importance of interstate commerce and what Pennsylvania has to deal with. First, the statistic I throw at you, 47 percent of the trucks that go through Pennsylvania do not stop in Pennsylvania. They do not originate there and are not destined for there. We get a lot of traffic from the New England States—New Jersey, New England—that goes through Pennsylvania to get out West or comes down through Pennsylvania to get down to the South. These lines are the traffic that goes through Pennsylvania that does not stop, coming from way out here in Seattle, and they go way up to Maine and lots of points in between.

We see the resulting effect on the load of traffic in Pennsylvania. This is the Pennsylvania Turnpike, the big thick black line. That is more than 80 million tons of traffic passing through Pennsylvania on this one road. We see several others that have between 60 and 80 million tons of truck traffic, heavy truck traffic. We have heard in the Senate the vehicles that do the most damage to the highways are your heavy trucks.

Yes, we are in an industrial area. We have a lot of heavy steel, coal, and lots of other products that travel through our State. They do an enormous amount of damage. You throw on top of that the mountainous terrain we have in Pennsylvania, the numerous bridges. We have several thousand bridges that are in disrepair. We have lots of bridges, we have lots of mountains, we have a lot of freezing and thawing in Pennsylvania which wreaks havoc on the roads. So we have a lot of problems we have to deal with compounded by this heavy through traffic.

When I came to the Senate last year and said I was going to oppose the bill in the Senate—because here is a State, I argue, that is one of the poster children for a Federal Highway System

that focuses money on States such as Pennsylvania because it carries such a heavy burden for the rest of the country without any direct economic benefit. This was a State, logically, given the topography, the climate, and the congestion and traffic we bear, it would be a State that should do well under a Federal formula. Certainly as Members have said to me in the past, we have.

However, under the bill last year, we actually became a donor State. We became a State that was going to subsidize the rest of the country. Here we are in Pennsylvania with this heavy burden of truck traffic. We rank fifth in the country in ton miles in Pennsylvania. Here is little Pennsylvania.

(Mr. ISAKSON assumed the Chair.)

Mr. SANTORUM. Mr. President, you have States such as Texas and States out West and many other States that are bigger geographically, such as Georgia. Yet Pennsylvania is fifth in the country in the ton miles our roads have to sustain. So what we are asking for is a little bit of equity.

I see the chairman is in the Chamber. We have gotten equity, at least some degree of equity. Everybody always thinks they should always get more equity, but we have gotten some degree of equity in this bill. We are not, under this bill, a donor State. Being one I think was underserved. But we still, thanks to the chairman's amendment, get only a 15-percent increase in the amount of funding from the last bill to this bill. That is lower than any other State in the country. Actually, we tie with two other States as getting the lowest rate of increase. So we are a donee State, but we are declining as far as the amount of money.

I would argue that is inappropriate given what I have laid out here and the purpose of a Federal highway bill. But we have done better. And we have done well enough that I, as you saw from the votes I have cast on this bill, have supported this legislation and will certainly support passage of this legislation.

We have a serious problem in Pennsylvania. We have a lot of bad roads. Twenty-seven percent of our roads in Pennsylvania are rated by the Bureau of Transportation Statistics as mediocre to poor. I see the Presiding Officer from Georgia. We have 27.1 percent of our roads rated mediocre to poor. Georgia has .2 percent rated mediocre to poor. Georgia, under this bill, receives a 30-percent increase. We receive a 15-percent increase. The Senator from Georgia just happens to be in the Chair, and I just wanted to point that out because it is a pretty big contrast.

The Senator from Georgia has fought hard for his State, and he is a donor State, so I know he believes he deserves more. He has fought very hard and, obviously, very effectively to make sure his State has been treated, in his mind, and I am sure in the minds of the people of Georgia, more equitably.

But I would make the argument that States around the perimeter of America really do benefit from States such as Pennsylvania, Ohio, Indiana, and the States through the middle part of the country that have to carry all this traffic to and from the border regions. That is why, if you look at the formula, most of the States that do not do well under these formulas are border States. Again, the reason is they do not have to carry the passthrough traffic, particularly the heavy traffic that we in Pennsylvania have to carry. In addition, they do not have the weather problems and the topography problems and a whole host of other problems that we have to deal with. Forty-two percent of our bridges in Pennsylvania are structurally deficient or obsolete. We have serious problems.

So when I came here last year and opposed the bill last year, I did so because of the concern I had about the way my State was being treated. I am grateful, again, to the chairman for his effort to bring Pennsylvania into some semblance of equity. I thank him for that. I thank the chairman of the Banking Committee, Senator SHELBY, for the work he has done with me on the Banking Committee on the transit piece. Transit is a very important piece of the transportation infrastructure of Pennsylvania. In Pennsylvania, for example, 70 percent of the cost of our transit system is provided for by the State. There are seven States that do not contribute anything to their transit systems. Twenty-eight States contribute less than what the Federal Government contributes to their transit systems.

So we made a major contribution in Pennsylvania to transit. I thank the chairman of the Banking Committee, Senator SHELBY, for making sure Pennsylvania is treated fairly under this legislation.

One final point I would like to make. I see my colleague from Ohio is here. He probably can make a similar argument about the passthrough traffic that goes through Ohio.

I thank the chairman for his effort on the Job Access and Reverse Commute Program. There is a 73-percent increase over TEA–21. This is a piece of legislation that we were able to get into TEA–21. It has been a very important program for a lot of our innercities to be able to get to jobs out in the suburban ring where job development is certainly faster than it is in the core innercities. This transportation program has proven, at least in my State—in Pittsburgh and Philadelphia in particular, and Harrisburg and other places—to be a very important project, to be able to increase the number of employed in the core urban areas with better quality jobs, and the availability of a better life. So I thank the chairman for his increase, and I certainly hope he will hold that increase in conference.

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

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me just respond to some of the things the Senator is talking about. First of all, Senator SANTORUM has done a great job leaning on us and talking to us and is largely responsible for the fact that we made a major change in this bill. This change increased the amount that will be going to Pennsylvania by $208 million.

But I would like to say this: When you talk about the miles of substandard roads and highways, Oklahoma has a larger percentage that are substandard than Pennsylvania. I am not saying it because I am proud of it, because I have not been doing my job, I suppose, but in terms of the percentage of substandard bridges, Oklahoma is considerably higher than Pennsylvania.

Now, what it does point out, though, is the necessity for this bill because we are going to try to correct all these things. We will not be able to do it in 1 year, but by the end of this authorization period, we are going to look a lot better than we are now—but not if we have to continue to operate on extensions.

So I appreciate the comments. And I do not disagree with anything that the Senator says. I believe when you sit down with people and talk about a formula—it is interesting, the previous Presiding Officer is from Texas. I am not sure he agreed with everything that the Senator from Pennsylvania said. But it is a very difficult thing to do.

So I appreciate the cooperation the Senator has given and the influence he has put on this legislation which has helped us make this a better bill. I appreciate that very much.

Mr. SANTORUM. I thank the Senator.

Mr. INHOFE. Mr. President, I say to the Senator from Ohio, I know you are attempting to get the floor for something other than the bill, but we do have someone coming down with an amendment. Would it be permissible, if you were to use the floor, that when someone comes with an amendment, you would yield to them, or is that something you would be uncomfortable with?

Mr. DEWINE. If the Senator will yield?

Mr. INHOFE. I will.

Mr. DEWINE. I have a tribute to a soldier who was killed, and it will take no more than 10 minutes. So once I start, I would not want to stop. But I will not start until you want me to start.

Mr. INHOFE. I understand. But you would attempt to do it in 10 minutes?

Mr. DEWINE. Yes. I will certainly do it in 10 minutes.

Mr. INHOFE. The Senator could wait until you are finished.

Mr. DEWINE. I could wait to start until later if you want.

Mr. INHOFE. No, I suggest you go ahead. I say to the Senator, after the Senator gave his eloquent talk about

the safety problems that are out there throughout America right now, I came to the floor and talked about the safety core provisions that are in this bill, that if we are on an extension, as opposed to passing a bill, people are going to die. This is a life-or-death issue. I think you brought that out very forcefully, and I know it comes from the heart.

Mr. DEWINE. Mr. President, I appreciate what my colleague has done. The Senator from Oklahoma is absolutely correct that if this bill is passed, these provisions will be in there, as well as a lot of new construction that will save lives as well.

Mr. INHOFE. Very good. I yield the floor.

(The remarks of Mr. DEWINE are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding the junior Senator from Virginia has an amendment he wishes to offer. It affects the commerce title of the bill. I ask if Senator STEVENS would like to come down, since this is the commerce title of the bill, while he offers an amendment.

Mr. STEVENS. Yes.

AMENDMENT NO. 611

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I call up amendment No. 611.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. ALLEN], for himself, and Mr. Ensign, proposes an amendment numbered 611.

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

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

The amendment is as follows:

(Purpose: To modify the eligibility requirements for States to receive a grant under section 405 of title 49, United States Code)

Strike section 7216(a) of the bill and insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

''§ 405. Safety belt performance grants

''(a) IN GENERAL.—The Secretary of Transportation shall award grants to States in accordance with the provisions of this section to encourage the use of safety belts in passenger motor vehicles.

''(b) GRANTS FOR SAFETY BELT USE.—

''(1) IN GENERAL.—The Secretary shall make a single grant to each State that has a State safety belt use rate for the immediately preceding calendar year of 85 percent or more, as measured by the National Center for Statistics and Analysis.

''(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c).

''(3) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years, as measured by the National Center for Statistics and Analysis.

''(4) CATCH-UP GRANTS.—The Secretary shall award a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because its safety belt use rate is 85 percent or more for the calendar year preceding such next fiscal year.

''(c) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall award additional grants under this section from any amounts available for grants under this section that, as of July 1, 2009, are neither obligated nor expended. The additional grants awarded under this subsection shall be allocated among all States that, as of July 1, 2009, have a seatbelt usage rate of 85 percent for the previous calendar year. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

''(d) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant awarded under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

''(A) intersection improvements;

''(B) pavement and shoulder widening;

''(C) installation of rumble strips and other warning devices;

''(D) improving skid resistance;

''(E) improvements for pedestrian or bicyclist safety;

''(F) railway-highway crossing safety;

''(G) traffic calming;

''(H) the elimination of roadside obstacles;

''(I) improving highway signage and pavement marking;

''(J) installing priority control systems for emergency vehicles at signalized intersections;

''(K) installing traffic control or warning devices at locations with high accident potential;

''(L) safety-conscious planning;

''(M) improving crash data collection and analysis; and

''(N) increasing road or lane capacity.

''(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

''(e) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants awarded under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

''(f) FEDERAL SHARE.—The Federal share payable for grants awarded under this section is 100 percent.

''(g) DEFINITION.—In this section, the term 'passenger motor vehicle' means—

''(1) a passenger car;

''(2) a pickup truck; or

''(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.''.

Mr. ALLEN. Mr. President, the purpose of the amendment I have offered, along with Senator ENSIGN of Nevada, is to make sure safety belt incentive grants are awarded based on a State's seatbelt use rate, not based on a prescriptive mandate from the Federal Government that a State must enact a primary seatbelt law to receive Federal funds.

I have long opposed Federal dictates, whether direct or indirect, on States to enact a primary seatbelt law. This brand of nanny government precludes American adults from making basic decisions for themselves and could hamper law enforcement's ability to effectively patrol the streets and highways for more serious and egregious offenses. It is generally a waste of scarce time and resources for local police officers to pull over an adult and write a ticket to fine someone who was, theoretically, potentially harming himself or herself by not wearing a seatbelt. Our citizens would be better served if a law enforcement officer, rather than writing that ticket, because someone was otherwise driving safely down the road, was actually finding someone who is weaving down that same stretch of road as a drunk driver, clearly a danger to themselves but more importantly to others. Law enforcement resources are not unlimited. I believe police officers have more pressing needs than craning their necks to make sure every licensed driver on the road has a buckled seatbelt.

This is not an issue of interstate commerce. This is not a civil rights issue. This is not in the U.S. Constitution. This is an issue of enforcement of seatbelt laws, and what laws a State might want to have is and has long been under the jurisdiction of the people of the States. I don't believe that nanny mandates such as this initiative should come from government. But if it is going to come from a government, it ought to be coming from a State government, certainly not the U.S. Congress. State legislators provide a much closer representation of the views and beliefs of their respective constituencies in this country. I am a firm believer that the laws of a particular State in matters such as this reflect the principles and philosophies under which the citizens in that State wish to be governed.

One can see from this chart a minority of States have enacted primary seatbelt laws. The ones in red are the 21 States that have primary enforcement of seatbelt laws. Simple math tells you that 29 States do not have a primary enforcement of seatbelt laws. In fact, New Hampshire doesn't even have secondary enforcement of seatbelt laws. I surmise that this issue has been considered by all of the States' legislatures in the past.

In our general assembly in Virginia—the world's oldest legislative body in the Western World, started in 1619—they have debated the benefits of a primary seatbelt statute numerous times and have consistently rejected such a law in our Commonwealth of Virginia. In fact, during the debate in the Virginia House of Delegates, it was strongly argued that primary seatbelt laws can contribute to racial profiling.

In early 2003, Delegate Kenneth Melvin of Portsmouth, VA, voiced his opposition to a primary seatbelt law, stating:

I know what happens when you are stopped by police as a black man in this country, and in Virginia in particular.

He then explained how his oldest son had been pulled over by police numerous times for no apparent reason.

Incidents like this might not happen in every State and may be specific to certain jurisdictions in Virginia, but it is the fundamental reason for us to leave such decisions to the people in the States. The repercussions of such Federal mandates or pressure can have different effects in each State.

Given that the majority of the States have declined primary safety belt laws, it seems inappropriate for the Federal Government to devise a grant program that essentially compels the States to enact them or lose Federal gas tax dollars that they paid into the Federal highway trust fund.

The underlying bill's Occupant Protection Incentive Grant Program, I suppose, is well-meaning officiousness, but instead of providing grants based on obtaining a goal to increase use rates, the safety title requires the States to enact a primary seatbelt law to receive these Federal funds which, of course, have come from the people in the States who paid Federal gas taxes.

The proponents of this provision will no doubt argue that the program is not discriminatory, not an effort to coerce States without primary seatbelt laws to enact such laws. However, the 90-percent use rate required in this bill would make it extremely difficult for a vast majority of the States to qualify for grant funding. According to the National Center of Statistics and Analysis, only seven States had a safety belt use rate of 90 percent or higher in 2004.

I understand there are studies that indicate that primary seatbelt laws are most likely to yield increased use rates. However, if States without primary seatbelt laws are able to attain a comparable or higher use rate to those with such laws, it is fundamentally unfair for the Federal Government to withhold grant funding that has been provided by all road-using taxpayers.

My amendment would revise the Occupant Protection Incentive Grant Program to base grant awards on an 85-percent safety belt use rate. Instead of compelling States to enact primary seatbelt laws, grants would be awarded based solely on seatbelt use attainment. There are a variety of ways that States may encourage people to use seatbelts.

It is difficult for me to understand the logic of an incentive program that would provide Virginia, with its high safety belt use rate, far less funding than a State with a far lower seatbelt use rate and a primary seatbelt law. Yet that is entirely possible under this bill if a State with a lower use rate has enacted a primary seatbelt law. They could have a lower rate than the State that doesn't have such a law and receive funding, while the State with higher usage does not.

If the goal is to attain higher safety belt use rates, incentive grants should be awarded based on a specific goal. In our amendment, it is an 85-percent safety belt use rate. This proposal is similar to the one already included in the House version of this legislation.

My proposal is a much more equitable way to provide incentives and reward States for increasing safety belt use rates. It makes the proposed program fair by making requirements the same for all States but does not compel States to enact primary seatbelt laws. Again, the goal of our amendment is simple and clear: attain higher seatbelt use rates based on achievement, not on an artificial mandate from the Federal Government.

States are looking for the greatest flexibility on how to use Federal transportation dollars that we send back to them. Some may decide that increasing capacity can best serve their citizens by helping alleviate traffic congestion and improving the safety of a particular roadway. My amendment would allow these funds to be used for everything from intersection improvements, pavement and shoulder widening, installation of rumble strips or warning devices, improving skid resistance, improvements to pedestrian or bicyclist safety, railway, highway crossing safety, traffic calming, the elimination of roadside obstacles, improving highway signage, and pavement marking. They can use it for installing priority control systems for emergency vehicles that signal intersections. They could use it for installing traffic control or warning devices at locations with high accident potential, or increasing road or lane capacity.

It has been noted multiple times throughout this debate that our highways are not being maintained and actually require greater funding than the underlying bill provides or authorizes. This amendment would provide the States some additional flexibility to address road and lane capacity needs if they so choose.

We all agree that wearing a seatbelt increases safety for drivers, and the policy should be to try to promote increased safety belt use rates.

My amendment does not change that purpose. However, I do not believe it is the role of the Federal Government to force States to enact such laws that are traditionally considered in the State legislatures. The States may have many ways, such as advertising, to encourage greater seatbelt usage.

My amendment rewards States equally for reaching an 85-percent safety belt use rate, but does not seek to force them into only one solution prescribed by the officious nannies in Washington, which would be a primary enforcement seatbelt law.

I urge my colleagues to consider the laws in their home State. Twenty-one States have such a law, 29 do not. Determine whether you believe this Federal Government incentive plan should reward States that have high usage or whether it should be used to promote a certain meddling nanny philosophy of this body that tells State legislatures and the people in the States what to do.

My amendment would ensure that the occupant protection incentive grant funding is awarded fairly and is done so based on attainment of goals. I strongly urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, very briefly, the Democratic leader and I have a unanimous consent request.

Mr. President, I ask unanimous consent that the list of amendments I send to the desk be the only remaining first-degree amendments in order, other than a managers' amendment to be cleared by both managers and both leaders; provided further, that they be subject to second-degree amendments that have been filed in accordance with rule XXII; I further ask consent that any amendment from the list must be offered by 4 p.m. on Monday, May 16; provided further, that when the Senate resumes consideration of the bill on Tuesday, May 17, all time be expired under rule XXII and the Senate proceed to votes in relation to the pending amendments in the order offered, and that following disposition of the above listed amendments, the Senate proceed to a vote on the Inhofe substitute amendment, as amended, that the cloture vote on the underlying bill be vitiated, and the Senate then proceed to a vote on passage of the bill, with no intervening action or debate.

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

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. To the leader through the Chair, it is my understanding we will have a vote Monday night, and it will be one of the amendments on the list; is that right?

Mr. FRIST. Mr. President, that is correct. We will have one amendment, possibly two, Monday night, and the remainder of these votes will be stacked, on Tuesday, in the order that was just spelled out.

Mr. REID. Further, Mr. President, we have been on this bill 2 weeks, but that is somewhat misleading because we have had so many other issues that have interrupted the discussion of this bill. The work on this bill is good. I compliment the managers and the others. Not only do we have these managers on the bill, but there are many committees that have jurisdiction on this bill. It is a very complicated bill jurisdictionwise. It is a big bill moneywise. The managers have to be complimented for doing this.

I believe this is what we can accomplish in the Senate. We have only spent

a few days on this bill. I repeat, this is a remarkable piece of work we have done. I hope we can continue doing the work for the people of America as needs to be done. I have no objection.

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

Mr. FRIST. Mr. President, I second what the Democratic leader said in terms of both sides working together on a bill that has taken a tremendous amount of work. We spent several days on the bill and had plenty of opportunity over the last 2 weeks for everybody to come forward.

To clarify for the benefit of our colleagues, with this agreement in place, we can announce there will be no further votes this evening. Tomorrow we will resume the bill, and Senators will be able to offer amendments from the list. No rollcall votes will occur on those amendments during Friday's session.

As we just stated, on Monday, Senators will have an opportunity until 4 p.m. to offer amendments. As we discussed, there will be at least one, but possibly two votes. We will be voting Monday evening on at least one of the highway amendments. Therefore, Senators can expect the next vote to be at 5:30 p.m. Monday. We will then complete our work on the bill Tuesday morning. The managers will work over the course of Friday and Monday to further limit the number of amendments that will require votes.

I thank our colleagues, and I thank the chairman and ranking member for their tremendous work, their patience in bringing this bill forward.

Mr. President, I yield the floor.

The list of amendments is as follows:

Germane amendments intended to be offered:

Carper: #638, #723.
Dodd: #732 Teen Drivers.
Durbin: #734 Fuel savings reporting; #669 Bicycling.
Feingold: #695 Buy American; #676 Volunteer mileage.
Feinstein: #591 Alameda Corridor East; #633 Toll Roads.
Lautenberg: #619 Drunk driving; #639 Big Trucks.
Schumer: #674 Transit Benefits.
Wyden: #690 Hours of use exemption.
Landrieu: #620 Corridor.
Kerry: #680 Ferry boats.
Post Cloture Amendments
Sessions #646.
McCain #719.
McCain #720.
Craig #616.
Domenici #659.
Bond #631.
Bond #658.
Warner #686
Ensign #636
Chambliss #603.
Alexander #733.
Snowe #706.
Lott #583.
Lott #667.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 611

Mr. DEWINE. Mr. President, I rise this evening to oppose the amendment my colleague from Virginia offered. With all due respect to my good friend from Virginia, I do so because I believe the bill, as currently written, is a good one, as I said earlier today. I believe the language in the bill on primary seatbelt usage that has been written by Senator LOTT will, in fact, save lives.

In this country every year, we lose over 40,000 Americans in highway deaths, 40,000 Americans who are killed in auto fatalities. This bill is aimed at, in many different respects, trying to reduce the number of Americans who die by building better roads, by dealing with dangerous intersections, and some of the safety provisions we have already talked about in this bill.

If you talk to anyone who is a highway safety expert or if you talk to the real experts who are the men and women who patrol our highways every day—in Ohio it is the Ohio State Highway Patrol or it might be the local sheriff's department, State troopers, whatever they are called in your local jurisdiction—I believe the experts who have looked at and studied this issue will tell you that the use of primary seatbelt laws clearly saves lives.

Why is that? It is pretty simple and pretty basic. The reason is this: Of all the things we can do to save lives, the easiest and simplest is to increase the number of people in this country who buckle up, who put on a seatbelt. Every car that is manufactured in this country today has a seatbelt. It is not adding any new equipment. It is getting people to put on their seatbelts. It is a question of getting people to use equipment that is already in the car.

If people use seatbelts, they are safer and the auto fatalities go down. The highway safety experts, the people who have studied this issue, will tell you when the usage of seatbelts goes up, the auto fatalities go down. It is that simple.

The other thing we know is States that have passed primary seatbelt laws have seen the use of seatbelts dramatically go up. In Ohio, for example, we do not have that law, unfortunately, and we are hovering at about 75-percent use. We are probably never going to get beyond 75-percent. We are not going to get to 80 or 85 or 90 percent unless we have a primary seatbelt law.

If a State gets a primary seatbelt law, that usage will go up. It will go up 5, 10, 15 percent, and when you see that happen, the number of lives will be saved.

In Ohio—I am using my home State as an example, but you can extrapolate these figures from Ohio to any other State in the Union—in Ohio, we estimate if we had a primary seatbelt law and our usage went from 75 percent up to, say, 90 percent, we would save 100 lives per year. That is a lot of people. We would save lives every year. Whatever the figure, we are going to save lives.

So this is a very simple provision Senator LOTT and the managers have included in this bill. What the amendment of my good friend from Virginia would do is basically take that out.

Now, for my colleagues who worry about the Federal Government being oppressive and using the stick, this is not a stick approach. This is a carrot approach. This is extra incentive to the State to do it. It will save lives. There are very few times when one can come to this floor and know that their vote will save lives.

When we get to the point where we vote on this, a vote to retain this language in this bill will, in fact, save lives because States will enact it; the usage of seatbelts will go up, and when the usage of seatbelts goes up, lives will be saved. It is pretty simple.

So I urge my colleagues to defeat the Allen amendment and to keep this language in the bill.

One last comment. My colleague has talked in his speech about the highway patrol and the police have other things to do. Yes, they have other things to do. The point of a primary seatbelt law is akin to most other laws. It is a deterrent. That is why we have speed laws. That is why we have every other kind of laws. It is a deterrent, and the deterrent changes behavior. Because that law is on the books, because people know they have to have it, because they know they can be pulled over for not having it, they will put it on and usage will simply go up. It works. It has worked in State after State, and lives will be saved.

So I urge my colleagues to keep this in and to defeat the amendment of my colleague from Virginia.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, I rise today to strongly support the safety belt provisions in the Inhofe substitute, and to urge my colleagues to reject the amendment offered by my colleague, Senator ALLEN.

The Commerce Committee's provisions to provide incentives to States which increase the use of seatbelts is essential to improving the safety of the driving public.

Increasing seatbelt usage is the hallmark of the administration's proposals to the Congress, and it is the cornerstone of the Commerce Committee's title to this bill.

The administration does not support the amendment before us and Secretary Mineta has written that, ''President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries.''

The facts are undeniable as the Secretary of Transportation states: ''Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.''

The administration's bill sets as our national goal a seatbelt use rate of 90 percent. That should be our minimum standard, but under the Allen amendment it would be weakened.

In a letter I received yesterday from Dr. Jeff Runge, administrator of the

National Highway Traffic Safety Administration, he writes in reference to the seatbelt grants program that ''no other proposal in SAFETEA will do more to improve safety than this bipartisan proposal.''

I commend Chairman STEVENS, Senator LOTT, and Ranking Member INOUYE for their strong leadership in continuing a critically needed safety belt incentive grant program. It was my privilege to be directly involved in the drafting of TEA–21 in 1998. For the first time, TEA–21 included a significant, new incentive based program to increase the seatbelt use rate in this Nation.

At that time, the national average for seatbelt usage was approximately 67 percent. Some states, particularly those with primary seatbelt laws, were achieving belt use rates far above the national average, and they saw the immediate benefits of fewer highway deaths and injuries.

Before the TEA–21 program, other States, without primary seatbelt laws, had belt use rates much lower than the national average.

The Safety Belt Incentive Grant Program in TEA-21 provided approximately $600 million to States which improved their belt use rates. We have seen improvements in the number of people wearing seatbelts as a result of this program. I commend the Commerce Committee for their leadership in advancing a program that will take us even further in helping States to get people to buckle up.

Today, the average seatbelt use rate has improved significantly. There remains, however, great disparities between the States in their seatbelt usage. It is clear that States with primary seatbelt laws achieve far higher seatbelt use rates than States without primary seatbelt laws. For this reason, the Commerce Committee provides significant funding to States that enact primary seatbelt laws.

The Commerce Committee program, like the administration's proposal and the amendment I offered last year, sets as our national policy a goal that States reach a 90-percent seatbelt use rate. This important provision recognizes that the most effective tool to improve seatbelt usage is by enacting a primary seatbelt law.

Wearing seatbelts is a critical public health and safety issue. As many have said, wearing a seatbelt is the most single most important act we can take to prevent deaths and injuries on our highways.

For the first time in a decade, highway deaths are on the rise. In 2004, nearly 43,000 children and adults died as a result of automobile crashes. Over half of these deaths involved people who were not wearing their seatbelt.

I find that astonishing. There is no other fact that is more compelling that should convince us to take action.

If for no other reason to support this amendment, we must protect our Nation's youth. Today, automobile crashes are the leading cause of death for Americans age 2 to 34.

These tragic statistics are reversible, and the provisions approved by the Commerce Committee are critical to reducing traffic deaths.

I urge my colleagues to support the provisions in the bill to provide financial incentives to States to increase seatbelt usage to 90 percent or to enact a primary seatbelt law.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I rise in opposition to the Allen amendment, and I will repeat what Senator WARNER had to say:

> I rise today to strongly support the safety belt provisions in the Inhofe substitute and to urge my colleagues to reject the amendment offered by my colleague Senator ALLEN.

I thought that would be a pretty interesting statement to put into the RECORD at this point.

I remember, though, Senator WARNER did a lot of work on this subject a couple of years ago. He has been involved in Transportation bills, highway bills, but I remember he had an amendment that would actually, in effect, provide sanctions if one did not have seatbelts. I voted against that because I do not think that is the way to get States such as mine to do something that could be very important in terms of safety.

Before he leaves the floor, I want to also commend Senator DEWINE for his work on these safety issues. In the bill last year, he had a lot of provisions that he worked with Senator MCCAIN and others on to get them to include in the Commerce portion of the highway bill. This is an area where he has worked, he feels passionately about it and he came back this year and said we want to work together.

I think if my colleagues will look at what we put in the safety provisions from the Commerce Committee, from the Surface Transportation and Merchant Marine Subcommittee that I chair, now a part of the substitute, they will be pleased with the safety provisions.

This is a key part of the highways and transportation in our country. If we just look at the pavement, if we just look at the jobs, if we just look at economic development, we will be missing a big part of the equation, and that is safety and lives that can be saved or lost depending on what we do.

Senator STEVENS, Senator INOUYE, and I met with people on all sides of this equation: highway people, safety advocates, State representatives, labor, the entire mix, and we developed these provisions very carefully. So I want to thank Senator DEWINE for his effort.

Because I have done that, and because I have worked on this issue, I feel very strongly in opposition to the amendment offered by Senator ALLEN. Usually, Senator ALLEN and I would be together on something like this, but my opposition this time is very simple and that is we need people to use seatbelts; they save lives.

I come from a State that is one of the lowest users of seatbelts in the Nation—63 percent. I am one of those who has been slow to come to the usage of seatbelts, but I guarantee you my kids know how important they are. They will not let me crank the car up until everybody is buckled in, including especially my grandchildren.

Then, as I have gotten into it more and more, the statistics are clear that these seatbelts will make a difference. In 2003, about 17,000 people killed in motor vehicle crashes were not buckled up, and nearly 500 of those deaths were children. Would it absolutely have saved them if they had been buckled up? Maybe not. But even if it had been just a few hundred, and it probably was more like thousands, that makes a huge difference. Many of those 17,000 deaths were preventable.

A passenger wearing a seatbelt is 45 percent less likely to be killed when involved in an accident. For light trucks such as SUVs, the figure is higher. The risk of fatal injury is reduced by 60 percent. Traffic safety experts nationwide agree that the most effective short-term way of reducing traffic fatalities is to increase the seatbelt use.

Getting people to change their driving habits is a major challenge that requires more than just airing public service announcements or distributing safety materials. Over the years, States have tried many different ways to increase seatbelt usage. Experience has shown the most effective means to increase seatbelt use is to enact the primary seatbelt law.

In fact, each percentage point increase in seatbelt use saves about 270 additional lives. If every State in the country enacted the primary seatbelt law, more than 1,200 lives would be saved every single year.

Today, in the 22 jurisdictions—21 States and the District of Columbia—that have primary enforcement laws, the average seatbelt use rate is 11 points higher than in States without this primary seatbelt law. I want to emphasize my State does not have it. I have talked to State officials. I want to encourage the State to do that, and this provision will do that. I will explain that a little bit more in a moment.

To give an example of how powerful an effect this will have, consider the recent experience in the State of Illinois which passed a primary seatbelt law in just 2003. In just one year after Illinois passed a primary seatbelt enforcement law, the seatbelt use rate jumped from 74 percent to 80 percent. Increases in seatbelt use produced real results. In Washington State, traffic fatalities declined by 9 percent in the first year after passing a primary seatbelt law. Yet there are still 29 States that have not passed it. This grant program will provide incentives for those States to take the steps needed to save lives.

It also rewards States that are able to achieve a 90-percent seatbelt use rate without a primary seatbelt enforcement law. States that have already done it but show movement and get to 90 percent, there is a reward, an incentive, for them to do that. What we are really worried about is those 29 States that have not done it that are down in the 60—or even less—percent use of seatbelts. This program rewards the States that are able to achieve that 90 percent.

Senator ALLEN's amendment says that unless a State gets 85 percent, they do not get any of the incentives. In my State, it is 63 percent, and we are not going to get to 85 percent for many years to come. We will not ever reach the percentage or get the incentives that would encourage us to do it.

The seatbelt performance grants offer States the flexibility to use much of the funds on highway safety infrastructure projects. That is the most important safety provision we could possibly pass: Better roads, wider roads, more lanes, more bridges, safer bridges. That is the ultimate safety provision. Seatbelts and other things that can be done, the construction of vehicles, make a difference too.

The flexibility funding allows States to identify and address the greatest highway safety hazard. They can improve dangerous intersections, enhance railroad signage or redesign dangerous stretches of road. Combining a primary seatbelt enforcement law with addressing highway safety hazards is a win-win situation.

More States would reap the benefit under the Senate Commerce provision than under the Allen amendment. Today, only 14 States have an 85-percent seatbelt use rate required to qualify for the Allen amendment.

The Allen amendment is also a budget buster. If all States were to enact primary seatbelt laws, the cost of the Commerce Committee bill would be $597 million. If all States were to meet 85-percent belt use under the Allen amendment, it would cost $778 million. The additional $181 million needed to fund the amendment would have to come out of the highway trust fund.

We thought about this carefully. We listened to administration officials. It is very clear it is the view of the administration, the position of the administration, that we need to encourage greater use of seatbelts. We need States to pass this primary seatbelt law. It will save lives, and I believe the Allen amendment will undermine a very strong part of this legislation.

I urge my colleagues, when we do take this back up, to look at this very carefully. We will vote on it next week and you will have a chance to think it through. It is not about, Do I get a little more this way than that way as a State; we are talking about lives here. We are talking about lives, and a life in Georgia is as important as a life in Mississippi or Virginia or any State in the Nation.

I feel strongly about this. By the way, one of the reasons why I feel strongly, I believe, is I am among the converted. I didn't just get here years ago; I moved gradually toward this. Finally, the statistics, the evidence, and the deaths are too much weight for me to reject, or not accept. This is a way to get a significant increase in my State, and States all across the country, in seatbelt usage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I, too, rise and join my colleague from Mississippi in his very eloquent remarks, and my colleague from Ohio.

I know the Senator from Illinois is waiting to speak in a few moments.

I rise in opposition to the Allen amendment. I understand the intentions, but I think the statistics and the numbers and the reality make it clear that the American people are better off under the provisions as they currently exist in the bill. More States benefit from the Senate Commerce primary belt law provision. There are 19 States currently that have primary seatbelt laws on their books and they will qualify for funding immediately. Only 14 States have an 85-percent seatbelt use rate, according to the 2004 numbers. That is what you need to qualify under the terms of this amendment. So more people would benefit and be rewarded for having the primary seatbelt law.

I think the provisions of the Commerce Committee's bill guarantee funding if the State does one thing, and that is either have or pass a primary belt law. Under the amendment we are talking about right now, a State has no certainty that any action it takes will increase belt use that will result in 85-percent or higher rate use.

This amendment would, if enacted, abandon a very important goal, and that is, for several years the Department of Transportation has set a goal of 90-percent seatbelt usage. The amendment in question would set a goal basically at 85 percent. I have a concern. Knowing human nature and the way things work sometimes, I think folks might give up at 85 percent and never try to reach that 90 percent. So I think the DOT policy is a good one. I think it is designed to save lives. It is a commonsense approach. As Senator LOTT said a few moments ago, States that have a primary seatbelt law on average show the increase in seatbelt usage by 11 percentage points. He tried to drive that home a few moments ago. I think that is a very powerful statistic.

Primary seatbelt laws are also the fastest and the cheapest way to save lives. The NHTSA administrator, Jeff Runge, M.D., said of the provisions in the current bill that they would save more lives, do it faster and cheaper than any other highway safety proposal Congress is likely to consider this decade.

So the experts agree, the numbers agree, and last, let me say, the safety groups agree. These are the people out there every single day fighting for better laws and more safe vehicles, safer roads, et cetera. They agree. The proposal in the current bill, not in the amendment but in the bill, is supported by the National Safe Kids Campaign, Mothers Against Drunk Driving, the Automotive Coalition for Insurance Association, Advocates for Highway and Auto Safety, Mazda, the Automotive Occupants Restraint Council, the Traffic Safety, the National Safety Council, the American Insurance Association. It incentivizes States to pass these primary seatbelt laws. The experts agree the way to save lives on America's highways is to try to pass these seatbelt laws.

I, like Senator LOTT, do not have a primary seatbelt law in my State. Typically I think States should have the rights to make these decisions, and certainly every State does. But what we do is give a bonus, an extra incentive for States to consider, State legislators, Governors, et cetera, to consider passing these type of laws because it will benefit their citizens and benefits the Nation.

I urge my colleagues to vote against this amendment when it comes up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, like my distinguished colleagues from Arkansas and from Mississippi, I rise in opposition to the amendment offered by my distinguished colleague from Virginia. I strongly urge my colleagues to preserve the seatbelt program as it is written in the Transportation reauthorization bill.

This provision in the underlying bill gives States that pass primarily seatbelt laws a one-time incentive grant from that State's annual traffic safety grant apportionment. The purpose of this incentive is to encourage States to take specific action, passage of a primary seatbelt law that will save more lives.

As it so happens, my State of Illinois passed a primary seatbelt law in response to this incentive. I know we did it in response to these incentives because I was the chief sponsor of passage of the primary seatbelt law.

The same thing happened in Delaware. The same thing happened in Tennessee. You know what. It works, and it works faster and cheaper than any other method, in terms of ensuring that people wear safety belts and save lives.

It is amazing we have to keep saying this, but seatbelts save lives and primary seatbelt laws save more lives. The National Highway Traffic Safety Administration predicts if every State enacted primary seatbelt laws, more than 1,000 lives could be saved each year and 17,000 injuries could be prevented. Seatbelt use is 11 percentage points higher in States with primary enforcement laws than in those States where laws provide for secondary enforcement. And States changing from

secondary to primary enforcement have seen 10 to 15 percentage point increases in usage.

Beyond the facts and statistics, this is an issue that makes sense. We should not have to just hope people wear seatbelts, just as we should not have to hope they obey speed limits or hope they stop at red lights. We should do what we can to make sure people will wear seatbelts that will keep them alive. We teach our children to wear seatbelts when they get into a car and we all hope they listen to mom and dad and do it when we are not there, but wouldn't we feel better if we knew our laws in our communities were helping to make that happen? Doesn't it makes sense for the Federal Government to maintain a consistent message on seatbelt use, not through a mandate but through a simple incentive?

The National Safe Kids Campaign thinks so. Mothers Against Drunk Drivers thinks so. They endorse and prefer the Federal incentive as written in the underlying bill.

Finally, a Federal incentive is also a Federal commitment. When the Federal Government makes a commitment and States respond accordingly, then the Federal Government needs to keep its word. One of the points that was raised by Senator ALLEN in sponsoring this amendment was that, in Virginia at least, there seems to be some concern that primary seatbelt enforcement would result potentially in an increase in racial profiling in Virginia.

As somebody whose community on the south side of Chicago is fairly familiar with racial profiling, and who hears anecdotes each day from African-American drivers who believe they may have been profiled, I am certainly sensitive to Senator ALLEN's point. As it turns out, though, part of the way we were able to solve this in Illinois was to couple a primary seatbelt enforcement law with a racial profiling law that would ensure we were keeping track as to how traffic enforcement was taking place and to make certain it was being done in a nondiscriminatory fashion.

This was the bargain that was struck at the local level: the notion that we would have a primary seatbelt law enforced; we would also have a data collection bill that would allow us to track and make sure our traffic laws are being applied in a nondiscriminatory fashion.

That deal that was struck in Illinois was premised on the notion that we would be getting these Federal incentives. It is not appropriate for the Federal Government to now pull the rug out from under States such as Illinois that have done the right thing. It is appropriate, instead, for us to keep our word, maintain our commitments, and make sure we continue to incentivize a law that everybody knows, in fact, saves the lives of our citizens.

I encourage my colleagues to oppose this amendment

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the pending amendments be laid aside.

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

AMENDMENT NO. 674 TO AMENDMENT NO. 605

Mr. SCHUMER. Mr. President, I call up my amendment No. 674, which I believe is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. KENNEDY, Mrs. CLINTON, Mr. LEVIN, and Mr. SARBANES, proposes an amendment numbered 674.

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

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

The amendment is as follows:

(Purpose: To increase the transit pass and van pooling benefit to $200)

On page 628, line 23, strike ''$155'' and insert ''$155 ($170 for 2007, $185 for 2008 and $200 for 2009 and thereafter)''.

On page 629, line 5, strike ''2008'' and insert ''2009''.

On page 629, line 7, strike ''2007'' and insert ''2008''.

Mr. SCHUMER. Mr. President, I will be brief. This amendment raises the tax-free mass transit benefit from $155 to $200 per month by the end of the life of the Transportation bill. I, first, thank my colleagues on the Finance Committee, Mr. GRASSLEY and Mr. BAUCUS, for raising the amount to $155. That is already in the bill. What this amendment does is raise the remainder over the course of the bill to $200. What it will do is equalize the benefit offered by employers for transit expenses with the current benefit offered for parking expenses.

I understand that Senators BAUCUS and GRASSLEY are working with the Budget Committee to get this amendment approved. So I hope we will not have to vote on it or debate it much longer than this. I greatly appreciate their efforts.

Basically, we give people a $200 deduction when they drive to work. It is obviously a business expense if they have to pay for parking, but mass transit has always been discriminated against. We do not give people that deduction for mass transit. This makes it equal. It does not favor one, does not favor the other. It does not take from highways to give to mass transit. It is a win-win-win.

Now, mass transit ridership is at an all-time high nationwide. It continues to rise in New York and across the country. For millions of transit riders, this increase will save them hundreds of dollars every year. Raising the transit benefit will simultaneously reduce traffic, congestion, and smog while saving commuters in New York and across the country hundreds of dollars every year.

The existing disparity between the two benefit levels has also created a financial incentive for employees to drive to and from work alone rather than utilize transit or a vanpool. The amendment eliminates this disparity. The transit benefit provides a low-cost way to get more cars off the road. In the New York metropolitan area alone, commuters save over $150 million, thanks to the transit benefit. Employers have saved significantly as well, over $35 million. And that amount can be multiplied for benefits throughout the country.

By taking cars off the road, increasing the transit benefit is sound environmentally as well. It reduces emissions, which leads to cleaner air, and cuts gasoline use across the board.

I hope we can support this good tax cut unanimously.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 646 TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside and call up amendment No. 646.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes amendment numbered 646.

The amendment is as follows:

(Purpose: To keep the bill within the budget levels)

At the appropriate place, add the following

SEC. 1. REDUCTIONS

The total spending in this bill shall be reduced by $11,100,000,000, by reducing the totals by the following amounts—

(a) STP Enhancements (Sec. 1104(4): reduce by $2,800,000,000;

(b) Maglev (Sec. 1819): reduce by $2,000,000,000;

(c) Ferry Boats (Sec. 1101(114)) and Sec. 1204): reduce by $235,000,000;

(d) Truck Parking (Sec. 1814(a)): reduce by $47,010,000;

(e) Puerto Rican Highways (Sec. 1101(15)): reduce by $500,000,000;

(f) Congestion Mitigation and Air Quality (Sec. 1101(5)): reduce by $4,479,000,000;

(g) Administrative Expenses (Sec. 1103(a)(1)): reduce by $348,000,000;

(h) Historic Covered Bridge (Sec. 1812): reduce by $56,000,000;

(i) Transportation Infrastructure Finance and Innovation Act (Sec. 1303): reduce by $500,000,000;

(j) Transportation and Community and System Preservation Program (Sec. 1813): reduce by $135,000,000;

AMENDMENT NO. 646, AS MODIFIED, TO AMENDMENT NO. 605

Mr. SESSIONS. Mr. President, I ask unanimous consent the amendment be modified with the changes that are at the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Hearing none, it is so ordered.

The amendment, as modified, is as follows:

(Purpose: To reduce funding for certain programs)

On page 410, between lines 7 and 8, insert the following:

SEC. _____. REDUCTION OF FUNDING FOR CERTAIN PROGRAMS.

Notwithstanding any other provision of this title or any amendment made by this

title, amounts made available under this Act, and titles 23 and 49, United States Code, shall be reduced by a total of $10,700,000,000, as follows:

(1) The amount made available under section 1101(4) for surface transportation enhancement activities under section 133 of title 23, United States Code, shall be reduced by a total of $1,100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(2) The amount made available under section 1101(5) for the congestion mitigation and air quality improvement program under section 149 of that title shall be reduced by a total of $4,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(3) The amount made available under section 104(a)(1) of that title (as amended by section 1103(a)(1)) for administrative expenses of the Federal Highway Administration shall be reduced by a total of $400,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(4) The amount made available under section 188(a)(1) of that title (as amended by section 1303(f)) for Transportation Infrastructure Finance and Innovation Act amendments shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(5) The amount made available under section 175(d)(1) of that title (as amended by section 1813(a)) for the transportation and community and system preservation program shall be reduced by a total of $100,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

(6) The amount made available under section 5338(b)(1) of title 49, United States Code (as amended by section 6036) for transit formula grants and research shall be reduced by a total of $5,000,000,000, divided in equal amounts for each of fiscal years 2005 through 2009.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SESSIONS. Mr. President, we have a very real difficulty with this bill. I think there is a strong desire by most Members of this body to increase the amount of money that is set aside for our road infrastructure. The bill, in fact, does increase that. We had a number at which the President said he wanted us to stay. We increased that number nearly $11 billion. We started at $284 billion. Now the number is $295 billion.

The best numbers that I can get from the Budget Committee have convinced me that the sad truth is we have $11 billion in this bill over the budget spending cap that we agreed to. It is the first real bill that has come up since we passed the budget agreement. So we are already in violation of it. They say there are offsets, but some of those offsets are not realistic. I think most everybody knows it.

They are projecting things are going to happen in conference, and that it is not going to be a pleasant conference because the President has made clear he will veto a bill that is not within his budget. We are facing a real problem.

So I have thought what we ought to do in this Senate, in this Congress, is what real people do when they have to face serious financial decisions. They have to accept the fact they cannot do everything. I know Senator INHOFE has worked so incredibly hard on this bill. My admiration for him is unlimited. I know how strongly he wants to see the road portion of this bill be as strong as it possibly can. And I agree. People travel on highways every day. An improved infrastructure can be a positive difference for our communities and Nation. That is why I try to support everything I can and to be as generous as possible in the road construction account.

I will not go into the details tonight, but my amendment will look at less critical parts of this bill, including the mass transit title, and other portions of the bill, and it will ask how many increases we can sustain in those accounts. By reducing the increases a little bit, by an amount that would allow an increase to occur—not cutting those accounts but not having an increase as big as has been proposed—we can produce a bill that increases our funding for our basic infrastructure, is faithful to the budget numbers this Congress adopted, and will be signed into law—not vetoed by the President.

If we get to conference without something like this, what we are going to see is that the amount of money set aside for our basic highway infrastructure is going to be cut in conference because the offsets are not going to all be accepted.

So let me say again, we are heading to conference with an increase over the budget that is supposed to be offset. Some of those offsets are not going to be approved. And I suspect our basic road infrastructure amount that we now have in the bill will not be sustained and will be reduced.

My amendment will allow us to sustain those increases that have been proposed and that we desire. It will allow us to stay within the budget. It will fund this by reducing the increases in other noncritical programs, but still allowing them to increase—not cutting them.

I think that is what responsible people ought to do. That is what the amendment I have offered does. We will talk about it in more detail. I thank Senator INHOFE for his leadership on this issue and on so many others. I know he has worked hard. They probably have agreements on how this thing has to go, but I believe the amendment I have offered will be helpful to achieving the goal most of us share.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, before the Senator leaves, let me just clarify something. It is a very rare occasion that the good Senator from Alabama and I disagree on anything. It just doesn't happen. In this particular case, this is the exception. Let me kind of outline how I think the system works. I don't chair the Finance Committee. I don't chair the Budget Committee. I do not serve on either one of them. I do chair the Environment and Public Works Committee.

When we put together the bill—and this particular bill has been 3 years in the making—it is very similar to what we had last year except it is a lower funding level which should satisfy, to a greater degree, the Senator from Alabama. But when we come up with a bill, the procedure is to go to the Finance Committee. We did that, and we have several Finance provisions in there. Senators GRASSLEY and BAUCUS spent a long time. While people keep saying the offsets are not realistic, they could be right, but the ones who can properly evaluate the offsets are the ones who proposed the offsets, and that is the job of the Finance Committee.

I want to say this because the Senator from Alabama and I are ranked as two of the most conservative Members of the Senate. I have said often there are two areas where conservatives spend money; one is national defense and the other is infrastructure. That is what we are supposed to be doing here. I wish to clarify that I will be opposing the amendment because I believe the Finance Committee has done their job. I have heard both the ranking member and the chairman talk about this, and they have convinced me that they have done their work. We will have to wait and see.

Mr. SESSIONS. Mr. President, I thank the Senator from Oklahoma. He is a great leader in the Senate. I admire his work on this committee and his leadership as a senior member of the Armed Services Committee on which I serve with him. I don't dispute that the Joint Tax Committee has said the offsets the Finance Committee has proposed, if adopted, might meet the needs of this increase.

I understand some of those proposed offsets probably will not have support in the House. I would like to see the Senator's goal of spending more money on our road infrastructure and transportation system that serves the commercial transportation needs of all the products that we eat, buy, and utilize daily—that are shipped from trucks on highways all over America—I would like to see that guaranteed. I am afraid if we go the way we are now, we will not be able to hold the full increase that has been proposed when we get to conference. But if we would face up to the question and set some priorities and choose between some of the things that are in this bill that are less fundamental and some of the things that are desirable—things we would like to do but we really don't have to do as much as others—and reduce some of the increases proposed for those programs and move that into the fundamental infrastructure for highways, I would feel better about it.

I think the Senator is not really in disagreement too much with that. But when you move a piece of legislation as he has, it requires a lot of cooperation and partnership.

Mr. INHOFE. Yes, I agree. We hear all the time in this body and all representative bodies about what is desirable. It reminds me of the guy who went to the department store, and this beautiful, young, voluptuous saleslady came up to him and she said: Sir, what is your desire? And he said: Well, my ''desire'' is to pick you up after work, go out to dinner and drink some champagne and make mad, passionate love to you, but I ''need'' a pair of socks.

We have to distinguish between desire and need, and I think it is a difficult thing to do.

Mr. SESSIONS. That is all I am suggesting. Let's go on and make that upfront, and maybe we will be able to hold this full increase for our highway funding.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. LOTT. Mr. President, I ask unanimous consent to call up amendments Nos. 583, 631, and 733 en bloc. I ask unanimous consent that amendments Nos. 631 and 733 be modified with the changes at the desk and agreed to en bloc. The amendments have been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Let me withhold on the agreement until we get final clearance.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Mr. President, for the record, I withdraw my unanimous consent request. There was a misunderstanding that was involved. We are working on that, and we hope we can get the package agreed to later.

The PRESIDING OFFICER. The request is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, before I yield to the Senator from Alaska, I first wish to say how helpful she has been. I know the needs they have in Alaska are unique. She has been very helpful and a great member of our committee. I thank her publicly very much for that.

I think we are making progress now. We have gotten the amendments under control so we can stay on the schedule that has been outlined by the unanimous consent agreement that has been accepted on both sides.

I express my appreciation for everyone cooperating.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank the chairman for the kind words he said and for the substantial work he has done in the committee to move us forward in a manner I think is fair, good, sound, and it is going to work. I am so pleased we are at this point where we will shortly be moving a transportation bill through this body.

I think I speak for all my constituents when I urge this body to move forward on the highway bill. Every State needs it, but truly I believe none need it more than my State of Alaska, and the chairman has referenced our somewhat unique needs.

For most of us traveling from one place to another, it means asking yourself whether you walk, drive, take a bus, take a train, or an airplane. That is life in the 21st century. But in much of Alaska, Americans are still facing issues that are similar to what we faced in the 19th century. In much of Alaska, whether you drive is not a question without meaning. Instead, the question is, What time of year is it? Is it the time of year I will be using a snowmobile or going by boat?

I suppose there are probably some of my colleagues who may be tired of hearing that Alaska is unique with unique problems that require different solutions, but that does not make it any less true, nor does it make Americans living in Alaska any less deserving than Americans living somewhere else.

Yes, Alaska, in fact, does have the highest rate of return from the highway trust fund. We are the donee State that benefits the most, but it is because we are so far behind the other States in transportation needs. I can tell my colleagues, it is a safe bet we would gladly see our position on the donee State listing change if it meant we had the roads to generate more gas tax revenues for the highway trust fund.

To any Alaskan, it is a remarkable and frustrating experience to hear the donor States complain that a dime or so of their Federal gas tax dollar actually goes to serve a Federal purpose—a highway system that unites and strengthens our Nation—and that tax does not come right back home.

It is also remarkable and again somewhat frustrating to hear that roads in many States are in disrepair and more money is needed to repair them. Yes, they are, and, yes, it is, but at least those States have roads. With roads, they gain the ability to move goods and share services. With that ability, they gain the ability to support private sector businesses. With private sector businesses, they provide jobs, and with jobs, they attract new residents, are able to build more schools, offer opportunities, create more wealth. You get the picture. The wealth is shared with the entire country. We have seen that process work.

The funding received by the Appalachian Commission for Road Building has proven this works, and history has proven over and over that reliable, inexpensive transportation is not the result of prosperity, but it is the cause for prosperity.

The highway bill and the highway trust fund which supports it exist for one reason: because Congress recognized that reliable transportation is critical to our national well-being and to the well-being of our individual citizens. This is no less true in the farthest, most remote parts of Alaska than it is in the center of Manhattan. That is why this bill contains provisions to allow the Denali Commission to construct roads between remote communities in Alaska.

This provision is based on a bill I had proposed in 2003 which would streamline the process of bringing Alaska's transportation system into the modern age. The same provision, as amended by the Senate action last year, will also help improve roads within Alaska's many Native villages, some of which still have only the roughest of trails from one part of town to another.

Frankly, the authorization in the bill for this purpose is simply not enough because Alaska has so many years of neglect to catch up on. I am sensitive, however, to the fiscal realities, and I am deeply grateful for the support of those who have helped us get this far. We must recognize this is not just an investment in Alaska today, but it is an investment in Alaska's tomorrow.

For the record, I would also prefer to have a separate system and significantly more money dedicated to our Native village transportation needs. They have been badly neglected. In fact, they have been shamefully neglected by the Bureau of Indian Affairs reservation roads system which is supposed to provide funding for Native American needs. Alaska Native villages have been ignored, their road miles have been uncounted, and money has been funneled into other areas that already have sophisticated road systems.

The bill also contains money to continue the reconstruction of the Alaska highway. I want to comment on this in the hope of dispelling some of the perennial confusion about it. Despite the name, the multiyear project to pave and improve the Alaska highway, also known as the Alaska-Canada, or the Alcan highway, is not an Alaska

project. It is not an earmark for Alaska. It is not even in Alaska. It is a national project, one that was triggered by national defense needs and mandated by treaty between the United States and Canada.

As a treaty obligation, it is not to be discarded lightly. It is unfortunate that some apparently have trouble reading beyond the name and that it has fallen to Alaskans to stand up for the word of honor of the United States to fund this project, but that is just the way it has been. Here again, I am grateful for the support of Senator INHOFE, Senator BOND, and others who have recognized that this is not just a parochial project but one of significance to the entire Nation and one for which the Nation has given its word.

As I mentioned, we have unique needs, unique challenges, and I renew an invitation to all of my colleagues: Come up and visit. Come up and see the State, see for yourself the conditions we have.

I had an opportunity just yesterday to demonstrate that when we talk about Alaska's road system, we use that term lightly. It is not a system; it is a road up and there is a road down and a little connecter in between the two, and that is what we have. When we talk about where our roads stretch from, if we were to superimpose Alaska over the rest of the lower 48 States, we would be going from Minnesota down to Florida and across over into California. The area we cover is huge.

So, again, come up and see the conditions that we have. I would be happy to arrange a trip for any Member of the body, no matter where they stand on the issue, and I am not just talking about transportation issues. We will take the Members up and show them ANWR. We will show them the whole State. I am proud of the State, and I am proud of what we have done to preserve and protect our resources while we still build a vital economy. I would be happy to show my colleagues how we are dealing with some of our unique situations and problems.

One such unique situation has been the fact that it is literally impossible to build roads between some communities, even in long-settled areas like in southeastern Alaska where I was born, where a combination of rugged terrain and the separation of the islands have made other solutions necessary. One solution for the area in the southeast was the establishment of the Alaska Marine Highway System, which builds on a core fleet of large ocean-going vessels in service as ferries. It is the only highway possible between communities such as Ketchikan, Petersburg, Wrangell, Sitka, Juneau, our State capital, and many other smaller communities. It is part of the National Highway System.

If the definition of a highway is a facility used by trucks and cars moving from one community to another, this is, indeed, a highway. In fact, it is one that is considerably less expensive than other options such as tunneling, like we have up in Boston, the ''Big Dig,'' or the combination of bridges and tunnels we see around here.

The last highway bill, TEA–21, contained provisions to fund ferries and ferry terminals in addition to funding received through the National Highway System. I am pleased to say that this bill does as well. In fact, ferry system assistance in this bill is even broader and will help even more States operating ferry systems to do a better job for their citizens.

Now, I have been informed that the finance portion of the bill includes provisions based on two bills which I have previously offered. One of these provisions corrects an inequity imposed on air passengers who live in rural areas where, again, they are unconnected by road and they are forced when they are traveling to fly to a larger airport where they can catch a plane to get somewhere, to reach their final destination. All passengers currently pay a segment fee for air travel, but these rural residents I am talking about are basically forced to pay twice, while passengers who live within driving distance of a larger airport only pay once.

The second measure which I just referenced affects seaplane operators who are not using FAA facilities but currently must pay excise taxes and fees intended solely to support such facilities. This is also an inequity, and my measure will ensure that only those receiving benefits are asked to pay for them.

In addition, it is my understanding that the committee has also included a measure intended to ensure that taxes and fees intended for aircraft carrying passengers from point to point is not incorrectly applied to flight-seeing operations. Senator INOUYE has taken the lead on this matter, but it is worth noting that it has significant support among my constituents in Alaska, and I am pleased to see it included.

Finally, let me note that I understand that the Commerce Committee title includes my proposal to establish State grants for motorcycle rider education. As my colleagues may be aware, motorcycle ridership is increasing all the time, and with it the number of motorcycle accidents has also been rising, particularly among the new riders. It is not necessarily the young riders but riders of any age. It is the latter that my proposal addresses. I believe firmly that the best way to prevent injuries is to prevent accidents, and training is the only way to accomplish that goal.

I have worked closely with the Motorcycle Riders Foundation and State motorcycle education administrators to develop this proposal. All too often, we will see new riders, both young and old, simply climb on and hope that they are going to learn by experience. Better training has been shown to drastically reduce the number of accidents suffered by new riders during the critical period in which their learning curve is the steepest and they are most at risk.

From the national perspective, this highway bill is a good bill. It is not perfect, but few things are. I would prefer to see more streamlining and permitting processes for highway projects. I would like to see more flexibility for States. I would like to see a bill with the funding level that we approved last year. The leaders of each one of our key committees have done yeoman's work—and again, I want to commend the chairman—on phenomenally difficult issues. I believe at the end of the day we have before us a good bill, the best bill possible. I pledge my support for it and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Alaska named a list of things she would have preferred to see in the bill. As I thought of each one of them, I agree with each one. Of course, the Presiding Officer is also a member of the committee, and we know there are a lot of diverse needs in States. It is not a perfect bill. There are a lot of things I would rather have in it, but it is a consensus. It was give-and-take, and that is the way the system is supposed to work.

MORNING BUSINESS

Mr. INHOFE. I ask unanimous consent that there now be a period for morning business with Members permitted to speak for up to 10 minutes.

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

HONORING LESLIE SATCHER

Mr. FRIST. Mr. President, in 1988 Leslie Satcher picked up her belongings and left her home in Paris, TX, bound for Nashville. With a meager $100 in her pocket, she abandoned all that she had known in her young life, and headed to the Music City driven by her dream of being a country-music star.

Almost 2 decades later, that dream is a reality.

Today, Leslie Satcher is one of Nashville's most sought after song-writers. She has emerged as a glowing success under one of the world's brightest country-music spotlights.

At her core, Leslie Satcher is a woman of humble ambition. Her work is shaped by unyielding faith and limitless passion for music. Critics describe her writing as ''emotionally persuasive, yet understated and artful.'' Indeed, she has found her success not by abandoning her homey roots but by embracing them.

Her lyrics are laced with plain spoken yet insightful observations about love and life. And despite her tremendous success, she has always remained true to her creative vision, never losing hold of the simple joys of writing and singing music.

Leslie has come a long way since her first venture into recording at the ''hear-your-own-voice'' attraction on Music Row and in front of audiences at the Bluebird Cafe. The Dallas Morning News has described her as ''one of the most in-demand tunesmiths in Music City.'' And her personal, painful and poignant compositions have been covered by a wide-range of artists including Reba McEntire, George Jones, Vince Gill, and Randy Travis.

Most recently she has concentrated her efforts on not only penning some of today's top hits, but singing some of them, too. In fact, she's in Washington, DC this week to give a special performance to honor our Nation's injured troops at Walter Reed Army Hospital.

Mr. President, Leslie Satcher is a self-made music success story. She is also one of my most favorite artists—and that's saying something coming from Nashville!

One of her sayings is that ''you don't decide to be an artist, you are an artist.'' I could not agree with her more. She has much to be proud of—and it's evident in her songs and lyrics that she not only remembers but cherishes her roots. I am proud of all she has accomplished and honored to call her a friend.

HONORING OUR ARMED FORCES

SERGEANT MICHAEL BARKEY

Mr. DEWINE. Mr. President, I rise this evening to pay tribute to a young Ohioan who lost his life while serving our Nation in Iraq. PFC Michael Barkey was killed on July 7, 2004, when enemy fire caused the vehicle he was riding in to overturn. He was 22 years of age.

I had the opportunity to meet Michael's family and to talk to them about their extraordinary son. They shared their memories with me—memories of Michael lighting up the room with his infectious smile and causing others to laugh at his antics. An editorial in the Canton Repository from July 9, 2004 says it best:

> Michael Barkey's family and friends have a long time of mourning ahead of them. But it is a testament to his vibrant personality and strong character that as the news of his death began to sink in, their memories of him made the people who loved him smile and laugh.

Michael's vibrant personality, touched the lives of all who had the privilege of knowing him. As the fourth of six children of Hal and Julie Barkey, Michael learned at a young age that he loved to make people laugh and that he was good at it. When his older sister Jennifer had her first child, eight year-old Michael quipped that since he was an uncle at 8, he would be a grandma before age 30. His mother Julie could only laugh at her young son when he flubbed his words. She liked to call him a ham.

Every member of Michael's family has fond memories of him. Growing up, Michael and his brother John loved to wrestle each other and—though he wouldn't do it for anyone else—sister, Therese, remembers how Michael would dance around for hours to entertain her and her friends. Youngest brother Tony recalls a time when Michael popped out his false tooth in church to shock a small child. Cousin Joe Mitchell remembers when they went to Myrtle Beach together and saw an attractive woman. Michael and another man argued for so long about who would speak to her first that she walked away. All who met Michael were touched by his witty humor.

At Canal Fulton Northwest High School, Michael excelled both academically and athletically. He loved to play basketball and football. High school football coach, Vic Whiting, remembered that after their last game, Michael—then a senior—couldn't bring himself to take off his uniform. High school friends said that ''Mikey,'' as they called him, was always the center of attention and a natural leader.

After high school, Michael enlisted in the National Guard so that he could pay his way through the University of Akron, where he earned an associate's degree in fire technology. His dream was to become a firefighter, but his unit was called to go to Iraq. Michael believed strongly that he was needed to secure freedom for others, that he was needed to help the Iraqi people.

Answering the call of duty was not new in the Barkey family. Michael's grandfather, Edmund, served in Europe during WWII; father, Hal, is a Navy veteran of the Vietnam war; brother, Todd served in Operation Desert Storm; and brother, John, was an Air Force firefighter stationed in Qatar during Operation Enduring Freedom. Michael was proud to follow in what had become a family tradition.

Michael and the rest of the 1484th Transportation Company trained in Indiana before being sent to Kuwait and then on to Iraq. Michael had been in the National Guard for 4 years. Soon Michael developed the reputation of being able to lighten the mood despite the chaos around them. Captain Curtis Brown, commander of the Company said that Michael was ''a remarkable young man who had the gift of making you see the good in a bad situation. He was a master of the gift of laughter.''

One young soldier, in particular, can attest to that. Specialist Jesse Hensel was Michael's bunkmate and best friend. The two were inseparable—whether they were lounging in their room or lifting weights. Jesse and Michael were like brothers and they argued like brothers. The only thing they agreed on was that Jesse was better looking and Michael was the better dancer.

Michael knew that his family worried about him while he was away. He sent home recordings and pictures—all of which Hal and Julie treasure. One picture in particular always brings a smile to the Barkey family's faces. In it, Michael is lying on the desert, pulling up his shirt to reveal grains of sand arranged in the shape of a smiley-face on his stomach.

Jesse accompanied his best friend on his final trip home. He said that Michael was everything he wanted to be—as a person and as a soldier. Jesse noted at a service honoring his friend that during the trip home, ''I sat by Mike the whole way home and I did a lot of talking. It was the first time Mike didn't talk back. I love him with every piece of my broken heart.''

In Michael's hometown of Canal Fulton, OH, thousands of residents came to show their support for the Barkey family. Some waited nearly two hours to pay their respects to Michael. The funeral mass was a celebration of the life of this extraordinary soldier—and Julie Barkey would have it no other way for the son who brought so much light into the world.

Jennifer Barkey, Michael's older sister wrote the following remembrance letter to provide comfort to the family:

> Know that [Michael] was truly an uncommon man. Grieve for the incredible man, husband, and father he would have become. Know that following the example of our father, he stood up for what he believed. His conviction was such that he was willing to die for it.

We know that Michael is in heaven, continuing to spread the laughter he did while on earth. And perhaps the Barkey family is right—Michael is still cracking jokes, exchanging war stories with his grandfather, and is now the patron saint of Cheetos or hamburgers, which were his favorite foods.

Michael will never be forgotten.

IN REMEMBRANCE OF JOHN GREENO

Mrs. BOXER. Mr. President, I speak to honor the memory of the late John Greeno, Bald Mountain heliport manager with the Mi-Wok Ranger District of Stanislaus National Forest. Mr. Greeno was a 21-year veteran of the U.S. Forest Service who dedicated his life to his family, community, and Nation. He was killed in a tragic helicopter crash in Texas on March 10, 2005, while on volunteer assignment to conduct a prescribed burn in Sabine National Forest.

John Greeno was born on June 2, 1952 in Redwood City, CA, and was raised in the town of Independence, CA. He embarked upon his career with the U.S. Forest Service in 1979 as a temporary employee on the Inyo National Forest. His love for firefighting and the U.S. Forest Service led him to the Stanislaus National Forest where he would eventually rise to the position of Helitack superintendent. During his 21 years of service, John earned the respect and admiration of those with whom he worked for consistently going above and beyond the call of duty. He led by example and was considered a mentor by subordinates. John regularly volunteered for assignments like the one that claimed his life in Sabine

National Forest in order to sharpen his skills and bring back valuable knowledge for his home-base.

John Greeno will long be remembered for his courage and dedication. He is survived by his wife of 11 years and his two children Marcus and Montana. His service and bravery inspired others and he will be deeply missed. I extend my deepest sympathies to his family.

TRIBUTE TO THE 110TH A.A.A. GUN BATTALION

Mr. DODD. Mr. President, I rise to pay tribute to the members of the 110th A.A.A. Gun Battalion. This weekend, the 110th will be holding a reunion in Cromwell, CT, to commemorate the 60th anniversary of the Allied victory in the Second World War.

The 110th played a critical role in the campaign in Europe. They were trained in England in preparation for the Allied invasion in 1944. On June 7 a day after D-Day they reached Omaha Beach in France with orders to ''protect all ground forces from enemy aircraft.'' Members of the 110th also participated in the liberation of Paris, the crossing of the Rhine, and the Battle of the Bulge.

The bravery and accomplishments of the 110th earned the unit considerable praise. Brigadier General E.W. Timberlake commended the men of the 110th for their ''outstanding drive, tenacity of purpose, and aggressiveness,'' while Colonel Thomas Munford lauded the battalion for its ''outstanding performance of every assigned mission, both in training and in battle.''

A few of the achievements of the 110th deserve particular recognition. They successfully shot down what is believed to be the first German plane downed in France during the liberation of Europe. Members of their reconnaissance team were among the first Americans to enter Paris. In total, the 110th destroyed 65 enemy planes, 11 tanks, and 80 ground vehicles.

It gives me a good deal of pride to note that many of the members of the 110th hailed from Massachusetts and Connecticut. As the birthplace of our Nation, New England boasts a long and honored tradition of deep patriotism and dedicated service to our country. New Englanders have served in every single one of our Nation's conflicts, from the Revolutionary War to Operation Iraqi Freedom.

During the Second World War, the fate of not only our own Nation but the world was at stake. And New Englanders joined our entire Nation in stepping forward to defend freedom against the forces of tyranny and oppression.

Sadly, with each passing year, fewer and fewer of our World War II veterans remain with us. We can all remember the deeply emotional moment last year when thousands of World War II vets gathered here in our Nation's capital for the opening of the National World War II Memorial. Just as notable, though, are the smaller gatherings that take place around our Nation that provide veterans with the opportunity to renew old ties, to meet each other's families, and to reminisce about the unforgettable experiences they shared many years ago.

On that note, I would like to offer congratulations to Leo Kania of Middletown, CT, who served as a corporal in the 110th. This week's reunion is the 6th such event Mr. Kania has organized over the years. This weekend, members of the 110th will have the opportunity to tour the very boat that took them to Omaha Beach six decades ago. The dedication Mr. Kania has shown is a testament to his devotion to his battalion, his pride in his country, and his spirit of friendship.

I offer my congratulations and my humble thanks to the members of the 110th A.A.A. Gun Battalion, and I extend my best wishes to them and their families on this momentous anniversary.

REPORT BY THE INTERNATIONAL LABOR ORGANIZATION ON FORCED LABOR

Mr. KENNEDY. Mr. President, today, more than ever before in history, employees around the world are competing against each other for work. Too often, this competition has become a race to the bottom—whoever is willing to work for the lowest wages gets the work.

The most flagrant example of this is the unacceptable practice of forced labor. These modern slaves are compelled to work against their will, often as victims of human trafficking or ruthless governments.

A new report by the International Labor Office shows how massive the problem of forced labor is. According to the report, over 12 million people are its victims in today's world, and they produce $44 billion in profits for their overseers.

To combat the problem, the report urges countries to work together to reach a global solution. Countries need stronger laws to protect victims and punish perpetrators. They also need stronger law enforcement and more effective cooperation between labor ministries and law enforcement. Fair labor standards and acting to reduce poverty are essential as well.

This report is the most comprehensive analysis ever made on forced labor. I commend it to my colleagues, and I ask unanimous consent that the executive summary be printed in the RECORD. The full report is available from www.ilo.org.

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

A GLOBAL ALLIANCE AGAINST FORCED LABOUR

EXECUTIVE SUMMARY

THE CONCEPT OF FORCED LABOUR

A Global Alliance Against Forced Labour sheds new light on the nature and extent of forced labour in the world today, what ILO member States, workers' and employers' organizations and their partners are doing to tackle the problem, and what more must be done if this crime and violation of human rights is to be finally ended. As the second Global Report on forced labour under the Follow-up to the Declaration on Fundamental Principles and Rights at Work, it focuses especially on the period since Stopping Forced Labour, its first report on the subject, was published in 2001.

This period has seen many important developments, in terms of heightened global awareness of the problems of contemporary forced labour, and particularly of trafficking in persons, and an increased understanding of what it involves—who and where are the victims and the perpetrators, how people get trapped in forced labour situations, and what kinds of measures have proved effective in preventing and combating this criminal practice, for which there can be no place in the twenty first century. Far from being a concern of only a minority of countries, forced labour in its different forms is a problem that pervades all societies—developing, transition and industrialized alike. It affects millions of people, and generates billions of dollars of profits for the exploiters of forced labourers.

The Report first sets out to clarify what the ILO means by forced labour. It certainly cannot be equated simply with low wages or poor working conditions. It comprises two basic elements: the work or service is exacted under the menace of a penalty, and it is undertaken involuntarily. This menace can take extreme forms such as physical violence, but also subtler forms such as confiscation of identity papers or threats of denunciation of irregular migrants to police authorities, in order to extract unfair advantage from them. A forced labour situation is determined by the nature of the relationship between a person and an ''employer'', and not by the activity performed. Nevertheless, there is a broad spectrum of working conditions and practices, ranging from extreme exploitation including forced labour at one end, to decent work with the full application of labour standards at the other. And within the area defined by law as forced labour, a range of coercive and deceptive mechanisms can be applied. The most appropriate law enforcement remedies may depend on the nature, and perhaps also the severity, of the coercive mechanisms being applied.

The rising global concern with human trafficking, together with new instruments against it, have prompted member States to give attention to the forced labour concept in criminal laws. The ''Palermo'' Trafficking Protocol to the UN Convention against Transnational Organized Crime introduces into international law the concept of exploitation, broken down broadly into labour and sexual exploitation. It is clear from the comments of the ILO supervisory bodies that coercive sexual exploitation also constitutes forced labour. Many countries at present do not provide in their legislation for the specific offence of forced labour. While the present momentum is towards establishing the criminal offence of trafficking, there is a need also to legislate against forced labour as a specific criminal offence.

MINIMUM ESTIMATE OF FORCED LABOUR IN THE WORLD

Today, at least 12.3 million people are victims of forced labour worldwide. Of these, 9.8 million are exploited by private agents, including more than 2.4 million in forced labour as a result of human trafficking. The remaining 2.5 million are forced to work by the State or by rebel military groups.

The numbers are highest in Asia, with 9,490,000 victims. Almost two-thirds of total

forced labour in Asia is imposed by private actors for economic exploitation, mostly debt bondage in agriculture and other economic activities. About one-fifth is imposed by the State in a few countries such as Myanmar. Forced labour for commercial sexual exploitation makes up less than one-tenth of the total.

Latin America and the Caribbean has 1,320,000 forced labour victims. 75 per cent is imposed by private actors for economic exploitation, followed by State-imposed forced labour (16 per cent) and forced labour in commercial sexual exploitation (9 per cent). Of the 660,000 forced labourers in Sub-Saharan Africa, 80 per cent are subject to economic exploitation, 11 per cent to State-imposed forced labour, and 8 per cent to commercial sexual exploitation. Of the 260,000 forced labour cases in the Middle East and North Africa (MENA), 88 per cent is for private economic exploitation, and 10 per cent for commercial sexual exploitation.

There are 360,000 forced labourers in industrialized countries, and 210,000 in transition countries. In both regions, forced labour for commercial sexual exploitation predominates. In industrialized countries however, almost one-quarter of victims are subject to non-sexual economic exploitation.

Approximately one-fifth of all forced labour globally—or 2.45 million persons altogether—is an outcome of trafficking. There are important regional variations. In Asia, Latin America and Sub-Saharan Africa, the proportion of trafficked victims is less than 20 per cent of all forced labour. In industrialized and transition countries, and in the Middle East and North Africa, it accounts for more than 75 per cent of all forced labour.

Women and girls are overwhelmingly involved in forced commercial sexual exploitation—accounting for 98% of the total of this form. Forced economic exploitation is more evenly divided between the sexes, although women and girls still account for more than half—56%. It is estimated that children aged less than 18 years represent between 40 and 50% of all forced labour victims.

A DYNAMIC GLOBAL PICTURE OF FORCED LABOUR

Since the first Global Report on the subject in 2001, the research and activities of the ILO's Special Action Programme to Combat Forced Labour (SAP–FL) have shed more light on recent trends in forced labour, and action to overcome it, in all regions of the world.

Generally, despite new laws and action programmes against trafficking, law enforcement against forced labour practices remains inadequate. There have been very few prosecutions of exploiters of forced labour anywhere. The offence of forced labour is often not identified as such in existing criminal law (though it may be under labour or administrative law). Penalties are often light. Important progress in combating impunity for forced labour offences has nevertheless been made in some countries, such as Brazil.

Forced labour imposed by the State, while not the largest problem in terms of numbers, remains a cause for serious concern. In Myanmar, the ILO has taken a lead in drawing attention to continued forced labour practices, which occur in particular in remote areas under the authority of the army. An ILO Liaison Officer has been able to assess the situation in person through field visits, while in May 2003 agreement was reached in principle between the Government and the ILO on a Joint Plan of Action against forced labour. By early 2005, however, the ILO was not in a position to move forward on this. Indeed the Myanmar case shows that it is impossible to make progress against forced labour when there is a climate of impunity, and repression against persons who denounce forced labour abuses.

In China, steps have been made towards reform of the Reeducation through Labour (RETL) system, an administrative measure including compulsory labour that is used for punishing minor offences. As of early 2004, some 260,000 persons were detailed under RETL. Reform to the RETL system is on the agenda of the current session of the National Peoples' Congress.

The forced labour aspects of prison labour have also been a cause for concern in industrialized countries. The focus has mainly been on the eradication of forced labour in private prisons, or by prisoners placed at the disposal of private companies. Yet some consensus is emerging that, while prison privatization is probably here to stay, the central issue in the debate should be how to secure minimum standards of work for those detained in all kinds of prison establishment. In this sense—while prison authorities tend to stress that work is only one aspect of the prison regime—there can be scope for labour inspection services to collaborate with prison authorities on matters which relate strictly to the work regime.

In developing countries there are clear links between poverty and discrimination on the one hand, and forced labour on the other. The victims are drawn from lower castes in parts of Asia, indigenous peoples in Latin America, the descendants of slaves or forest dwellers in Africa. Patterns of forced labour are nevertheless changing. In addition to traditional agrarian-based serfdom and servitude, new forms of coercion often linked to indebtedness are being detected in a range of sectors and industries, such as brick making, mining, rice mills and domestic work. The asset-poor or landless are particularly vulnerable to forced labour, when they move away from their home communities in search of work in distant parts of their own country, neighbouring countries or overseas. Similar patterns of coercive recruitment and debt bondage have been detected amongst seasonal and migrant workers in Africa, Asia and Latin America. Again, women and children can be especially prone to be trapped in exploitative living and working situations, from which they have great difficulty escaping.

Tackling such forced labour requires action at different levels. Downstream, there have been important community-based initiatives, using microfinance and other techniques to prevent forced labour and rehabilitate victims after release. Upstream, there is a need for clear policies and plans of action, mobilizing awareness, getting the involvement of different ministries, ensuring the cooperation of labour authorities and other law enforcement agents, and also securing the necessary resources for action against forced labour. One way to achieve this is to include forced and bonded labour concerns in Poverty Reduction Strategy Papers (PRSP) and similar policy instruments. Some models are emerging. Brazil and Pakistan have broad-based action plans against forced labour. Nepal and Pakistan address bonded labour in their PRSPs.

In Africa, the eradication of—and even the clear understanding of—forced labour poses complex challenges in a context of poverty and tradition. Unpaid services can be part of traditional kinship arrangements. There are reports that West Africans of slave descent still suffer discrimination and labour exploitation at the hands of former masters. Research points to a spectrum of situations, from the highly exploitative to the relatively benign. And in some African countries forced labour has occurred in a context of severe political violence and inter-ethnic conflict. Problems of contemporary forced labour include: slavery and abductions, debt bondage, forced overtime, unpaid compulsory labour for public servants, and forced domestic labour. There are prima facie reasons to believe that forced labour may be a widespread problem in the continent. But far more research and awareness raising is needed, to deepen understanding and chart out a way forward.

The scourge of human trafficking has now caught the world's attention. It is bringing forced labour concerns to the doorstep of industrialized countries. More and more, ILO partners realize that effective action against trafficking requires a focus on its forced labour outcomes, and on demand aspects in the destination countries as well as supply in the origin countries. ILO research in Europe and elsewhere has shed light on these issues, paving the way for improved policies and law enforcement. Affecting sectors including agriculture, construction, textiles and garments, restaurants and entertainment, health care, and domestic work, trafficking for labour exploitation often involves subtle forms of coercion rather than direct physical restraint. Unscrupulous employers exploit the precarious situation of irregular migrant workers in particular, removing identity documents, and threatening them with denunciation to the authorities and deportation if they do not accept substandard conditions of work. Migrant domestic workers are at particular risk of forced labour situations. So far, there have been very few convictions of abusive employers or intermediaries involved in the trafficking of domestic workers.

Forced labour and trafficking are not limited to the underground economy. With more research, it is becoming clearer that coercive practices can affect migrants in quite mainstream economic sectors. Deceptive practices by recruitment agencies, and long chains of subcontracting, can involve exorbitant transaction costs which drive even legally recruited migrants into debt bondage situations. There have been examples of good practice, such as the 2004 United Kingdom Gangmasters Act, which increase controls over such agencies. In transition countries however standards to monitor the work of recruitment agencies are still very weak. Government authorities, law enforcement agents and the social partners need training to prevent the risk of trafficking.

Trafficking is a highly lucrative business. The ILO estimates that total illicit profits produced annually by trafficked forced labourers are around US$ 32 Billion (half of this in industrialized countries and one third in Asia). This means an average of US$ 13,000 per year for each forced labourer. By far the highest profits are made from forced commercial sexual exploitation (US$ 27.8 Billion).

The apparent growth of trafficking for economic exploitation in all regions calls for serious thinking as to the most effective means to eradicate it. Vigorous law enforcement will always be part of the solution, but many other measures are required. Our previous (2001) Global Report depicted human trafficking as the ''underside of globalization''. The knowledge base has now shed further light on the linkages between forced labour more generally, and such aspects of globalization as global competition, migration and labour market deregulation. Without safeguards, competitive pressures can lead to forced labour. Eradicating coercive practices represents a major challenge for employers' and workers' organizations worldwide.

ILO ACTION AGAINST FORCED LABOUR

Spearheaded by its Special Action Programme to Combat Forced Labour (SAP–FL)

under the Declaration Follow-up, the ILO has progressively increased its profile and activities on forced labour over this four-year period. Guided by its Governing Body mandate, the programme has emphasized: advice on appropriate legislation; awareness raising on forced labour, among both the general population and key authorities; research and surveys, on the nature and extent of the problems; prevention, through advocacy, vigorous application of national laws and regulations, and by tackling underlying causes; and sustainable support and rehabilitation measures.

SAP–FL has been active in many parts of the world in a short period of time. Awareness-raising has been conducted in all regions, and with major international partners. There is growing consensus that forced labour is the key entry point for anti-trafficking action. Research—in South and South-East Asia, transition and industrialized countries and Latin America—has for the first time provided a full understanding of the nature of modern forced labour, and of the action needed to eradicate it. Law and policy advice have been provided to Asian countries including China, Mongolia and Vietnam, paving the way for ratification of the ILO's Conventions on forced labour.

Several ILO projects aim to strengthen institutional structures for combating forced labour. A Brazilian project supports the Government's National Action Plan against Slave Labour, working with several ministries, police, judiciary and labour authorities as partner agencies. The project, in part through a massive awareness campaign, has contributed to the significant rise in the number of forced labourers rescued in Brazil. In South Asia, a project to promote the prevention and elimination of bonded labour has gradually developed new tools for tackling this immense problem. With an initial focus on using microfinance to prevent bonded labour and assist the rehabilitation of released bonded labourers at the community level, it has moved increasingly into capacity-strengthening of Government agencies and other partners. In Pakistan, ILO assistance has largely been designed to support the goals first set out in the 2001 National Policy and Plan of Action on bonded labour.

On trafficking, research and studies in both origin and destination countries have prepared the ground for integrated programmes across the trafficking cycle, combining prevention, victim identification and protection, law enforcement, and rehabilitation of victims. As requested by international partners the ILO has taken a lead in providing guidance to member States on the forced labour and labour exploitation dimensions of trafficking, drawing on pertinent ILO standards. Operational projects are now under way in West Africa, South East Asia, China, and Eastern and Western Europe. In particular, these projects aim to involve labour authorities and other institutions including employers' and workers' organizations in action against trafficking, demonstrating the importance of their cooperation with police, prosecutors and law enforcement agencies in general.

ACTION PLAN: A GLOBAL ALLIANCE AGAINST FORCED LABOUR

The ILO now calls for a global alliance against forced labour. It will require national commitment to eradicate forced labour through plans with specific time horizons. National plans and programmes will need to be backed by extensive international assistance, notably from the development agencies and financial institutions concerned with poverty reduction. Asia, where the numbers affected by contemporary forced labour are the largest, must be the highest priority. The development agencies, which base their strategies on poverty targeting and the eradication of extreme poverty, should single out bonded labour systems for priority attention. In Latin America, where the incidence of forced labour is particularly severe amongst indigenous peoples, poverty reduction progammes and resources can be targeted at the peoples and areas affected.

As regards forced labour and trafficking, the destination countries need to take their share of responsibility. All countries need to include provisions against forced labour and trafficking in their criminal laws, involving labour law experts in the drafting process. There is a need for more awareness of the role of demand for cheap and flexible labour in the destination countries in giving rise to trafficking and forced labour, and also for more rational migration management.

Universities, research and policy institutions need to improve the knowledge base on forced labour. Priority can be given to the difficult issues, where there is currently a lack of consensus as to whether and which practices do constitute forced labour. One example is the forced labour aspects of prison labour.

The ILO can take an active leadership in this global alliance. It can set targets for eradicating the forced and bonded labour problems linked to structural poverty, as part of its contribution to achievement of the Millennium Development Goals. It can identify specific steps, with targets for the coming years, against the forced labour problems linked to globalization. Employers and workers' organizations will have a key role to play, the former developing codes of conduct to ensure vigilance against forced labour in supply chains, the latter helping the informal economy workers vulnerable to forced labour in their efforts to organize themselves and seek redress. Through their regional and international networks, transport and other unions can exercise permanent vigilance against human trafficking.

The ILO can help member States improve data gathering on forced labour. Reliable forced labour statistics must now be developed at the national level, providing benchmarks against which progress can be measured over time.

Through operational projects, the ILO can greatly help member States eradicate forced labour. The aim will be to develop ''models'' of intervention, which can then be applied on a wider scale by others. These should comprise linked components, addressing upstream policy and legal issues, as well as strengthening enforcement institutions and providing direct support for victims. In developing such integrated projects the ILO needs to draw on all its capacities, as they relate to employment promotion as well as the application of labour standards.

In developing projects, however, it must be remembered that hard policy decisions are required to end forced labour. Such instruments as microfinance are important for prevention and rehabilitation, and will always be part of the ''toolkit'' against forced labour. But to combat impunity, and to tackle the roots of either the more traditional or more modern forms of forced labour, member States may ultimately have to revisit their land, tenancy, labour market or even migration policies.

With courage and commitment to face up to the problems, and with the allocation of resources to meet the challenges, there is a real hope that forced labour can finally be relegated to history.

ASIAN PACIFIC AMERICAN HERITAGE MONTH

Ms. CANTWELL. Mr. President, I rise today to say a few words in honor of the Asian and Pacific Islander communities of the United States. As my colleagues know, May marks Asian-Pacific American Heritage Month. Throughout this month, the United States celebrates the history, culture, and traditions of Asian and Pacific Islanders, and recognizes their unique contributions to the United States.

First proposed as a 1-week celebration in 1977, the occasion was expanded into a month-long event in 1990. May was chosen because of its unique significance to the history of Asian Americans. May 7, 1843 marked the first recorded immigration of Japanese to the United States, while May 10, 1869 marked the completion of the transcontinental railroad, which would not have happened when it did without the labor of Chinese immigrants.

The Asian and Pacific Islander population has a rich history in this country, especially in the Pacific Northwest. In my home State, records show the arrival of Asian immigrants as early as the 1860s, while some scholars even speculate that Chinese explorers sailed down the Alaskan coast to what is now Washington State centuries before. Today, there are nearly 13 million Asians and Pacific Islanders living in the United States, representing 4.4 percent of the population. In Washington, they make up nearly 6 percent of the citizenry.

Over the past century and a half, Asian and Pacific Islander communities have contributed significantly to the cultural vibrancy of Washington State. Individuals within Washington's Asian and Pacific Islander communities have also worked to stand up for justice and make our country a better place. In 1944, Gordon Hirabayashi, a Japanese-American student at the University of Washington in Seattle, took a stand against the unfair treatment of Japanese Americans during World War II when he refused to obey discriminatory curfew orders. In taking his case to the U.S. Supreme Court, he left a lasting reminder of the importance of standing up for civil rights.

America is a land of immigrants and our history demonstrates that we are stronger because of our diversity, not in spite of it. However, we can only live up to the promise of our diversity if we recognize the mistakes of our past and give all groups a voice in public discourse. Asian Americans have a powerful history in the Pacific Northwest, and I believe we cannot ignore its darkest period. For this reason, I was pleased to work with Senator PATTY MURRAY to secure Federal funding for a study of the Eagledale Ferry Dock site on Bainbridge Island, which served as a point of departure for members of the Japanese-American community on their way to internment camps during World War II. These funds are a critical

step toward commemorating the sacrifices and the strength of the Japanese-American community, and to recognizing an important chapter in the history of Bainbridge Island, my State, and our Nation.

I am proud to represent a State with a history of electing a diverse group of citizens to public office. In 1993, Filipina-American Velma Veloria became the first Asian-American woman to serve in the Washington State Legislature. Over the past decade, her work to fight human trafficking and promote peace and social justice has truly made my State a better place. Since then, Washington State has also seen the service of Gary Locke, Washington's first Asian-American Governor, and Paul Shin, the first Asian American to serve in the State senate. In fact, the rich history of Asians and Pacific Islanders holding elected office in Washington State dates back to 1962, when Wing Luke, a decorated World War II veteran and former Assistant Attorney General of the State of Washington, won a seat on Seattle's city council. Today, his legacy is commemorated in Seattle's Wing Luke Asian Museum, along with the stories of thousands of other Asian immigrants. I am personally honored to be involved in renovating the museum's East Kong Yick building, one of the first two buildings in Seattle owned by nonwhites. The museum is both a local and national treasure, respected as a Smithsonian affiliate and honored at the White House 10 years ago with the National Award for Museum Services.

As this year's Asian Pacific American Heritage month begins, I believe it is important to preserve the lessons of the past, while recognizing the immense benefit we all receive from living in a diverse country built on the contributions of immigrants from around the globe. Diversity, and the exposure to other customs and ideas that it involves, leads to opportunity and gives the United States much of its strength. In celebrating the rich history, culture, and traditions of Asian and Pacific Islanders this May, we recognize their important contributions to the strength and diversity of our country, and to the bright future that lies ahead.

PASSING OF VICKI COTTRELL

Mr. HATCH. Mr. President, with the untimely death of Vicki Cottrell, Utah's executive director of the National Alliance for the Mentally Ill, NAMI, a powerful and compassionate voice who spoke for those who suffer the effects of mental illness has been silenced. Vicki Cottrell's untiring efforts across Utah, in the legislature, in the jails and mental health courts, among community and religious leaders, and among families, will be difficult to replace. The passionate spirit and vision that she shared with her staff will continue.

Before working for NAMI Utah, Vicki worked in computer software sales. But after her daughter was diagnosed with schizophrenia, Vicki formed her own support group for people who have loved ones with a mental illness. Eventually, she merged her group with NAMI Utah.

Over the past 20 years, Vicki has worked for the National Alliance for the Mentally Ill's Utah affiliate. She started as a volunteer teaching classes and worked her way up to the executive director's post. Going the distance to places like Logan was common for her, and she took a message of advocacy around the State. Vicki's influence did not just reach inside Utah's borders, though. Upon hearing of her death, NAMI members and friends from across the country brought forth an outpouring of sympathy.

Governor Jon Huntsman, Jr. expressed his condolences noting that Vicki helped educate many about mental illness and the way new medical treatments help the afflicted lead very productive lives. He said, ''She traveled throughout the Nation sharing this message of hope and will be greatly missed by all who knew her.''

Vicki was a member of my Advisory Committee on Disability Issues for the State of Utah. She worked closely with my office and visited with me and my staff in both Washington and Utah to advocate for the needs of the mentally ill. Her strong commitment to those suffering from mental illness was well known throughout Utah. She provided valuable insights to the Advisory Committee and will be missed by all of the committee members.

The love and respect so many felt for Vicki Cottrell came from her willingness to use her own family's struggle with schizophrenia as an example and turn it into something to help others cope. She worked hard to eliminate the stigma often attached to mental illness, and was tireless, energetic and motivated in her mission.

Vicki's grace, humanity, and love touched every life she met. Her public life never overshadowed her deep devotion for her 6 children and 10 grandchildren. She was a loyal friend and enjoyed close relationships with many. Her beautiful and well-attended garden was a metaphor for her life.

I ask that my colleagues please join me in extending heartfelt sympathies to Vicki's family and friends. The magnitude of the loss for Utah and the Nation is substantial.

ADDITIONAL STATEMENTS

HONORING MG RICHARD S. COLT

• MR. CRAPO. Mr. President, I rise to honor one of the great Army Reserve generals in the United States of America. MG Richard S. Colt has served as the commanding general of the 77th Regional Readiness Command based at Fort Totten, NY, for the last 4 years, and I am honored to recognize him on the floor of the Senate. He celebrates his retirement after 38 years of service to this country. While I am a Senator from Idaho and he is a commanding general from the State of New York, he deserves all of our praise because he was on duty in New York City on September 11, 2001.

Major General Colt is a Vietnam veteran who has always put soldiers first. His emphasis on readiness and training has prepared our citizen soldiers for the current global war on terror.

General Colt is among the finest this country has to offer, and he leads by example. He trains, teaches, and leads his soldiers. He will be sorely missed by his soldiers and by all of us who cherish freedom. We honor his service, congratulate him on his retirement, and reflect on the accomplishments of this great leader.

His dates of service are from July 25, 1967 to June 19, 2005. I know that his family is very proud of him, including his wife Dorothy and his daughters Mary Colt and Jennifer Sullivan and grandson Ryan Richard Sullivan.•

A LIFE OF TEACHING, A LOVE OF LEARNING, A HEART FOR CHILDREN

• Mr. CRAPO. Mr. President, I am honored to recognize a truly remarkable individual today. Gail Chumbley is a history teacher at Eagle High School in Eagle, ID. A high school history teacher; there are many individuals who can claim this job title but few who have done so much. Gail is an amazing teacher, passionately devoted to teaching our American experience to her students. Not only does she teach about events in our Nation's history, she has ventured into the next realm, moving the tenets of American citizenship into the real world for her students.

I first heard of Gail's efforts 4 years ago when she became actively involved in the Library of Congress's Veterans Oral History Project four years ago. At that time, she had organized the recording of over 300 oral histories for Eagle High School's library alone. She expanded the effort to include other Idaho schools and collaborated with local civics groups to record literally hundreds more interviews that went to both the Eagle High School archives and the Idaho Oral History Center. One of the most significant accomplishments of Gail and her students was their participation in the Veterans Stand Down in Boise where homeless veterans were given the opportunity to record interviews. Her efforts were not confined to veterans of past wars. Gail and her students also have sent gift boxes and cards to our current service women and men in Iraq and Afghanistan since 2002. She was instrumental in making Eagle High School the top school donor for the World War II Memorial, with a donation of close to $25,000. The list of her accomplishments, enhanced further with her national recognition by the Daughters of

the American Revolution this year is long, but that is not the focus of my remarks today.

Gail has turned the teaching of history and civics into the action of patriotism. Perhaps the most compelling and significant accomplishment of Gail Chumbley is not her esteemed list of awards and honors, which are many and richly-deserved. Her most important contribution is her role in creating a sense of citizenship within the hearts and intellect of many Idaho young people. This citizenship lives on in these students as they grow into adulthood and manifests itself in their actions, commitments and convictions. It is an entity that grows exponentially and of its own volition, eclipsing plaques, certificates and statuettes. These gather dust, but what they represent are the pillars upon which our country stands firm. This living citizenship is immortalized by the marbled statues of men and women not far from here, and in words carved of the same.

I honor Gail Chumbley today: American patriot, exemplary citizen and role model for all of us.●

TRIBUTE TO JOSEPH P. FITZGERALD

● Mr. HARKIN. Mr. President, I salute Joseph P. Fitzgerald, who is retiring after 33 years of dedicated service to the Government and people of the United States of America.

For the past quarter century, Mr. Fitzgerald has worked in the Audiovisual Program Development Branch at the Lister Hill National Center for Biocommunications, which is part of the National Library of Medicine at the National Institutes of Health in Bethesda, MD. Mr. Fitzgerald, who is a renaissance man of creative vision and artistic talent, has made exceptional contributions to the outreach and communications mission of the largest biomedical library in the world. As technological advances in the dissemination of both visual and text-based information have evolved over the past 25 years, Mr. Fitzgerald has led the way in adopting computer-based graphics systems. And he has helped the National Library of Medicine to communicate the most current and reliable medical and consumer health information to medical professionals, researchers, patients, families and the public.

The number 25 figures prominently in the life story of Joe Fitzgerald for another reason, too. He recently became the 25th person in the history of the Republic to execute a design for the front of a circulating coin. His groundbreaking portrait of Thomas Jefferson graces the new U.S. five-cent coin, as will his obverse design of the Lewis and Clark expedition, which will be released in August. Both commissions were awarded as part of the United States Mint at the Treasury Department's Artistic Infusion Program. Mr. Fitzgerald's portrait of Thomas Jefferson marks the first redesign of the front of the nickel in 67 years. His nickel designs have been acclaimed throughout the coin collecting community, and Mr. Fitzgerald has received significant national press attention.

Joe Fitzgerald earned a B.A. in fine arts from the University of Maryland, College Park and pursued graduate studies in printmaking at the State University of New York at Oswego. He has served several Federal agencies: the United States Postal Service, summers, 168–1972; the Food & Drug Administration, 1972–1973; the Consumer Product Safety Commission, 1973–1980; and the National Library of Medicine, 1980–2005. Mr. Fitzgerald has earned numerous awards for outstanding contributions and service to the National Library of Medicine, including the 1996 NLM Director's Honor Award for exceptional contributions to the mission of the library through the creative application of his artistic talent, and the 2003 National Institutes of Health Award for Merit for his organization, coordination and congenial leadership in effectively orchestrating the ''Turning the Pages'' historical medical books program.

In addition, Mr. Fitzgerald is a gifted fine artist. Nationally recognized for his work in paint, pastel and digital media, his creations have been sent around the world through the Embassy Art program, and are held in many private collections. He is currently represented by the Foxhall Gallery in Washington, DC.

Joe Fitzgerald is one of the most beloved individuals ever to tread the NIH campus, and I wish him well in his retirement. He is married to Jean Hill Fitzgerald, another career civil servant who currently works at the National Archives. I thank Joe for distinguished career in public service, and I wish him many years of happiness in retirement.●

HONORING THE ACCOMPLISHMENTS OF MR. JIM HUFF

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Mr. Jim Huff of Northern Kentucky who was recently honored with one of the ''Movers and Shakers'' awards for the Greater Cincinnati area. Mr. Huffs life accomplishments and dedication to Commonwealth of Kentucky have given me reason to be proud.

Over the past 60 years, Mr. Huff has grown to be a leader both within the community of Northern Kentucky and within the real estate industry. He has served as chairman of the Kentucky Real Estate Commission for five consecutive terms. During this time he established a statewide errors and omissions insurance platform, which continues to serve the needs of Kentucky real estate practitioners today. In 1981, he was awarded Realtor of the Year by the Kenton-Boone Board of Realtors, for which he later served as president.

Throughout his life, Mr. Huff has always been active in civic affairs in Northern Kentucky. He has been an integral part of his community serving on numerous boards, including Northern Kentucky University Foundation, Saint Elizabeth Medical Foundation, Kids Helping Kids, Cincinnati and Northern Kentucky Fine Arts Foundation and as a trustee for Thomas More College.

The ''Movers and Shakers'' award of Northern Kentucky is an annual award presented to honor those within the greater Cincinnati region who stand as an example for all. It is presented by the Kentucky Enquirer, the Sales and Marketing Council of Northern Kentucky, The Home Builders Association of Northern Kentucky, and The Kentucky Post.

As a Senator from Kentucky, I appreciate the devotion Mr. Huff has shown over the years to the citizens of Kentucky. I commend his efforts and hope his example of dedication and hard work will serve as an inspiration to the entire State.●

RACIST MANIFESTATIONS IN ROMANIA DESERVE GOVERNMENT RESPONSE

● Mr. BROWNBACK. Mr. President, as chairman of the Helsinki Commission, I welcomed the recent visit of Romanian Foreign Minister Razvan Ungureanu, and I regret that I was not in Washington to meet with him. Our countries have forged closer links, and I hope that trend will continue.

While there have been many positive reforms implemented in Romania, unfortunately the situation of the Romani minority is largely the same. Romania has the largest Roma minority in Europe, estimated at 1.5–2 million people. They remain profoundly marginalized and subjected to pervasive discrimination and prejudice.

On April 13, for example, a soccer match in Bucharest turned very, very ugly. Fans of one team, Steaua Bucharest, unfurled a banner reading ''We have always had and will always have something against Gypsies.'' They chanted, ''We have always hated Gypsies and we have always urinated on you.'' During the game, the stadium announcer played an anti-Roma song called ''Gypsies and UFOs'' and made anti-Roma remarks. The coach of Steaua Bucharest called the coach of the opposing team a ''stinking Gypsy.'' The opposing team, Rapid Bucharest, is from a district with a significant Romani minority.

Response to this rabid anti-Roma manifestation was swift with mixed results.

On April 20, the Romanian Football League suspended the stadium announcer for 6 months. But the League also sanctioned both teams that were present at the April 13 match: Steaua Bucharest, the team responsible for hurling racist invective was fined, but so was Rapid Bucharest, the team against whom these slurs were directed. While it is completely appropriate for a sports league to police

itself and its members, sanctioning those who were the targets of this abuse makes no sense. No one will be fooled by the League's effort to appear pro-active and even-handed while punishing the very people who were the victims of abuse.

The National Council for Combating Discrimination, a Romanian Government body, also sanctioned the offending team about $1400 and fined the stadium announcer about $600. The fact that a governmental body so quickly recognized the racist nature of these events was a positive signal. However, any time a state positions itself to regulate speech, there is the risk that free speech, which may include unpopular or controversial views, will be unduly limited. I believe there are other ways to combat racist, xenophobic, or anti-Semitic manifestations. In particular, it is critical that Romania's public leaders, including President Traian Basescu, speak out against such manifestations.

Unfortunately, the April 13 events were not an isolated phenomenon, but part of a pattern of racist abuse in Romania. In 2002, scores of fans at a Bucharest soccer match worked in concert to display a massive sign reading ''Die, Gypsy.'' In 2003, like-minded fans displayed a sign reading ''One million crows, one solution—Antonescu.'' ''Crow'' is a pejorative slang term in Romanian for a member of the Romani minority. General Ion Antonescu was Romania's World War II fascist dictator who spearheaded the selection of Roma for deportation to Transnistria.

These manifestations tell us two things. First, it is not enough for public leaders to leave it to the National Council for Combating Racism to speak out against these manifestations. Romania's highest leaders must stand up and confront such outrages. Those who would foment racism, and who potentially incite racist violence, must be given no safe harbor. Invoking praise for the World War II dictator who oversaw the persecution of Romania's Jews and Roma is despicable.

Second, these manifestations underscore the need for continued efforts to improve Holocaust education in Romania.

Following decades of denial, the Government of Romania has made great strides in the past year in recognizing Romania's role in the Holocaust and in the deportation and death of Jewish and Romani citizens. The government is to be commended for taking steps to examine this dark and painful chapter in the country's history. Last November, the International Commission for the Study of the Holocaust in Romania, led by Elie Wiesel, officially issued its findings in Bucharest. In addition to the establishment of a national Holocaust Remembrance Day, which Romania marks on October 9, the Commission recommended that Romania establish a national Holocaust memorial and museum in Bucharest, annul war criminal rehabilitations and develop a Holocaust education curricula and courses in secondary schools and universities. I hope the Government of Romania will move quickly to implement the Wiesel Commission's recommendations.

With this in mind, I was heartened to learn that in April the U.S. Embassy in Bucharest hosted the premier of ''Hidden Sorrows,'' a documentary about the tragic deportation of 25,000 Roma from Romania to Transnistria during the Holocaust; more than 11,000 men, women and children died from the horrific conditions of their internment. Several, nearly 100-year-old survivors attended the premier, adding a deeply personal element to the documentary's message.

From the Inquisition to the Holocaust, Roma have suffered some of humanity's worst abuses. They were enslaved in Romania until the formation of the modern Romanian state in 1864. They were persecuted and deported and murdered during the Holocaust. Even after the fall of Ceausescu, they were subjected to dozens of pogroms. And yet they have survived.

The Romani people, who have endured so much, should not be made to suffer at a time that otherwise holds so much promise and hope for so many. We must ensure that these people, their culture, and their heritage are not destroyed by hatred and violence.●

MESSAGES FROM THE HOUSE

At 12:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1279. An act to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes.

The message also announced that pursuant to section 637(d)(I) of the Help Commission Act (22 U.S.C. 2394b) and the order of the House of January 4, 2005, the Speaker appoints the following members on the part of the House of Representatives to the Helping to Enhance the Livelihood of People (HELP) House Around the Globe Commission: Mr. Robert H. Michel of Washington, D.C., Mrs. Jennifer Dunn of Virginia, Mr. William C. Lane of Virginia, and Mr. Nicholas Eberstadt of Virginia.

The message further announced that pursuant to section 801 of Public Law 101–696 (40 U.S.C. 188a(c)), the Chairman (Mr. NEY) of the Joint Committee on the Library appoints the following Member of the House of Representatives as his designee to the Capitol Preservation Commission: Mr. MICA of Florida.

The message also announced that pursuant to 44 U.S.C. 2702, the Clerk of the House appoints the following individual on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Susan Palmer of Aurora, Illinois.

At 6:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate: .

H.R. 1544. An act to provide faster and smarter funding for first responders, and for other purposes.

The message also announced that pursuant to 20 U.S.C. 2004(b), and the order of the House of January 4,2005, the Speaker appoints the following Members of the House of Representatives to the Board of Trustees of the Harry S Truman Scholarship Foundation: Mr. AKIN of Missouri and Mr. SKELTON of Missouri.

The message further announced that pursuant to 10 U.S.C. 6968(a), and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Naval Academy: Mr. CUNNINGHAM of California and Mr. WICKER of Mississippi.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1279. An act to amend title 18, United States Code, to reduce violent gang crime and protect law-abiding citizens and communities from violent criminals, and for other purposes; to the Committee on the Judiciary.

H.R. 1544. An act to provide faster and smarter funding for first responders, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2099. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a list of officers authorized to wear the insignia of brigadier general; to the Committee on Armed Services.

EC–2100. A communication from the Principal Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, a report of officers authorized to wear the insignia of the next higher grade to the Committee on Armed Services.

EC–2101. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of vice admiral; to the Committee on Armed Services.

EC–2102. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of admiral; to the Committee on Armed Services.

EC–2103. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of general; to the Committee on Armed Services.

EC–2104. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–2105. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–2106. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–2107. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Multiyear Contracting'' (DFARS Case 2004–D024) received on May 8, 2005; to the Committee on Armed Services.

EC–2108. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Reporting Contract Performance Outside the United States'' (DFARS Case 2004–D001) received on May 3, 2005; to the Committee on Armed Services.

EC–2109. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Personal Services Contracts'' (DFARS Case 2003–D103) received on May 3, 2005; to the Committee on Armed Services.

EC–2110. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Unique Item Identification and Valuation'' (DFARS Case 2003–D081) received on May 3, 2005; to the Committee on Armed Services.

EC–2111. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled ''Trade and Employment Effects of the Andean Trade Preference Act''; to the Committee on Finance.

EC–2112. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the Andean Trade Preference Act; to the Committee on Finance.

EC–2113. A communication from the Chairman, Advisory Committee for Trade Policy Negotiations, transmitting, pursuant to law, the Committee's report on the Extension of Trade Promotion Authority; to the Committee on Finance.

EC–2114. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Implementation of the Medicare Prescription Drug Benefit''; to the Committee on Finance.

EC–2115. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the report of and investigation entitled ''The Impact of Trade Agreements Implemented Under Trade Promotion Authority''; to the Committee on Finance.

EC–2116. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''The Use of Specific Claims Payment Error Rates to Improve Effectiveness and Performance of Medicare Contractor Provider Education and Outreach Programs''; to the Committee on Finance.

EC–2117. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates, Policy Changes, and Clarification'' (RIN0938–AN28) received on May 4, 2005; to the Committee on Finance.

EC–2118. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Update of Ambulatory Surgical Center List of Covered Procedures'' (CMS–1478–IFC) received on May 4, 2005; to the Committee on Finance.

EC–2119. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Diesel Fuel and Kerosene Excise Tax; Dye Injection'' ((RIN1545–BE44)(TD 9199)) received on May 3, 2005; to the Committee on Finance.

EC–2120. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 29 Inflation Adjustment Factor'' (Notice 2005–33) received on May 3, 2005; to the Committee on Finance.

EC–2121. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Medical Rebates'' ((Rev. Rul. 2005–28)(RR–142416–02)) received on May 3, 2005; to the Committee on Finance.

EC–2122. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Electronic Submission under Rev. Rul. 2005–6'' (Notice 2005–35) received on May 4, 2005; to the Committee on Finance.

EC–2123. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Election and Notice Provisions of Section 104 of the Pension Funding Equity Act'' (Notice 2005–40) received on May 4, 2005; to the Committee on Finance.

EC–2124. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Designation of Dividends by a RIC'' (Rev. Rul. 2005–31) received on May 8, 2005; to the Committee on Finance.

EC–2125. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Automatic Consent to Change to the Alternative Tax Book Value Method for Expense Appointment'' (Rev. Proc. 2005–28) received on May 8, 2005; to the Committee on Finance.

EC–2126. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a report of proposed legislation relative to extending the life of the United States Parole Commission; to the Committee on the Judiciary.

EC–2127. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual Program Performance Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2128. A communication from the Chief Financial Officer, Department of Education, transmitting, pursuant to law, the Department's Fiscal Year 2004 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–2129. A communication from the Chairman, Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Board's Performance and Accountability Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2130. A communication from Director, National Science Foundation, transmitting, pursuant to law, the Foundation's Fiscal Year 2004 Performance Highlights Report; to the Committee on Homeland Security and Governmental Affairs.

EC–2131. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Commission's annual report summarizing its activities for calendar year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2132. A communication from the President, Overseas Private Investment Corporation (OPIC), transmitting, pursuant to law, OPIC's Management Report for Fiscal Year 2004, the OPIC Fiscal Year 2006 Performance Budget, OPIC Fiscal Year 2004 Performance and Accountability Report, a Report on Development and U.S. Effects of OPIC's Fiscal Year 2004 Projects, a Report on Cooperation with Private Insurers, and a Report on the Environment; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 536. A bill to make technical corrections to laws relating to Native Americans, and for other purposes (Rept. No. 109–67).

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. SPECTER for the Committee on the Judiciary.

William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SANTORUM:

S. 1008. A bill to amend the Internal Revenue Code of 1986 to add meningococcal vaccines to the list of taxable vaccines for purposes of the Vaccine Injury Compensation Trust Fund; to the Committee on Finance.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 1009. A bill to direct the Secretary of the Interior to extend certain water contracts in Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. BINGAMAN, Mr. NELSON of Nebraska, Ms. SNOWE, Mr. GRAHAM, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. DORGAN):

S. 1010. A bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program; to the Committee on Finance.

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. LEVIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. DORGAN, Mr. SCHUMER, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, and Ms. STABENOW):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mr. NELSON of Florida, and Mr. KENNEDY):

S. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARTINEZ:

S. 1016. A bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. VITTER, Mr. BAUCUS, Ms. MURKOWSKI, Mr. CRAPO, Mr. ENZI, and Mr. CORZINE):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN:

S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a combat operation; to the Committee on Finance.

By Mr. COLEMAN (for himself and Mr. PRYOR):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

By Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 1024. A bill to revitalize suburban communities, and for other purposes; to the Committee on Finance.

By Mr. ROBERTS:

S. 1025. A bill to amend the Act entitled ''An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes'' to authorize the Equus Beds Division of the Wichita Project; to the Committee on Energy and Natural Resources.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 1027. A bill to exempt the natural aging process in the determination of the production period for distilled spirits under section 263A of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes; to the Committee on Armed Services.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL (for herself, Mr. JEFFORDS, and Mrs. CLINTON):

S. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. SESSIONS, and Mr. COBURN):

S. Res. 136. A resolution designating the month of May 2005 as ''National Drug Court Month''; considered and agreed to.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DODD, Mr. FEINGOLD, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mr. KENNEDY, and Mrs. BOXER):

S. Res. 137. A resolution designating May 1, 2005, as ''National Child Care Worthy Wage Day''; considered and agreed to.

By Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, Mr. ENZI, Mr. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGAMAN, and Mr. CRAIG):

S. Res. 138. A resolution designating July 23, 2005, ''National Day of the American Cowboy''; considered and agreed to.

By Mr. REID (for himself, Mr. FRIST, and Mr. McCAIN):

S. Res. 139. A resolution expressing support for the withdrawal of Russian troops from Georgia; considered and agreed to.

By Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mr. CORZINE, Mr. LUGAR, Mr. FEINGOLD, Mr. INHOFE, Mr. BAYH, Mr. DEWINE, Mr. LAUTENBERG, Mr. SANTORUM, Mr. SALAZAR, Mr. COBURN, Mr. LIEBERMAN, Mr. McCAIN, Mr. CRAIG, Mrs. DOLE, Mr. ENSIGN, Mr. VITTER, and Mr. ALLEN):

S. Res. 140. A resolution expressing support for the historic meeting in Havana of the Assembly to Promote the Civil Society in Cuba on May 20, 2005, as well as to all those courageous individuals who continue to advance liberty and democracy for the Cuban people; to the Committee on Foreign Relations.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. STEVENS, Mr. DURBIN, Mr. COLEMAN, Mr. DODD, and Mrs. MURRAY):

S. Res. 141. A resolution designating September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; considered and agreed to.

By Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN):

S. Con. Res. 32. A concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Utah (Mr.

HATCH) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mr. TALENT, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 267

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 313

At the request of Mr. LUGAR, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 330

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 330, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 340

At the request of Mr. LUGAR, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 340, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 390

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 390, a bill to amend title XVIII of the Social Security Act to provide for coverage of ultrasound screening for abdominal aortic aneurysms under part B of the medicare program.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 440

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of 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 medicaid program.

S. 467

At the request of Mr. SCHUMER, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 471

At the request of Mr. SPECTER, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 558

At the request of Mr. REID, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 582

At the request of Mr. PRYOR, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 594

At the request of Mr. SPECTER, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 594, a bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners.

S. 637

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 681

At the request of Mr. HATCH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 681, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 714

At the request of Mr. SMITH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 714, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 757

At the request of Mr. CHAFEE, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Oregon (Mr. SMITH), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 802

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 802, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 853

At the request of Mr. LUGAR, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 853, a bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 863

At the request of Mr. CONRAD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 865

At the request of Mr. VOINOVICH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 865, a bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions.

S. 967

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 967, a bill to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and for other purposes.

S. 984

At the request of Ms. SNOWE, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 984, a bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

S. RES. 104

At the request of Mr. FEINGOLD, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. LEAHY) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

AMENDMENT NO. 670

At the request of Mr. OBAMA, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 670 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 681

At the request of Mrs. CLINTON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 681 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 704

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 704 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 708

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 708 proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 732

At the request of Mr. DODD, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 732 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 733

At the request of Mr. ALEXANDER, the names of the Senator from Virginia (Mr. WARNER), the Senator from Alaska (Mr. STEVENS) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of amendment No. 733 intended to be proposed to H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS:

S. 1011. A bill to establish a national historic country store preservation program; to the Committee on Commerce, Science, and Transportation.

Mr. JEFFORDS. Mr. President, I have long been a proponent of measures that support historic preservation and economic development, and it is in keeping with that tradition that I rise today to introduce the National Historic Country Store Preservation Act of 2005.

This bill establishes a national program to support historic country store preservation that will aid in the revitalization of rural villages and community centers nationwide.

For many Americans, the country store invokes an image of a simpler life before much of this country became stamped with shopping malls and the ''big-box'' store.

But for thousands of people living in Vermont and for millions more living in rural communities across the United States, a visit to the local country store is a regular part of one's daily life.

They are centers of commercial activity in the towns they serve and embody the core of American small business entrepreneurship.

Many of these vital small businesses have been passed down among family members for generations. They are operated in buildings that have existed for as long as 150 years.

In fact, by one of the more vigorous standards in Vermont, a country store is only considered historic if it was built before the Winooski River Flood of 1927.

In my hometown of Shrewsbury, VT, the Pierce Store was the hub of our small community when my wife Liz and I settled there in 1963.

Run by the four Pierce siblings, Marjorie, Glendon, Marion and Gordon, the store was the place to go for a neighborly chat as much as for your milk and butter.

Children would get off the bus to buy their penny candy. Glendon Pierce could tell a great tale, and the political banter was endless.

With its antique cash register and woodstove, this was the quintessential general store.

Unfortunately, the Pierce Store closed its doors some years back and Shrewsbury lost a vital part of its identity.

There has been a recent attempt to revive the store, and I hope, for the sake of my community, it proves successful.

Despite their small relative size and market share, historic country stores have demonstrated incredible resiliency, surviving floods and fires, overcoming economic downturns, and reformulating their inventories to meet modern needs.

According to the Vermont Grocers' Association, country stores account for an estimated $55 million annually in retail sales in Vermont.

Nonetheless, competition from larger chain stores continues to increase.

When coupled with the additional cost and expertise required to maintain their aging structures and external facades, today's remaining country stores are hard-pressed to overcome these unprecedented challenges.

In Vermont, a handful of historic country stores close each year and the cumulative impact of those losses is experienced throughout the State.

The National Trust for Historic Preservation has listed the entire State of Vermont among America's ''Eleven Most Endangered Places,''

That is due to the threat that large-scale development poses to Vermont's small, independent retailers.

Yet country stores remain fixtures of Vermont's landscape. The Vermont Alliance of Independent Country Stores estimates that more than 115 historic country stores are scattered about the State.

Across the country, thousands of these establishments help to define the character of rural life.

These country stores draw local customers and tourists alike, offering convenient access to newspapers, groceries and local specialty foods in a typically neighborly atmosphere.

Many stores also double as local post offices or outdoor camping and home hardware goods suppliers. It is not unusual, and highly recommended, that customers buy a fresh whole wedge of cheddar cheese from a 38-pound wheel next to the cash register.

Fathers can buy earthworms and tackle and take their daughters to the nearby fishing hole for an afternoon excursion.

The National Historic Country Store Preservation Act of 2005 is designed to build upon the momentum that country store preservation work has generated in Vermont and to gather useful models and information to develop a program that supports historic, rural country stores nationwide.

My legislation authorizes the U.S. Economic Development Administration to make grants to national, State

and local agencies and non-profit organizations to support historic country store preservation efforts.

The bill promotes the study of best practices for preserving structures, improving profitability and promoting collaboration among country store proprietors.

In addition, the bill establishes a revolving loan fund. The fund will be used for research and restoration work.

It will be used to improve our understanding of existing needs and provide the assistance required to address them.

This bill seeks to sustain America's rural heritage by uniting small business development and historic preservation.

I encourage my colleagues to join me in my efforts to protect our Nation's historic country stores and revitalize our rural communities.

I ask that a summary of the legislation be printed in the RECORD.

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

S. 1011

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 ''National Historic Country Store Preservation Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) historic country stores are lasting icons of rural tradition in the United States;

(2) historic country stores are valuable contributors to the civic and economic vitality of their local communities;

(3) historic country stores demonstrate innovative approaches to historic preservation and small business practices;

(4) historic country stores are threatened by larger competitors and the costs associated with maintaining older structures; and

(5) the United States should—

(A) collect and disseminate information concerning the number, condition, and variety of historic country stores;

(B) develop opportunities for cooperation among proprietors of historic country stores; and

(C) promote the long-term economic viability of historic country stores.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNTRY STORE.—

(A) IN GENERAL.—The term ''country store'' means a structure independently owned and formerly or currently operated as a business that—

(i) sells or sold grocery items and other small retail goods; and

(ii) is located in a nonmetropolitan area, as defined by the Secretary.

(B) INCLUSION.—The term ''country store'' includes a cooperative.

(2) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means—

(A) a State department of commerce or economic development;

(B) a national or State nonprofit organization that—

(i) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, or preservation of historic country stores;

(C) a national or State nonprofit trade organization that—

(i) is described in section 501(c)(3), and exempt from Federal tax under section 501(a), of the Internal Revenue Code of 1986; and

(ii) acts as a cooperative to promote and enhance country stores; and

(D) a State historic preservation office.

(3) FUND.—The term ''Fund'' means the Historic Country Store Revolving Loan Fund established by section 5(a).

(4) HISTORIC COUNTRY STORE.—The term ''historic country store'' means a country store that—

(A) has operated at the same location for at least 50 years; and

(B) retains sufficient integrity of design, materials, and construction to clearly identify the structure as a country store.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce, acting through the Assistant Secretary for Economic Development.

SEC. 4. HISTORIC COUNTRY STORE PRESERVATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a historic country store preservation program—

(1) to collect and disseminate information on historic country stores;

(2) to promote State and regional partnerships among proprietors of historic country stores; and

(3) to sponsor and conduct research on—

(A) the economic impact of historic country stores;

(B) best practices to—

(i) improve the profitability of historic country stores; and

(ii) protect historic country stores from foreclosure or seizure; and

(C) best practices for developing cooperative organizations that address the economic and historic preservation needs of historic country stores.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

(2) ELIGIBLE PROJECTS.—A grant under this subsection may be made to an eligible entity for a project—

(A) to rehabilitate or repair a historic country store;

(B) to identify, document, and conduct research on historic country stores; and

(C) to develop and evaluate appropriate techniques or best practices for protecting historic country stores.

(3) REQUIREMENTS.—An eligible applicant that receives a grant for an eligible project under paragraph (1) shall comply with all applicable requirements for historic preservation projects under Federal, State, and local law.

(c) COUNTRY STORE ALLIANCE PILOT PROJECT.—The Secretary shall carry out a pilot project in the State of Vermont under which the Secretary shall conduct demonstration activities to preserve historic country stores, including—

(1) the collection and dissemination of information on historic country stores in the State;

(2) the development of collaborative country store marketing and purchasing techniques; and

(3) the development of best practices for historic country store proprietors and communities facing transitions involved in the sale or closure of a historic country store.

SEC. 5. HISTORIC COUNTRY STORE REVOLVING LOAN FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Historic Country Store Revolving Loan Fund'', consisting of—

(1) such amounts as are appropriated to the Fund under subsection (b);

(2) ⅓ of the amounts appropriated under section 7(a); and

(3) any interest earned on investment of amounts in the Fund under subsection (d).

(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to—

(1) the amounts repaid on loans under section 6; and

(2) the amounts of the proceeds from the sales of notes, bonds, obligations, liens, mortgages and property delivered or assigned to the Secretary pursuant to loans made under section 6.

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under section 6.

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this Act.

(d) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(3) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 6. LOANS FOR HISTORIC COUNTRY STORE REHABILITATION OR REPAIR PROJECTS.

(a) IN GENERAL.—Using amounts in the Fund, the Secretary may make loans to historic country store proprietors and eligible applicants for projects to purchase, rehabilitate, or repair historic country stores.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for a loan under this section, a country store proprietor or eligible applicant shall submit to the Secretary an application for a loan.

(2) CONSIDERATIONS FOR APPROVAL OR DISAPPROVAL.—In determining whether to approve or disapprove an application for a loan submitted under paragraph (1), the Secretary shall consider—

(A) the demonstrated need for the purchase, construction, reconstruction, or renovation of the historic country store based on the condition of the historic country store;

(B) the age of the historic country store; and

(C) the extent to which the project to purchase, rehabilitate, or repair the historic country store includes collaboration among historic country store proprietors and other eligible applicants.

(c) REQUIREMENTS.—An eligible applicant that receives a loan for a project under this section shall comply with all applicable standards for historic preservation projects under Federal, State, and local law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act, $50,000,000 for the period of fiscal years 2006 through 2011, to remain available until expended.

(b) COUNTRY STORE ALLIANCE PILOT PROJECT.—Of the amount made available under subsection (a), not less than $250,000 shall be made available to carry out section 4(c).

SENATOR JAMES M. JEFFORDS SUMMARY

NATIONAL HISTORIC COUNTRY STORE PRESERVATION ACT OF 2005—MAY 12, 2005

The National Historic Country Store Preservation Act of 2005 authorizes the Secretary of the Economic Development Administration to establish a National Historic Country Store Preservation Program. This program will sponsor and conduct research on the economic impact of historic country stores and on best practices for improving profitability and addressing their historic preservation and small business development needs. The National Historic Country Store Preservation Program will offer small grants and revolving loans to State and local agencies, non-profit organizations, and historic country store proprietors for the purpose of historic country store preservation projects. In addition, the bill authorizes a Country Store Alliance Pilot Project to be conducted in Vermont. The bill authorizes $50 million to be appropriated for the period of fiscal years 2006 through 2010.

By Mr. KENNEDY (for himself, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. LEVIN, Mr. LAUTENBERG, Mrs. BOXER, Mr. DORGAN, Mr. SCHUMER, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, and Ms. STABENOW):

S. 1012. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it is time for a new effort in Congress to enact the Patients' Bill of Rights. The Senate has approved major bipartisan legislation to end the abuses of managed care and HMOs before, but final enactment of this important measure was blocked by the HMOs and the vested interests of the corporate world that deny working Americans their basic rights and a needed voice in challenging decisions that deny them basic medical care. It was blocked too by an administration that professes to support patients' rights, but does all it can to block legislation to guarantee those rights.

Despite our outstanding researchers and professionals, families across the country are overwhelmingly and justifiably concerned that medical decisions are too often made by insurance industry accountants, and not their doctors. HMO profits too often take priority over patient needs. It is time for Congress to end the abuses of patients and physicians by HMOs and the insurance industry. Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change the facts.

The Patients' Bill of Rights can stop these abuses. For millions of Americans who rely on health insurance to protect them when serious illness strikes, the Patients' Bill of Rights is literally a matter of life and death.

It's important to remember what this debate is really about. It's not about lawyers. It's not about insurance companies. It's about patients—mothers and daughters, fathers and sons, sisters and brothers. It's about families around the country who will someday face the challenge of serious illness and deserve the best in health care—the same care that all members of the Senate want for ourselves and our loved ones. But too many families are denied the care they need and deserve because of abuses by HMOs and other insurance companies.

The legislation we are introducing today will end those abuses. Several of its provisions are especially important—specialty care, clinical trials, and prescription drugs.

In each of these areas, care is too often delayed or denied by insurance companies more interested in profits than patients. Access to specialty care for serious and complex illnesses is a critical element of good health care. Yet denial of needed specialists is one of the most common abuses in the current system.

Patients with cancer and other serious illnesses need specialty care. Often, their best hope for a cure or for precious extra years of life is participation in a clinical trial. But too often, both are lacking. Patients with cancer or other serious illnesses and their physicians must fight HMOs to take advantage of this opportunity.

Traditionally, insurance companies have paid for the routine costs of doctors and hospitals in clinical trials. But HMOs frequently refuse to do so, with devastating effects on patients and research alike. Our legislation will end this abuse.

Another abuse that will be ended by our plan is the denial of medically necessary drugs not on an HMO plan's list. One group that suffers from this denial is the mentally ill. Some of the most dramatic advances in medicine in recent years have been the development of effective drugs to treat persons with serious mental illness. Too often, however, they're told to settle for older, cheaper, less effective drugs with harmful side effects, because an HMO refuses to pay for the best standard of care.

Our legislation guarantees that patients can get medically necessary drugs, even if they are not on the HMO's list. Equally important, our bill guarantees that these drugs will be provided at a cost no greater than the normal cost-sharing for other medications. Access to needed drugs is a concern for every family, particularly when new cures are increasingly based on new drugs today.

The list of abuses goes on and on. People across the country know these abuses are wrong. Managed care practices that cause these tragedies cost lives, and ending these abuses is a matter of simple justice and common decency.

The Patients' Bill of Rights will protect families from insurance company bureaucracies that rob them of their peace of mind, their health, or even their lives. The bill is a guarantee that medical decisions will be made by doctors and patients, not managed care accountants. It is actively supported by doctors, nurses, patients, small businesses, religious organizations, and working families. The support is impressive in its breadth, its depth and its diversity.

It is time to guarantee these basic rights for patients. It is time for Congress to pass this bill. Every doctor knows it. Every nurse knows it. Every patient knows it. And every Senator knows it too.

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. 1012

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 ''Patients' Bill of Rights Act of 2005''.

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

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

SEC. 101. UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms ''utilization review'' and ''utilization review activities'' mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals, as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(C) REVIEW OF SAMPLE OF CLAIMS DENIALS.—Such a program shall provide for a periodic evaluation of the clinical appropriateness of at least a sample of denials of claims for benefits.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and have received appropriate training in the conduct of such activities under the program.

(B) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that encourages denials of claims for benefits.

(C) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who is providing health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program, including the utilization review administrator, are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary and appropriate.

SEC. 102. PROCEDURES FOR INITIAL CLAIMS FOR BENEFITS AND PRIOR AUTHORIZATION DETERMINATIONS.

(a) PROCEDURES OF INITIAL CLAIMS FOR BENEFITS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall—

(A) make a determination on an initial claim for benefits by a participant, beneficiary, or enrollee (or authorized representative) regarding payment or coverage for items or services under the terms and conditions of the plan or coverage involved, including any cost-sharing amount that the participant, beneficiary, or enrollee is required to pay with respect to such claim for benefits; and

(B) notify a participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional involved regarding a determination on an initial claim for benefits made under the terms and conditions of the plan or coverage, including any cost-sharing amounts that the participant, beneficiary, or enrollee may be required to make with respect to such claim for benefits, and of the right of the participant, beneficiary, or enrollee to an internal appeal under section 103.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an initial claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the claim. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of subsection (b)(1), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) ORAL REQUESTS.—In the case of a claim for benefits involving an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may make an initial claim for benefits orally, but a group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for benefits, the making of the request (and the timing of such request) shall be treated as the making at that time of a claim for such benefits without regard to whether and when a written confirmation of such request is made.

(b) TIMELINE FOR MAKING DETERMINATIONS.—

(1) PRIOR AUTHORIZATION DETERMINATION.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a prior authorization determination on a claim for benefits (whether oral or written) in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 28 days after the date of the claim for benefits is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on a claim for benefits described in such subparagraph when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE.—

(i) CONCURRENT REVIEW.—

(I) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review of ongoing care (including hospitalization), which results in a termination or reduction of such care, the plan or issuer must provide by telephone and in printed form notice of the concurrent review determination to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an appeal under section 103(b)(3) to be completed before the termination or reduction takes effect.

(II) CONTENTS OF NOTICE.—Such notice shall include, with respect to ongoing health care items and services, the number of ongoing services approved, the new total of approved services, the date of onset of services, and the next review date, if any, as well as a statement of the individual's rights to further appeal.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on a claim for benefits in accordance with the medical exigencies of the case and as soon as possible, but not later than 30 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the claim, or, if earlier, 60 days after the date of receipt of the claim for benefits.

(c) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial made under an initial claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of the determination (or, in the case described in subparagraph (B) or (C) of subsection (b)(1), within the 72-hour or applicable period referred to in such subparagraph).

(d) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—The written notice of a denial of a claim for benefits determination under subsection (c) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(1) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(2) the procedures for obtaining additional information concerning the determination; and

(3) notification of the right to appeal the determination and instructions on how to initiate an appeal in accordance with section 103.

(e) DEFINITIONS.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ''authorized representative'' means, with respect to an individual who is a participant, beneficiary, or enrollee, any health care professional or other person acting on behalf of the individual with the individual's consent or without such consent if the individual is medically unable to provide such consent.

(2) CLAIM FOR BENEFITS.—The term ''claim for benefits'' means any request for coverage (including authorization of coverage), for eligibility, or for payment in whole or in part, for an item or service under a group health plan or health insurance coverage.

(3) DENIAL OF CLAIM FOR BENEFITS.—The term ''denial'' means, with respect to a claim for benefits, a denial (in whole or in part) of, or a failure to act on a timely basis upon, the claim for benefits and includes a failure to provide benefits (including items and services) required to be provided under this title.

(4) TREATING HEALTH CARE PROFESSIONAL.—The term ''treating health care professional'' means, with respect to services to be provided to a participant, beneficiary, or enrollee, a health care professional who is primarily responsible for delivering those services to the participant, beneficiary, or enrollee.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) RIGHT TO INTERNAL APPEAL.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall ensure that a participant, beneficiary, or enrollee (or authorized representative) has a period of not less than 180 days beginning on the date of a denial of a claim for benefits under section 102 in which to appeal such denial under this section.

(B) DATE OF DENIAL.—For purposes of subparagraph (A), the date of the denial shall be deemed to be the date as of which the participant, beneficiary, or enrollee knew of the denial of the claim for benefits.

(3) FAILURE TO ACT.—The failure of a plan or issuer to issue a determination on a claim for benefits under section 102 within the applicable timeline established for such a determination under such section is a denial of a claim for benefits for purposes this subtitle as of the date of the applicable deadline.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive the internal review process under this section. In such case the plan or issuer shall provide notice to the participant, beneficiary, or enrollee (or authorized representative) involved, the participant, beneficiary, or enrollee (or authorized representative) involved shall be relieved of any obligation to complete the internal review involved, and may, at the option of such participant, beneficiary, enrollee, or representative proceed directly to seek further appeal through external review under section 104 or otherwise.

(b) TIMELINES FOR MAKING DETERMINATIONS.—

(1) ORAL REQUESTS.—In the case of an appeal of a denial of a claim for benefits under this section that involves an expedited or concurrent determination, a participant, beneficiary, or enrollee (or authorized representative) may request such appeal orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. In the case of such an oral request for an appeal of a denial, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for an appeal without regard to whether and when a written confirmation of such request is made.

(2) ACCESS TO INFORMATION.—

(A) TIMELY PROVISION OF NECESSARY INFORMATION.—With respect to an appeal of a denial of a claim for benefits, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) shall provide the plan or issuer with access to information requested by the plan or issuer that is necessary to make a determination relating to the appeal. Such access shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in subparagraph (B) or (C) of paragraph (3), by such earlier time as may be necessary to comply with the applicable timeline under such subparagraph.

(B) LIMITED EFFECT OF FAILURE ON PLAN OR ISSUER'S OBLIGATIONS.—Failure of the participant, beneficiary, or enrollee to comply with the requirements of subparagraph (A) shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, based on the available information, and failure to comply with the time limit established by this paragraph shall not remove the obligation of the plan or issuer to comply with the requirements of this section.

(3) PRIOR AUTHORIZATION DETERMINATIONS.—

(A) IN GENERAL.—Except as provided in this paragraph or paragraph (4), a group health plan, and a health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits under this subsection in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days from the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 28 days after the date the request for the appeal is received.

(B) EXPEDITED DETERMINATION.—Notwithstanding subparagraph (A), a group health plan, and a health insurance issuer offering health insurance coverage, shall expedite a prior authorization determination on an appeal of a denial of a claim for benefits described in subparagraph (A), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in subparagraph (A) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for such appeal is received by the plan or issuer under this subparagraph.

(C) ONGOING CARE DETERMINATIONS.—

(i) IN GENERAL.—Subject to clause (ii), in the case of a concurrent review determination described in section 102(b)(1)(C)(i)(I), which results in a termination or reduction of such care, the plan or issuer must provide notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual's designee and the individual's health care provider in accordance with the medical exigencies of the case and as soon as possible, with sufficient time prior to the termination or reduction to allow for an external appeal under section 104 to be completed before the termination or reduction takes effect.

(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as requiring plans or issuers to provide coverage of care that would exceed the coverage limitations for such care.

(4) RETROSPECTIVE DETERMINATION.—A group health plan, and a health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits in no case later than 30 days after the date on which the plan or issuer receives necessary information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal and in no case later than 60 days after the date the request for the appeal is received.

(c) CONDUCT OF REVIEW.—

(1) IN GENERAL.—A review of a denial of a claim for benefits under this section shall be conducted by an individual with appropriate expertise who was not involved in the initial determination.

(2) PEER REVIEW OF MEDICAL DECISIONS BY HEALTH CARE PROFESSIONALS.—A review of an appeal of a denial of a claim for benefits that is based on a lack of medical necessity and appropriateness, or based on an experimental or investigational treatment, or requires an evaluation of medical facts—

(A) shall be made by a physician (allopathic or osteopathic); or

(B) in a claim for benefits provided by a non-physician health professional, shall be made by reviewer (or reviewers) including at least one practicing non-physician health professional of the same or similar specialty; with appropriate expertise (including, in the case of a child, appropriate pediatric expertise) and acting within the appropriate scope of practice within the State in which the service is provided or rendered, who was not involved in the initial determination.

(d) NOTICE OF DETERMINATION.—

(1) IN GENERAL.—Written notice of a determination made under an internal appeal of a denial of a claim for benefits shall be issued to the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 2 days after the date of completion of the review (or, in the case described in subparagraph (B) or (C) of subsection (b)(3), within the 72-hour or applicable period referred to in such subparagraph).

(2) FINAL DETERMINATION.—The decision by a plan or issuer under this section shall be treated as the final determination of the plan or issuer on a denial of a claim for benefits. The failure of a plan or issuer to issue a determination on an appeal of a denial of a claim for benefits under this section within the applicable timeline established for such a determination shall be treated as a final determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104.

(3) REQUIREMENTS OF NOTICE.—With respect to a determination made under this section, the notice described in paragraph (1) shall be provided in printed form and written in a manner calculated to be understood by the participant, beneficiary, or enrollee and shall include—

(A) the specific reasons for the determination (including a summary of the clinical or scientific evidence used in making the determination);

(B) the procedures for obtaining additional information concerning the determination; and

(C) notification of the right to an independent external review under section 104 and instructions on how to initiate such a review.

SEC. 104. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

(a) RIGHT TO EXTERNAL APPEAL.—A group health plan, and a health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants, beneficiaries, and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision under section 103(d)(2) and notifies the participant or beneficiary that it has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, or health insurance issuer offering health insurance coverage, may—

(i) except as provided in subparagraph (B)(i), require that a request for review be in writing;

(ii) limit the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 103(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review procedure under section 103;

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25; and

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) for the release of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting external review activities.

(B) REQUIREMENTS AND EXCEPTION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request for such review may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may require that the participant, beneficiary, or enrollee (or authorized representative) provide written confirmation of such request in a timely manner on a form provided by the plan or issuer. Such written confirmation shall be treated as a consent for purposes of subparagraph (A)(v). In the case of such an oral request for such a review, the making of the request (and the timing of such request) shall be treated as the making at that time of a request for such a review without regard to whether and when a written confirmation of such request is made.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) INDIGENCY.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined in such guidelines).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the internal appeals process under section 103(a)(4).

(III) REFUNDING OF FEE.—The filing fee paid under subparagraph (A)(iv) shall be refunded if the determination under the independent external review is to reverse or modify the denial which is the subject of the review.

(IV) COLLECTION OF FILING FEE.—The failure to pay such a filing fee shall not prevent the consideration of a request for review but, subject to the preceding provisions of this clause, shall constitute a legal liability to pay.

(c) REFERRAL TO QUALIFIED EXTERNAL REVIEW ENTITY UPON REQUEST.—

(1) IN GENERAL.—Upon the filing of a request for independent external review with the group health plan, or health insurance issuer offering health insurance coverage, the plan or issuer shall immediately refer such request, and forward the plan or issuer's initial decision (including the information described in section 103(d)(3)(A)), to a qualified external review entity selected in accordance with this section.

(2) ACCESS TO PLAN OR ISSUER AND HEALTH PROFESSIONAL INFORMATION.—With respect to an independent external review conducted

under this section, the participant, beneficiary, or enrollee (or authorized representative), the plan or issuer, and the treating health care professional (if any) shall provide the external review entity with information that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (ii) or (iii) of subsection (e)(1)(A), by such earlier time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits, the entity shall refer such request for the conduct of an independent medical review unless the entity determines that—

(i) any of the conditions described in clauses (ii) or (iii) of subsection (b)(2)(A) have not been met;

(ii) the denial of the claim for benefits does not involve a medically reviewable decision under subsection (d)(2);

(iii) the denial of the claim for benefits relates to a decision regarding whether an individual is a participant, beneficiary, or enrollee who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage); or

(iv) the denial of the claim for benefits is a decision as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage unless the decision is a denial described in subsection (d)(2).

Upon making a determination that any of clauses (i) through (iv) applies with respect to the request, the entity shall determine that the denial of a claim for benefits involved is not eligible for independent medical review under subsection (d), and shall provide notice in accordance with subparagraph (C).

(B) PROCESS FOR MAKING DETERMINATIONS.—

(i) NO DEFERENCE TO PRIOR DETERMINATIONS.—In making determinations under subparagraph (A), there shall be no deference given to determinations made by the plan or issuer or the recommendation of a treating health care professional (if any).

(ii) USE OF APPROPRIATE PERSONNEL.—A qualified external review entity shall use appropriately qualified personnel to make determinations under this section.

(C) NOTICES AND GENERAL TIMELINES FOR DETERMINATION.—

(i) NOTICE IN CASE OF DENIAL OF REFERRAL.—If the entity under this paragraph does not make a referral to an independent medical reviewer, the entity shall provide notice to the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) filing the request, and the treating health care professional (if any) that the denial is not subject to independent medical review. Such notice—

(I) shall be written (and, in addition, may be provided orally) in a manner calculated to be understood by a participant or enrollee;

(II) shall include the reasons for the determination;

(III) include any relevant terms and conditions of the plan or coverage; and

(IV) include a description of any further recourse available to the individual.

(ii) GENERAL TIMELINE FOR DETERMINATIONS.—Upon receipt of information under paragraph (2), the qualified external review entity, and if required the independent medical reviewer, shall make a determination within the overall timeline that is applicable to the case under review as described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(d) INDEPENDENT MEDICAL REVIEW.—

(1) IN GENERAL.—If a qualified external review entity determines under subsection (c) that a denial of a claim for benefits is eligible for independent medical review, the entity shall refer the denial involved to an independent medical reviewer for the conduct of an independent medical review under this subsection.

(2) MEDICALLY REVIEWABLE DECISIONS.—A denial of a claim for benefits is eligible for independent medical review if the benefit for the item or service for which the claim is made would be a covered benefit under the terms and conditions of the plan or coverage but for one (or more) of the following determinations:

(A) DENIALS BASED ON MEDICAL NECESSITY AND APPROPRIATENESS.—A determination that the item or service is not covered because it is not medically necessary and appropriate or based on the application of substantially equivalent terms.

(B) DENIALS BASED ON EXPERIMENTAL OR INVESTIGATIONAL TREATMENT.—A determination that the item or service is not covered because it is experimental or investigational or based on the application of substantially equivalent terms.

(C) DENIALS OTHERWISE BASED ON AN EVALUATION OF MEDICAL FACTS.—A determination that the item or service or condition is not covered based on grounds that require an evaluation of the medical facts by a health care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

(3) INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified.

(B) STANDARD FOR DETERMINATION.—The independent medical reviewer's determination relating to the medical necessity and appropriateness, or the experimental or investigational nature, or the evaluation of the medical facts, of the item, service, or condition involved shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed to permit an independent medical reviewer to require that a group health plan, or health insurance issuer offering health insurance coverage, provide coverage for items or services for which benefits are specifically excluded or expressly limited under the plan or coverage in the plain language of the plan document (and which are disclosed under section 121(b)(1)(C)). Notwithstanding any other provision of this Act, any exclusion of an exact medical procedure, any exact time limit on the duration or frequency of coverage, and any exact dollar limit on the amount of coverage that is specifically enumerated and defined (in the plain language of the plan or coverage documents) under the plan or coverage offered by a group health plan or health insurance issuer offering health insurance coverage and that is disclosed under section 121(b)(1) shall be considered to govern the scope of the benefits that may be required: *Provided*, That the terms and conditions of the plan or coverage relating to such an exclusion or limit are in compliance with the requirements of law.

(D) EVIDENCE AND INFORMATION TO BE USED IN MEDICAL REVIEWS.—In making a determination under this subsection, the independent medical reviewer shall also consider appropriate and available evidence and information, including the following:

(i) The determination made by the plan or issuer with respect to the claim upon internal review and the evidence, guidelines, or rationale used by the plan or issuer in reaching such determination.

(ii) The recommendation of the treating health care professional and the evidence, guidelines, and rationale used by the treating health care professional in reaching such recommendation.

(iii) Additional relevant evidence or information obtained by the reviewer or submitted by the plan, issuer, participant, beneficiary, or enrollee (or an authorized representative), or treating health care professional.

(iv) The plan or coverage document.

(E) INDEPENDENT DETERMINATION.—In making determinations under this section, a qualified external review entity and an independent medical reviewer shall—

(i) consider the claim under review without deference to the determinations made by the plan or issuer or the recommendation of the treating health care professional (if any); and

(ii) consider, but not be bound by, the definition used by the plan or issuer of ''medically necessary and appropriate'', or ''experimental or investigational'', or other substantially equivalent terms that are used by the plan or issuer to describe medical necessity and appropriateness or experimental or investigational nature of the treatment.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical reviewer shall, in accordance with the deadlines described in subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include—

(i) the determination of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determination under subparagraph (F), the reviewer may provide the plan or issuer and the treating health care professional with additional recommendations in connection with such a determination, but any such recommendations shall not affect (or be treated as part of) the determination and shall not be binding on the plan or issuer.

(e) TIMELINES AND NOTIFICATIONS.—

(1) TIMELINES FOR INDEPENDENT MEDICAL REVIEW.—

(A) PRIOR AUTHORIZATION DETERMINATION.—

(i) IN GENERAL.—The independent medical reviewer (or reviewers) shall make a determination on a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in accordance with the medical

exigencies of the case and as soon as possible, but in no case later than 14 days after the date of receipt of information under subsection (c)(2) if the review involves a prior authorization of items or services and in no case later than 21 days after the date the request for external review is received.

(ii) EXPEDITED DETERMINATION.—Notwithstanding clause (i) and subject to clause (iii), the independent medical reviewer (or reviewers) shall make an expedited determination on a denial of a claim for benefits described in clause (i), when a request for such an expedited determination is made by a participant, beneficiary, or enrollee (or authorized representative) at any time during the process for making a determination, and a health care professional certifies, with the request, that a determination under the timeline described in clause (i) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 72 hours after the time the request for external review is received by the qualified external review entity.

(iii) ONGOING CARE DETERMINATION.—Notwithstanding clause (i), in the case of a review described in such clause that involves a termination or reduction of care, the notice of the determination shall be completed not later than 24 hours after the time the request for external review is received by the qualified external review entity and before the end of the approved period of care.

(B) RETROSPECTIVE DETERMINATION.—The independent medical reviewer (or reviewers) shall complete a review in the case of a retrospective determination on an appeal of a denial of a claim for benefits that is referred to the reviewer under subsection (c)(3) in no case later than 30 days after the date of receipt of information under subsection (c)(2) and in no case later than 60 days after the date the request for external review is received by the qualified external review entity.

(2) NOTIFICATION OF DETERMINATION.—The external review entity shall ensure that the plan or issuer, the participant, beneficiary, or enrollee (or authorized representative) and the treating health care professional (if any) receives a copy of the written determination of the independent medical reviewer prepared under subsection (d)(3)(F). Nothing in this paragraph shall be construed as preventing an entity or reviewer from providing an initial oral notice of the reviewer's determination.

(3) FORM OF NOTICES.—Determinations and notices under this subsection shall be written in a manner calculated to be understood by a participant.

(f) COMPLIANCE.—

(1) APPLICATION OF DETERMINATIONS.—

(A) EXTERNAL REVIEW DETERMINATIONS BINDING ON PLAN.—The determinations of an external review entity and an independent medical reviewer under this section shall be binding upon the plan or issuer involved.

(B) COMPLIANCE WITH DETERMINATION.—If the determination of an independent medical reviewer is to reverse or modify the denial, the plan or issuer, upon the receipt of such determination, shall authorize coverage to comply with the medical reviewer's determination in accordance with the timeframe established by the medical reviewer.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—If a plan or issuer fails to comply with the timeframe established under paragraph (1)(B) with respect to a participant, beneficiary, or enrollee, where such failure to comply is caused by the plan or issuer, the participant, beneficiary, or enrollee may obtain the items or services involved (in a manner consistent with the determination of the independent external reviewer) from any provider regardless of whether such provider is a participating provider under the plan or coverage.

(B) REIMBURSEMENT.—

(i) IN GENERAL.—Where a participant, beneficiary, or enrollee obtains items or services in accordance with subparagraph (A), the plan or issuer involved shall provide for reimbursement of the costs of such items or services. Such reimbursement shall be made to the treating health care professional or to the participant, beneficiary, or enrollee (in the case of a participant, beneficiary, or enrollee who pays for the costs of such items or services).

(ii) AMOUNT.—The plan or issuer shall fully reimburse a professional, participant, beneficiary, or enrollee under clause (i) for the total costs of the items or services provided (regardless of any plan limitations that may apply to the coverage of such items or services) so long as the items or services were provided in a manner consistent with the determination of the independent medical reviewer.

(C) FAILURE TO REIMBURSE.—Where a plan or issuer fails to provide reimbursement to a professional, participant, beneficiary, or enrollee in accordance with this paragraph, the professional, participant, beneficiary, or enrollee may commence a civil action (or utilize other remedies available under law) to recover only the amount of any such reimbursement that is owed by the plan or issuer and any necessary legal costs or expenses (including attorney's fees) incurred in recovering such reimbursement.

(D) AVAILABLE REMEDIES.—The remedies provided under this paragraph are in addition to any other available remedies.

(3) PENALTIES AGAINST AUTHORIZED OFFICIALS FOR REFUSING TO AUTHORIZE THE DETERMINATION OF AN EXTERNAL REVIEW ENTITY.—

(A) MONETARY PENALTIES.—

(i) IN GENERAL.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to an aggrieved participant, beneficiary, or enrollee for a civil penalty in an amount of up to $1,000 a day from the date on which the determination was transmitted to the plan or issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external reviewer, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CEASE AND DESIST ORDER AND ORDER OF ATTORNEY'S FEES.—In any action described in subparagraph (A) brought by a participant, beneficiary, or enrollee with respect to a group health plan, or a health insurance issuer offering health insurance coverage, in which a plaintiff alleges that a person referred to in such subparagraph has taken an action resulting in a refusal of a benefit determined by an external appeal entity to be covered, or has failed to take an action for which such person is responsible under the terms and conditions of the plan or coverage and which is necessary under the plan or coverage for authorizing a benefit, the court shall cause to be served on the defendant an order requiring the defendant—

(i) to cease and desist from the alleged action or failure to act; and

(ii) to pay to the plaintiff a reasonable attorney's fee and other reasonable costs relating to the prosecution of the action on the charges on which the plaintiff prevails.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(I) any pattern or practice of repeated refusal to authorize a benefit determined by an external appeal entity to be covered; or

(II) any pattern or practice of repeated violations of the requirements of this section with respect to such plan or coverage.

(ii) STANDARD OF PROOF AND AMOUNT OF PENALTY.—Such penalty shall be payable only upon proof by clear and convincing evidence of such pattern or practice and shall be in an amount not to exceed the lesser of—

(I) 25 percent of the aggregate value of benefits shown by the appropriate Secretary to have not been provided, or unlawfully delayed, in violation of this section under such pattern or practice; or

(II) $500,000.

(D) REMOVAL AND DISQUALIFICATION.—Any person acting in the capacity of authorizing benefits who has engaged in any such pattern or practice described in subparagraph (C)(i) with respect to a plan or coverage, upon the petition of the appropriate Secretary, may be removed by the court from such position, and from any other involvement, with respect to such a plan or coverage, and may be precluded from returning to any such position or involvement for a period determined by the court.

(4) PROTECTION OF LEGAL RIGHTS.—Nothing in this subsection or subtitle shall be construed as altering or eliminating any cause of action or legal rights or remedies of participants, beneficiaries, enrollees, and others under State or Federal law (including sections 502 and 503 of the Employee Retirement Income Security Act of 1974), including the right to file judicial actions to enforce rights.

(g) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a denial to 1 or more individuals to conduct independent medical review under subsection (c), the qualified external review entity shall ensure that—

(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

(B) with respect to each review at least 1 such reviewer meets the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (6).

(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—

(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(i) not be a related party (as defined in paragraph (7));

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(I) a non-affiliated individual is not reasonably available;

(II) the affiliated individual is not involved in the provision of items or services in the case under review;

(III) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(IV) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative), and neither party objects; or

(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

(ii) by a non-physician health care professional, a reviewer (or reviewers) shall include at least one practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(B) PRACTICING DEFINED.—For purposes of this paragraph, the term ''practicing'' means, with respect to an individual who is a physician or other health care professional that the individual provides health care services to individual patients on average at least 2 days per week.

(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(A) not exceed a reasonable level; and

(B) not be contingent on the decision rendered by the reviewer.

(7) RELATED PARTY DEFINED.—For purposes of this section, the term ''related party'' means, with respect to a denial of a claim under a plan or coverage relating to a participant, beneficiary, or enrollee, any of the following:

(A) The plan, plan sponsor, or issuer involved, or any fiduciary, officer, director, or employee of such plan, plan sponsor, or issuer.

(B) The participant, beneficiary, or enrollee (or authorized representative).

(C) The health care professional that provides the items or services involved in the denial.

(D) The institution at which the items or services (or treatment) involved in the denial are provided.

(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

(h) QUALIFIED EXTERNAL REVIEW ENTITIES.—

(1) SELECTION OF QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

No such selection process under the procedures implemented by the appropriate Secretary may give either the patient or the plan or issuer any ability to determine or influence the selection of a qualified external review entity to review the case of any participant, beneficiary, or enrollee.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1)(B), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and 1 or more qualified external review entities (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall—

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(iv) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term ''qualified external review entity'' means, in relation to a plan or issuer, an entity that is initially certified (and periodically recertified) under subparagraph (C) as meeting the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate or a subsidiary of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subparagraph (C), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (D).

(v) The entity meets such other requirements as the appropriate Secretary provides by regulation.

(B) INDEPENDENCE REQUIREMENTS.—

(i) IN GENERAL.—Subject to clause (ii), an entity meets the independence requirements of this subparagraph with respect to any case if the entity—

(I) is not a related party (as defined in subsection (g)(7));

(II) does not have a material familial, financial, or professional relationship with such a party; and

(III) does not otherwise have a conflict of interest with such a party (as determined under regulations).

(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified external review entity of compensation from a plan or issuer for the conduct of external review activities under this section if the compensation is provided consistent with clause (iii).

(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by a plan or issuer to a qualified external review entity in connection with reviews under this section shall—

(I) not exceed a reasonable level; and

(II) not be contingent on any decision rendered by the entity or by any independent medical reviewer.

(C) CERTIFICATION AND RECERTIFICATION PROCESS.—

(i) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under a process that is recognized or approved by the appropriate Secretary; or

(II) by a qualified private standard-setting organization that is approved by the appropriate Secretary under clause (iii).

In taking action under subclause (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(ii) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(iii) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies (or recertifies) external review entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(iv) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

(v) PERIOD OF CERTIFICATION OR RECERTIFICATION.—A certification or recertification provided under this paragraph shall extend for a period not to exceed 2 years.

(vi) REVOCATION.—A certification or recertification under this paragraph may be revoked by the appropriate Secretary or by the organization providing such certification upon a showing of cause. The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

(viii) SUFFICIENT NUMBER OF ENTITIES.—The appropriate Secretary shall certify and recertify a number of external review entities which is sufficient to ensure the timely and efficient provision of review services.

(D) PROVISION OF INFORMATION.—

(i) IN GENERAL.—A qualified external review entity shall provide to the appropriate Secretary, in such manner and at such times as such Secretary may require, such information (relating to the denials which have been referred to the entity for the conduct of external review under this section) as such Secretary determines appropriate to assure compliance with the independence and other requirements of this section to monitor and assess the quality of its external review activities and lack of bias in making determinations. Such information shall include information described in clause (ii) but shall not include individually identifiable medical information.

(ii) INFORMATION TO BE INCLUDED.—The information described in this subclause with respect to an entity is as follows:

(I) The number and types of denials for which a request for review has been received by the entity.

(II) The disposition by the entity of such denials, including the number referred to a independent medical reviewer and the reasons for such dispositions (including the application of exclusions), on a plan or issuer-specific basis and on a health care specialty-specific basis.

(III) The length of time in making determinations with respect to such denials.

(IV) Updated information on the information required to be submitted as a condition of certification with respect to the entity's performance of external review activities.

(iii) INFORMATION TO BE PROVIDED TO CERTIFYING ORGANIZATION.—

(I) IN GENERAL.—In the case of a qualified external review entity which is certified (or recertified) under this subsection by a qualified private standard-setting organization, at the request of the organization, the entity shall provide the organization with the information provided to the appropriate Secretary under clause (i).

(II) ADDITIONAL INFORMATION.—Nothing in this subparagraph shall be construed as preventing such an organization from requiring additional information as a condition of certification or recertification of an entity.

(iv) USE OF INFORMATION.—Information provided under this subparagraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of qualified external review entities, including recertification of such entities, and shall be made available to the public in an appropriate manner.

(E) LIMITATION ON LIABILITY.—No qualified external review entity having a contract with a plan or issuer, and no person who is employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of any duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was no actual malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 601, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a fund, to be known as the ''Health Care Consumer Assistance Fund'', to be used to award grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State and local health-related ombudsman, information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide information, outreach, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that health care consumer office personnel have the professional background and training to carry out the activities of the office; and

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health plan or under health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary). Any amounts provided to a State under this subsection that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this subparagraph.

(B) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this subsection for a fiscal year be less than an amount equal to 0.5 percent of the amount appropriated for such fiscal year to carry out this section.

(C) NON-FEDERAL CONTRIBUTIONS.—A State will provide for the collection of non-Federal contributions for the operation of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this subsection, a State shall, directly or through a contract with an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers, provide for the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to enter into a contract under subparagraph (A), an entity shall demonstrate that it has

the technical, organizational, and professional capacity to deliver the services described in subsection (b) to all public and private health insurance participants, beneficiaries, enrollees, or prospective enrollees.

(C) EXISTING STATE ENTITY.—Nothing in this section shall prevent the funding of an existing health care consumer assistance program that otherwise meets the requirements of this section.

(b) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities directly or by contract with an independent, non-profit organization. An eligible entity may use some reasonable amount of such grant to ensure the adequate training of personnel carrying out such activities. To receive amounts under this subsection, an eligible entity shall provide consumer assistance services, including—

(A) the operation of a toll-free telephone hotline to respond to consumer requests;

(B) the dissemination of appropriate educational materials on available health insurance products and on how best to access health care and the rights and responsibilities of health care consumers;

(C) the provision of education on effective methods to promptly and efficiently resolve questions, problems, and grievances;

(D) the coordination of educational and outreach efforts with health plans, health care providers, payers, and governmental agencies;

(E) referrals to appropriate private and public entities to resolve questions, problems and grievances; and

(F) the provision of information and assistance, including acting as an authorized representative, regarding internal, external, or administrative grievances or appeals procedures in nonlitigative settings to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a group health plan or health insurance coverage offered by a health insurance issuer.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee, or their personal representative and their health care providers, group health plans, or health insurance insurers with the office and to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) of the individual or personal representative. The office may, consistent with applicable Federal and State confidentiality laws, collect, use or disclose aggregate information that is not individually identifiable (as defined in section 164.501 of title 45, Code of Federal Regulations). The office shall provide a written description of the policies and procedures of the office with respect to the manner in which health information may be used or disclosed to carry out consumer assistance activities. The office shall provide health care providers, group health plans, or health insurance issuers with a written authorization (in accordance with section 164.508 of title 45, Code of Federal Regulations) to allow the office to obtain medical information relevant to the matter before the office.

(3) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(4) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall ensure that—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, or enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State under subsection (a)(3), the entity shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of group health plans, health insurance issuers, providers, payers, and regulators of health care.

(5) SUBCONTRACTS.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this section are complied with by the office.

(6) TERM.—A contract entered into under this subsection shall be for a term of 3 years.

(c) REPORT.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) IN GENERAL.—If—

(1) a health insurance issuer providing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services (including physician pathology services) only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants or beneficiaries health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services,

then the issuer or plan shall also offer or arrange to be offered to such enrollees, participants, or beneficiaries (at the time of enrollment and during an annual open season as provided under subsection (c)) the option of health insurance coverage or health benefits which provide for coverage of such services which are not furnished through health care professionals and providers who are members of such a network unless such enrollees, participants, or beneficiaries are offered such non-network coverage through another group health plan or through another health insurance issuer in the group market.

(b) ADDITIONAL COSTS.—The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(c) OPEN SEASON.—An enrollee, participant, or beneficiary, may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) PRIMARY CARE.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary and appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care professional who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating health care professionals with respect to such care.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the application of section 114 (relating to access to specialty care).

SEC. 113. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides or covers any benefits with respect to services in an emergency department of a hospital, the plan or issuer shall cover emergency services (as defined in paragraph (2)(B))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee—

(i) by a nonparticipating health care provider with or without prior authorization, or

(ii) by a participating health care provider without prior authorization,

the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider with prior authorization; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION.—The term ''emergency medical condition'' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term ''emergency services'' means, with respect to an emergency medical condition—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate such emergency medical condition, and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(C) STABILIZE.—The term ''to stabilize'', with respect to an emergency medical condition (as defined in subparagraph (A)), has the meaning given in section 1867(e)(3) of the Social Security Act (42 U.S.C. 1395dd(e)(3)).

(b) REIMBURSEMENT FOR MAINTENANCE CARE AND POST-STABILIZATION CARE.—A group health plan, and health insurance coverage offered by a health insurance issuer, must provide reimbursement for maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w–22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(c) COVERAGE OF EMERGENCY AMBULANCE SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage provided by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) EMERGENCY AMBULANCE SERVICES.—For purposes of this subsection, the term ''emergency ambulance services'' means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in subsection (a)(2)(A)) to a hospital for the receipt of emergency services (as defined in subsection (a)(2)(B)) in a case in which the emergency services are covered under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

SEC. 114. TIMELY ACCESS TO SPECIALISTS.

(a) TIMELY ACCESS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed—

(A) to require the coverage under a group health plan or health insurance coverage of benefits or services;

(B) to prohibit a plan or issuer from including providers in the network only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees; or

(C) to override any State licensure or scope-of-practice law.

(3) ACCESS TO CERTAIN PROVIDERS.—

(A) IN GENERAL.—With respect to specialty care under this section, if a participating specialist is not available and qualified to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for coverage of such care by a nonparticipating specialist.

(B) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a participant, beneficiary, or enrollee receives care from a nonparticipating specialist pursuant to subparagraph (A), such specialty care shall be provided at no additional cost to the participant, beneficiary, or enrollee beyond what the participant, beneficiary, or enrollee would otherwise pay for such specialty care if provided by a participating specialist.

(b) REFERRALS.—

(1) AUTHORIZATION.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in order to obtain coverage for specialty services under this section. Any such authorization—

(A) shall be for an appropriate duration of time or number of referrals, including an authorization for a standing referral where appropriate; and

(B) may not be refused solely because the authorization involves services of a nonparticipating specialist (described in subsection (a)(3)).

(2) REFERRALS FOR ONGOING SPECIAL CONDITIONS.—

(A) IN GENERAL.—Subject to subsection (a)(1), a group health plan and a health insurance issuer shall permit a participant, beneficiary, or enrollee who has an ongoing special condition (as defined in subparagraph (B)) to receive a referral to a specialist for the treatment of such condition and such specialist may authorize such referrals, procedures, tests, and other medical services with respect to such condition, or coordinate the care for such condition, subject to the terms of a treatment plan (if any) referred to in subsection (c) with respect to the condition.

(B) ONGOING SPECIAL CONDITION DEFINED.—In this subsection, the term ''ongoing special condition'' means a condition or disease that—

(i) is life-threatening, degenerative, potentially disabling, or congenital; and

(ii) requires specialized medical care over a prolonged period of time.

(c) TREATMENT PLANS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may require that the specialty care be provided—

(A) pursuant to a treatment plan, but only if the treatment plan—

(i) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee, and

(ii) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval; and

(B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) NOTIFICATION.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide the plan or issuer with regular updates on the specialty care provided, as well as all other reasonably necessary medical information.

(d) SPECIALIST DEFINED.—For purposes of this section, the term ''specialist'' means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) GENERAL RIGHTS.—

(1) DIRECT ACCESS.—A group health plan, and a health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(2) OBSTETRICAL AND GYNECOLOGICAL CARE.—A group health plan and a health insurance issuer described in subsection (b) shall treat the provision of obstetrical and gynecological care, and the ordering of related obstetrical and gynecological items and services, pursuant to the direct access described under paragraph (1), by a participating health care professional who specializes in obstetrics or gynecology as the authorization of the primary care provider.

(b) APPLICATION OF SECTION.—A group health plan, or health insurance issuer offering health insurance coverage, described in this subsection is a group health plan or coverage that—

(1) provides coverage for obstetric or gynecologic care; and

(2) requires the designation by a participant, beneficiary, or enrollee of a participating primary care provider.

(c) CONSTRUCTION.—Nothing in subsection (a) shall be construed to—

(1) waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of obstetrical or gynecological care; or

(2) preclude the group health plan or health insurance issuer involved from requiring that the obstetrical or gynecological provider notify the primary care health care professional or the plan or issuer of treatment decisions.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) PEDIATRIC CARE.—In the case of a person who has a child who is a participant, beneficiary, or enrollee under a group health plan, or health insurance coverage offered by

a health insurance issuer, if the plan or issuer requires or provides for the designation of a participating primary care provider for the child, the plan or issuer shall permit such person to designate a physician (allopathic or osteopathic) who specializes in pediatrics as the child's primary care provider if such provider participates in the network of the plan or issuer.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to waive any exclusions of coverage under the terms and conditions of the plan or health insurance coverage with respect to coverage of pediatric care.

SEC. 117. CONTINUITY OF CARE.

(a) TERMINATION OF PROVIDER.—

(1) IN GENERAL.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (e)(4)), or

(B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan or coverage,

the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) REQUIREMENTS.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified pursuant to subsection (d)(2), on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section;

(B) provide the patient with an opportunity to notify the plan or issuer of the patient's need for transitional care; and

(C) subject to subsection (c), permit the patient to elect to continue to be covered with respect to the course of treatment by such provider with the provider's consent during a transitional period (as provided for under subsection (b)).

(4) CONTINUING CARE PATIENT.—For purposes of this section, the term ''continuing care patient'' means a participant, beneficiary, or enrollee who—

(A) is undergoing a course of treatment for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) (or paragraph (2), if applicable);

(B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice;

(C) is scheduled to undergo non-elective surgery from the provider at the time of such notice;

(D) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or

(E) is or was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of such notice, but only with respect to a provider that was treating the terminal illness before the date of such notice.

(b) TRANSITIONAL PERIODS.—

(1) SERIOUS AND COMPLEX CONDITIONS.—The transitional period under this subsection with respect to a continuing care patient described in subsection (a)(4)(A) shall extend for up to 90 days (as determined by the treating health care professional) from the date of the notice described in subsection (a)(3)(A).

(2) INSTITUTIONAL OR INPATIENT CARE.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(B) shall extend until the earlier of—

(A) the expiration of the 90-day period beginning on the date on which the notice under subsection (a)(3)(A) is provided; or

(B) the date of discharge of the patient from such care or the termination of the period of institutionalization, or, if later, the date of completion of reasonable follow-up care.

(3) SCHEDULED NON-ELECTIVE SURGERY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(D) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend for the remainder of the patient's life for care that is directly related to the treatment of the terminal illness or its medical manifestations.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under this section upon the provider agreeing to the following terms and conditions:

(1) The treating health care provider agrees to accept reimbursement from the plan or issuer and continuing care patient involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract with the group health plan or health insurance issuer) and not to impose cost-sharing with respect to the patient in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The treating health care provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The treating health care provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term ''contract'' includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term ''health care provider'' or ''provider'' means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) SERIOUS AND COMPLEX CONDITION.—The term ''serious and complex condition'' means, with respect to a participant, beneficiary, or enrollee under the plan or coverage—

(A) in the case of an acute illness, a condition that is serious enough to require specialized medical treatment to avoid the reasonable possibility of death or permanent harm; or

(B) in the case of a chronic illness or condition, is an ongoing special condition (as defined in section 114(b)(2)(B)).

(4) TERMINATED.—The term ''terminated'' includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage offered by a health insurance issuer, provides coverage for benefits with respect to prescription drugs, and limits such coverage to drugs included in a formulary, the plan or issuer shall—

(1) ensure the participation of physicians and pharmacists in developing and reviewing such formulary;

(2) provide for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions from the formulary limitation when a non-formulary alternative is medically necessary and appropriate and, in the case of such an exception, apply the same cost-sharing requirements that would have applied in the case of a drug covered under the formulary.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (and health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ''qualified individual'' means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan and a health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ''approved clinical trial'' means a clinical research study or clinical investigation—

(A) approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(i) the National Institutes of Health;

(ii) a cooperative group or center of the National Institutes of Health, including a qualified nongovernmental research entity to which the National Cancer Institute has awarded a center support grant;

(iii) either of the following if the conditions described in paragraph (2) are met—

(I) the Department of Veterans Affairs;

(II) the Department of Defense; or

(B) approved by the Food and Drug Administration.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the appropriate Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) assures unbiased review of the highest ethical standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOR MASTECTOMIES AND LYMPH NODE DISSECTIONS FOR THE TREATMENT OF BREAST CANCER AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITION ON CERTAIN MODIFICATIONS.—In implementing the requirements of this section, a group health plan, and a health insurance issuer providing health insurance coverage, may not modify the terms and conditions of coverage based on the determination by a participant, beneficiary, or enrollee to request less than the minimum coverage required under subsection (a).

(c) SECONDARY CONSULTATIONS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides coverage with respect to medical and surgical services provided in relation to the diagnosis and treatment of cancer shall ensure that full coverage is provided for secondary consultations by specialists in the appropriate medical fields (including pathology, radiology, and oncology) to confirm or refute such diagnosis. Such plan or issuer shall ensure that full coverage is provided for such secondary consultation whether such consultation is based on a positive or negative initial diagnosis. In any case in which the attending physician certifies in writing that services necessary for such a secondary consultation are not sufficiently available from specialists operating under the plan or coverage with respect to whose services coverage is otherwise provided under such plan or by such issuer, such plan or issuer shall ensure that coverage is provided with respect to the services necessary for the secondary consultation with any other specialist selected by the attending physician for such purpose at no additional cost to the individual beyond that which the individual would have paid if the specialist was participating in the network of the plan or issuer.

(2) EXCEPTION.—Nothing in paragraph (1) shall be construed as requiring the provision of secondary consultations where the patient determines not to seek such a consultation.

(d) PROHIBITION ON PENALTIES OR INCENTIVES.—A group health plan, and a health insurance issuer providing health insurance coverage, may not—

(1) penalize or otherwise reduce or limit the reimbursement of a provider or specialist because the provider or specialist provided care to a participant, beneficiary, or enrollee in accordance with this section;

(2) provide financial or other incentives to a physician or specialist to induce the physician or specialist to keep the length of inpatient stays of patients following a mastectomy, lumpectomy, or a lymph node dissection for the treatment of breast cancer below certain limits or to limit referrals for secondary consultations; or

(3) provide financial or other incentives to a physician or specialist to induce the physician or specialist to refrain from referring a participant, beneficiary, or enrollee for a secondary consultation that would otherwise be covered by the plan or coverage involved under subsection (c).

Subtitle C—Access to Information

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis—

(I) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(II) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year; and

(iii) of information relating to any material reduction to the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under subparagraph (A) shall be provided—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participants, beneficiaries, or enrollees, to the extent that such information is provided to participants, beneficiaries, or enrollees via the United States Postal Service or other private delivery service.

(b) REQUIRED INFORMATION.—The informational materials to be distributed under this section shall include for each option available under the group health plan or health insurance coverage the following:

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in- and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any definition of medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements, such as prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer's service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) CHOICE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, and enrollees in selecting, accessing, or changing their primary care provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a pediatrician as a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used to obtain preauthorization for health services, if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan or issuer.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, and enrollees in accessing specialty care and obtaining referrals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred to in section 112(b)(2) and the right to timely access to specialists care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of whether such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing required for obtaining on- and off-formulary medications, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to access to prescription drugs under section 118 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, or enrollee to obtain emergency services under the prudent layperson standard under section 113, if such section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer's rules and procedures pertaining to claims and appeals, a description of the rights (including deadlines for exercising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate authority), and a description of any additional legal rights and remedies available under section 502 of the Employee Retirement Income Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONATION.—A description of procedures for advance directives and organ donation decisions if the plan or issuer maintains such procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—The name, mailing address, and telephone number or numbers of the plan administrator and the issuer to be used by participants, beneficiaries, and enrollees seeking information about plan or coverage benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the benefits under the plan or coverage are provided under a contract or policy of insurance issued by an issuer, or whether benefits are provided directly by the plan sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary description of any translation or interpretation services (including the availability of printed information in languages other than English, audio tapes, or information in Braille) that are available for non-English speakers and participants, beneficiaries, and enrollees with communication disabilities and a description of how to access these items or services.

(17) ACCREDITATION INFORMATION.—Any information that is made public by accrediting organizations in the process of accreditation if the plan or issuer is accredited, or any additional quality indicators (such as the results of enrollee satisfaction surveys) that the plan or issuer makes public or makes available to participants, beneficiaries, and enrollees.

(18) NOTICE OF REQUIREMENTS.—A description of any rights of participants, beneficiaries, and enrollees that are established by the Patients' Bill of Rights Act of 2005 (excluding those described in paragraphs (1) through (17)) if such sections apply. The description required under this paragraph may be combined with the notices of the type described in sections 711(d), 713(b), or 606(a)(1) of the Employee Retirement Income Security Act of 1974 and with any other notice provision that the appropriate Secretary determines may be combined, so long as such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) AVAILABILITY OF ADDITIONAL INFORMATION.—A statement that the information described in subsection (c), and instructions on obtaining such information (including telephone numbers and, if available, Internet websites), shall be made available upon request.

(20) DESIGNATED DECISIONMAKERS.—A description of the participants and beneficiaries with respect to whom each designated decisionmaker under the plan has assumed liability under section 502(o) of the Employee Retirement Income Security Act of 1974 and the name and address of each such decisionmaker.

(c) ADDITIONAL INFORMATION.—The informational materials to be provided upon the request of a participant, beneficiary, or enrollee shall include for each option available under a group health plan or health insurance coverage the following:

(1) STATUS OF PROVIDERS.—The State licensure status of the plan or issuer's participating health care professionals and participating health care facilities, and, if available, the education, training, specialty qualifications or certifications of such professionals.

(2) COMPENSATION METHODS.—A summary description by category of the applicable methods (such as capitation, fee-for-service, salary, bundled payments, per diem, or a combination thereof) used for compensating prospective or treating health care professionals (including primary care providers and specialists) and facilities in connection with the provision of health care under the plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about whether a specific prescription medication is included in the formulary of the plan or issuer, if the plan or issuer uses a defined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, timeframes, and appeals rights) under any utilization review program under sections 101 and 102, including any drug formulary program under section 118.

(5) EXTERNAL APPEALS INFORMATION.—Aggregate information on the number and outcomes of external medical reviews, relative to the sample size (such as the number of covered lives) under the plan or under the coverage of the issuer.

(d) MANNER OF DISCLOSURE.—The information described in this section shall be disclosed in an accessible medium and format that is calculated to be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit a group health plan, or a health insurance issuer in connection with health insurance coverage, from—

(1) distributing any other additional information determined by the plan or issuer to be important or necessary in assisting participants, beneficiaries, and enrollees in the selection of a health plan or health insurance coverage; and

(2) complying with the provisions of this section by providing information in brochures, through the Internet or other electronic media, or through other similar means, so long as—

(A) the disclosure of such information in such form is in accordance with requirements as the appropriate Secretary may impose, and

(B) in connection with any such disclosure of information through the Internet or other electronic media—

(i) the recipient has affirmatively consented to the disclosure of such information in such form,

(ii) the recipient is capable of accessing the information so disclosed on the recipient's individual workstation or at the recipient's home,

(iii) the recipient retains an ongoing right to receive paper disclosure of such information and receives, in advance of any attempt at disclosure of such information to him or her through the Internet or other electronic media, notice in printed form of such ongoing right and of the proper software required to view information so disclosed, and

(iv) the plan administrator appropriately ensures that the intended recipient is receiving the information so disclosed and provides the information in printed form if the information is not received.

Subtitle D—Protecting the Doctor-patient Relationship

SEC. 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual's condition or disease, regardless of whether benefits for such care or treatment are provided under the plan or coverage, if the professional is acting within the lawful scope of practice.

(b) NULLIFICATION.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SEC. 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSURE.

(a) IN GENERAL.—A group health plan, and a health insurance issuer with respect to health insurance coverage, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(b) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular benefit or service or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to override any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation every willing provider who meets the terms and conditions of the plan or issuer.

SEC. 133. PROHIBITION AGAINST IMPROPER INCENTIVE ARRANGEMENTS.

(a) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1852(j)(4) of the Social Security Act) unless the requirements described in clauses (i), (ii)(I), and (iii) of subparagraph (A) of such section are met with respect to such a plan.

(b) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1852(j)(4) of the Social Security Act to the Secretary, a MedicareAdvantage organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SEC. 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner that is no less protective than the provisions of section 1842(c)(2) of the Social Security Act (42 U.S.C. 1395u(c)(2)).

SEC. 135. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this title.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term ''protected health care professional'' means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the term ''appropriate Secretary'' means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2751 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 714 of the Employee Retirement Income Security Act of 1974.

(c) ADDITIONAL DEFINITIONS.—For purposes of this title:

(1) APPLICABLE AUTHORITY.—The term ''applicable authority'' means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) ENROLLEE.—The term ''enrollee'' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) GROUP HEALTH PLAN.—The term ''group health plan'' has the meaning given such term in section 733(a) of the Employee Retirement Income Security Act of 1974, except that such term includes a employee welfare benefit plan treated as a group health plan under section 732(d) of such Act or defined as such a plan under section 607(1) of such Act.

(4) HEALTH CARE PROFESSIONAL.—The term ''health care professional'' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) HEALTH CARE PROVIDER.—The term ''health care provider'' includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) NETWORK.—The term ''network'' means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the participating health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) NONPARTICIPATING.—The term ''nonparticipating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) PARTICIPATING.—The term ''participating'' means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

(9) PRIOR AUTHORIZATION.—The term ''prior authorization'' means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) TERMS AND CONDITIONS.—The term ''terms and conditions'' includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this title shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) CONSTRUCTION.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) APPLICATION OF SUBSTANTIALLY COMPLIANT STATE LAWS.—

(1) IN GENERAL.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan, a requirement that substantially complies (within the meaning of subsection (c)) with a patient protection requirement (as defined in paragraph (3)) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the requirements of this title under section 2707 and 2753 (as applicable) of the Public Health Service Act (as added by title II), subject to subsection (a)(2)—

(A) the State law shall not be treated as being superseded under subsection (a); and

(B) the State law shall apply instead of the patient protection requirement otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) LIMITATION.—In the case of a group health plan covered under title I of the Employee Retirement Income Security Act of 1974, paragraph (1) shall be construed to apply only with respect to the health insurance coverage (if any) offered in connection with the plan.

(3) DEFINITIONS.—In this section:

(A) PATIENT PROTECTION REQUIREMENT.—The term ''patient protection requirement'' means a requirement under this title, and includes (as a single requirement) a group or related set of requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms ''substantially compliant'', substantially complies'', or ''substantial compliance'' with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law provides for patient protections that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPROVAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(3) APPROVAL.—

(A) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(i) the State fails to provide sufficient information to enable the Secretary to make a determination under paragraph (2)(A); or

(ii) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(B) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(C) DEFERENCE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State's interpretation of the State law involved with respect to the patient protection involved.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register a notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to the State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because it provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 601, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable to the plan, issuer, participant, beneficiary, or enrollee that is not the subject of a certification under this subsection, is superseded under subsection (a)(1) because such standard or requirement prevents the application of a requirement of this title.

(B) OPINION.—The Secretary shall issue an advisory opinion with respect to a petition submitted under subparagraph (A) within the 60-day period beginning on the date on which such petition is submitted.

(d) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term ''State'' includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or a health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGED CARE PROVISIONS FOR FEE-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEE-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term ''fee-for-service coverage'' means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider;

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the plan or issuer does not require prior authorization before providing for any health care services.

SEC. 154. TREATMENT OF EXCEPTED BENEFITS.

(a) IN GENERAL.—The requirements of this title and the provisions of sections 502(a)(1)(C), 502(n), and 514(d) of the Employee Retirement Income Security Act of 1974 (added by section 402) shall not apply to excepted benefits (as defined in section 733(c) of such Act), other than benefits described in section 733(c)(2)(A) of such Act, in the same manner as the provisions of part 7 of subtitle B of title I of such Act do not apply to such benefits under subsections (b) and (c) of section 732 of such Act.

(b) COVERAGE OF CERTAIN LIMITED SCOPE PLANS.—Only for purposes of applying the requirements of this title under sections 2707 and 2753 of the Public Health Service Act, section 714 of the Employee Retirement Income Security Act of 1974, and section 9813 of the Internal Revenue Code of 1986, the following sections shall be deemed not to apply:

(1) Section 2791(c)(2)(A) of the Public Health Service Act.

(2) Section 733(c)(2)(A) of the Employee Retirement Income Security Act of 1974.

(3) Section 9832(c)(2)(A) of the Internal Revenue Code of 1986.

SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are, subject to section 154, deemed to be incorporated into, and made a part of, such plan or the policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

SEC. 157. PRESERVATION OF PROTECTIONS.

(a) IN GENERAL.—The rights under this Act (including the right to maintain a civil action and any other rights under the amendments made by this Act) may not be waived, deferred, or lost pursuant to any agreement not authorized under this Act.

(b) EXCEPTION.—Subsection (a) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement—

(1) is entered into knowingly and voluntarily by the parties involved after the dispute has arisen; or

(2) is pursuant to the terms of a collective bargaining agreement.

Nothing in this subsection shall be construed to permit the waiver of the requirements of sections 103 and 104 (relating to internal and external review).

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

''SEC. 2707. PATIENT PROTECTION STANDARDS.

''Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005, and each health insurance issuer shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 300gg–21(b)(2)(A)) is amended by inserting ''(other than section 2707)'' after ''requirements of such subparts''.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following new section:

''SEC. 2753. PATIENT PROTECTION STANDARDS.

''Each health insurance issuer shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 2005 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.''.

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

''SEC. 2793. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH INSURANCE PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that enrollees in Federal health insurance programs should have the same rights and privileges as those afforded under title I and under the amendments made by title IV to participants and beneficiaries under group health plans.

(b) CONFORMING FEDERAL HEALTH INSURANCE PROGRAMS.—It is the sense of Congress that the President should require, by executive order, the Federal official with authority over each Federal health insurance program, to the extent feasible, to take such steps as are necessary to implement the rights and privileges described in subsection (a) with respect to such program.

(c) GAO REPORT ON ADDITIONAL STEPS REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on statutory changes that are required to implement such rights and privileges in a manner that is consistent with the missions of the Federal health insurance programs and that avoids unnecessary duplication or disruption of such programs.

(d) FEDERAL HEALTH INSURANCE PROGRAM.—In this section, the term ''Federal health insurance program'' means a Federal program that provides creditable coverage (as defined in section 2701(c)(1) of the Public Health Service Act) and includes a health program of the Department of Veterans Affairs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

''SEC. 714. PATIENT PROTECTION STANDARDS.

''(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Patients' Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

''(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

''(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of title I of the Patients' Bill of Rights Act of 2005 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

''(A) Section 111 (relating to consumer choice option).

''(B) Section 112 (relating to choice of health care professional).

''(C) Section 113 (relating to access to emergency care).

''(D) Section 114 (relating to timely access to specialists).

''(E) Section 115 (relating to patient access to obstetrical and gynecological care).

''(F) Section 116 (relating to access to pediatric care).

''(G) Section 117 (relating to continuity of care), but only insofar as a replacement issuer assumes the obligation for continuity of care.

''(H) Section 118 (relating to access to needed prescription drugs).

''(I) Section 119 (relating to coverage for individuals participating in approved clinical trials).

''(J) Section 120 (relating to required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations).

''(K) Section 134 (relating to payment of claims).

''(2) INFORMATION.—With respect to information required to be provided or made available under section 121 of the Patients' Bill of Rights Act of 2005, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

''(3) INTERNAL APPEALS.—With respect to the internal appeals process required to be established under section 103 of such Act, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such process and system (and is not liable for the issuer's failure to provide for such process and system), if the issuer is obligated to provide for (and provides for) such process and system.

''(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 104 of such Act, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

''(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections of the Patients' Bill of Rights Act of 2005, the group health plan shall not be liable for such violation unless the plan caused such violation:

''(A) Section 131 (relating to prohibition of interference with certain medical communications).

''(B) Section 132 (relating to prohibition of discrimination against providers based on licensure).

''(C) Section 133 (relating to prohibition against improper incentive arrangements).

''(D) Section 135 (relating to protection for patient advocacy).

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

''(7) TREATMENT OF SUBSTANTIALLY COMPLIANT STATE LAWS.—For purposes of applying this subsection in connection with health insurance coverage, any reference in this subsection to a requirement in a section or other provision in the Patients' Bill of Rights Act of 2005 with respect to a health insurance issuer is deemed to include a reference to a requirement under a State law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provisions.

''(8) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 135(b)(1) of the Patients' Bill of Rights Act of 2005, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

''(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

''(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 135(b)(1) of the Patients' Bill of Rights Act of 2005 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

''(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

''(d) CONFORMING REGULATIONS.—The Secretary shall issue regulations to coordinate the requirements on group health plans and health insurance issuers under this section with the requirements imposed under the other provisions of this title. In order to reduce duplication and clarify the rights of participants and beneficiaries with respect to information that is required to be provided, such regulations shall coordinate the information disclosure requirements under section 121 of the Patients' Bill of Rights Act of 2005 with the reporting and disclosure requirements imposed under part 1, so long as such coordination does not result in any reduction in the information that would otherwise be provided to participants and beneficiaries.''.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a)'' after ''Sec. 503.'' and by adding at the end the following new subsection:

''(b) In the case of a group health plan (as defined in section 733), compliance with the requirements of subtitle A of title I of the Patients' Bill of Rights Act of 2005, and compliance with regulations promulgated by the Secretary, in the case of a claims denial, shall be deemed compliance with subsection (a) with respect to such claims denial.''.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''714. Patient protection standards''.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting ''(other than section 135(b) of the Patients' Bill of Rights Act of 2005, as deemed by subsection (a) of section 714 of this Act to be incorporated into such subsection)'' after ''part 7''.

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) AVAILABILITY OF FEDERAL CIVIL REMEDIES IN CASES NOT INVOLVING MEDICALLY REVIEWABLE DECISIONS.—

(1) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of

1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsections:

''(n) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—

''(1) IN GENERAL.—In any case in which—

''(A) a person who is a fiduciary of a group health plan, a health insurance issuer offering health insurance coverage in connection with the plan, or an agent of the plan, issuer, or plan sponsor, upon consideration of a claim for benefits of a participant or beneficiary under section 102 of the Patients' Bill of Rights Act of 2005 (relating to procedures for initial claims for benefits and prior authorization determinations) or upon review of a denial of such a claim under section 103 of such Act (relating to internal appeal of a denial of a claim for benefits), fails to exercise ordinary care in making a decision—

''(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage,

''(ii) regarding whether an individual is a participant or beneficiary who is enrolled under the terms and conditions of the plan or coverage (including the applicability of any waiting period under the plan or coverage), or

''(iii) as to the application of cost-sharing requirements or the application of a specific exclusion or express limitation on the amount, duration, or scope of coverage of items or services under the terms and conditions of the plan or coverage, and

''(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary,

such plan, plan sponsor, or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary or punitive damages) in connection with such personal injury or death.

''(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

''(A) IN GENERAL.—A cause of action is established under paragraph (1)(A) only if the decision referred to in paragraph (1)(A) does not include a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

''(3) LIMITATION REGARDING CERTAIN TYPES OF ACTIONS SAVED FROM PREEMPTION OF STATE LAW.—A cause of action is not established under paragraph (1)(A) in connection with a failure described in paragraph (1)(A) to the extent that a cause of action under State law (as defined in section 514(c)) for such failure would not be preempted under section 514.

''(4) DEFINITIONS AND RELATED RULES.—For purposes of this subsection.—

''(A) ORDINARY CARE.—The term 'ordinary care' means, with respect to a determination on a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind to the claims involved.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFITS; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' have the meanings provided such terms in section 102(e) of the Patients' Bill of Rights Act of 2005.

''(D) TERMS AND CONDITIONS.—The term 'terms and conditions' includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Patients' Bill of Rights Act of 2005.

''(E) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection and subsection (a)(1)(C) do not apply to certain excepted benefits.

''(5) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1)(A) does not authorize a cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment).

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), a cause of action may arise against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) under paragraph (1)(A), to the extent there was direct participation by the employer or other plan sponsor (or employee) in the decision of the plan under section 102 of the Patients' Bill of Rights Act of 2005 upon consideration of a claim for benefits or under section 103 of such Act upon review of a denial of a claim for benefits.

''(C) DIRECT PARTICIPATION.—

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in paragraph (1)(A), the actual making of such decision or the actual exercise of control in making such decision.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in paragraph (1)(A) on a particular claim for benefits of a participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iii) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(D) APPLICATION TO CERTAIN PLANS.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, no group health plan described in clause (ii) (or plan sponsor of such a plan) shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty under the plan.

''(ii) DEFINITION.—A group health plan described in this clause is—

''(I) a group health plan that is self-insured and self administered by an employer (including an employee of such an employer acting within the scope of employment); or

''(II) a multiemployer plan as defined in section 3(37)(A) (including an employee of a contributing employer or of the plan, or a fiduciary of the plan, acting within the scope of employment or fiduciary responsibility) that is self-insured and self-administered.

''(6) EXCLUSION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS.—

''(A) IN GENERAL.—No treating physician or other treating health care professional of the participant or beneficiary, and no person acting under the direction of such a physician or health care professional, shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

''(ii) NON-MEDICALLY REVIEWABLE DUTY.—The term 'non-medically reviewable duty' means a duty the discharge of which does not include the making of a medically reviewable decision.

''(7) EXCLUSION OF HOSPITALS.—No treating hospital of the participant or beneficiary shall be liable under paragraph (1) for the performance of, or the failure to perform, any non-medically reviewable duty (as defined in paragraph (6)(B)(ii)) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(8) RULE OF CONSTRUCTION RELATING TO EXCLUSION FROM LIABILITY OF PHYSICIANS, HEALTH CARE PROFESSIONALS, AND HOSPITALS.—Nothing in paragraph (6) or (7) shall be construed to limit the liability (whether direct or vicarious) of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

''(9) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

''(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief

shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

''(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

''(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

''(10) STATUTORY DAMAGES.—

''(A) IN GENERAL.—The remedies set forth in this subsection (n) shall be the exclusive remedies for causes of action brought under this subsection.

''(B) ASSESSMENT OF CIVIL PENALTIES.—In addition to the remedies provided for in paragraph (1) (relating to the failure to provide contract benefits in accordance with the plan), a civil assessment, in an amount not to exceed $5,000,000, payable to the claimant may be awarded in any action under such paragraph if the claimant establishes by clear and convincing evidence that the alleged conduct carried out by the defendant demonstrated bad faith and flagrant disregard for the rights of the participant or beneficiary under the plan and was a proximate cause of the personal injury or death that is the subject of the claim.

''(11) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action brought pursuant to this subsection shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY DISTRICT COURT.—The last Federal district court in which the action was pending upon the final disposition, including all appeals, of the action shall have jurisdiction to review the attorney's fee to ensure that the fee is a reasonable one.

''(12) LIMITATION OF ACTION.—Paragraph (1) shall not apply in connection with any action commenced after 3 years after the later of—

''(A) the date on which the plaintiff first knew, or reasonably should have known, of the personal injury or death resulting from the failure described in paragraph (1), or

''(B) the date as of which the requirements of paragraph (9) are first met.

''(13) TOLLING PROVISION.—The statute of limitations for any cause of action arising under State law relating to a denial of a claim for benefits that is the subject of an action brought in Federal court under this subsection shall be tolled until such time as the Federal court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the Federal court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(14) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action under subsection (a)(1)(C) and this subsection.

''(15) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(16) EXCLUSION OF HEALTH INSURANCE AGENTS.—Paragraph (1) does not apply with respect to a person whose sole involvement with the group health plan is providing advice or administrative services to the employer or other plan sponsor relating to the selection of health insurance coverage offered in connection with the plan.

''(17) NO EFFECT ON STATE LAW.—No provision of State law (as defined in section 514(c)(1)) shall be treated as superseded or otherwise altered, amended, modified, invalidated, or impaired by reason of the provisions of subsection (a)(1)(C) and this subsection.

''(18) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Notwithstanding the direct participation (as defined in paragraph (5)(C)(i)) of an employer or plan sponsor, in any case in which there is (or is deemed under subparagraph (B) to be) a designated decisionmaker under subparagraph (B) that meets the requirements of subsection (o)(1) for an employer or other plan sponsor—

''(i) all liability of such employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) under this subsection in connection with any participant or beneficiary shall be transferred to, and assumed by, the designated decisionmaker, and

''(ii) with respect to such liability, the designated decisionmaker shall be substituted for the employer or sponsor (or employee) in the action and may not raise any defense that the employer or sponsor (or employee) could not raise if such a decisionmaker were not so deemed.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(19) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures; or

''(ii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(20) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable under this subsection for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(o) REQUIREMENTS FOR DESIGNATED DECISIONMAKERS OF GROUP HEALTH PLANS.—

''(1) IN GENERAL.—For purposes of subsection (n)(18) and section 514(d)(9), a designated decisionmaker meets the requirements of this paragraph with respect to any participant or beneficiary if—

''(A) such designation is in such form as may be prescribed in regulations of the Secretary,

''(B) the designated decisionmaker—

''(i) meets the requirements of paragraph (2),

''(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee of such employer or sponsor acting within the scope of employment) either arising under subsection (n) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary,

''(iii) agrees to be substituted for the employer or plan sponsor (or employee) in the action and not to raise any defense with respect to such liability that the employer or plan sponsor (or employee) may not raise, and

''(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make

medically reviewable decisions under the plan with respect to such participant or beneficiary, and

''(C) the designated decisionmaker and the participants and beneficiaries for whom the decisionmaker has assumed liability are identified in the written instrument required under section 402(a) and as required under section 121(b)(19) of the Patients' Bill of Rights Act of 2005.

Any liability assumed by a designated decisionmaker pursuant to this subsection shall be in addition to any liability that it may otherwise have under applicable law.

''(2) QUALIFICATIONS FOR DESIGNATED DECISIONMAKERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan, including requirements relating to the financial obligation for timely satisfying the assumed liability, and maintains with the plan sponsor and the Secretary certification of such ability. Such certification shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18)(B) or section 517(d)(9)(B) and not less frequently than annually thereafter, or if such designation constitutes a multiyear arrangement, in conjunction with the renewal of the arrangement.

''(B) SPECIAL QUALIFICATION IN THE CASE OF CERTAIN REVIEWABLE DECISIONS.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issuer, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the employer or other plan sponsor acts affirmatively to prevent such service.

''(3) REQUIREMENTS RELATING TO FINANCIAL OBLIGATIONS.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

''(A) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including those arising from its service as a designated decisionmaker under this part; or

''(B) evidence of minimum capital and surplus levels that are maintained by such entity to cover any losses as a result of liability arising from its service as a designated decisionmaker under this part.

The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using sound actuarial principles and accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe and shall be maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law.

''(4) LIMITATION ON APPOINTMENT OF TREATING PHYSICIANS.—A treating physician who directly delivered the care, treatment, or provided the patient service that is the subject of a cause of action by a participant or beneficiary under subsection (n) or section 514(d) may not be designated as a designated decisionmaker under this subsection with respect to such participant or beneficiary.''.

(2) CONFORMING AMENDMENT.—Section 502(a)(1) of such Act (29 U.S.C. 1132(a)(1)) is amended—

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

(B) in subparagraph (B), by striking ''plan;'' and inserting ''plan, or''; and

(C) by adding at the end the following new subparagraph:

''(C) for the relief provided for in subsection (n) of this section.''.

(b) RULES RELATING TO ERISA PREEMPTION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

''(d) PREEMPTION NOT TO APPLY TO CAUSES OF ACTION UNDER STATE LAW INVOLVING MEDICALLY REVIEWABLE DECISION.—

''(1) NON-PREEMPTION OF CERTAIN CAUSES OF ACTION.—

''(A) IN GENERAL.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede or otherwise alter, amend, modify, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) against the plan, the plan sponsor, any health insurance issuer offering health insurance coverage in connection with the plan, or any managed care entity in connection with the plan to recover damages resulting from personal injury or for wrongful death if such cause of action arises by reason of a medically reviewable decision.

''(B) MEDICALLY REVIEWABLE DECISION.—For purposes of subparagraph (A), the term 'medically reviewable decision' means a denial of a claim for benefits under the plan which is described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005 (relating to medically reviewable decisions).

''(C) LIMITATION ON PUNITIVE DAMAGES.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Patients' Bill of Rights Act of 2005 were satisfied with respect to the participant or beneficiary:

''(I) Section 102 (relating to procedures for initial claims for benefits and prior authorization determinations).

''(II) Section 103 of such Act (relating to internal appeals of claims denials).

''(III) Section 104 of such Act (relating to independent external appeals procedures).

''(ii) EXCEPTION FOR CERTAIN ACTIONS FOR WRONGFUL DEATH.—Clause (i) shall not apply with respect to an action for wrongful death if the applicable State law provides (or has been construed to provide) for damages in such an action which are only punitive or exemplary in nature.

''(iii) EXCEPTION FOR WILLFUL OR WANTON DISREGARD FOR THE RIGHTS OR SAFETY OF OTHERS.—Clause (i) shall not apply with respect to any cause of action described in subparagraph (A) if, in such action, the plaintiff establishes by clear and convincing evidence that conduct carried out by the defendant with willful or wanton disregard for the rights or safety of others was a proximate cause of the personal injury or wrongful death that is the subject of the action.

''(2) DEFINITIONS AND RELATED RULES.—For purposes of this subsection and subsection (e)—

''(A) TREATMENT OF EXCEPTED BENEFITS.—Under section 154(a) of the Patients' Bill of Rights Act of 2005, the provisions of this subsection do not apply to certain excepted benefits.

''(B) PERSONAL INJURY.—The term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

''(C) CLAIM FOR BENEFIT; DENIAL.—The terms 'claim for benefits' and 'denial of a claim for benefits' shall have the meaning provided such terms under section 102(e) of the Patients' Bill of Rights Act of 2005.

''(D) MANAGED CARE ENTITY.—

''(i) IN GENERAL.—The term 'managed care entity' means, in connection with a group health plan and subject to clause (ii), any entity that is involved in determining the manner in which or the extent to which items or services (or reimbursement therefor) are to be provided as benefits under the plan.

''(ii) TREATMENT OF TREATING PHYSICIANS, OTHER TREATING HEALTH CARE PROFESSIONALS, AND TREATING HOSPITALS.—Such term does not include a treating physician or other treating health care professional (as defined in section 502(n)(6)(B)(i)) of the participant or beneficiary and also does not include a treating hospital insofar as it is acting solely in the capacity of providing treatment or care to the participant or beneficiary. Nothing in the preceding sentence shall be construed to preempt vicarious liability of any plan, plan sponsor, health insurance issuer, or managed care entity.

''(3) EXCLUSION OF EMPLOYERS AND OTHER PLAN SPONSORS.—

''(A) CAUSES OF ACTION AGAINST EMPLOYERS AND PLAN SPONSORS PRECLUDED.—Subject to subparagraph (B), paragraph (1) does not apply with respect to—

''(i) any cause of action against an employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

''(ii) a right of recovery, indemnity, or contribution by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action to which paragraph (1) applies.

''(B) CERTAIN CAUSES OF ACTION PERMITTED.—Notwithstanding subparagraph (A), paragraph (1) applies with respect to any cause of action that is brought by a participant or beneficiary under a group health plan (or the estate of such a participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any employer or other plan sponsor maintaining the plan (or against an employee of such an employer or sponsor acting within the scope of employment) if such cause of action arises by reason of a medically reviewable decision, to the extent that there was direct participation by the employer or other plan sponsor (or employee) in the decision.

''(C) DIRECT PARTICIPATION.—

''(i) DIRECT PARTICIPATION IN DECISIONS.—For purposes of subparagraph (B), the term 'direct participation' means, in connection with a decision described in subparagraph (B), the actual making of such decision or the actual exercise of control in making such decision or in the conduct constituting the failure.

''(ii) RULES OF CONSTRUCTION.—For purposes of clause (i), the employer or plan sponsor (or employee) shall not be construed to be engaged in direct participation because

of any form of decisionmaking or other conduct that is merely collateral or precedent to the decision described in subparagraph (B) on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

''(I) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent;

''(II) any engagement by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the plan or coverage involved;

''(III) any participation by the employer or other plan sponsor (or employee) in the process of creating, continuing, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

''(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

''(iv) IRRELEVANCE OF CERTAIN COLLATERAL EFFORTS MADE BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision with respect to any claim for benefits or denial thereof in the case of any particular participant or beneficiary solely by reason of—

''(I) any efforts that may have been made by the employer or plan sponsor to advocate for authorization of coverage for that or any other participant or beneficiary (or any group of participants or beneficiaries), or

''(II) any provision that may have been made by the employer or plan sponsor for benefits which are not covered under the terms and conditions of the plan for that or any other participant or beneficiary (or any group of participants or beneficiaries).

''(4) REQUIREMENT OF EXHAUSTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (D), paragraph (1) shall not apply in connection with any action in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Patients' Bill of Rights Act of 2005 (if applicable) have been exhausted.

''(B) LATE MANIFESTATION OF INJURY.—

''(i) IN GENERAL.—A participant or beneficiary shall not be precluded from pursuing a review under section 104 of the Patients' Bill of Rights Act of 2005 regarding an injury that such participant or beneficiary has experienced if the external review entity first determines that the injury of such participant or beneficiary is a late manifestation of an earlier injury.

''(ii) DEFINITION.—In this subparagraph, the term 'late manifestation of an earlier injury' means an injury sustained by the participant or beneficiary which was not known, and should not have been known, by such participant or beneficiary by the latest date that the requirements of subparagraph (A) should have been met regarding the claim for benefits which was denied.

''(C) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Patients' Bill of Rights Act of 2005 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

''(D) FAILURE TO REVIEW.—

''(i) IN GENERAL.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action after 10 additional days after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A)(i).

''(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(ii) of the Patients' Bill of Rights Act of 2005, subparagraph (A) shall not apply with respect to the action and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to such section 104(e)(1)(A)(ii).

''(E) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or the pendency of any action with respect to which, under this paragraph, subparagraph (A) does not apply—

''(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

''(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

''(F) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Patients' Bill of Rights Act of 2005 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

''(5) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(n) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period shall be determined by the applicable Federal or State law, whichever period is greater.

''(6) EXCLUSION OF DIRECTED RECORDKEEPERS.—

''(A) IN GENERAL.—Subject to subparagraph (C), paragraph (1) shall not apply with respect to any action against a directed recordkeeper in connection with a group health plan.

''(B) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term 'directed recordkeeper' means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the distribution of enrollment information and distribution of disclosure materials under this Act or title I of the Patients' Bill of Rights Act of 2005 and whose duties do not include making decisions on claims for benefits.

''(C) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeper to the extent that the directed recordkeeper fails to follow the specific instruction of the plan or the employer or other plan sponsor.

''(7) CONSTRUCTION.—Nothing in this subsection shall be construed as—

''(A) saving from preemption a cause of action under State law for the failure to provide a benefit for an item or service which is specifically excluded under the group health plan involved, except to the extent that—

''(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Patients' Bill of Rights Act of 2005, or

''(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

''(B) preempting a State law which requires an affidavit or certificate of merit in a civil action;

''(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

''(D) affecting a cause of action under State law other than a cause of action described in paragraph (1)(A).

''(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

''(9) RELIEF FROM LIABILITY FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISIONMAKER.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability with respect to a participant or beneficiary of an employer or plan sponsor (or an employee of such employer or sponsor acting within the scope of employment), if with respect to the employer or plan sponsor there is (or is deemed under subparagraph (B) to be) a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law against the designated decisionmaker of such employer or other plan sponsor with respect to the participant or beneficiary.

''(B) AUTOMATIC DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participants and beneficiaries of an employer or plan sponsor, whether or not the employer or plan sponsor makes such a designation, and shall be deemed to have assumed unconditionally all liability of the employer or plan sponsor under such designation in accordance with subsection (o), unless the employer or plan sponsor affirmatively enters into a contract to prevent the service of the designated decisionmaker.

''(C) TREATMENT OF CERTAIN TRUST FUNDS.—For purposes of this paragraph, the terms 'employer' and 'plan sponsor', in connection with the assumption by a designated decisionmaker of the liability of employer or other plan sponsor pursuant to this paragraph, shall be construed to include a trust fund maintained pursuant to section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) or the Railway Labor Act (45 U.S.C. 151 et seq.).

''(10) PREVIOUSLY PROVIDED SERVICES.—

''(A) IN GENERAL.—Except as provided in this paragraph, paragraph (1) shall not apply with respect to a cause of action where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage and the claim relates solely to the subsequent denial of payment for the provision of such item or service.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) exclude a cause of action from exemption under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or series of procedures;

''(ii) exclude a cause of action from exemption under paragraph (1) relating to quality of care; or

''(iii) limit liability that otherwise would arise from the provision of the item or services or the performance of a medical procedure.

''(11) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

''(A) a member of a board of directors of an employer or plan sponsor; or

''(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations;

shall not be personally liable, by reason of the exemption of a cause of action from preemption under this subsection, for conduct that is within the scope of employment or of plan-related duties of the individuals unless the individual acts in a fraudulent manner for personal enrichment.

''(12) CHOICE OF LAW.—A cause of action exempted from preemption under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

''(13) LIMITATION ON ATTORNEYS' FEES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's fee, the amount of an attorney's contingency fee allowable for a cause of action exemption from preemption under paragraph (1) shall not exceed ⅓ of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

''(B) DETERMINATION BY COURT.—The last court in which the action was pending upon the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

''(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action that is brought in a State that has a law or framework of laws with respect to the amount of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

''(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

''(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any action (whether the liability is direct or vicarious) based upon such a State law,

''(2) superseding any State law permitted under section 152(b)(1)(A) of the Patients' Bill of Rights Act of 2005, or

''(3) affecting any applicable State law with respect to limitations on monetary damages.

''(f) NO RIGHT OF ACTION FOR RECOVERY, INDEMNITY, OR CONTRIBUTION BY ISSUERS AGAINST TREATING HEALTH CARE PROFESSIONALS AND TREATING HOSPITALS.—In the case of any care provided, or any treatment decision made, by the treating health care professional or the treating hospital of a participant or beneficiary under a group health plan which consists of medical care provided under such plan, any cause of action under State law against the treating health care professional or the treating hospital by the plan or a health insurance issuer providing health insurance coverage in connection with the plan for recovery, indemnity, or contribution in connection with such care (or any medically reviewable decision made in connection with such care) or such treatment decision is superseded.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts and omissions (from which a cause of action arises) occurring on or after the applicable effective date under section 601.

SEC. 403. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) IN GENERAL.—Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding at the end the following new section:

''SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

''(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Patients' Bill of Rights Act of 2005 with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

''(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.''.

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 734 the following new item:

''Sec. 735. Cooperation between Federal and State authorities''.

TITLE V—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Subtitle A—Application of Patient Protection Provisions

SEC. 501. APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Standard relating to patients' bill of rights''; and

(2) by inserting after section 9812 the following:

''SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

''A group health plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 2005 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.''.

SEC. 502. CONFORMING ENFORCEMENT FOR WOMEN'S HEALTH AND CANCER RIGHTS.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986, as amended by section 501, is further amended—

(1) in the table of sections, by inserting after the item relating to section 9813 the following new item:

''Sec. 9814. Standard relating to women's health and cancer rights''; and

(2) by inserting after section 9813 the following:

''SEC. 9814. STANDARD RELATING TO WOMEN'S HEALTH AND CANCER RIGHTS.

''The provisions of section 713 of the Employee Retirement Income Security Act of 1974 (as in effect as of the date of the enactment of this section) shall apply to group health plans as if included in this subchapter.''.

Subtitle B—Health Care Coverage Access Tax Incentives

SEC. 511. CREDIT FOR HEALTH INSURANCE EXPENSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45J. SMALL BUSINESS HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a small employer, the health insurance credit determined under this section for the taxable year is an amount equal to the applicable percentage of the expenses paid by the taxpayer during the taxable year for health insurance coverage for such year provided under a new health plan for employees of such employer.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) in the case of insurance purchased as a member of a qualified health benefit purchasing coalition (as defined in section 9841), 30 percent, and

''(2) in the case of insurance not described in paragraph (1), 20 percent.

''(c) LIMITATIONS.—

''(1) PER EMPLOYEE DOLLAR LIMITATION.—The amount of expenses taken into account under subsection (a) with respect to any employee for any taxable year shall not exceed—

''(A) $2,000 in the case of self-only coverage, and

''(B) $5,000 in the case of family coverage. In the case of an employee who is covered by a new health plan of the employer for only a portion of such taxable year, the limitation under the preceding sentence shall be an amount which bears the same ratio to such limitation (determined without regard to this sentence) as such portion bears to the entire taxable year.

''(2) PERIOD OF COVERAGE.—Expenses may be taken into account under subsection (a) only with respect to coverage for the 4-year period beginning on the date the employer establishes a new health plan.

''(d) DEFINITIONS.—For purposes of this section—

''(1) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(2) NEW HEALTH PLAN.—

''(A) IN GENERAL.—The term 'new health plan' means any arrangement of the employer which provides health insurance coverage to employees if—

''(i) such employer (and any predecessor employer) did not establish or maintain such arrangement (or any similar arrangement) at any time during the 2 taxable years ending prior to the taxable year in which the credit under this section is first allowed, and

''(ii) such arrangement provides health insurance coverage to at least 70 percent of the qualified employees of such employer.

''(B) QUALIFIED EMPLOYEE.—

''(i) IN GENERAL.—The term 'qualified employee' means any employee of an employer

if the annual rate of such employee's compensation (as defined in section 414(s)) exceeds $10,000.

''(ii) TREATMENT OF CERTAIN EMPLOYEES.—The term 'employee' shall include a leased employee within the meaning of section 414(n).

''(3) SMALL EMPLOYER.—The term 'small employer' has the meaning given to such term by section 4980D(d)(2); except that only qualified employees shall be taken into account.

''(e) SPECIAL RULES.—

''(1) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

''(2) AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred pursuant to a salary reduction arrangement shall be taken into account under subsection (a).

''(f) TERMINATION.—This section shall not apply to expenses paid or incurred by an employer with respect to any arrangement established on or after January 1, 2014.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) in the case of a small employer (as defined in section 45J(d)(3)), the health insurance credit determined under section 45J(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C of such Code is amended by adding at the end the following new subsection:

''(e) CREDIT FOR SMALL BUSINESS HEALTH INSURANCE EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45J for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45J(a).

''(2) CONTROLLED GROUPS.—Persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as 1 person for purposes of this section.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following:

''Sec. 45J. Small business health insurance expenses''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006, for arrangements established after the date of the enactment of this Act.

SEC. 512. CERTAIN GRANTS BY PRIVATE FOUNDATIONS TO QUALIFIED HEALTH BENEFIT PURCHASING COALITIONS.

(a) IN GENERAL.—Section 4942 of the Internal Revenue Code of 1986 (relating to taxes on failure to distribute income) is amended by adding at the end the following:

''(k) CERTAIN QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTIONS.—

''(1) IN GENERAL.—For purposes of subsection (g), sections 170, 501, 507, 509, and 2522, and this chapter, a qualified health benefit purchasing coalition distribution by a private foundation shall be considered to be a distribution for a charitable purpose.

''(2) QUALIFIED HEALTH BENEFIT PURCHASING COALITION DISTRIBUTION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualified health benefit purchasing coalition distribution' means any amount paid or incurred by a private foundation to or on behalf of a qualified health benefit purchasing coalition (as defined in section 9841) for purposes of payment or reimbursement of amounts paid or incurred in connection with the establishment and maintenance of such coalition.

''(B) EXCLUSIONS.—Such term shall not include any amount used by a qualified health benefit purchasing coalition (as so defined)—

''(i) for the purchase of real property,

''(ii) as payment to, or for the benefit of, members (or employees or affiliates of such members) of such coalition, or

''(iii) for any expense paid or incurred more than 48 months after the date of establishment of such coalition.

''(3) TERMINATION.—This subsection shall not apply—

''(A) to qualified health benefit purchasing coalition distributions paid or incurred after December 31, 2013, and

''(B) with respect to start-up costs of a coalition which are paid or incurred after December 31, 2014.''.

(b) QUALIFIED HEALTH BENEFIT PURCHASING COALITION.—

(1) IN GENERAL.—Chapter 100 of such Code (relating to group health plan requirements) is amended by adding at the end the following new subchapter:

''Subchapter D—Qualified Health Benefit Purchasing Coalition

''Sec. 9841. Qualified health benefit purchasing coalition

''SEC. 9841. QUALIFIED HEALTH BENEFIT PURCHASING COALITION.

''(a) IN GENERAL.—A qualified health benefit purchasing coalition is a private not-for-profit corporation which—

''(1) sells health insurance through State licensed health insurance issuers in the State in which the employers to which such coalition is providing insurance are located, and

''(2) establishes to the Secretary, under State certification procedures or other procedures as the Secretary may provide by regulation, that such coalition meets the requirements of this section.

''(b) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—Each purchasing coalition under this section shall be governed by a Board of Directors.

''(2) ELECTION.—The Secretary shall establish procedures governing election of such Board.

''(3) MEMBERSHIP.—The Board of Directors shall—

''(A) be composed of representatives of the members of the coalition, in equal number, including small employers and employee representatives of such employers, but

''(B) not include other interested parties, such as service providers, health insurers, or insurance agents or brokers which may have a conflict of interest with the purposes of the coalition.

''(c) MEMBERSHIP OF COALITION.—

''(1) IN GENERAL.—A purchasing coalition shall accept all small employers residing within the area served by the coalition as members if such employers request such membership.

''(2) OTHER MEMBERS.—The coalition, at the discretion of its Board of Directors, may be open to individuals and large employers.

''(3) VOTING.—Members of a purchasing coalition shall have voting rights consistent with the rules established by the State.

''(d) DUTIES OF PURCHASING COALITIONS.—Each purchasing coalition shall—

''(1) enter into agreements with small employers (and, at the discretion of its Board, with individuals and other employers) to provide health insurance benefits to employees and retirees of such employers,

''(2) where feasible, enter into agreements with 3 or more unaffiliated, qualified licensed health plans, to offer benefits to members,

''(3) offer to members at least 1 open enrollment period of at least 30 days per calendar year,

''(4) serve a significant geographical area and market to all eligible members in that area, and

''(5) carry out other functions provided for under this section.

''(e) LIMITATION ON ACTIVITIES.—A purchasing coalition shall not—

''(1) perform any activity (including certification or enforcement) relating to compliance or licensing of health plans,

''(2) assume insurance or financial risk in relation to any health plan, or

''(3) perform other activities identified by the State as being inconsistent with the performance of its duties under this section.

''(f) ADDITIONAL REQUIREMENTS FOR PURCHASING COALITIONS.—As provided by the Secretary in regulations, a purchasing coalition shall be subject to requirements similar to the requirements of a group health plan under this chapter.

''(g) RELATION TO OTHER LAWS.—

''(1) PREEMPTION OF STATE FICTITIOUS GROUP LAWS.—Requirements (commonly referred to as fictitious group laws) relating to grouping and similar requirements for health insurance coverage are preempted to the extent such requirements impede the establishment and operation of qualified health benefit purchasing coalitions.

''(2) ALLOWING SAVINGS TO BE PASSED THROUGH.—Any State law that prohibits health insurance issuers from reducing premiums on health insurance coverage sold through a qualified health benefit purchasing coalition to reflect administrative savings is preempted. This paragraph shall not be construed to preempt State laws that impose restrictions on premiums based on health status, claims history, industry, age, gender, or other underwriting factors.

''(3) NO WAIVER OF HIPAA REQUIREMENTS.—Nothing in this section shall be construed to change the obligation of health insurance issuers to comply with the requirements of title XXVII of the Public Health Service Act with respect to health insurance coverage offered to small employers in the small group market through a qualified health benefit purchasing coalition.

''(h) DEFINITION OF SMALL EMPLOYER.—For purposes of this section—

''(1) IN GENERAL.—The term 'small employer' means, with respect to any calendar year, any employer if such employer employed an average of at least 2 and not more than 50 qualified employees on business days during either of the 2 preceding calendar years. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the employer was in existence throughout such year.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the 1st preceding calendar year, the determination under paragraph (1) shall be based on the average number of qualified employees that it is reasonably expected such employer will employ on business days in the current calendar year.''.

(2) CONFORMING AMENDMENT.—The table of subchapters for chapter 100 of such Code is amended by adding at the end the following item:

''SUBCHAPTER D—QUALIFIED HEALTH BENEFIT PURCHASING COALITION''.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2006.

SEC. 513. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred

to as the ''Secretary'') shall establish a program (in this section referred to as the ''program'') to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

SEC. 514. GRANT PROGRAM TO FACILITATE HEALTH BENEFITS INFORMATION FOR SMALL EMPLOYERS.

(a) IN GENERAL.—The Small Business Administration shall award grants to 1 or more States, local governments, and non-profit organizations for the purposes of—

(1) demonstrating new and effective ways to provide information about the benefits of health insurance to small employers, including tax benefits, increased productivity of employees, and decreased turnover of employees,

(2) making employers aware of their current rights in the marketplace under State and Federal health insurance reforms, and

(3) making employers aware of the tax treatment of insurance premiums.

(b) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 for each of the first 5 fiscal years beginning after the date of the enactment of this Act for grants under subsection (a).

SEC. 515. STATE GRANT PROGRAM FOR MARKET INNOVATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a program (in this section referred to as the ''program'') to award demonstration grants under this section to States to allow States to demonstrate the effectiveness of innovative ways to increase access to health insurance through market reforms and other innovative means. Such innovative means may include (and are not limited to) any of the following:

(1) Alternative group purchasing or pooling arrangements, such as purchasing cooperatives for small businesses, reinsurance pools, or high risk pools.

(2) Individual or small group market reforms.

(3) Consumer education and outreach.

(4) Subsidies to individuals, employers, or both, in obtaining health insurance.

(b) SCOPE; DURATION.—The program shall be limited to not more than 10 States and to a total period of 5 years, beginning on the date the first demonstration grant is made.

(c) CONDITIONS FOR DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary may not provide for a demonstration grant to a State under the program unless the Secretary finds that under the proposed demonstration grant—

(A) the State will provide for demonstrated increase of access for some portion of the existing uninsured population through a market innovation (other than merely through a financial expansion of a program initiated before the date of the enactment of this Act);

(B) the State will comply with applicable Federal laws;

(C) the State will not discriminate among participants on the basis of any health status-related factor (as defined in section 2791(d)(9) of the Public Health Service Act), except to the extent a State wishes to focus on populations that otherwise would not obtain health insurance because of such factors; and

(D) the State will provide for such evaluation, in coordination with the evaluation required under subsection (d), as the Secretary may specify.

(2) APPLICATION.—The Secretary shall not provide a demonstration grant under the program to a State unless—

(A) the State submits to the Secretary such an application, in such a form and manner, as the Secretary specifies;

(B) the application includes information regarding how the demonstration grant will address issues such as governance, targeted population, expected cost, and the continuation after the completion of the demonstration grant period; and

(C) the Secretary determines that the demonstration grant will be used consistent with this section.

(3) FOCUS.—A demonstration grant proposal under section need not cover all uninsured individuals in a State or all health care benefits with respect to such individuals.

(d) EVALUATION.—The Secretary shall enter into a contract with an appropriate entity outside the Department of Health and Human Services to conduct an overall evaluation of the program at the end of the program period. Such evaluation shall include an analysis of improvements in access, costs, quality of care, or choice of coverage, under different demonstration grants.

(e) OPTION TO PROVIDE FOR INITIAL PLANNING GRANTS.—Notwithstanding the previous provisions of this section, under the program the Secretary may provide for a portion of the amounts appropriated under subsection (f) (not to exceed $5,000,000) to be made available to any State for initial planning grants to permit States to develop demonstration grant proposals under the previous provisions of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each fiscal year to carry out this section. Amounts appropriated under this subsection shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

TITLE VI—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 601. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2006 (in this section referred to as the ''general effective date'').

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by sections 201(a), 401, 501, and 502 (and title I insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (excluding any extension thereof agreed to after the date of the enactment of this Act); or

(B) the general effective date;

but shall apply not later than 1 year after the general effective date. For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this Act shall not be treated as a

termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—Subject to subsection (d), the amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

(c) TREATMENT OF RELIGIOUS NONMEDICAL PROVIDERS.—

(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall be construed to—

(A) restrict or limit the right of group health plans, and of health insurance issuers offering health insurance coverage, to include as providers religious nonmedical providers;

(B) require such plans or issuers to—

(i) utilize medically based eligibility standards or criteria in deciding provider status of religious nonmedical providers;

(ii) use medical professionals or criteria to decide patient access to religious nonmedical providers;

(iii) utilize medical professionals or criteria in making decisions in internal or external appeals regarding coverage for care by religious nonmedical providers; or

(iv) compel a participant or beneficiary to undergo a medical examination or test as a condition of receiving health insurance coverage for treatment by a religious nonmedical provider; or

(C) require such plans or issuers to exclude religious nonmedical providers because they do not provide medical or other required data, if such data is inconsistent with the religious nonmedical treatment or nursing care provided by the provider.

(2) RELIGIOUS NONMEDICAL PROVIDER.—For purposes of this subsection, the term ''religious nonmedical provider'' means a provider who provides no medical care but who provides only religious nonmedical treatment or religious nonmedical nursing care.

(d) TRANSITION FOR NOTICE REQUIREMENT.—The disclosure of information required under section 121 of this Act shall first be provided pursuant to—

(1) subsection (a) with respect to a group health plan that is maintained as of the general effective date, not later than 30 days before the beginning of the first plan year to which title I applies in connection with the plan under such subsection; or

(2) subsection (b) with respect to an individual health insurance coverage that is in effect as of the general effective date, not later than 30 days before the first date as of which title I applies to the coverage under such subsection.

SEC. 602. COORDINATION IN IMPLEMENTATION.

The Secretary of Labor and the Secretary of Health and Human Services shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which such Secretaries have responsibility under the provisions of this Act (and the amendments made thereby) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

SEC. 603. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of such Act.

By Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. HUTCHISON, Mrs. BOXER, Mr. CORZINE, Mr. SCHUMER, Mrs. CLINTON, Mr. NELSON of Florida, and Mr. KENNEDY):

S. 1013. A bill to improve the allocation of grants through the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Homeland Security FORWARD Funding Act of 2005. I am pleased to be joined by my colleague from Texas, Senator JOHN CORNYN, as well as Senators LAUTENBERG, HUTCHISON, BOXER, CORZINE, SCHUMER, CLINTON and Senator NELSON of Florida.

It is time that Congress ensures that funding to bolster the security of our nation goes to where the threat is the greatest.

Unfortunately, billions of dollars in homeland security funds to states and local communities—including $3.6 billion in fiscal year 2005—are now being distributed to areas that are not at the greatest risk of terrorist attack.

To do this, we need to adopt risk-based analysis to determine where our homeland security funding goes, rather than continue with the present system of ad hoc determinations, ''small-state minimums'' and poorly understood decision-making, that leave some targets exposed to threats while sending resources to places where there is little chance of terrorist attack.

This legislation will ensure that priorities are set according to analysis of risk and threat. Specifically it directs the Secretary of Homeland Security to allocate funding to homeland security grants based on risk analysis.

This is the core of the bill, and I believe it is so important that I will quote in full the operative language, which appears in the very first substantive section of the legislation: ''The Secretary shall ensure that homeland security grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable.''

This direction covers the four major first-responder grant programs administered by Department of Homeland Security in addition to grants for seaport and airport security—called ''covered grants'' in the bill, including: 1. the State Homeland Security Grant Program; 2. the Urban Area Security Initiative; 3. the Law Enforcement Terrorism Prevention Program; and 4. the Citizens Corps Program.

Reduces the ''small state minimum'' to 25 percent per State. Current practice requires each state to get .75 percent of much of the grant funding. That means 37.5 percent of the funds are marked for distribution before any risk analysis.

Requires grants be designed to meet ''essential capabilities.'' Essential capabilities are what we get for the money spent—the ability to address the risk by reducing vulnerability to attack and by diminishing the consequences of such an attack by effective response.

Ensures that States quickly and effectively pass on Federal funds to where they are needed so that Federal funds are not held back.

The bottom line is this: if Federal funds are going to be distributed to improve our national ability to ''prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks,'' those funds should be distributed in accordance with a risk-based analysis.

In this post-Cold War world of asymmetric threat there are two fundamental principles we should apply to efforts to make our nation more secure against a terrorist attack: the first is that understanding and predicting what terrorists will do requires risk analysis.

It is an uncomfortable fact that, even with the best intelligence, we will never know exactly how, when and where terrorists will strike—the best we can do is try to assess risks and threats, and make predictions.

The second principle is that our defense resources are finite.

The total amount of money, time and personnel that can be devoted to homeland security is limited. That means tough choices have to be made by both the Congress, and by Executive Branch officials at the Federal, State and Local level.

Together these two principles define what we need to do for our Nation: accurately assess the risks of an array of possible terrorist attacks; measure the vulnerability of all of these possible targets, and then allocate our resources based on that assessment.

Three years ago, we created the Department of Homeland Security in an

effort to create an institution that could perform this task.

The core element of the new Department was to be the Information Assessment and Infrastructure Protection Directorate, which would ''merge under one roof the capability to identify and assess current and future threats to the homeland, map those threats against our vulnerabilities, issue timely warnings and take preventive and protective action.''

We are failing in this effort.

The 9/11 Commission agreed, finding that ''nothing has been harder for officials—executive or legislative than to set priorities, making hard choices in allocating limited resources.''

The Commission concluded, ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities.''

This bill does just that.

The New York Times, an editorial published last month, titled ''Real Security, or Politics as Usual?'' agreed:

> Any terrorist who has followed how domestic security money is distributed in this country must be encouraged by the government's ineptness . . . The current formula is based in part on population, rather than risk, and contains state minimums, so even sparsely populated states that hardly have a plausible terrorism target are raking in money. This is the formula that gave Wyoming seven times more domestic security money per capita than New York . . . If there were a successful attack on Wall Street or the ports of Los Angeles and Long Beach, it would be a blow to the whole nation. Defending places where the terrorist threat is greatest is not parochialism; it is defending America.

Despite these recommendations, we find again and again that scarce resources are allocated based on factors unrelated to real security.

For instance, Congress has established a ''small State minimum'' designed to ensure that every State gets a substantial portion of scarce resources, regardless of the measure of risk or vulnerability.

As a result, in fiscal year 2004 Wyoming spent $37.52 per capita with homeland security grants, while California and Texas spent $8.75 and $6.93 respectively.

The problem is not just in Congress. For example, a recent Department of Homeland Security Inspector General's report found that in the critical area of port security, grants are ''not well coordinated with the Information Analysis and Infrastructure Protection.''

The result is the ''funding of projects with low [risk and vulnerability] scores.''

A recently issued report from the Center for Security Studies and the Heritage Foundation found that there is:

> no funding formula that is based on risk analysis and divorced from politics . . . [w]ith only limited resources available to achieve the almost limitless goal of protecting the entire United States . . . it is critical that we set priorities.

This bill is a first step to reducing threats of terrorist attack, but Congress can not do it alone.

The Department of Homeland Security must embrace not only the concept of risk-based allocation, but also the practical aspects of the discipline. That means improving the intelligence analysis and vulnerability assessment functions of the Department.

We also need to follow through on last year's intelligence reform efforts, since the product of the Intelligence Community—analysis of the plans, intentions and capabilities of terrorist groups—is the key element in an effective risk analysis.

This will not be easy. There are lots of vested interests who will oppose such efforts. But our nation's safety is at sake. It is time to put aside pork-barrel politics and a Cold War mentality and get to work.

Last year Representatives COX and TURNER, the Chair and Ranking Member, respectively, of the other body's Homeland Security Committee put forth similar legislation.

That effort passed the House of Representatives as part of the Intelligence Reform Bill, but was dropped at conference—that bill has been reintroduced, and is scheduled for consideration on the floor of the House this week.

This bill is based on Chairman COX'S efforts, and with a few exceptions tracks it closely.

However, unlike the House bill, this bill makes an across-the-board reduction of the small-State minimum to .25 percent—the House bill retains a sliding scale that I believe will have the effect of undercutting its risk-based approach.

In this body, Senators COLLINS and LIEBERMAN have been working to craft risk-based legislation, which was recently reported favorably by the Senate Homeland Security Committee.

I hope that the bill introduced today will be accepted by Senators COLLINS and LIEBERMAN in the spirit in which it was drafted—as a reasoned alternative to their approach, and as a starting point for further discussions.

It is my hope that Congress will act quickly to pass this legislation. We cannot afford to wait until it is too late.

Mr. CORNYN. Mr. President, I rise today to join with my colleague, Senator DIANNE FEINSTEIN of California and other of our distinguished colleagues in introducing The Homeland Security FORWARD Funding Act of 2005.

I would like to thank Senator FEINSTEIN for her collaboration in crafting this legislation. I know that she has thoughtfully examined the current state of our Homeland Security Funding and the many other interrelated issues, and I thank her for her fine leadership as we work together exploring ways to better protect our country.

We say it often, and it is true: ''9/11 changed everything.'' The attacks of that day were unprecedented in our history, and they brought with them the need for similarly unprecedented security measures. In an effort to respond quickly to the devastation that was wrought upon our country, the Federal Government created a system that worked to raise overall national emergency preparedness to ensure we could better guard against another such terrorist attack.

And so we embarked on the task of shoring up our airline, transportation, border, and port security. We worked to protect our critical infrastructure, to protect our cyber security, our agriculture and food supply systems.

But taxpayer dollars are not limitless, and Congress must work to ensure every penny be directed where it will do the most good. It is imperative that we guard the places across our nation where terrorists may strike and where such strikes could do the most damage to our people, our government, and our national economy. We believe this is the most responsible way to prepare for any future terrorist attack.

We need to have a system that will protect our most vulnerable population centers, and that recognizes the need to protect the critical infrastructure and vital components of our national economy. I am reminded of a recent tour I took of several Texas seaports. I visited with port directors, industry leaders, and emergency responders in and around the ports of Houston, Beaumont, and Corpus Christi. They have enormous security needs and the consequences of a terrorist attack on any of these facilities would be devastating, not only to the local communities, but to the economic engine of the whole country.

The legislation that Senator FEINSTEIN and I now propose would require that Federal Homeland Security funds be allocated to states according to a risk-based assessment. It is vital that we better allocate our limited resources to the vulnerable places in the country we most need to protect, and that that these funds are distributed in an efficient and timely manner.

Senator FEINSTEIN and I have evaluated the 9/11 Commission recommendations that call for allocation of money based on vulnerabilities, and our legislation provides for a distribution formula for homeland security grants based on three main criteria: Threat, vulnerability, and consequence. This would require states to quickly pass on federal funds to where they are most needed. This bill is inspired by the hard work and examination done on this issue by our colleagues in the House and Senate. We have also taken input from stakeholders in our respective States and from across the country. It is our hope and intention that by introducing this bill we can contribute and enrich the public discourse on this critical issue and help move the Nation toward a more rational and effective distribution of our homeland security resources.

Key provisions of this bill include: establishing a First Responder Grant Board, consisting of Department of

Homeland Security leadership, that will rank and prioritize grant applications based on threat and vulnerability. Enabling a region that encompasses more than one State to apply for funds. The money would still pass through the States, but would go to the region to better enable coordination and planning. Provides greater flexibility in using the funds, allowing a State to use them for other hazards consistent with federally established capability standards. And it allows States to retain authority to administer grant programs, but there are penalties for States that do not pass funds to local governments within 45 days, and if a State fails to pass the funds through, local governments may petition the Department of Homeland Security to receive the funds directly.

Continuing to spread Homeland Security funds throughout the Nation irrespective of the actual risk to particular States and communities would be to ignore much of what we have learned as part of our effort to assess our vulnerabilities since the attacks of September 11. So I would urge that we swiftly work to pass this legislation, to better ensure the safety of our citizens.

By Ms. SNOWE:

S. 1014. A bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to offer the Supporting Our Patriotic Businesses Act. This bill addresses some key concerns I have regarding the impact that military call-ups have on our Nation's small businesses.

Today, I am offering my legislation in conjunction with the release of a Congressional Budget Office Report entitled ''The Impact of Reserve Call-ups on Civilian Employers.'' I commissioned the Report a year and a half ago, because I believed then, as I do now, that our country is not doing enough for the patriotic small businesses that are owned by or employ our Guard and Reserve members; and which are negatively effected when these workers are called up in defense of our Nation.

Although I am still analyzing the Report, three key findings immediately caught my attention. For instance, the Report concludes that: 1. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, twenty-six percent work for large businesses, thirty-six percent work for the government, Federal, State, or local, and the remainder work for non-profit organizations. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. 2. Over the past decade, the military has dramatically increased its reliance on Guard and Reserve forces. This trend has accelerated since the terrorism attacks of September 11, 2001. Guard and Reserve members make up about thirty-three percent of deployed service members supporting operations in Iraq and Afghanistan. 3. I am particularly troubled by a third finding which confirms what I have feared all along—that the self-employed, and the small businesses that employ Guard and Reserve members, may be ''paying'' a disproportionate and unfair share of the burden of increased Guard and Reserve member call-ups. The burden is further magnified when it is the small business owner, or a key employee, who is deployed.

As members of this institution charged with the duty of preserving the public trust, we should work together, on a bipartisan basis, to help diminish the unfair burden these employers and self-employed businesses shoulder.

It is difficult enough to leave friends and family behind and enter harm's way, but asking our military personnel to also jeopardize their livelihood is unconscionable. By assisting these businesses and the self-employed, we are helping to diminish important concerns of our military personnel, improving their morale and positively affecting retention.

The legislation that I offer today contains multiple provisions in support of self-employed Guard and Reserve members and the patriotic businesses that employ Guard and Reserve members.

First, it authorizes increased appropriations for the Small Business Administration's (SBA) Office of Veteran Business Development, which offers vital services to our Nation's small businesses that are owned or employ our veterans. For instance, the office has prepared and distributed pre- and post-mobilization packets for small businesses, offers loans, and provides targeted business advice to meet the needs of our veterans and small businesses.

My bill permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs, which has served as an invaluable independent source of advice and policy on veterans' business issues.

My legislation provides that a service member does not need to satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

I have also included a provision which amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the length of time that their owners are called up in defense of our Nation. Currently, small business owners who are called up to active duty in the Guard or Reserve are effectively penalized for serving because their active duty time is counted against the time limitations on participation of the Small Business Administration's programs.

Finally, my bill requires that the Department of Defense take measures to counsel Guard and Reserve members concerning the importance of notifying their employers in a timely manner after they receive Orders that they will be called up to active duty. The legislation further requires that the DoD investigate ways to diminish the lag between the time when military personnel are notified of their call-up and the time that military personnel notify their employers.

Enacting this legislation is an important first step in the right direction toward assisting the brave men and women who serve in our Guard and Reserve and the businesses that employ them. However, I realize that this legislation is merely one of many steps that can and should be taken to this end and welcome new ideas to help this constituency.

I encourage my colleagues to join me in supporting this bill, and to continue to work with me, as well as veterans, policymakers, businesses, and others, to find additional solutions to address these vital issues.

I ask unanimous consent that the text of the bill and that a section-by-section summary of the bill be printed in the RECORD.

Thank you for allowing me the opportunity to discuss this pressing matter.

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

S. 1014

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 ''Supporting Our Patriotic Businesses Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) From September 2001 through November 2004, approximately 410,000 members of the reserve components of the Armed Forces, including the National Guard and Reserves, have been mobilized in support of United States military operations.

(2) According to 2004 data from the Manpower Data Center of the Department of Defense, an estimated 35 percent of Guard members and Reservists are either self-employed or own or are employed by a small business.

(3) The majority of privately employed National Guard and Reserve members either work for a small business or are self-employed.

(4) As a result of activations, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end.

(5) The effects have been devastating to such patriotic small businesses.

(6) The Office of Veterans Business Development of the Small Business Administration has made a concerted effort to reach out to small businesses affected by deployments, but given the sheer numbers of those deployed, their resources have been stretched thin.

(7) In addition, the Office of Veterans Business Development has been required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans.

(8) This Act will help to stem the effects of National Guard and Reservist deployments on small businesses, and better assist veterans and service-disabled veterans with their business needs.

SEC. 3. INCREASED FUNDING FOR THE OFFICE OF VETERANS BUSINESS DEVELOPMENT.

There is authorized to be appropriated to the Office of Veterans Business Development of the Small Business Administration, and to remain available until expended—

(1) $2,000,000 for fiscal year 2006;

(2) $2,100,000 for fiscal year 2007; and

(3) $2,200,000 for fiscal year 2008.

SEC. 4. PERMANENT EXTENSION OF SBA ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.

(a) ASSUMPTION OF DUTIES.—Section 33 of the Small Business Act (15 U.S.C. 657c) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

(b) PERMANENT EXTENSION OF AUTHORITY.—Section 203 of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking subsection (h).

SEC. 5. PROFESSIONAL AND OCCUPATIONAL LICENSING.

(a) IN GENERAL.—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. App. 591 et seq.) is amended by adding at the end the following new section:

''SEC. 707. CONTINUING EDUCATION REQUIREMENTS FOR PROFESSIONAL AND OCCUPATIONAL LICENSES.

''(a) APPLICABILITY.—This section applies to any servicemember who, after the date of enactment of this section, is ordered to active duty (other than for training) pursuant to section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title, during a period when members are on active duty pursuant to any such section.

''(b) CONTINUING EDUCATION REQUIREMENTS.—A servicemember described in subsection (a) may not be required to complete the satisfaction of any continuing education requirements imposed with respect to the profession or occupation of the servicemember that accrue during the period of active duty of the servicemember as described in that subsection—

''(1) during such period of active duty; and

''(2) during the 120-day period beginning on the date of the release of the servicemember from such period of active duty.

''(c) ACTIVE DUTY DEFINED.—In this section, the term 'active duty' has the meaning given that term in section 101(d) of title 10, United States Code.''.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by adding at the end the following new item:

''Sec. 707. Continuing education requirements for professional and occupational licenses.''.

SEC. 6. RELIEF FROM TIME LIMITATIONS FOR VETERAN-OWNED SMALL BUSINESSES.

Section 3(q) of the Small Business Act (15 U.S.C. 632(q)) is amended by adding at the end the following:

''(5) RELIEF FROM TIME LIMITATIONS.—

''(A) IN GENERAL.—Any time limitation on any qualification, certification, or period of participation imposed under this Act on any program available to small business concerns shall be extended for a small business concern that—

''(i) is owned and controlled by—

''(I) a veteran who was called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States, on or after September 11, 2001; or

''(II) a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active miliary, naval, or air service during a period of active duty pursuant to a call or order to active duty under a provision of law referred to in subclause (I) on or after September 11, 2001; and

''(ii) was subject to the time limitation during such period of active duty.

''(B) DURATION.—Upon submission of proper documentation to the Administrator, the extension of a time limitation under subparagraph (A) shall be equal to the period of time that such veteran who owned or controlled such a concern was on active duty as described in that subparagraph.''.

SEC. 7. COUNSELING OF MEMBERS OF THE NATIONAL GUARD AND RESERVES ON NOTIFICATION OF EMPLOYERS REGARDING MOBILIZATION.

(a) COUNSELING REQUIRED.—The Secretary of each military department shall provide each member of a reserve component of the Armed Forces under the jurisdiction of the Secretary who is on active duty for a period of more than 30 days, or on the reserve active-status list, counseling on the importance of notifying such member's employer on a timely basis of any call or order of such member to active duty other than for training.

(b) FREQUENCY OF COUNSELING.—Each member of the Armed Forces described in subsection (a) shall be provided the counseling required by that subsection not less often than once each year.

SEC. 8. STUDY ON OPTIONS FOR IMPROVING TIMELY NOTICE OF EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVES REGARDING MOBILIZATION.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense shall conduct a study of the feasibility and advisability of various options for improving the time in which employers of members of the reserve components of the Armed Forces are notified of the call or order of such members to active duty other than for training.

(2) PURPOSE.—The purpose of the study under paragraph (1) shall be to identify mechanisms, if any, for eliminating or reducing the time between—

(A) the date of the call or order of members of the reserve components of the Armed Forces to active duty; and

(B) the date on which employers of such members are notified of the call or order of such members to active duty.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a). The report shall include—

(1) a description of the study, including the options addressed under the study; and

(2) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the results of the study.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services and Small Business and Entrepreneurship of the Senate; and

(2) the Committees on Armed Services and Small Business of the House of Representatives.

Background: From September 2001 through November 2004, approximately 410,000 National Guard and Reserve personnel have been mobilized in support of current operations. Thirty-five percent of Guard and Reserve members work for small businesses or are self-employed, 26 percent work for large businesses, 36 percent work for the government, Federal, State, or local, and the remainder work for non-profits. Therefore, the majority of non-government employed Guard and Reserve members are either self-employed, or work for small businesses. As a result of call-ups, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years, on end. The effects have been devastating to these patriotic small businesses.

This Act will help stem the effects of Guard and Reservist call-ups on small businesses and better assist veterans and service-disabled veterans with their business needs.

Section 1.—Title, ''The Supporting Our Patriotic Businesses Act.''

Section 2.—Findings

Section 3.—Authorizes increased appropriations for the Small Business Administration's (SBA) Office of Veteran Business Development to $2 million for Fiscal Year 2006, $2.1 million for Fiscal Year 2007 and $2.2 million for Fiscal Year 2008.

Reasoning: The SBA's Office of Veteran Business Development has made a concerted effort to reach out to small businesses affected by military deployments, but given the sheer number of those deployed, their resources have been stretched thin. In addition, the Office of Veterans Business Development is now required to broaden its delivery of services, as directed by Executive Order 13360, to provide procurement training programs for service-disabled veterans. This provision will allow the SBA's Office of Veterans Business Development to better assist our nation's veterans and provide them the business services they need.

Section 4.—Permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs.

Reasoning: The SBA's Advisory Committee on Veterans Business Affairs has served as a valuable independent source of advice and policy on veterans business issues to: the SBA Administrator; the SBA's Associate Administrator for Veterans Business Development; the Congress; the President; and other U.S. policymakers. The Advisory Committee was commissioned under P.L. 106–50 and is set to terminate its duties on September 20, 2006. This provision will help ensure that the Advisory Committee's vital duties, and the information it provides, are continued.

Section 5.—Provides that a service member need not satisfy any continuing education requirements, imposed with respect to their profession or occupation, while they are called up, or within the 120-day period after they are released from the call-up.

Reasoning: Many Guard and Reserve personnel have continuing education requirements that they are unable to satisfy because of being called to active duty. These patriotic individuals should not have to satisfy these continuing education requirements. NOTE: This provision is a floor, not a ceiling. It should not discourage State or other entities from offering extended benefits/breaks to deployed Guard and Reserve members.

Section 6.—Amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the duration of their owners' active duty service after September 11, 2001.

Reasoning: Some of the SBA's contracting and business development programs have defined time limits for participation. If the firm's time for participation expires prematurely, then competitive opportunities, investments, and jobs become lost. Currently, small business owners who get called up to active duty in the National Guard or Reserve are effectively penalized because their active duty time is counted against the time limitations on participation in the SBA's programs.

Section 7.—Requires that the Secretary of each military department ensure that counseling is provided, at least once a year, to members of the National Guard and Reserves on the importance of notifying their employers regarding their mobilization.

Reasoning: Employers often receive little warning of a guard or reservist's call-up. A survey published by the DoD in November 2003 (DMDC Report No. 2003–10), which questioned guard and reservists who had been called up over the previous 24 months, indicated that they notified their civilian employers an average of 13 days before their call-up began. The survey also showed that almost 60 percent of Guard and Reservists gave their employers advance notice of one week or less. Unfortunately, providing short notice to employers does not allow them time to adequately plan for a guard member or Reservist's absence, and ultimately hurts a business's bottom line. It is important that employers have ample time to make the adjustments necessary to sustain their business.

Section 8.—Improves the focus upon notifying employers in a timely manner regarding call-ups.

Reasoning: For the reasons provided under Section 7, this provision would commission a DoD study on ways to improve the timely notice of employers regarding call-ups.

By Mr. DEMINT:

S. 1015. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to introduce The Health Care Choice Act of 2005, a bill that would help Americans afford health insurance.

Approximately 45 million Americans lack health insurance. These uninsured Americans face significant hurdles in entering the insurance marketplace, including limited choices of insurers and inflexible benefit options. For most, the high cost of health insurance is the biggest impediment to getting coverage. In fact, nearly two-thirds of the uninsured are the working poor, and they cite the high cost of insurance as the primary barrier to accessing health coverage.

The cost of insurance is often increased by excessive State regulations. These State mandates raise the cost of insurance which, in turn, increases the number of Americans who are priced out of the health insurance market.

The Health Care Choice Act will allow consumers to shop for health insurance the same way they do for other insurance products—online, by mail, over the phone, or in consultation with an insurance agent in their hometown. The Act empowers consumers by giving them the ability to purchase an affordable health insurance policy with a range of options.

Consumers will no longer be limited to picking only those policies that meet their state's regulations and mandated benefits. Instead, they can examine the wide array of insurance policies qualified in one State and offered for sale in multiple states. Consumers can choose the policy that best suits their needs, and their budget, without regard to State boundaries. Individuals looking for basic health insurance coverage can opt for a policy with few benefit mandates, and such a policy will be more affordable. On the other hand, consumers who have an interest in a particular benefit, such as infertility treatments, will be able to purchase a policy which includes that benefit.

The Health Care Choice Act will help the uninsured find affordable health insurance, while also providing every American with more and better health insurance choices. The bill harnesses the power of the marketplace to allow Americans to tailor their insurance choices to their individual needs.

I am grateful to Congressman Shadegg for introducing the Health Care Choice Act in the House today, and I urge my Senate colleagues to support this bill.

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. 1015

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 ''Health Care Choice Act of 2005''.

SEC. 2. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This Act is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-retention groups has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. 4. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

''PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE

''SEC. 2795. DEFINITIONS.

''In this part:

''(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

''(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

''(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

''(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

''(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

''(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

''(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

''(B) to pay other obligations in the normal course of business.

''(7) COVERED LAWS.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

''(A) individual health insurance coverage issued by a health insurance issuer;

''(B) the offer, sale, and issuance of individual health insurance coverage to an individual; and

''(C) the provision to an individual in relation to individual health insurance coverage of—

''(i) health care and insurance related services;

''(ii) management, operations, and investment activities of a health insurance issuer; and

''(iii) loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

''(8) STATE.—The term 'State' means only the 50 States and the District of Columbia.

''(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

''(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

''(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

''(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

''(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

''(E) Refusing to pay claims without conducting a reasonable investigation.

''(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

''(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

''(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

''(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

''(ii) The rating of an insurance policy or reinsurance contract.

''(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

''(iv) Premiums paid on an insurance policy or reinsurance contract.

''(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

''(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

''(vii) The financial condition of an insurer or reinsurer.

''(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

''(ix) The issuance of written evidence of insurance.

''(x) The reinstatement of an insurance policy.

''(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer reinsurer or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

''(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of insurance.

''(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

''SEC. 2796. APPLICATION OF LAW.

''(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

''(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

''(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

''(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

''(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

''(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

''(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

''(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

''(D) to comply with a lawful order issued—

''(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

''(ii) in a voluntary dissolution proceeding;

''(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

''(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

''(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; or

''(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9));

''(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

''(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

''(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

'This policy is issued by _____ and is governed by the laws and regulations of the State of _____, and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _____, including coverage of some services or benefits mandated by the law of the State of _____. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _____. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.'.

''(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

''(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

''(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

''(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

''(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

''(B) from raising premium rates for all policy holders within a class based on claims experience;

''(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

''(i) are disclosed to the consumer in the insurance contract;

''(ii) are based on specific wellness activities that are not applicable to all individuals; and

''(iii) are not obtainable by all individuals to whom coverage is offered;

''(D) from reinstating lapsed coverage; or

''(E) from retroactively adjusting the rates charged an individual insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

''(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

''(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, except that a State many not impose any qualification or requirement which discriminates against a nonresident agent or broker.

''(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

''(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

''(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

''(B) written notice of any change in its designation of its primary State; and

''(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

''(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

''(A) a member of the American Academy of Actuaries; or

''(B) a qualified loss reserve specialist.

''(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

''(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

''(2) the solicitation or sale of individual health insurance coverage by, or operation of, a health insurance issuer that is in hazardous financial condition.

''(i) STATE POWERS TO ENFORCE STATE LAWS.—

''(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

''(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

''(j) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

''(k) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

''SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

''A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the primary State does not meet the following requirements:

''(1) The State insurance commissioner must use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

''(2) The State must have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage unless the issuer provides an independent review mechanism functionally equivalent (as determined by the primary State insurance commissioner or official) to that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part.

''SEC. 2798. ENFORCEMENT.

''(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

''(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

''(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

''(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date of the enactment of this Act.

SEC. 5. SEVERABILITY.

If any provision of the Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any other person or circumstance shall not be affected.

By Mr. CHAFEE (for himself, Mr. INHOFE, Mr. JEFFORDS, Mrs. CLINTON, Mr. LAUTENBERG, Mr. VITTER, Mr. BAUCUS, Ms. MURKOWSKI, Mr. CRAPO, Mr. ENZI, and Mr. CORZINE):

S. 1017. A bill to reauthorize grants from the water resources research and technology institutes established under the Water Resources Research Act of 1984; to the Committee on Environment and Public Works.

Mr. CHAFEE. Mr. President, I rise today to introduce legislation reauthorizing appropriations for the Water Resources Research Act. The Chairman and Ranking Member of the Senate Committee on Environment and Public Works, Senators INHOFE and JEFFORDS, respectively, as well as Senators CLINTON, LAUTENBERG, BAUCUS, MURKOWSKI, CRAPO, ENZI and CORZINE have joined me as original cosponsors of this important legislation to address our nation's water resource concerns.

Originally enacted in 1964, the Water Resources Research Act authorizes the establishment of a nationwide, State-based network of Water Resources Research Institutes. These Institutes represent a partnership among State universities; Federal, State, and local governments; and stakeholders aimed at solving problems of water supply and water quality. They are located at the land-grant universities in each of the 50 States, the territories and the District of Columbia.

The 54 Water Resources Research Institutes are charged with conducting competent research to develop new technologies and more efficient methods for resolving local, State and national water-resources problems; fostering new research scientists into water resources fields; and facilitating water research coordination and the application of research results through information dissemination and technology transfer.

The Institutes provide important support to the States in their long-term water planning, policy development, and management. A significant portion of the Institutes' work is intended to help State and local water managers implement Federal regulations in ways that are tailored to local and State institutions and natural conditions. Water quality regulations, drinking water standards, wastewater treatment, and water reuse programs are examples of areas in which the Institutes provide research and information transfer.

In my own State, the Rhode Island Water Resources Center is located at the University of Rhode Island. The Center's recent activities have included working with the Rhode Island Airport Corporation to develop a plan for mitigating runoff contamination due to deicing and anti-icing operations at T.F.Green Airport. Other work conducted by the Center has encompassed evaluating the scour potential of streams and river banks in the State to study how they may be affected by land use and other changes; developing a statewide public water-supply GIS coverage program; and working with communities to evaluate MTBE drinking water contamination.

In addition to research, the outreach and information transfer activities of the Institutes are highly valued by multi-level stakeholders at the local, State and regional levels. The Institutes are the training grounds for the next generation of the Nation's water scientists, economists and engineers. This nationwide network of water institutes provides an efficient and effective method to meet the diverse water resource needs in different parts of our country.

Another key component of the program is the importance of its small Federal grants for leveraging funding from non-federal sources to identify and address local and State needs for water research. Without this Federal seed money, many institutes would lose a valuable resource and the visibility within their universities and among Federal, State and local water agencies for working on challenging water resource problems. The Federal grants allow immense leverage capacity for conducting water research activities and are the key to maintaining a valuable national network.

The legislation I am introducing today reauthorizes $62 million in funding through fiscal year 2010 for the Nation's Water Resources Research Institutes and $32 million for the Act's Interstate Research Program. I look forward to working with the bill's original cosponsors as well as my colleagues on the Environment and Public

Works Committee to ensure this national network of university-based research institutes continues to support the water resources needs of the Nation.

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. 1017

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 ''Water Resources Research Act Amendments of 2005''.

SEC. 2. WATER RESOURCES RESEARCH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)) is amended—

(1) in the subsection header, by striking ''**IN GENERAL**'';

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

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, to remain available until expended—

''(A) $12,000,000 for each of fiscal years 2006 through 2008; and

''(B) $13,000,000 for each of fiscal years 2009 and 2010.''; and

(3) in paragraph (2), by striking ''(2) Any'' and inserting the following:

''(2) FAILURE TO OBLIGATE FUNDS.—Any''.

(b) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) in paragraph (1)—

(A) in the first sentence—

(i) by striking ''There'' and inserting the following:

''(1) IN GENERAL.—There''; and

(ii) by striking ''$3,000,000 for fiscal year 2001, $4,000,000 for fiscal years 2002 and 2003, and $6,000,000 for fiscal years 2004 and 2005'' and inserting ''$6,000,000 for each of fiscal years 2006 through 2008 and $7,000,000 for each of fiscal years 2009 and 2010'';

(B) in the second sentence, by striking ''Such'' and inserting the following:

''(2) NON-FEDERAL MATCHING FUNDS.—The''; and

(C) in the third sentence, by striking ''Funds'' and inserting the following:

''(3) AVAILABILITY OF FUNDS.—Funds''.

By Mr. SARBANES:

S. 1018. A bill to provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to alllow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. SARBANES. Mr. President, I am pleased to introduce the Federal Employee Commuter Benefits Act of 2005, which is cosponsored by my colleagues Senators MIKULSKI and WARNER. This bill will guarantee transit benefits to all Federal employees in the National Capital Area and will remove a restriction that currently forbids Federal agencies from providing employee shuttles to and from transit stations. This measure is an important step forward in our efforts to encourage transit ridership and improve the quality of life for federal employees in the Washington, D.C. region and throughout the Nation.

All across the Nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impact, and personal frustration. According to the Texas Transportation Institute, in 2003 Americans in 85 urban areas spent 3.7 billion hours stuck in traffic, with an estimated cost to the nation of $64.8 billion in lost time and wasted fuel. In response, Americans are turning to alternative transportation in record numbers. The American Public Transportation Association estimates that Americans now take over 9 billion trips on transit per year, the highest level in more than 40 years. The Texas Transportation Institute has estimated that without transit, the 85 urban areas they studied would have suffered an additional 1.1 billion hours of delay, a 27 percent increase, which would have added $18 billion to the national cost of congestion.

Transit benefit programs are playing a vital role in increasing transit ridership, which benefits both transit users and drivers. In 1998, the Transportation Equity Act for the 21st Century amended the tax code to allow financial incentives related to commuting costs for both employers and employees. These transit benefits allowed employers to offer a tax-free financial incentive toward the costs of transit commuting, starting at $65 per month and raised in 2005 to $105 per month.

Based upon the findings of the Environmental Protection Agency and the U.S. Department of Transportation, there are clear improvements to congestion, energy efficiency, and air quality from transit benefit programs. According to their findings, an employer with 1,000 employees that participates in a combination of transit benefits, carpool, and telecommuting programs can take credit for taking 175 cars off the road, saving 44,000 gallons of gasoline per year, and cutting global warming pollution by 420 tons per year on average.

In April 2000, an Executive Order was signed requiring all executive branch agencies in the National Capital Region to offer transit benefits to their employees. As a result, Federal employees commuting to Washington, D.C. from Montgomery, Prince George's, and Frederick Counties, Maryland, several counties in Northern Virginia, and as far away as West Virginia, are encouraged to choose transit as their means to get to work.

According to the Washington Metropolitan Area Transit Authority and the U.S. Department of Transportation, more than 150,000 employees—more than one-third of all Federal employees in the National Capital Region—joined the Federal transit benefit program created by the Executive Order. These program participants alone have eliminated an estimated 12,500 single-occupancy vehicles from Washington, D.C. area roads, helping to reduce congestion and improve air quality for our region.

The Executive Order, however, is limited. It does not cover employees in the legislative and judicial branches, for example, or in dozens of independent agencies. While many of the employers in those organizations provide transit benefits to their employees, the implementation and level of benefit is up to the discretion of individual offices. As such, many of these organizations provide limited benefits or do not provide any benefits at all. Guaranteed transit benefits would give these employees more choice in their commuting options and provide an additional incentive to move off our congested roadways and onto public transit.

Of course, such incentives will be ineffective if employees lack access to transit services. In my own state of Maryland, the United States Food and Drug Administration planned to use its own resources to provide a shuttle service for its employees from its new White Oak facility to an area Metro station. When they investigated providing this service, FDA officials found that the current law does not allow federal agencies to use their own vehicles to shuttle employees to mass transit stations.

The potential impact of this restriction on regional congestion is not insignificant. By the middle of this year, FDA expects to have 1,850 employees located at the new White Oak facility, and plans have been made to eventually house more than 7,000 FDA researchers and administrators at the new facility. The lack of access from FDA's new campus to a transit station represents a lost opportunity for reducing congestion, improving our environment and elevating the quality of life for employees.

This type of lost opportunity occurs across the nation. Nationally, the Federal Government employs more than 2.6 million civilian workers at more than 3,000 Federal Government office buildings. At Federal offices throughout the country, transit use is often limited as a commuting option due to lack of employee access to a transit station or a bus stop.

The Federal Employee Commuter Benefits Act would address both of these issues faced by Federal employees. First, the bill would put into law the Executive Order's requirement that transit pass benefits be made available to all qualified Federal employees in the National Capital Region. The bill also extends the requirement beyond executive branch agencies to include the legislative and judicial branches and the independent agencies, providing guaranteed transit benefits to thousands of additional federal employees in the Washington, DC region.

Second, the Federal Employee Commuter Benefits Act would remove the restriction that prohibits a Federal agency from operating a shuttle service to a public transit facility. With this legislation, any Federal agency, anywhere in the United States, can choose to provide a transit shuttle service for their employees. By providing access to commuting alternatives, Federal agencies will be able to provide a benefit to their employees that can make getting to work easier, more affordable, and more employee-friendly. It will also provide an opportunity to help reduce congestion and improve air quality across the Nation.

Since 1982, the U.S. population has grown 20 percent, but the time spent by commuters in traffic has grown by over 200 percent. Each year, traffic congestion wastes nine billion gallons of fuel. By encouraging federal employees to look to transit and by providing access to transit stations, we can help reduce congestion, improve the environment, and promote an improved quality of life.

I am introducing the Federal Employee Commuter Benefits Act because of the opportunities it will give federal agencies to support public transportation, both by providing employee access to transit facilities across the nation, and by providing transit benefits to federal employees in the Washington, D.C. region. Both of these improvements will aid our efforts to fight congestion and pollution by encouraging the use of transportation alternatives. This legislation is strongly supported by federal employees, transit providers, and local elected officials, and I ask unanimous consent that the text of the bill, along with letters of support, be printed in the RECORD. I encourage my colleagues to join me in supporting the Federal Employee Commuter Benefits Act.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1018

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 ''Federal Employee Commuter Benefits Act of 2005''.

SEC. 2. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in subsection (b).

(b) BENEFITS DESCRIBED.—The benefits described in this subsection are the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are required to be offered by Federal agencies in the National Capital Region on the date of enactment of this Act.

(c) DEFINITIONS.—In this section—

(1) the term ''covered agency'' means any agency, to the extent of its facilities in the National Capital Region;

(2) the term ''agency'' means any agency (as defined by 7905(a)(2) of title 5, United States Code), the United States Postal Service, the Postal Rate Commission, and the Smithsonian Institution;

(3) the term ''National Capital Region'' includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;

(4) the term ''Executive Order 13150'' refers to Executive Order 13150 (5 U.S.C. 7905 note);

(5) the term ''Federal agency'' is used in the same way as under section 2 of Executive Order 13150; and

(6) any determination as to whether or not one is a ''qualified Federal employee'' shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to require that a covered agency—

(1) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in subsection (a)) any program or benefits permitted or required under any other provision of law; or

(2) discontinue (on or after the effective date referred to in subsection (a)) any program or benefits referred to in paragraph (1), so long as such program or benefits satisfy the requirements of subsections (a) through (c).

SEC. 3. AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.

(a) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(b) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(c) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by subsection (a)) shall be in addition to any authority otherwise available to the agency involved.

THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 12, AFL–CIO,

May 11, 2005.

Hon. PAUL SARBANES
U.S. Senate, Washington, DC.
Subject: H.R. 1283

DEAR SENATOR SARBANES: The American Federation of Government Employees (AFGE) Local 12 represents 3,600 employees at the U.S. Department of Labor in the Washington D.C. metropolitan area.

We appreciate very much all the work you have done on behalf of Federal employees, in particular your work to assist our local in our three year battle to have the monthly transit subsidy raised to $100.

We respectfully request that you sponsor and introduce in the Senate a companion bill to H.R. 1283. The purpose of H.R. 1283 is ''To provide that transit pass transportation fringe benefits be made available to all qualified Federal employees in the National Capital Region; to allow passenger carriers which are owned or leased by the Government to be used to transport Government employees between their place of employment and mass transit facilities, and for other purposes.''

H.R. 1283 was introduced by Congressman Jim Moran and is co-sponsored by Representatives Eleanor Holmes Norton, Albert Wynn, Chris Van Hollen, Steny Hoyer, Frank Wolf, and Earl Blurnenauer. It has been referred to the House Government Reform Committee.

Passage into law of this legislation would not only help employees at any Federal agency in this area where management has decided, for whatever reason, not to offer the tax-free maximum transit subsidy. It would also benefit the region generally by giving more Federal employees the incentive to use mass transit, thus helping to lessen traffic congestion and air pollution.

The membership of AFGE Local 12 passed a resolution on May 5 of this year in support of this kind of legislation. A copy of the resolution is attached.

Thank you very much for your consideration of this serious matter.

Respectfully yours,

LAWRENCE C. DRAKE, Jr.
President.

Approved by the membership of AFGE Local 12 on May 5, 2005

RESOLUTION ON TRANSIT SUBSIDY LEGISLATION

Whereas: Using mass transit is one of the most cost-effective, environmentally sound, and energy efficient ways for Federal employees to commute to their workplaces;

Executive Order 13150 ordered transit subsidies, now valued at a maximum of $105 a

month, to be made available to all executive branch employees;

Pursuant to Executive Order 13150, the number of executive branch employees utilizing transit subsidies grew from 55,000 to 155,000 participants, reducing highway vehicle miles commuted by over 40 million;

The Washington DC metropolitan area's traffic congestion is overall the country's third worst and is worse than any other metropolitan area outside California;

As the region's largest employer, the Federal government has the capacity and the moral duty to significantly reduce road overcrowding and its consequent pollution by providing appropriate transit benefits to encourage more widespread mass transit use;

Legislation codifying transit benefits for Federal employees in the Washington DC metropolitan area and repealing restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers, unanimously approved by the House Government Reform Committee in the previous Congress, has been re-introduced as H.R. 1283 by Rep. Jim Moran and six co-sponsors; and

Codifying these benefits would remedy Executive Order 13150's lack of legal recourse against agencies willfully ignoring its requirements;

Therefore be it resolved that:

American Federation of Government Employees Local 12 endorses legislation such as H.R. 1283 which codifies Executive Order 13150 and repeals restrictions on Federal agencies offering their employees shuttle services between their offices and transit centers; and

AFGE 12 likewise urges other organizational entities with which it is affiliated in the American Federation of Government Employees and the AFL–CIO to actively seek enactment of such legislation.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
May 11, 2005.

Hon. PAUL S. SARBANES,
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to express strong support for legislation you are proposing that would expand the use of transit-related commuter tax benefits in the Washington, DC region. This legislation will help promote the use of public transportation and thereby support regional efforts to reduce traffic congestion in the National Capital area. We note that a recent report by the Texas Transportation Institute (TTI) cited the Washington, DC metropolitan area as the third most congested in the nation.

As we understand it, your legislation would codify language currently in an executive order that requires federal executive branch agencies to offer to their employees transit benefits equal to employee commuting costs, currently up to $105 per month. The legislation would also expand the eligibility of these benefits to legislative and judicial branch employees in the National Capital area.

We believe that it is important that the federal government support the use of public transportation in its efforts to reduce congestion, minimize auto pollution, and make the best use of existing public transportation facilities that are built with a substantial federal investment. APTA has been a longtime proponent of providing federal tax incentives that promote public transportation at no less a level than those provided for parking.

We thank you for your leadership on this issue. If you have questions, please have your staff contact Rob Healy of APTA's Government Affairs Department at (202) 496–4811 or e-mail rhealy@apta.com. We look forward to working with you to see this important legislation enacted into law.

Sincerely yours,

WILLIAM W. MILLAR,
President.

METRO,
April 15, 2005.

Hon. PAUL S. SARBANES,
U. S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am pleased to offer the Washington Metropolitan Area Transit Authority's (WMATA) endorsement of the legislation you are proposing concerning federal employee commuter benefits. This legislation is very important in supporting regional efforts to use every feasible technique to reduce the severe traffic congestion in the National Capital Region.

The recently released Texas Transportation Institute (TTI) report on congestion cites the metropolitan Washington region as the third most congested in the nation, despite intense transit use by commuters in this area.

The TTI report cites a number of strategies that help to reduce congestion and the cost of delay to the residents of the region. For the Washington metropolitan area, the TTI report indicates that transit services currently save the metropolitan area more than $1 billion annually in delay costs and over 52 percent of current delay time. The metropolitan Washington region is fifth in the nation in terms of the hours of delay saved because of the public transportation network. The TTI report demonstrates the positive effects of transit services on reducing traffic congestion in the Washington metropolitan area. With the unrelentless traffic in this region, it is critical that transit ridership continues to grow to relieve road congestion.

It's essential that the federal government as the region's largest employer, employing more than 374,000 people in this area, give employees every incentive to take transit. The tremendously successful transit benefits program, known in this area as Metrochek, is currently required to be offered to civilian and military employees of the Executive Branch and voluntarily provided by the U.S. House and Senate and several independent agencies. Since the imposition of Executive Order 13150 on October 1, 2000, the number of federal employees receiving transit benefits has increased 166 percent, from 57,000 to 151,800 and 47 percent of Metrorail's peak period riders are federal employees—up from 35 percent in the mid 1980s.

Your proposal will codify the federal employees transit benefit and expand its eligibility to judicial, legislative and independent agency employees in the National Capital Region. While some of these agencies already participate in the Metrochek program, this legislation ensures that participation will be uniform across all three branches of the federal government.

WMATA also supports the proposal to authorize the establishment of federal agency shuttles to and from mass transit facilities. While many federal agencies throughout the region are within walking distance of Metrorail stations, and other transit facilities, some are not. This legislation will make transit accessible to many federal workers for whom transit is not currently a viable alternative because their work site is not convenient to a Metro station.

Many thanks for your leadership in proposing this legislation. It is another example in a long list of initiatives you have sponsored to promote public transportation in the National Capital Region and the nation.

Sincerely,

RICHARD A. WHITE,
General Manager and Chief Executive Officer.

MAY 12, 2005.

Hon. PAUL SARBANES,
Ranking Member, Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: I am writing to you to express the support of the Virginia Railway Express for your efforts to reintroduce legislation that would provide transit pass transportation fringe benefits to all qualified Federal employees in the National Capital region. As someone who has always been an advocate for the promotion of public transportation and the mobility it affords the citizenry, we are fortunate to have you as the Ranking Member of the Senate Committee on Banking, Housing and Urban Affairs, which oversees mass transit programs.

As you have witnessed, increased federal investment in transit under TEA 21 has led to dramatic growth in public transportation ridership, particularly in the National Capital Region. The Virginia Railway Express is a prime example of that growth, with ridership increasing by 17% each year for the past four years, making us one of the fastest growing commuter railroads in America. Nearly 64% of our ridership is comprised of federal and/or military employees working in the region.

Currently, transit benefits are offered to a select core of federal employees under Executive Order 13150. The benefit is limited to the executive branch agencies with no requirement for participation by the legislative and judicial branches. Such legislation would codify transit benefits to all eligible federal employees by broadening the scope of participation to another 100,000 workers, thus providing greater flexibility and mobility for the federal work force in the region.

Your legislation is significant not only because it affords greater options to our federal workforce, but also because the use of public transit is the only recourse to help relieve the growing problem of traffic congestion in the region. For instance, today VRE transports enough people to remove more than one lane of traffic off of I–95 and I–66 during peak commuting rush hours in the morning and the evening. Not only does it reduce car emissions; thus improving air quality, but also ensures that the federal and private workforce can get to work in a timely fashion; thus saving millions of dollars for employers. The passage of this legislation would only increase these benefits to our region.

In conclusion, let me again thank you for all the support that you have given to public transportation over the years and for authoring this much needed legislation. I hope that with your direct involvement that we will be successful in seeing this measure signed into law.

Sincerely,

DALE ZEHNER,
Chief Executive Officer.

By Mr. DURBIN:

S. 1019. A bill to amend titles 10 and 38, United States Code, to increase benefits for members of the Armed Forces who, after September 11, 2001, serve on active duty outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or a

combat operation; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce the Welcome Home G.I. Bill. Similar to the GI Bill for soldiers returning from World War II, this Welcome Home G.I Bill establishes a program of benefits designed to reward returning veterans and ease their transition into civilian life.

These benefits would be available to troops who deployed for six months or more outside the United States for combat, contingency, peacekeeping or humanitarian operations after September 11, 2001. The bill also covers troops who do not meet the six-month service requirement because they were discharged earlier for medical or hardship reasons.

This bill provides our returning heroes with improved health care, education and job training assistance, and help with a down-payment on a home.

Returning troops deserve better health care coverage. Currently, upon separating from the military, active duty service members receive six months of healthcare coverage as a ''transition'' benefit and thereafter may enroll for an additional 18 months under the Continued Health Care Benefit Program provided they pay required premiums. Reservists released from active duty can pay premiums to obtain a year of coverage for every three months they were mobilized.

Under the Welcome Home G.I. Bill, a returning veteran who is unable to secure health care coverage from an employer would be entitled to exactly the same medical care they received while in the service. Veterans would be entitled to this benefit for up to five years.

Our troops also deserve better medical screening before and after deployments. Current law establishes a system of pre-deployment and post-deployment medical examinations, including an assessment of mental health and the drawing of blood samples, to accurately record the medical condition of members before and after their deployment.

The Welcome Home G.I. bill improves the quality of pre-deployment and post-deployment medical screening by requiring that the pre-deployment exam include disease screening and the collection of clinical data such as vital signs, immunization history and past physical or mental health conditions. It also requires post-deployment medical screening to include a self-administered survey in which the service member may report information about any relevant exposures during the period of deployment. These provisions will help identify war-related ailments so the information will be available to answer any future questions about the ailment's connection to military service.

Returning warriors need access to educational opportunities that can enhance their employment prospects in civilian life after they depart military service. Currently active duty troops have the option of enrolling in the Montgomery G.I. Bill education benefits program, under which the service member contributes $100 per month for 12 months while in service and then later may receive up to $1,004 per month in education benefits for up to 36 months. Currently, mobilized reservists receive some portion of the active duty benefit depending on the length of their activation. Under the Welcome Home G.I. Bill, our Iraq and Afghanistan veterans both active duty and mobilized reserve component troops would receive education or job training benefits worth a maximum of $75,000 over 48 months. So this bill basically adds a little more than $500 per month to the current benefit and extends it for an extra year. The benefit could also be used to repay student loans. In addition, qualifying troops who previously enrolled in the Montgomery G.I. Bill program would have their contribution refunded.

Finally, the Welcome Home G.I. Bill helps our returning veterans realize the American dream of owning their own home. For a 5-year period after completion of their qualifying service, returning veterans may receive a tax-free $5,000 down payment for the first-time purchase of a home.

Our veterans who have endured the burdens of war, under the most trying conditions, at tremendous personal risk and sacrifice, deserve more than they are currently provided by this Nation upon their return. They deserve the improved health care, education and job training, and home-ownership assistance which this bill provides. I invite my colleagues to join me in supporting this bill.

Mr. COLEMAN (for himself and Mr. PRYOR):

S. 1020. A bill to make the United States competitive in a global economy; to the Committee on Finance.

Mr. COLEMAN. Mr. President, today I am introducing legislation to help the United States compete in an increasingly global economy in order to keep and to grow good paying, high quality jobs here at home. I am very pleased to be joined by my very good friend and colleague, Senator MARK PRYOR, who cares as deeply about these issues as I do.

In recent years much has been written about globalization—especially the ''outsourcing'' of American jobs overseas. In fact, my hometown paper, the St. Paul Pioneer Press recently ran an editorial highlighting a survey done by the Federal Reserve that shows despite all the talk of ''outscouring'' and ''lost jobs'', globalization has resulted in more jobs and more money for Minnesota's workers. I ask unanimous consent that this article be included in the record along with my statement. However, that same editorial warned that as China, India and the European Union work to expand their own market opportunities by modernizing their infrastructure and improving the skills of their workforce, there is no guarantee that the world's best companies will continue to invest here at home.

Yet, at the same time that the Labor Department has projected that new jobs requiring advanced science, engineering and technical training will increase four times faster than the average national job growth rate, only 36 percent of 9th–12th graders in Minnesota are taking upper level math courses, and only 22 percent of are taking upper level science. Moreover, in a high tech economy that values knowledge and ideas as much as the products they produce the U.S. Patent and Trademark Office (PTO) has reported that the time it takes someone to get a patent is exploding. The facts read loud and clear: in order to maintain our place as the leader in tomorrow's economy, America must act now to maintain our competitive advantage and remain ahead of the curve.

That is why we are introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 or the COMPETE ACT of 2005. The COMPETE Act is based on three simple, fundamental ideas: 1. The U.S. needs to maintain its competitive advantage in robust technology and innovation; 2. We must continue to ''upskill'' our workforce to ensure they have the skills necessary to remain competitive in a global economy that is more reliant on technology than ever before; and 3. We must utilize private-public partnerships to help improve education in the areas of science, technology, engineering and mathematics.

America's economic strength is rooted in its ability to innovate, and so the COMPETE Act strengthens and expands the R&D tax credit. Expanding the R&D tax credit will help American companies to stay on the forefront of the technological revolution. This credit helps fuel job creation here at home and enables companies to bring more products and services to market.

The COMPETE Act also reforms and improves the U.S. Patent Trademark Office (PTO). It is no secret that patents and trademarks are the currency that drives America's high-tech economy. Unfortunately, the PTO estimates that it will take an average of 49 months by 2009 for it to issue a patent. This is a lifetime when you are innovating, and discourages new ideas. Furthermore, the current backlog on patent applications now totals almost a half million—the highest ever. Fortunately, the PTO has come up with a solution to this problem. However, it does not have the money to implement it. The COMPETE Act provides the PTO with the crucial funding necessary to reform the patent and trademark process so that U.S. companies remain on the forefront of the technological revolution.

Today, our employers need more than just raw materials; they need a highly skilled workforce who adds that extra value to their product. That is

why the COMPETE Act establishes a tax credit that will help ''upskill'' America's workers so that they can compete in an economy increasingly more dependent on information, communication and technology (ICT) skills. Indeed, ICT skills are today's newest raw material and are the infrastructure America needs to be a leader in today's global market.

To help close the math and science gap, the COMPETE Act creates a public-partnership that will leverage the expertise and resources of the private sector and those in the university community to establish joint regional training and research centers. These centers will provide training and technical assistance to teachers so they will be better equipped to get students interested in math and science at an early age.

The COMPETE Act rewards high performing schools in math and science and at the same time provides an incentive for businesses to get more involved in helping high-need schools to improve in the areas of math and science. Finally, the COMPETE Act establishes a matching grant program where federal and private resources will be used to help graduate students in science, technology, engineering and mathematics meet the cost of getting a graduate degree. This grant program will also support outreach and mentoring activities to increase the participation of underrepresented groups in these fields at every level of education.

Today is the time to prepare for tomorrow and the COMPETE Act represents an important step in helping to prepare the U.S. to succeed in meeting the challenges of a rapidly changing world. The COMPETE Act will help the U.S. remain ahead of the curve when it comes to competing in today's global economy. That is why a number of diverse organizations, including the R&D Credit Coalition, National Council of Teachers of Mathematics, National Science Teachers Association, Computing Technology Industry Association (CompTIA), American Association for the Advancement of Science, National Association of State Universities & Land-Grant Universities, ASSE Engineering Deans Council, Council of Graduate Schools, American Society for Training & Development, Association of American Universities, and the Intellectual Property Owners Association support one or may of tile provisions of the COMPETE Act.

I ask unanimous consent that their letters of support be printed in the RECORD.

Today our economy is both more vulnerable and more successful than it has ever been. To ensure that we are maximizing our chances for success, we need to help employees and individuals innovate. We need to have a workforce that has the skills necessary to compete in a worldwide economy that is increasingly dependent on technology. We need to focus on math and science education to ensure that America continues to produce the best engineers and scientists in the world. And above all, we need to do those things necessary to make the U.S. the best place to do business in the world. The bottom line is we all want America's moms and dads to enjoy good paying jobs here at home so they can do what every mom and dad wants to do and that is give our kids a better life than we had. That's what the COMPETE Act is all about.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

[From the St. Paul Pioneer Press, Dec. 19, 2004]

MINNESOTA MUST COMPETE IN A GLOBAL ECONOMY

The Federal Reserve Bank of Minneapolis recently published the findings of the annual survey conducted by Minnesota Technology Inc. and the Minnesota Department of Employment and Economic Development. The clear message from Minnesota businesses is that globalization is here to stay and it's not all bad.

''It's the new hard reality,'' said Ron Kirscht, president of Donnelly Custom Manufacturing Co. in Alexandria.

Indeed, for all the hand wringing over outsourcing and the fact that Bemidji has to compete with Bangalore, it's clear that an increasingly global economy has been a net gain for Minnesota.

''The results showed that state manufacturers and service providers in industries most likely to be affected by globalization are integrating rapidly into the global community, whether through importing, exporting, off shoring or foreign direct investment,'' the Fed said in fedgazette, its monthly publication.

For instance, a dozen years ago, Donnelly did very little importing and no exporting. Today it imports components, materials and tools, and exports its custom-built products around the world.

''We couldn't compete if we didn't,'' Kirscht said.

Some executives even admit that globalization has made them more competitive.

''There's always the feeling that the fewer the competitors the better,'' said Steven Cheppard, CEO of Kenyon-based Foldcraft Co. ''But in a sort of convoluted fashion it is possible to make a positive out of this. It forces us to make ourselves better and better.''

According to the survey, about 21 percent of respondents were importers and 32 percent exporters in 1998. Today both numbers are around 40 percent.

About 20 percent of those surveyed reported increased employment and production during the same period. On wages, about 43 percent of businesses expect them to increase; 38 percent see no changes and 19 percent see a decrease due to increased global competition. Perhaps more important, businesses expect to add more new production jobs between now and 2008 than they did between 1998 and 2003.

Not surprisingly, the top three reasons cited for outsourcing and importing were to reduce or control costs, increase revenue and increase overall competitiveness. About 43 percent of those surveyed said the cost of employee health care benefits was a key factor in their decision to move jobs offshore or out of state. About one-third said wages and taxes chased them out of Minnesota.

Team Industries, a designer and manufacturer of power trains for recreational vehicles, has manufacturing plants in six Minnesota cities, and a market reach that extends around the globe. Jason Roue, general manager at the company's Baxter plant in central Minnesota, noted that in the past few years the company has expanded its network of global sourcing.

It now imports lower-cost parts and raw materials from around the world, but at the same time have seen significant export growth as international demand for its products has increased.

''If we plan on staying in business, we're going to have to adapt,'' said Roue. ''By adopting global sourcing and lean manufacturing techniques, and by differentiating ourselves from foreign competitors, mainly in China and Korea, we think we can meet the challenge of global competition.''

The Fed notes that regardless of how businesses ''feel'' about globalization, ''they seem to understand that membership is not negotiable, but required. ''

We agree. Furthermore, we'd argue that when state and local lawmakers are considering new taxes and regulations, even with a projected budget shortfall of $1.4 billion, they also need to consider how our regimen compares with not just Seattle and Shreveport, but Shanghai and Singapore. For the Fed study makes clear that the world—not just the country—is increasingly the competitive landscape on which Minnesota must compete.

INTELLECTUAL PROPERTY OWNERS ASSOCIATION,
Washington, DC, May 12, 2005.

Hon. NORM COLEMAN,
Senate Hart Office Building,
Washington, DC.

Hon. MARK PRYOR,
Senate Dirksen Office Building,
Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: Intellectual Property Owners Association (IPO) writes to voice its strong support for Title III of the COMPETE Act of 2005. As you know, IPO has long advocated ending diversion of the user fees paid by patent and trademark applicants to the U.S. Patent and Trademark Office (USPTO) and Title III of the COMPETE Act of 2005 would accomplish this goal.

Intellectual property rights including patents and trademarks are the currency that drives America's high-tech economy. Yet, the USPTO currently faces not only a workload crisis, but also questions about the quality of the patents it grants.

IPO's recommended objectives for the USPTO are to: (1) improve patent quality, (2) reduce the time it takes applicants to get a patent, and (3) achieve cost effectiveness in all operations. IPO has supported the USPTO's ''21st Century Strategic Plan'' as a way to achieve these objectives, but until now, the USPTO has been hampered by lack of funding. Last year, Congress passed legislation raising patent application fees by 15 to 25 percent. The fee increase will provide more than $200 million a year in additional revenue to the USPTO through September 2006; however, a long term solution to USPTO's funding problems is still needed.

America's innovators remain prepared to pay out of our own pockets to improve the situation at the PTO provided that the money will go to the agency and not be diverted to unrelated programs. This fear is not unfounded, given that Congress diverted more than three-quarters of a billion dollars of fees paid by patent and trademark applicants to unrelated government programs from 1992 until 2004.

IPO firmly believes that it is reasonable and just that the USPTO keep 100 percent of its own patent and trademark fees. To allow

for anything less would be a disservice to inventors and entrepreneurs and a drag on our nation's competitiveness and productivity.

We thank you for supporting America's innovators by introducing legislation that would end the practice of fee diversion, and we are committed to working with you to ensure that such legislation is enacted into law.

Sincerely,

HERBERT C. WAMSLEY,
Executive Director.

AMERICAN SOCIETY FOR TRAINING AND DEVELOPMENT,
Alexandria, VA, May 11, 2005.

Hon. NORM COLEMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLEMAN: On behalf of the American Society for Training & Development (ASTD), thank you for introducing the Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005 (COMPETE Act). As the world's largest association dedicated to training, workplace learning, and performance professionals, ASTD is acutely aware that one of the most critical issues facing organizations today is developing the knowledge and capabilities of the workforce. Your bill is a big step in the right direction to ensuring that the U.S. workforce remains competitive in the global economy.

Sections 111–112 of Title I, the Tax Credit for Information and Communications Technology Education and Training Program Expenses, are of particular interest to ASTD. This tax credit can benefit all U.S. companies because every industry requires IT skills, not just IT-based companies. According to ASTD's 2004 State of the Industry Report, one of the most important content areas in which employees are trained in U.S. organizations is IT and systems training. A tax credit for expenses paid or incurred for IT training demonstrates a targeted solution for both employer and employee (or an unemployed individual). Employers identify what training is needed; employees are able to train or upskill in industries that need skilled workers. And because employers or individuals are required to pay half the training or educational costs, there is a greater likelihood that the program will be successful. ASTD therefore supports your efforts to include these sections in the COMPETE Act.

Many businesses find themselves ill-equipped to grow because the skills required to meet demand for growth are in short supply in their organizations. A full 66 percent of respondents to a recent ASTD poll say there is a skills gap in their organizations right now, and almost 20 percent say there will be one within the next year. The best approach for addressing the skills gap is the COMPETE Act's solution of providing government incentives that enable the private sector to train or educate more people in the industries in which skilled workers are needed.

The COMPETE Act is an excellent example of a public-private partnership that can ensure companies remain competitive, and individuals seek the education they need to enter or re-enter the workforce. We look forward to working with you and your staff as this bill progresses through the Senate.

Sincerely,

TONY BINGHAM,
President & CEO.

COUNCIL OF GRADUATE SCHOOLS,
Washington, DC.

Hon. NORM COLEMAN,
U.S. Senate, Washington, DC.
Hon. MARK PRYOR,
U.S. Senate, Washington, DC.

DEAR SENATORS COLEMAN AND PRYOR: I am writing to commend you for supporting our nation's economic competitiveness through the introduction of the Collaborative Opportunities to Mobilize and Promote Education, Technology and Enterprise (COMPETE) Act. The Council of Graduate Schools (CGS) and its 460 plus member institutions are very grateful for your leadership in addressing the important issue of American competitiveness.

CGS is committed to collaborating with you and others on developing a coordinated national strategy to enhance America's competitiveness. The European Union, China, India and many other countries are making large investments in education, research and development, greatly expanding their ability to compete in the global economy. The United States cannot afford to coast on its past successes and must invest now to maintain our economic preeminence and national security in the years ahead.

The policy changes you propose include providing a new matching fund program to promote competitiveness through graduate education, extension and enhancement of the R&D tax credit, and improvements to the Federal patent and trademark process. These policy proposals along with others designed to support math and science education in elementary and secondary schools establish a solid foundation for a longer-term, comprehensive agenda designed to maintain our nation's leadership in innovation, research and discovery.

We are also appreciative of your additional legislative efforts to increase global competition for the best and the brightest. As you know, the U.S. must continue welcoming qualified international students to our country and simultaneously implementing policies to address declining participation of domestic students across key fields in science, technology, engineering, mathematics and critical foreign languages.

Thank you for your leadership in addressing American competitiveness and for supporting the vital role played by graduate education as a key part of our national strategy to maintain our leadership in the global economy.

Sincerely,

DEBRA W. STEWART.

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. 1020

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 ''Collaborative Opportunities to Mobilize and Promote Education, Technology, and Enterprise Act of 2005'' or the ''COMPETE Act of 2005''.

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

TITLE I—TAX INCENTIVES

Subtitle A—Research Credit

SEC. 101. EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''2005'' and inserting ''2007''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking ''2005'' and inserting ''2007''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 102. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'';

(2) by striking ''3.2 percent'' and inserting ''4 percent''; and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 103. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) IN GENERAL.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) 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) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6

percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(b) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(2) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Education

SEC. 111. CREDIT FOR INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''SEC. 30B. INFORMATION AND COMMUNICATIONS TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of information and communications technology education and training program expenses paid or incurred by the taxpayer for the benefit of—

''(1) in the case of a taxpayer engaged in a trade or business, an employee of the taxpayer, or

''(2) in the case of a taxpayer who is an individual not so engaged, such individual.

''(b) LIMITATIONS.—

''(1) EMPLOYERS.—In the case of any taxpayer described in subsection (a)(1), the amount of expenses which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

''(A) the excess of—

''(i) the sum of—

''(I) $10,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred information and communications technology education and training expenses, plus

''(II) $8,000 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses, over

''(ii) the average amount of such expenses paid or incurred by the taxpayer with respect to all employees for the 3 preceding taxable years, or

''(B) the sum of—

''(i) $4,000 multiplied by the number of qualified individuals who are employees and with respect to whom the taxpayer has paid or incurred such expenses, plus

''(ii) $2,500 multiplied by the number of all other employees with respect to whom the taxpayer has paid or incurred such expenses.

''(2) INDIVIDUALS.—The amount of expenses with respect to any individual described in subsection (a)(2) which may be taken into account under subsection (a) for the taxable year shall not exceed $2,500 ($4,000 in the case of a qualified individual).

''(3) COORDINATION OF CREDITS.—

''(A) IN GENERAL.—The credit under subsection (a)(1) allowed to an employer with respect to any employee shall be reduced by the coordination exclusion amount.

''(B) PORTION OF CREDIT ALLOWABLE.—For purposes of subparagraph (A), the coordination exclusion amount is an amount which bears the same ratio to the applicable limitation as—

''(i) the amount (if any) of the limitation applicable to such employee under subsection (b)(2) which such employee does not assign to such employer, bears to

''(ii) $2,500 ($4,000 in the case of an employee who is a qualified individual).

''(C) APPLICABLE LIMITATION.—For purposes of subparagraph (B), the term 'applicable limitation' means the amount under paragraph (2) with respect to such employee which is used by such employer to calculate the limitation under such paragraph.

''(4) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual—

''(A) with respect to whom all information and communications technology education and training program expenses are paid or incurred in connection with a program operated—

''(i) in an empowerment zone or enterprise community designated under part I of subchapter U or a renewal community designated under part I of subchapter X,

''(ii) in a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act,

''(iii) in an area designated as a disaster area by the Secretary of Agriculture or by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the taxable year or any of the 4 preceding taxable years,

''(iv) in a rural enterprise community designated under section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999,

''(v) in an area designated by the Secretary of Agriculture as a Rural Economic Area Partnership Zone,

''(vi) in an area over which an Indian tribal government (as defined in section 7701(a)(40)) has jurisdiction, or

''(vii) by an employer who has 200 or fewer employees for each business day in each of 20 or more calendar weeks in the current or preceding calendar year,

''(B) with a disability, or

''(C) who is receiving a benefit under chapter 2 of title II of the Trade Act of 1974.

''(c) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'information technology education and training program expenses' means expenses paid or incurred by reason of the participation of the taxpayer (or any employee of the taxpayer) in any information and communications technology education and training program. Such expenses shall include expenses paid in connection with—

''(A) course work,

''(B) certification testing,

''(C) programs carried out under the Act of August 16, 1937 (50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq), which are registered by the Department of Labor, and

''(D) other expenses that are essential to assessing skill acquisition.

''(2) INFORMATION TECHNOLOGY EDUCATION AND TRAINING PROGRAM.—The term 'information technology education and training program' means a training program in information and communications technology workplace disciplines or which is provided in the United States by an accredited college, university, private career school, postsecondary educational institution, a commercial information technology provider, or an employer-owned information technology training organization.

''(3) COMMERCIAL INFORMATION TECHNOLOGY TRAINING PROVIDER.—The term 'commercial information technology training provider' means a private sector organization providing an information and communications technology education and training program.

''(4) EMPLOYER-OWNED INFORMATION TECHNOLOGY TRAINING ORGANIZATION.—The term 'employer-owned information technology training organization' means a private sector organization that provides information technology training to its employees using internal training development and delivery personnel. The training programs must use industry-recognized training disciplines and evaluation methods, comparable to institutional and commercial training providers.

''(d) DENIAL OF DOUBLE BENEFIT.—

''(1) DISALLOWANCE OF OTHER CREDITS AND DEDUCTIONS.—No deduction or credit shall be allowed under any other provision of this chapter for expenses taken into account in determining the credit under this section.

''(2) REDUCTION FOR HOPE AND LIFETIME LEARNING CREDITS.—The amount taken into account under subsection (a) shall be reduced by the information technology education and training program expenses taken into account in determining the credits under section 25A.

''(e) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 45A(e)(2) and subsections (c), (d), and (e) of section 52 shall apply.

''(f) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the sum of the regular tax liability (as defined by section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and section 27 for the taxable year.

''(g) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning after 2004, each of the dollar amounts under paragraphs (1), (2), and (3) of subsection (b) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) of the calendar year in which the taxable year begins, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 30B. Information and communications technology education and training program expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2004.

SEC. 112. ELIGIBLE EDUCATIONAL INSTITUTION.

(a) IN GENERAL.—Section 25A(f)(2) of the Internal Revenue Code of 1986 (relating to eligible educational institution) is amended to read as follows:

''(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

''(A) an institution—

''(i) which is described in section 101(b) or 102(a) of the Higher Education Act of 1965, and

''(ii) which is eligible to participate in a program under title IV of such Act, or

''(B) a commercial information and communications technology training provider (as defined in section 30B(c)(3)).''.

(b) CONFORMING AMENDMENT.—The second sentence of section 221(d)(2) of the Internal Revenue Code of 1986 is amended by striking ''section 25A(f)(2)'' and inserting ''section 25A(f)(2)(A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 113. ALTERNATIVE PERCENTAGE LIMITATION FOR CORPORATE CHARITABLE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—Section 170(b) of the Internal Revenue Code of 1986 (related to percentage limitations) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO THE MATHEMATICS AND SCIENCE PARTNERSHIP PROGRAM.—

''(A) IN GENERAL.—In the case of a corporation which makes an eligible mathematics and science contribution—

''(i) the limitation under paragraph (2) shall apply separately with respect to all such contributions and all other charitable contributions, and

''(ii) paragraph (2) shall be applied with respect to all eligible mathematics and science contributions by substituting '15 percent' for '10 percent'.

''(B) ELIGIBLE MATHEMATICS AND SCIENCE CONTRIBUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'eligible mathematics and science contribution' means a charitable contribution (other than a contribution of used equipment) to a qualified partnership for the purpose of an activity described in section 2202(c) of the Elementary and Secondary Education Act of 1965..

''(ii) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means an eligible partnership (within the meaning of section 2201(b)(1) of the Elementary and Secondary Education Act of 1965), but only to the extent that such partnership does not include a person other than a person described in paragraph (1)(A).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

TITLE II—EDUCATION PROVISIONS

SEC. 201. REGIONAL TRAINING AND RESEARCH CENTERS.

(a) CENTERS ESTABLISHED.—From amounts appropriated under subsection (f), the Director of the National Science Foundation shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to establish 10 regional training and research centers to help maintain the Nation's workforce and education investment and infrastructure in the sciences, technology, engineering, and mathematics.

(b) ELIGIBLE ENTITY DEFINED.—In this section the term ''eligible entity'' means a partnership between an institution of higher education and 1 or more of the following entities:

(1) A research organization.

(2) An organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that—

(A) is exempt from taxation under section 501(a) of such Code; and

(B) has expertise in the sciences, technology, engineering, or mathematics.

(3) A trade or business.

(c) LOCATION.—The Director of the National Science Foundation shall award a grant for the establishment of 1 regional training and research center in each of the 10 geographic regions of the United States that is served by a regional educational laboratory under section 174 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9564).

(d) DESIGNATION.—Each regional training and research center established under this section shall be known as a ''Making America Competitive Center'' (MAC Center).

(e) USE OF FUNDS.—

(1) IN GENERAL.—Each eligible entity receiving a grant under this section shall use the grant funds to establish a regional training and research center that—

(A) provides training, technical assistance, and professional development in the sciences, technology, engineering, and mathematics, to or for States, local educational agencies, qualified teachers, and schools, in the region served by the regional training and research center;

(B)(i) develops and funds joint cooperative programs, for qualified teachers and students, with a trade or business related to the sciences, technology, engineering, or mathematics; and

(ii) develops instructional materials and teaching methods in the areas of the sciences, technology, engineering, and mathematics for use in primary and secondary schools in the region served by the center; and

(C) builds networks among the sciences, technology, engineering, and mathematics resources within the 10 regions and nationally.

(2) QUALIFIED TEACHER.—For purposes of paragraph (1)(B), the term ''qualified teacher'' means any individual who—

(A) teaches one or more courses in grades 4 through 12 primarily in—

(i) science;

(ii) computer science;

(iii) occupational preparation with respect to vocational and technical occupations;

(iv) engineering; or

(v) mathematics; or

(B)(i) received a baccalaureate or similar degree with a major or a minor in the sciences, technology, engineering, or mathematics from a college, university, vocational school, or other postsecondary institution eligible to participate in a student aid program administered by the Department of Education; and

(ii) is a teacher who is highly qualified (within the meaning of section 9101(23) of the Elementary and Secondary Education Act of 1965).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $200,000,000 for fiscal year 2006;

(2) $210,000,000 for fiscal year 2007;

(3) $230,000,000 for fiscal year 2008;

(4) $270,000,000 for fiscal year 2009; and

(5) $350,000,000 for fiscal year 2010.

SEC. 202. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

Part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6661 et seq.) is amended by adding at the end the following:

''SEC. 2204. MATH AND SCIENCE PARTNERSHIP BONUS GRANTS.

''(a) IN GENERAL.—From amounts appropriated under subsection (d), the Secretary shall award a grant—

''(1) for each of the school years 2005–2006 through 2014–2015, to each of the 5 elementary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in mathematics, as measured by the improvement in the students' average score on the State's assessments in mathematics from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded; and

''(2) for each of the school years 2009–2010 through 2014–2015, to each of the 5 elementary schools and each of the 5 secondary schools in a State whose students demonstrate the most improvement in science, as measured by the improvement in the students' average score on the State's assessments in science from the school year preceding the school year for which the grant is awarded to the school year for which the grant is awarded.

''(b) GRANT AMOUNT.—The amount of each grant awarded under this section shall be $500,000.

''(c) APPLICABILITY.—Sections 2201, 2202, and 2203 shall not apply to this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $130,000,000 for each of fiscal years 2006 through 2009, and $260,000,000 for each of fiscal years 2010 through 2015.''.

SEC. 203. MATCHING FUNDS PROGRAM TO PROMOTE AMERICAN COMPETITIVENESS THROUGH GRADUATE EDUCATION.

(a) PURPOSE.—The purpose of this section is to promote America's economic competitiveness and job creation by—

(1) assisting graduate students studying the sciences, technology, engineering, and mathematics;

(2) advancing education in the sciences, technology, engineering, and mathematics;

(3) stimulating greater links between private industry and graduate education; and

(4) enabling the Office of Science of the Department of Energy to establish a matching funds program for eligible institutions of higher education.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INSTITUTION OF HIGHER EDUCATION.—The term ''eligible institution of higher education'' means an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001), that—

(A) offers an established program of postbaccalaureate study leading to a graduate degree in the sciences, technology, engineering, or mathematics; and

(B) enters into a written agreement with the Director pursuant to subsection (e) to carry out the authorized activities described in the application submitted under subsection (d).

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Science of the Department of Energy.

(c) GRANTS.—

(1) GRANTS AUTHORIZED.—The Director is authorized to award grants, on a competitive basis, to eligible institutions of higher education to enable the eligible institutions of higher education to carry out authorized activities described in subsection (e).

(2) MATCHING FUNDS REQUIRED.—In order to receive a grant under this subsection an eligible institution of higher education shall agree to provide matching funds, toward the cost of the authorized activities to be assisted under the grant, in an amount equal to 25 percent of the funds received under the grant.

(3) AWARD CONSIDERATIONS.—In awarding grants under this subsection the Director shall take into consideration—

(A) the demonstrated commitment of the eligible institution of higher education to providing matching funds (including tuition remission, tuition waivers, and other types of institutional support) toward the cost of the authorized activities to be assisted under the grant;

(B) the demonstrated capacity of the eligible institution of higher education to raise matching funds from private sources;

(C) the demonstrated ability of the eligible institution of higher education to work with private corporations and organizations to promote economic competitiveness and job creation;

(D) the demonstrated ability of the eligible institution of higher education to increase the number of the eligible institution of higher education's graduates in the sciences, technology, engineering, or mathematics with the interdisciplinary background and the technical, professional and personal skills needed to contribute to American competitiveness and job creation in the future;

(E) the potential for the grant assistance to increase the number of graduates in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(F) the demonstrated track record of the eligible institution of higher education in outreach and mentoring activities that have the expressed purpose of recruiting and retaining women, recognized minorities, and individuals with disabilities in the sciences, technology, engineering, or mathematics.

(4) AMOUNT.—The Director shall award each grant under this subsection in an amount that is not more than $1,000,000 for each fiscal year.

(5) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Director shall ensure—

(A) an equitable geographic distribution of the grants; and

(B) an equitable distribution among public and independent eligible institutions of higher education.

(d) APPLICATIONS.—Each eligible institution of higher education desiring a grant under this section shall submit an application to the Director at such time, in such manner, and accompanied by such information and assurances as the Director may require. Each such application shall describe—

(1) the authorized activities for which assistance is sought;

(2) the source and amount of the matching funds to be provided; and

(3) the amount of funds raised by the eligible institution of higher education from private sources that will be allocated and spent to carry out the authorized activities described in subsection (e).

(e) AUTHORIZED ACTIVITIES; AGREEMENT.—Each eligible institution of higher education desiring a grant under this section shall enter into a written agreement with the Director under which the eligible institution of higher education agrees to use all of the grant funds—

(1) to provide stipends or other financial assistance (such as tuition assistance and related expenses) for students who are enrolled in graduate programs in the sciences, technology, engineering, or mathematics at the eligible institution of higher education; and

(2) to support outreach and mentoring activities to increase the participation of underrepresented groups in the sciences, technology, engineering, or mathematics at all or any level of education, including elementary, secondary and post-secondary education.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $50,000,000 for fiscal year 2006;

(2) $60,000,000 for fiscal year 2007;

(3) $70,000,000 for fiscal year 2008;

(4) $80,000,000 for fiscal year 2009; and

(5) $90,000,000 for fiscal year 2010.

TITLE III—UNITED STATES PATENT AND TRADEMARK FEE MODERNIZATION

SEC. 301. PATENT AND TRADEMARK OFFICE FUNDING.

(a) AMENDMENT.—Section 42(c) of title 35, United States Code, is amended—

(1) by striking ''(c)'' and inserting ''(c)(1)''; and

(2) by adding at the end the following:

''(2) If estimated fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, the Director shall reduce fees established under section 41 of this title and section 31(a) of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') for that fiscal year or the remainder of that fiscal year so that estimated collections for that fiscal year are equal to the amount appropriated to the Office for that fiscal year. Such reductions shall take effect on the later of October 1, of that fiscal year or 2 months after the date of enactment of the Act making the appropriation, and shall not be retroactive.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 2006 and each fiscal year thereafter.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President I rise today to introduce the Workforce Investment Act Amendments of 2005. I am pleased to be joined in this important effort by Senator KENNEDY, the Ranking Member of the Health, Education, Labor and Pensions Committee.

The Workforce Investment Act (WIA), together with the Perkins Career and Technical Education Act, which we passed earlier this year, and the Higher Education Act, which we will consider in the next few months, will provide the important resources that are needed to adequately prepare our workforce with the skills that are necessary for jobs and careers in high wage and high skilled occupations.

We are facing an economic challenge that threatens our ability as a nation to compete in the global economy. As we heard from the witnesses who testified at a hearing held on April 14, 2005, before the Health, Education, Labor and Pensions Committee, we have too few workers with too few skills. The skill and literacy requirements of today's and tomorrow's workplace cannot be met if we do not provide everyone access to lifelong education, training and retraining.

Sixty percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. About half of our current workforce does not have a postsecondary education degree or credential, when all projections are that job growth over the next decade will be in jobs that require some postsecondary education or training.

Technology is demanding that everyone continue to learn and gain skills. In January of this year the labor force participation rate for individuals over the age of 16 who are willing and able to work was 68.8 percent, the lowest in over 15 years, as more Americans conclude that they cannot meet the skill demands of today's workplace and choose to no longer participate in the workforce.

The legislation I am introducing today helps meet these challenges. It is the result of a bipartisan process that began in the 108th Congress. It gives States and local areas the flexibility to provide training for jobs in high skill, high wage, and high demand occupations. It strengthens connections with the private sector, postsecondary education and training, and economic development systems to prepare the 21st century workforce. It improves the existing structure of one-stops to ensure an effective response to the changing needs of employers and workers in a new economy. It includes a new focus on entrepreneurial skills and micro-enterprises, addresses unique needs of small businesses and rural areas, and encourages collaboration locally and regionally with economic development and education.

This legislation also amends the Adult Education and Family Literacy Act and the Vocational Rehabilitation Act. These amendments encourage coordination with K–12 schools, postsecondary education and the workforce system so that individuals with barriers to workforce participation will have an opportunity to gain the literacy, language or core skills they will need to enter and advance in the workplace.

I hope that our bipartisan efforts will continue to produce the results that are needed as we move this bill through the Senate and into Conference. This legislation is critical to meeting the workforce challenges of the 21st century. It sends a clear message that we are serious about helping our workers and employers remain competitive and closing the skills gap that places America's long-term competitiveness in jeopardy.

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. 1021

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 ''Workforce Investment Act Amendments of 2005''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

SEC. 3. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

TITLE I—AMENDMENTS TO TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998

Subtitle A—Definitions

SEC. 101. DEFINITIONS.

Section 101 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (1) through (4), (5) through (16), (17), (18) through (41), and (42) through (53) as paragraphs (2) through (5), (7) through (18), (20), (23) through (46), and (48) through (59), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

''(1) ACCRUED EXPENDITURES.—The term 'accrued expenditures' means charges incurred by recipients of funds under this title for a given period requiring the provision of funds for—

''(A) goods or other tangible property received;

''(B) services performed by employees, contractors, subgrantees, subcontractors, and other payees; and

''(C) other amounts becoming owed under programs assisted under this title for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.'';

(3) in paragraph (2) (as redesignated by paragraph (1)), by striking ''Except in sections 127 and 132,'' and inserting ''Except in section 132,'';

(4) by striking paragraph (5) (as redesignated by paragraph (1)) and inserting the following:

''(5) BASIC SKILLS DEFICIENT.—The term 'basic skills deficient' means, with respect to an individual, that the individual—

''(A) has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test; or

''(B) is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society.'';

(5) by inserting after paragraph (5) (as redesignated by paragraph (1)) the following:

''(6) BUSINESS INTERMEDIARY.—The term 'business intermediary' means an entity that brings together various stakeholders with an expertise in an industry or business sector.'';

(6) in paragraph (9) (as redesignated by paragraph (1)), by inserting '', including a faith-based organization,'' after ''nonprofit organization'';

(7) in paragraph (10) (as redesignated by paragraph (1))—

(A) in subparagraph (B), by striking ''and'' after the semicolon;

(B) in subparagraph (C)—

(i) by striking ''for not less than 50 percent of the cost of the training.'' and inserting ''for—

''(i) a significant portion of the cost of training as determined by the local board,

taking into account the size of the employer and such other factors as the local board determines to be appropriate; and

''(ii) in the case of customized training (as defined in subparagraphs (A) and (B)) with an employer in multiple local areas in the State, a significant portion of the cost of the training, as determined by the Governor, taking into account the size of the employer and such other factors as the Governor determines to be appropriate.'';

(8) in paragraph (11) (as redesignated by paragraph (1))—

(A) in subparagraph (A)(ii)(II), by striking ''section 134(c)'' and inserting ''section 121(e)'';

(B) in subparagraph (C), by striking ''or'' after the semicolon;

(C) in subparagraph (D), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(E)(i) is the spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or

''(ii) is the spouse of a member of the Armed Forces on active duty who meets the criteria described in paragraph (12)(B).'';

(9) in paragraph (12)(A) (as redesignated by paragraph (1))—

(A) by striking ''and'' after the semicolon and inserting ''or'';

(B) by striking ''(A)'' and inserting ''(A)(i)''; and

(C) by adding at the end the following:

''(ii) is the dependent spouse of a member of the Armed Forces on active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code) whose family income is significantly reduced because of a deployment (as defined in section 991(b) of title 10, United States Code, or pursuant to paragraph (4) of such section), a call or order to active duty pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, a permanent change of station, or the service-connected (as defined in section 101(16) of title 38, United States Code) death or disability of the member; and'';

(10) in paragraph (14)(A) (as redesignated by paragraph (1)), by striking ''section 122(e)(3)'' and inserting ''section 122'';

(11) by inserting after paragraph (18) (as redesignated by paragraph (1)) the following:

''(19) HARD-TO-SERVE POPULATIONS.—The term 'hard-to-serve populations' means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.'';

(12) by inserting after paragraph (20) (as redesignated by paragraph (1)) the following:

''(21) INTEGRATED TRAINING PROGRAM.—The term 'integrated training program' means a program that combines occupational skills training with English language acquisition.

''(22) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a), and subparagraphs (A) and (B) of section 102(a)(1), of the Higher Education Act of 1965 (20 U.S.C. 1001(a), 1002(a)(1)).'';

(13) in paragraph (30) (as redesignated by paragraph (1))—

(A) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);'';

(14) in paragraph (31) (as redesignated by paragraph (1)), by inserting after ''fields of work'' the following: '', including occupations in computer science and technology and other emerging high-skill occupations,'';

(15) in paragraph (35) (as redesignated by paragraph (1)), by inserting '', subject to section 121(b)(1)(C)'' after ''121(b)(1)'';

(16) by striking paragraph (38) (as redesignated by paragraph (1)) and inserting the following:

''(38) OUT-OF-SCHOOL YOUTH.—The term 'out-of-school youth' means an out-of-school youth as defined in section 129(a)(1)(B).'';

(17) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

''(47) SELF-SUFFICIENCY.—The term 'self-sufficiency' means self-sufficiency within the meaning of subsections (a)(3)(A)(x) and (e)(1)(A)(xii) of section 134.'';

(18) in paragraph (49) (as redesignated by paragraph (1)), by striking ''clause (iii) or (v) of section 136(b)(3)(A)'' and inserting ''section 136(b)(3)(A)(iii)'';

(19) in paragraph (58) (as redesignated by paragraph (1)), by striking ''(or as described in section 129(c)(5))'' and inserting ''(or as described in section 129(a)(2))''; and

(20) in paragraph (59) (as redesignated by paragraph (1)), by striking ''established under section 117(h)'' and inserting ''that may be established under section 117(h)(2)''.

Subtitle B—Statewide and Local Workforce Investment Systems

SEC. 111. PURPOSE.

Section 106 (29 U.S.C. 2811) is amended to read as follows:

''SEC. 106. PURPOSES.

''The purposes of this subtitle are the following:

''(1)(A) Primarily, to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, self-sufficiency, and earnings of participants, and increase occupational skill attainment by participants.

''(B) As a result of the provision of the activities, to improve the quality of the workforce, reduce welfare dependency, increase self-sufficiency, and enhance the productivity and competitiveness of the Nation.

''(2) To enhance the workforce investment system of the Nation by strengthening one-stop centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment and training and related services, establishing a targeted approach to serving youth, improving performance accountability, and promoting State and local flexibility.

''(3) To provide workforce investment activities in a manner that promotes the informed choice of participants and actively involves participants in decisions affecting their participation in such activities.

''(4) To provide workforce investment systems that are demand-driven and responsive to the needs of all employers, including small employers.

''(5) To provide workforce investment systems that work in all areas of the Nation, including urban and rural areas.

''(6) To allow flexibility to meet State, local, regional, and individual workforce investment needs.

''(7) To recognize and reinforce the vital link between economic development and workforce investment activities.

''(8) To provide for accurate data collection, reporting, and performance measures that are not unduly burdensome.

''(9) To address the ongoing shortage of essential skills in the United States workforce related to both manufacturing and knowledge-based economies to ensure that the United States remains competitive in the global economy.

''(10) To equip workers with higher skills and contribute to lifelong education.

''(11) To eliminate training disincentives for hard-to-serve populations and minority workers, including effectively utilizing community programs, services, and agencies.

''(12) To educate limited English proficient individuals about skills and language so the individuals are employable.

''(13) To increase the employment, retention and earnings of individuals with disabilities.''.

SEC. 112. STATE WORKFORCE INVESTMENT BOARDS.

(a) MEMBERSHIP.—

(1) IN GENERAL.—Section 111(b) (29 U.S.C. 2821(b)) is amended—

(A) in paragraph (1), by striking subparagraph (C) and inserting the following:

''(C) representatives appointed by the Governor, who—

''(i) are the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) and carried out by one-stop partners, except that—

''(I) in any case in which no lead State agency official has responsibility for such a program or activity, the representative shall be a representative in the State with expertise relating to such program or activity; and

''(II) in the case of the programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), the representative shall be the director of the designated State unit, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705);

''(ii) are the State agency officials responsible for economic development;

''(iii) are representatives of business in the State, including small businesses, who—

''(I) are owners of businesses, chief executive or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;

''(II) represent businesses with employment opportunities that reflect employment opportunities in the State; and

''(III) are appointed from among individuals nominated by State business organizations, business trade associations, and local boards;

''(iv) are chief elected officials (representing cities and counties, where appropriate);

''(v) are representatives of labor organizations, who have been nominated by State labor federations; and

''(vi) are such other State agency officials and other representatives as the Governor may designate.''; and

(B) in paragraph (3), by striking ''paragraph (1)(C)(i)'' and inserting ''paragraph (1)(C)(iii)''.

(2) CONFORMING AMENDMENT.—Section 111(c) (29 U.S.C. 2821(c)) is amended by striking ''subsection (b)(1)(C)(i)'' and inserting ''subsection (b)(1)(C)(iii)''.

(b) FUNCTIONS.—Section 111(d) (29 U.S.C. 2821(d)) is amended—

(1) in paragraph (1), by striking ''development'' and inserting ''development, implementation, and revision'';

(2) in paragraph (2)—

(A) by striking ''section 134(c)'' and inserting ''section 121(e)''; and

(B) in subparagraph (A), by inserting after ''section 121(b)'' the following: '', including granting the authority for the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) to plan and coordinate employment and training activities with local boards'';

(3) by striking paragraph (3) and inserting the following:

''(3) reviewing and providing comment on the State plans of all one-stop partner programs, where applicable, in order to provide effective strategic leadership in the development of a high quality, comprehensive statewide workforce investment system, including commenting at least once annually on the measures taken pursuant to section 113(b)(3) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2323(b)(3)) and title II of this Act;'';

(4) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

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

''(4) development and review of statewide policies affecting the coordinated provision of services through the one-stop delivery system described in section 121(e) within the State, including—

''(A) the development of objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers under section 121(g);

''(B) the development of guidance for the allocation of one-stop center infrastructure funds under section 121(h)(1)(B);

''(C) the development of—

''(i) statewide policies relating to the appropriate roles and contributions of one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the one-stop delivery system;

''(ii) statewide strategies for providing effective outreach to individuals, including hard-to-serve populations, and employers who could benefit from services provided through the one-stop delivery system;

''(iii) strategies for technology improvements to facilitate access to services provided through the one-stop delivery system, in remote areas, and for individuals with disabilities, which may be utilized throughout the State; and

''(iv) strategies for the effective coordination of activities between the one-stop delivery system of the State and the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

''(D) identification and dissemination of information on best practices for effective operation of one-stop centers, including use of innovative business outreach, partnerships, and service delivery strategies, including for hard-to-serve populations; and

''(E) conduct of such other matters as may promote statewide objectives for, and enhance the performance of, the one-stop delivery system;'';

(6) in paragraph (5) (as redesignated by paragraph (4)), by inserting ''and the development of statewide criteria to be used by chief elected officials for the appointment of local boards consistent with section 117'' after ''section 116'';

(7) in paragraph (6) (as redesignated by paragraph (4)), by striking ''sections 128(b)(3)(B) and 133(b)(3)(B)'' and inserting ''sections 128(b)(3) and 133(b)(3)(B)'';

(8) in paragraph (9) (as redesignated by paragraph (4))—

(A) by striking ''employment statistics system'' and inserting ''workforce and labor market information system''; and

(B) by striking ''and'' after the semicolon;

(9) in paragraph (10) (as redesignated by paragraph (4))—

(A) by inserting ''section 136(i) and'' before ''section 503''; and

(B) by striking the period and inserting ''; and''; and

(10) by adding at the end the following:

''(11) increasing the availability of skills training, employment opportunities, and career advancement, for hard-to-serve populations.''.

(c) ALTERNATIVE ENTITY.—Section 111(e) (29 U.S.C. 2821(e)) is amended—

(1) in paragraph (1), by striking ''For'' and inserting ''Subject to paragraph (3), for''; and

(2) by adding at the end the following:

''(3) FAILURE TO MEET PERFORMANCE MEASURES.—If a State fails to have performed successfully, as defined in section 116(a)(2), the Secretary may require the State to establish a State board in accordance with subsections (a), (b), and (c) in lieu of the alternative entity established under paragraph (1).''.

(d) CONFLICT OF INTEREST.—Section 111(f)(1) (29 U.S.C. 2821(f)(1)) is amended by inserting ''or participate in action taken on'' after ''vote''.

(e) SUNSHINE PROVISION.—Section 111(g) (29 U.S.C. 2821(g)) is amended—

(1) by inserting '', and modifications to the State plan,'' before ''prior''; and

(2) by inserting '', and modifications to the State plan'' after ''the plan''.

(f) AUTHORITY TO HIRE STAFF.—Section 111 (29 U.S.C. 2821) is amended by adding at the end the following:

''(h) AUTHORITY TO HIRE STAFF.—

''(1) IN GENERAL.—The State board may hire staff to assist in carrying out the functions described in subsection (d) using funds allocated under sections 127(b)(1)(C) and 132(b).

''(2) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the State board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS–15 of the General Schedule as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005.''.

SEC. 113. STATE PLAN.

(a) PLANNING CYCLE.—Section 112(a) (29 U.S.C. 2822(a)) is amended—

(1) by inserting '', or a State unified plan as described in section 501,'' before ''that outlines'';

(2) by striking ''5-year strategy'' and inserting ''4-year strategy''; and

(3) by adding at the end the following: ''At the end of the first 2-year period of the 4-year State plan, the State board shall review and, as needed, amend the 4-year State plan to reflect labor market and economic conditions. In addition, the State shall submit a modification to the State plan at the end of the first 2-year period of the State plan, which may include redesignation of local areas pursuant to section 116(a) and specification of the levels of performance under sections 136 for the third and fourth years of the plan.''.

(b) CONTENTS.—Section 112(b) (29 U.S.C. 2822(b)) is amended—

(1) in paragraph (8)(A)—

(A) in clause (ix), by striking ''and'' after the semicolon; and

(B) by adding at the end the following:

''(xi) programs authorized under title II of the Social Security Act (42 U.S.C. 401 et seq.) (relating to Federal old-age, survivors, and disability insurance benefits), title XVI of such Act (42 U.S.C. 1381 et seq.) (relating to supplemental security income), title XIX of such Act (42 U.S.C. 1396 et seq.) (relating to medicaid), and title XX of such Act (42 U.S.C. 1397 et seq.) (relating to block grants to States for social services), programs authorized under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), and programs carried out by State agencies relating to mental retardation and developmental disabilities; and'';

(2) by striking paragraph (10) and inserting the following:

''(10) a description of how the State will use funds the State received under this subtitle to leverage other Federal, State, local, and private resources, in order to maximize the effectiveness of such resources, expand resources for the provision of education and training services, and expand the participation of businesses, employees, and individuals in the statewide workforce investment system, including a description of incentives and technical assistance the State will provide to local areas for such purposes;'';

(3) in paragraph (12)(A), by striking ''sections 128(b)(3)(B) and 133(b)(3)(B)'' and inserting ''sections 128(b)(3) and 133(b)(3)(B)'';

(4) in paragraph (14), by striking ''section 134(c)'' and inserting ''section 121(e)'';

(5) in paragraph (15), by striking ''section 116(a)(5)'' and inserting ''section 116(a)(4)'';

(6) in paragraph (17)—

(A) in subparagraph (A)—

(i) in clause (iii)—

(I) by inserting ''local'' before ''customized training''; and

(II) by striking ''and'' at the end;

(ii) in clause (iv), by striking ''(including displaced homemakers),'' and all that follows through ''disabilities)'' and inserting '', hard-to-serve populations, and individuals training for nontraditional employment''; and

(iii) by adding after clause (iv) the following:

''(v) how the State will serve the employment and training needs of individuals with disabilities, consistent with section 188 and Executive Order 13217 (42 U.S.C. 12131 note; relating to community-based alternatives for individuals with disabilities), including the provision of outreach, intake, the conduct of assessments, service delivery, the development of adjustments to performance measures established under section 136, and the training of staff; and''; and

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

(7) in paragraph (18)(D)—

(A) by striking ''youth opportunity grants under section 169'' and inserting ''youth challenge grants authorized under section 169 and other federally funded youth programs''; and

(B) by striking the period and inserting a semicolon; and

(8) by adding at the end the following:

''(19) a description of how the State will utilize technology to facilitate access to services in remote areas, which may be utilized throughout the State;

''(20) a description of the State strategy for coordinating workforce investment activities and economic development activities, and promoting entrepreneurial skills training and microenterprise services;

''(21) a description of the State strategy and assistance to be provided for ensuring regional cooperation within the State and across State borders as appropriate;

''(22) a description of how the State will use funds the State receives under this subtitle to—

''(A) implement innovative programs and strategies designed to meet the needs of all

businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliances, career ladder programs, utilization of effective business intermediaries, and other business services and strategies that better engage employers in workforce investment activities and make the statewide workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title; and

''(B) provide incentives and technical assistance to assist local areas in more fully engaging all employers, including small employers, in local workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts to contribute to the economic well-being of the local area, as determined appropriate by the local board;

''(23) a description of the State strategy—

''(A) for ensuring cooperation between transportation providers, including public transportation providers, and providers of workforce investment activities; and

''(B) for ensuring coordination among appropriate State agencies and programs to make available skills training, employment services and opportunities, and career advancement activities, that will assist ex-offenders in reentering the workforce;

''(24) a description of how the State will assist local areas in assuring physical and programmatic accessibility for individuals with disabilities at one-stop centers;

''(25) a description of the process and methodology that will be used by the State board to—

''(A) review statewide policies and provide guidance on the coordinated provision of services through the one-stop delivery system described in section 121(e);

''(B) establish, in consultation with chief elected officials and local boards, objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system as described in section 121(g); and

''(C) determine—

''(i) one-stop partner program contributions for the costs of the infrastructure of one-stop centers under section 121(h)(2); and

''(ii) the formula for allocating the funds described in section 121(h)(2) to local areas;

''(26) a description of the State strategy for ensuring that activities carried out under this title are placing men and women in jobs, education, or training that lead to comparable pay; and

''(27) a description of the technical assistance available to one-stop operators and providers of training services for strategies to serve hard-to-serve populations and promote placement in nontraditional employment.''.

(c) MODIFICATIONS TO PLAN.—Section 112(d) (29 U.S.C. 2822(d)) is amended—

(1) by striking ''5-year period'' and inserting ''4-year period''; and

(2) by adding at the end the following: ''In addition, the State shall submit the modifications to the State plan required under subsection (a), under circumstances prescribed by the Secretary that are due to changes in Federal law that significantly affect elements of the State plan.''.

SEC. 114. LOCAL WORKFORCE INVESTMENT AREAS.

(a) DESIGNATION OF AREAS.—

(1) CONSIDERATIONS.—Section 116(a)(1) (29 U.S.C. 2831(a)(1)) is amended—

(A) in subparagraph (A), by striking ''paragraphs (2), (3), and (4)'' and inserting ''paragraphs (2) and (3)''; and

(B) in subparagraph (B), by adding at the end the following:

''(vi) The extent to which such local areas will promote maximum effectiveness in the administration and provision of services.''.

(2) AUTOMATIC DESIGNATION.—Section 116(a)(2) (29 U.S.C. 2831(a)(2)) is amended to read as follows:

''(2) AUTOMATIC DESIGNATION.—

''(A) IN GENERAL.—The Governor shall approve a request for designation as a local area that is submitted prior to the submission of the State plan, or of a modification to the State plan relating to area designation, from any area that—

''(i) is a unit of general local government with a population of 500,000 or more, except that after the initial 2-year period following such designation pursuant to this clause that occurs after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation from such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity;

''(ii) was a local area under this title for the preceding 2-year period, if such local area—

''(I) performed successfully; and

''(II) sustained fiscal integrity;

''(iii) is served by a rural concentrated employment program grant recipient, except that after the initial 2-year period following any such designation under the initial State plan submitted after the date of enactment of the Workforce Investment Act Amendments of 2005, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity; or

''(iv) was a local area under section 116(a)(2)(C) (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), except that after the initial 2-year period following such designation pursuant to this clause that occurs after that date of enactment, the Governor shall only be required to approve a request for designation under this clause for such area if such area—

''(I) performed successfully; and

''(II) sustained fiscal integrity.

''(B) DEFINITIONS.—For purposes of this paragraph:

''(i) PERFORMED SUCCESSFULLY.—The term 'performed successfully', when used with respect to a local area, means the local area performed at 80 percent or more of the adjusted level of performance for core indicators of performance described in section 136(b)(2)(A) for 2 consecutive years.

''(ii) SUSTAINED FISCAL INTEGRITY.—The term 'sustained fiscal integrity', used with respect to an area, means that the Secretary has not made a formal determination during the preceding 2-year period that either the grant recipient or the administrative entity of the area misexpended funds provided under this title due to willful disregard of the requirements of the Act involved, gross negligence, or failure to comply with accepted standards of administration.''.

(3) CONFORMING AMENDMENTS.—Section 116(a) (29 U.S.C. 2831(a)) is amended—

(A) by striking paragraph (3);

(B) by redesignating paragraphs (4) and (5) as paragraph (3) and (4), respectively;

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) by striking ''(including temporary designation)''; and

(ii) by striking ''(v)'' and inserting ''(vi)''; and

(D) in paragraph (4) (as redesignated by subparagraph (B))—

(i) by striking ''under paragraph (2) or (3)'' and inserting ''under paragraph (2)''; and

(ii) by striking the second sentence.

(b) SINGLE LOCAL AREA STATES.—Section 116(b) (29 U.S.C. 2831(b)) is amended to read as follows:

''(b) SINGLE LOCAL AREA STATES.—

''(1) CONTINUATION OF PREVIOUS DESIGNATION.—Notwithstanding subsection (a)(2), the Governor of any State that was a single local area for purposes of this title as of July 1, 2004, may continue to designate the State as a single local area for purposes of this title if the Governor identifies the State as a local area in the State plan under section 112(b)(5).

''(2) REDESIGNATION.—The Governor of a State not described in paragraph (1) may designate the State as a single local area if, prior to the submission of the State plan or modification to such plan so designating the State, no local area meeting the requirements for automatic designation under subsection (a)(2) requests such designation as a separate local area.

''(3) EFFECT ON LOCAL PLAN.—In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 118 for the area shall be submitted to the Secretary for approval as part of the State plan under section 112.''.

(c) REGIONAL PLANNING.—Section 116(c) (29 U.S.C. 2831(c)) is amended—

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

''(1) PLANNING.—

''(A) IN GENERAL.—As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subtitle. The State, after consultation with local boards and chief elected officials, may require the local boards for the designated region to prepare, submit, and obtain approval of a single regional plan that incorporates local plans for each of the local areas in the region, as required under section 118. The State may award regional incentive grants to the designated regions that meet or exceed the regional performance measures pursuant to section 134(a)(2)(B)(iii).

''(B) TECHNICAL ASSISTANCE.—If the State requires regional planning as provided in subparagraph (A), the State shall provide technical assistance and labor market information to such local areas in the designated regions to assist with such regional planning and subsequent service delivery efforts.'';

(2) in paragraph (2), by inserting ''information about the skill requirements of existing and emerging industries and industry clusters,'' after ''information about employment opportunities and trends,''; and

(3) in paragraph (3), by adding at the end the following: ''Such services may be required to be coordinated with regional economic development services and strategies.''.

SEC. 115. LOCAL WORKFORCE INVESTMENT BOARDS.

(a) COMPOSITION.—Section 117(b) (29 U.S.C. 2832(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking subclause (II) and inserting the following:

''(II) collectively, represent businesses with employment opportunities that reflect the employment opportunities of the local area, and include representatives of businesses that are in high-growth and emerging industries, and representatives of businesses, including small businesses, in the local area; and'';

(B) by striking clause (ii) and inserting the following:

''(ii)(I) a superintendent representing the local school districts involved or another high-level official from such districts;

''(II) the president or highest ranking official of an institution of higher education participating in the workforce investment activities in the local area; and

''(III) an administrator of local entities providing adult education and literacy activities in the local area;'';

(C) in clause (iv), by inserting '', hard-to-serve populations,'' after ''disabilities'';

(D) in clause (v), by striking ''and'' at the end; and

(E) by striking clause (vi) and inserting the following:

''(vi) a representative from the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) who is serving the local area; and

''(vii) if the local board does not establish or continue a youth council, representatives with experience serving out-of-school youth, particularly out-of-school youth facing barriers to employment; and'';

(2) by adding at the end the following:

''(6) SPECIAL RULE.—In the case that there are multiple school districts or institutions of higher education serving a local area, the representatives described in subclause (I) or (II) of paragraph (2)(A)(ii), respectively, shall be appointed from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such agencies or institutions.''.

(b) AUTHORITY OF BOARD MEMBERS.—Section 117(b)(3) (29 U.S.C. 2832(b)(3)) is amended—

(1) in the heading, by inserting ''AND REPRESENTATION'' after ''AUTHORITY''; and

(2) by adding at the end the following: ''The members of the board shall represent diverse geographic sections within the local area.''.

(c) CONFORMING AMENDMENT.—Section 117(c)(1)(C) (29 U.S.C. 2832(c)(1)(C)) is amended by striking ''section 116(a)(2)(B)'' and inserting ''section 116(a)(2)(A)(ii)''.

(d) FUNCTIONS.—Section 117(d) (29 U.S.C. 2832(d)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B)—

(i) by inserting ''(except as provided in section 123(b))'' after ''basis''; and

(ii) by inserting ''(where appropriate)'' after ''youth council''; and

(B) by adding at the end the following:

''(E) CONSUMER CHOICE REQUIREMENTS.—Consistent with sections 122 and paragraphs (3) and (4) of 134(d), the local board shall work to ensure there are sufficient providers of intensive services and training services serving the local area in a manner that maximizes consumer choice, including providers with expertise in assisting individuals with disabilities.'';

(2) in paragraph (3)(B), by striking clause (ii) and inserting the following:

''(ii) STAFF.—

''(I) IN GENERAL.—The local board may hire staff.

''(II) LIMITATION ON RATE.—Funds appropriated under this title shall not be used to pay staff employed by the local board, either as a direct cost or through any proration as an indirect cost, at a rate in excess of the maximum rate payable for a position at GS–15 of the General Schedule, as in effect on the date of enactment of the Workforce Investment Act Amendments of 2005.'';

(3) in paragraph (4), by inserting '', and shall ensure the appropriate use and management of the funds provided under this subtitle for such programs, activities, and system'' after ''area'';

(4) in paragraph (6)—

(A) by striking ''EMPLOYMENT STATISTICS SYSTEM'' and inserting ''WORKFORCE AND LABOR MARKET INFORMATION SYSTEM''; and

(B) by striking ''employment statistics system'' and inserting ''workforce and labor market information system'';

(5) in paragraph (8)—

(A) by inserting '', including small employers,'' after ''private sector employers''; and

(B) by striking the period and inserting '', taking into account the unique needs of small businesses.''; and

(6) by adding at the end the following:

''(9) TECHNOLOGY IMPROVEMENTS.—The local board shall develop strategies for technology improvements to facilitate access to services, in remote areas, for services authorized under this subtitle and carried out in the local area.''.

(e) CONFORMING AMENDMENT.—Section 117(f)(2) (29 U.S.C. 2832(f)(2)) is amended by striking ''described in section 134(c)''.

(f) CONFLICT OF INTEREST.—Section 117(g)(1) (29 U.S.C. 2832(g)(1)) is amended by inserting ''or participate in action taken on'' after ''vote.''

(g) AUTHORITY TO ESTABLISH COUNCILS AND ELIMINATION OF REQUIREMENT FOR YOUTH COUNCILS.—Section 117(h) (29 U.S.C. 2832(h)) is amended to read as follows:

''(h) COUNCILS.—The local board may establish or continue councils to provide information and advice to assist the local board in carrying out activities under this title. Such councils may include—

''(1) a council composed of one-stop partners to advise the local board on the operation of the one-stop delivery system involved;

''(2) a youth council composed of experts and stakeholders in youth programs to advise the local board on youth activities; and

''(3) such other councils as the local board determines are appropriate.''.

(h) ALTERNATIVE ENTITY PROVISION.—Section 117(i)(1) (29 U.S.C. 2832(i)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''and paragraphs (1) and (2) of subsection (h),'';

(2) by striking subparagraph (B) and inserting the following:

''(B) was in existence on August 7, 1998, pursuant to State law; and'';

(3) by striking subparagraph (C); and

(4) by redesignating subparagraph (D) as subparagraph (C).

SEC. 116. LOCAL PLAN.

(a) PLANNING CYCLE.—Section 118(a) (29 U.S.C. 2833(a)) is amended—

(1) by striking ''5-year'' and inserting ''4-year''; and

(2) by adding at the end the following: ''At the end of the first 2-year period of the 4-year plan, the local board shall review and, as needed, amend the 4-year plan to reflect labor market and economic conditions.''.

(b) CONTENTS.—Section 118(b) (29 U.S.C. 2833(b)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''and'' after the semicolon;

(B) by striking subparagraph (B) and inserting the following:

''(B) a description of how the local board will facilitate access to services provided through the one-stop delivery system involved, in remote areas, including facilitating access through the use of technology; and''; and

(C) by adding at the end the following:

''(C) a description of how the local board will ensure physical and programmatic accessibility for individuals with disabilities at one-stop centers;'';

(2) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(3) by redesignating paragraph (10) as paragraph (16); and

(4) by inserting after paragraph (9) the following:

''(10) a description of how the local board will coordinate workforce investment activities carried out in the local area with economic development activities carried out in the local area, and promote entrepreneurial skills training and microenterprise services;

''(11) a description of the strategies and services that will be initiated in the local area to more fully engage all employers, including small employers, in workforce investment activities, to make the workforce investment system more relevant to the needs of area businesses, and to better coordinate workforce investment and economic development efforts, which may include the implementation of innovative initiatives such as incumbent worker training programs, sectoral and industry cluster strategies, regional skills alliance initiatives, career ladder programs, utilization of effective business intermediaries, and other business services and strategies designed to meet the needs of area employers and contribute to the economic well-being of the local area, as determined appropriate by the local board, consistent with the objectives of this title;

''(12) a description of how the local board will expand access to education and training services for eligible individuals who are in need of such services through—

''(A) the utilization of programs funded under this title; and

''(B) the increased leveraging of resources other than those provided under this title, including tax credits, private sector-provided training, and other Federal, State, local, and private funds that are brokered through the one-stop centers for training services;

''(13) a description of how the local board will coordinate workforce investment activities carried out in the local area with the provision of transportation, including public transportation, in the local area;

''(14) a description of plans for, assurances concerning, and strategies for maximizing coordination of services provided by the State employment service under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and services provided in the local area through the one-stop delivery system described in section 121(e), to improve service delivery and avoid duplication of services;

''(15) a description of how the local board will coordinate workforce investment activities carried out in the local area with other Federal, State, and local area education, job training, and economic development programs and activities; and''.

SEC. 117. ESTABLISHMENT OF ONE-STOP DELIVERY SYSTEMS.

(a) ONE-STOP PARTNERS.—

(1) REQUIRED PARTNERS.—Section 121(b)(1) (29 U.S.C. 2841(b)(1)) is amended—

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

''(A) ROLES AND RESPONSIBILITIES OF ONE-STOP PARTNERS.—Each entity that carries out a program or activities described in subparagraph (B) shall—

''(i) provide access through the one-stop delivery system to the programs and activities carried out by the entity, including making the core services described in section 134(d)(2) that are applicable to the program of the entity available at the one-stop centers (in addition to any other appropriate locations);

''(ii) use a portion of the funds available to the program of the entity to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers in accordance with subsection (h);

''(iii) enter into a local memorandum of understanding with the local board relating

to the operation of the one-stop system that meets the requirements of subsection (c);

''(iv) participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding, the requirements of this title, and the requirements of the Federal laws authorizing the programs carried out by the entity; and

''(v) provide representation on the State board to the extent provided under section 111.'';

(B) in subparagraph (B)—

(i) by striking clause (v);

(ii) by redesignating clauses (vi) through (xii) as clauses (v) through (xi), respectively;

(iii) in clause (x) (as redesignated by clause (ii)), by striking ''and'' at the end;

(iv) in clause (xi) (as redesignated by clause (ii)), by striking the period and inserting ''; and''; and

(v) by adding at the end the following:

''(xii) programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), subject to subparagraph (C).''; and

(C) by adding at the end the following:

''(C) DETERMINATION BY THE GOVERNOR.—

''(i) IN GENERAL.—An entity that carries out programs referred to in subparagraph (B)(xii) shall be included in the one-stop partners for the local area, as a required partner, for purposes of this title unless the Governor of the State provides the notification described in clause (ii).

''(ii) NOTIFICATION.—The notification referred to in clause (i) is a notification that—

''(I) is made in writing of a determination by the Governor not to include such entity in the one-stop partners described in clause (i); and

''(II) is provided to the Secretary and the Secretary of Health and Human Services.''.

(2) ADDITIONAL PARTNERS.—

(A) IN GENERAL.—Section 121(b)(2)(A) (29 U.S.C. 2841(b)(2)(A)) is amended to read as follows:

''(A) IN GENERAL.—With the approval of the local board and chief elected official, in addition to the entities described in paragraph (1), other entities that carry out human resource programs described in subparagraph (B) may be one-stop partners and carry out the responsibilities described in paragraph (1)(A).''.

(B) ADDITIONAL PARTNERS.—Section 121(b)(2)(B) (29 U.S.C. 2841(b)(2)(B)) is amended by striking clauses (i) through (iii) and inserting the following:

''(i) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19);

''(ii) employment and training programs carried out by the Small Business Administration;

''(iii) programs authorized under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));''.

(b) LOCAL MEMORANDUM OF UNDERSTANDING.—Section 121(c)(2)(A) (29 U.S.C. 2841(c)(2)(A)) is amended to read as follows:

''(A) provisions describing—

''(i) the services to be provided through the one-stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated through such system;

''(ii) how the costs of such services and the operating costs of such system will be funded, through cash and in-kind contributions, to provide a stable and equitable funding stream for ongoing one-stop system operations, including the funding of the infrastructure costs of one-stop centers in accordance with subsection (h);

''(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;

''(iv) methods to ensure the needs of hard-to-serve populations are addressed in providing access to services through the one-stop system; and

''(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the term of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 2-year period to ensure appropriate funding and delivery of services; and''.

(c) CONFORMING AMENDMENT.—Section 121(d)(2) (29 U.S.C. 2841(d)(2)) is amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(d) PROVISION OF SERVICES.—

(1) ELIMINATION OF PROVISIONS CONCERNING ESTABLISHED SYSTEMS.—Section 121 (29 U.S.C. 2841) is amended by striking subsection (e).

(2) REDESIGNATION.—Subtitle B of title I is amended—

(A) in section 134 (29 U.S.C. 2864), by redesignating subsection (c) as subsection (e); and

(B) by transferring that subsection (e) so that the subsection appears after subsection (d) of section 121.

(3) ONE-STOP DELIVERY SYSTEMS.—Paragraph (1) of section 121(e) (29 U.S.C. 2841(e)) (as redesignated by paragraph (2)) is amended—

(A) in subparagraph (A), by striking ''subsection (d)(2)'' and inserting ''section 134(d)(2)'';

(B) in subparagraph (B)—

(i) by striking ''subsection (d)'' and inserting ''section 134(d)'';

(ii) by striking ''individual training accounts'' and inserting ''career scholarship accounts''; and

(iii) by striking ''subsection (d)(4)(G)'' and inserting ''section 134(d)(4)(G)'';

(C) in subparagraph (C), by striking ''subsection (e)'' and inserting ''section 134(e)'';

(D) in subparagraph (D), by striking ''section 121(b)'' and inserting ''subsection (b)''; and

(E) in subparagraph (E), by striking ''information described in section 15'' and inserting ''data, information, and analysis described in section 15(a)''.

(e) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—Section 121 (29 U.S.C. 2841) is amended by adding at the end the following:

''(g) CONTINUOUS IMPROVEMENT OF ONE-STOP CENTERS.—

''(1) IN GENERAL.—The State board, in consultation with chief local elected officials and local boards, shall establish objective criteria and procedures for use by local boards in periodically assessing the effectiveness, physical and programmatic accessibility, and continuous improvement of one-stop centers and the one-stop delivery system.

''(2) CRITERIA.—The procedures and criteria developed under this subsection shall include minimum standards relating to the scope and degree of service coordination achieved by the one-stop delivery system with respect to the programs administered by the one-stop partners at the one-stop centers, consistent with the guidelines and guidance provided by the Governor and by the State board, in consultation with the chief elected official and local boards, for such partners' participation under subsections (h)(1)(B) and subsection (i), respectively, and such other factors relating to the quality, accessibility, and effectiveness of the one-stop delivery system as the State board determines to be appropriate.

''(3) LOCAL BOARDS.—Consistent with the criteria developed by the State, the local board may develop additional criteria of higher standards to respond to local labor market and demographic conditions and trends.

''(h) FUNDING OF ONE-STOP INFRASTRUCTURE.—

''(1) IN GENERAL.—

''(A) OPTIONS FOR INFRASTRUCTURE FUNDING.—

''(i) LOCAL OPTIONS.—The local board, chief elected officials, and one-stop partners in a local area may choose to fund the costs of the infrastructure of one-stop centers through—

''(I) methods described in the local memorandum of understanding, if, the local board, chief elected officials, and one-stop partners agree to such methods; or

''(II) the State infrastructure funding mechanism described in paragraph (2).

''(ii) FAILURE TO REACH AGREEMENT ON FUNDING METHODS.—If, as of July 1, 2006, the local board, chief elected officials, and one-stop partners in a local area fail to reach agreement on methods of sufficient funding of the infrastructure costs of one-stop centers, as determined by the local area, the State infrastructure funding mechanism described in paragraph (2) shall be applicable to such local area.

''(B) GUIDANCE FOR INFRASTRUCTURE FUNDING.—In addition to carrying out the requirements relating to the State mechanism for one-stop center infrastructure funding described in paragraph (2), the Governor, after consultation with chief local elected officials, local boards, and the State board, and consistent with the guidelines provided by the State board under subsection (i), shall provide—

''(i) guidelines for State administered one-stop partner programs in determining such programs' contributions to and participation in the one-stop delivery system, including funding for the costs of infrastructure as defined in paragraph (2)(D), negotiated pursuant to the local memorandum of understanding under subsection (c); and

''(ii) guidance to assist local areas in identifying equitable and stable alternative methods of funding of the costs of the infrastructure of one-stop centers in local areas.

''(2) STATE ONE-STOP INFRASTRUCTURE FUNDING.—

''(A) PARTNER CONTRIBUTIONS.—

''(i) IN GENERAL.—Subject to clause (iii), a portion determined under clause (ii) of the Federal funds provided to the State and areas within the State under the Federal laws authorizing the programs described in subsection (b)(1) and administered by one-stop partners for a fiscal year shall be provided to the Governor from such programs to assist in paying the costs of infrastructure of one-stop centers in those local areas of the State not funded under the option described in paragraph (1)(A)(i)(I).

''(ii) DETERMINATION OF GOVERNOR.—

''(I) IN GENERAL.—Subject to subclause (II) and clause (iii), the Governor, after consultation with chief local elected officials, local boards, and the State board, shall determine the portion of funds to be provided under clause (i) by each one-stop partner from each program described in clause (i). In making such determination, the Governor shall calculate the proportionate use of the one-stop centers for the purpose of determining funding contributions pursuant to clause (i)(II) or (ii) of paragraph (1)(A) by each partner, and the costs of administration for purposes not related to one-stop centers for each partner. The Governor shall exclude from such determination the portion of funds and use of one-stop centers attributable to the programs of one-stop partners for those local areas of the State where the infrastructure of one-stop centers is funded under the option described in paragraph (1)(A)(i)(I).

''(II) SPECIAL RULE.—In a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the determination described in subclause (I) with respect to the programs authorized under that title and those Acts shall be made by the chief officer of the entity with such authority in consultation with the Governor.

''(III) APPEAL BY ONE-STOP PARTNERS.—The Governor shall establish a procedure for the one-stop partner administering a program described in subsection (b) to appeal a determination regarding the portion of funds to be contributed under this paragraph on the basis that such determination is inconsistent with the criteria described in the State plan or with the requirements of this paragraph. Such procedure shall ensure prompt resolution of the appeal.

''(iii) LIMITATIONS.—

''(I) PROVISION FROM ADMINISTRATIVE FUNDS.—The funds provided under this paragraph by each one-stop partner shall be provided only from funds available for the costs of administration under the program administered by such partner, and shall be subject to the program limitations with respect to the portion of funds under such program that may be used for administration.

''(II) CAP ON REQUIRED CONTRIBUTIONS.—

''(aa) WIA FORMULA PROGRAMS AND EMPLOYMENT SERVICE.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by the programs authorized under chapters 4 and 5 and under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) shall not be in excess of 3 percent of the amount of Federal funds provided to carry out each such program in the State for a fiscal year.

''(bb) OTHER ONE-STOP PARTNERS.—The portion of funds required to be contributed under clause (i)(II) or (ii) of paragraph (1)(A) by a one-stop partner from a program described in subsection (b)(1) other than the programs described under item (aa) shall not be in excess of 1½ percent of the amount of Federal funds provided to carry out such program in the State for a fiscal year.

''(cc) SPECIAL RULE.—Notwithstanding items (aa) and (bb), an agreement, including a local memorandum of understanding, entered into prior to the date of enactment of the Workforce Investment Act Amendments of 2005 by an entity regarding contributions under this title that permits the percentages described in such items to be exceeded, may continue to be in effect until terminated by the parties.

''(dd) VOCATIONAL REHABILITATION.—Notwithstanding items (aa) and (bb), an entity administering a program under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) shall not be required to provide, for the purposes of this paragraph, an amount in excess of—

''(AA) 0.75 percent of the amount provided for such program in the State for the second program year that begins after the date of enactment of the Workforce Investment Act Amendments of 2005;

''(BB) 1.0 percent of the amount provided for such program in the State for the third program year that begins after such date;

''(CC) 1.25 percent of the amount provided for such program in the State for the fourth program year that begins after such date; and

''(DD) 1.5 percent of the amount provided for such program in the State for the fifth and each succeeding program year that begins after such date.

''(III) FEDERAL DIRECT SPENDING PROGRAMS.—An entity administering a program funded with direct spending as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)) shall not be required to provide, for purposes of this paragraph, an amount in excess of the amount determined to be equivalent to the cost of the proportionate use of the one-stop centers for such program in the State.

''(IV) NATIVE AMERICAN PROGRAMS.—Native American programs established under section 166 shall not be subject to the provisions of this subsection or subsection (i). The method for determining the appropriate portion of funds to be provided by such Native American programs to pay for the costs of infrastructure of a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum.

''(B) ALLOCATION BY GOVERNOR.—From the funds provided under subparagraph (A), the Governor shall allocate the funds to local areas in accordance with the formula established under subparagraph (C) for the purposes of assisting in paying the costs of infrastructure of one-stop centers.

''(C) ALLOCATION FORMULA.—The State board shall develop a formula to be used by the Governor to allocate the funds provided under subparagraph (A) to local areas not funding infrastructure costs under the option described in paragraph (1)(A)(i)(I). The formula shall be based on factors including the number of one-stop centers in a local area, the population served by such centers, the services provided by such centers, and other factors relating to the performance of such centers that the State board determines are appropriate.

''(D) COSTS OF INFRASTRUCTURE.—In this subsection, the term 'costs of infrastructure', used with respect to a one-stop center, means the nonpersonnel costs that are necessary for the general operation of the one-stop center, including the rental costs of the facilities, the costs of utilities and maintenance, equipment (including assessment-related products and adaptive technology for individuals with disabilities), and technology to facilitate remote access to the one-stop center's strategic planning activities, and common outreach activities.

''(i) OTHER FUNDS.—

''(1) IN GENERAL.—Subject to the memorandum of understanding described in subsection (c) for the one-stop delivery system involved, in addition to the funds provided to carry out subsection (h), a portion of funds made available under Federal law authorizing the programs described in subsection (b) and administered by one-stop partners, or the noncash resources available under such programs, shall be used to pay the additional costs relating to the operation of the one-stop delivery system that are not paid from the funds provided under subsection (h), as determined in accordance with paragraph (2), to the extent not inconsistent with the Federal law involved. Such costs shall include the costs of the provision of core services described in section 134(d)(2) applicable to each program and may include common costs that are not paid from the funds provided under subsection (h).

''(2) DETERMINATION AND GUIDANCE.—The method for determining the appropriate portion of funds and noncash resources to be provided by each program under paragraph (1) for a one-stop center shall be determined as part of the development of the memorandum of understanding under subsection (c) for the one-stop center and shall be stated in the memorandum. The State board shall provide guidance to facilitate the determination of an appropriate allocation of the funds and noncash resources in local areas.''.

SEC. 118. ELIGIBLE PROVIDERS OF TRAINING SERVICES.

Section 122 (29 U.S.C. 2842) is amended to read as follows:

''SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—The Governor, after consultation with the State board, shall establish criteria and procedures regarding the eligibility of providers of training services described in section 134(d)(4) (referred to in this section as 'training services') to receive funds provided under section 133(b) for the provision of training services.

''(2) PROVIDERS.—Subject to the provisions of this section, to be eligible to receive the funds provided under section 133(b) for the provision of training services, the provider shall be—

''(A) a postsecondary educational institution that—

''(i) is eligible to receive Federal funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

''(ii) provides a program that leads to an associate degree, baccalaureate degree, or industry-recognized certification;

''(B) an entity that carries out programs under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.); or

''(C) another public or private provider of a program of training services.

''(3) INCLUSION IN LIST OF ELIGIBLE PROVIDERS.—A provider described in subparagraph (A) or (C) of paragraph (2) shall comply with the criteria and procedures established under this section to be included on the list of eligible providers of training services described in subsection (d)(1). A provider described in paragraph (2)(B) shall be included on the list of eligible providers of training services described in subsection (d)(1) for so long as the provider remains certified by the Department of Labor to carry out the programs described in paragraph (2)(B).

''(b) CRITERIA.—

''(1) IN GENERAL.—The criteria established by the Governor pursuant to subsection (a) shall take into account—

''(A) the performance of providers of training services with respect to the performance measures and other matters for which information is required under paragraph (2) and other appropriate measures of performance outcomes for those participants receiving training services under this subtitle (taking into consideration the characteristics of the population served and relevant economic conditions);

''(B) the need to ensure access to training services throughout the State, including any rural areas;

''(C) the information such providers are required to report to State agencies with respect to Federal and State programs (other than the program carried out under this subtitle), including one-stop partner programs;

''(D) the requirements for State licensing of providers of training services, and the licensing status of each provider of training services if applicable;

''(E) to the extent practicable, encouraging the use of industry-recognized standards and certification;

''(F) the ability of the providers to offer programs that lead to a degree or an industry-recognized certification;

''(G) the ability to provide training services to hard-to-serve populations, including individuals with disabilities; and

''(H) such other factors as the Governor determines are appropriate to ensure—

''(i) the quality of services provided;

''(ii) the accountability of the providers;

''(iii) that the one-stop centers in the State will ensure that such providers meet the needs of local employers and participants;

''(iv) the informed choice of participants under chapter 5; and

''(v) that the collection of information required is not unduly burdensome or costly to providers.

''(2) INFORMATION.—The criteria established by the Governor shall require that a provider of training services submit appropriate, accurate, and timely information to the State for purposes of carrying out subsection (d), with respect to participants receiving training services under this subtitle in the applicable program, including—

''(A) information on degrees and industry-recognized certifications received by such participants;

''(B) information on costs of attendance for such participants;

''(C) information on the program completion rate for such participants; and

''(D) information on the performance of the provider with respect to the performance measures described in section 136 for such participants (taking into consideration the characteristics of the population served and relevant economic conditions), which may include information specifying the percentage of such participants who entered unsubsidized employment in an occupation related to the program.

''(3) RENEWAL.—The criteria established by the Governor shall also provide for biennial review and renewal of eligibility under this section for providers of training services.

''(4) LOCAL CRITERIA.—A local board in the State may establish criteria in addition to the criteria established by the Governor, or may require higher levels of performance than required under the criteria established by the Governor, for purposes of determining the eligibility of providers of training services to receive funds described in subsection (a) to provide the services in the local area involved.

''(5) INFORMATION TO ESTABLISH INITIAL ELIGIBILITY.—

''(A) IN GENERAL.—In an effort to provide the highest-quality training services and responsiveness to new and emerging industries, providers may seek initial eligibility under this section as providers of training services. The criteria established by the Governor shall require that a provider who has not previously been an eligible provider of training services under this section provide the information described in subparagraph (B).

''(B) INFORMATION.—The provider shall provide verifiable program-specific performance information supporting the provider's ability to serve participants under this subtitle. The information provided under this subparagraph may include information on outcome measures such as job placement and wage increases for individuals participating in the program, information on business partnerships and other factors that indicate high-quality training services, and information on alignment with industries targeted for potential employment opportunities.

''(C) PROVISION.—The provider shall provide the information described in subparagraph (B) to the Governor and the local boards in a manner that will permit the Governor and the local boards to make a decision on inclusion of the provider on the list of eligible providers described in subsection (d).

''(c) PROCEDURES.—The procedures established under subsection (a) shall identify the application process for a provider of training services to become eligible to receive funds provided under section 133(b) for the provision of training services, and identify the respective roles of the State and local areas in receiving and reviewing the applications and in making determinations of such eligibility based on the criteria established under this section. The procedures shall also establish a process for a provider of training services to appeal a denial or termination of eligibility under this section, that includes an opportunity for a hearing and prescribes appropriate time limits to ensure prompt resolution of the appeal.

''(d) INFORMATION TO ASSIST PARTICIPANTS IN CHOOSING PROVIDERS.—In order to facilitate and assist participants in choosing employment and training activities under chapter 5 and in choosing providers of training services, the Governor shall ensure that an appropriate list of providers determined to be eligible under this section in the State, accompanied by appropriate information, is provided to the one-stop delivery system in the State. The accompanying information shall consist of information provided by providers described in subparagraphs (A) and (C) of subsection (a)(2) in accordance with subsection (b) (including information on receipt of degrees and industry-recognized certifications, and costs of attendance, for participants receiving training services under this subtitle in applicable programs) and such other information as the Secretary determines is appropriate. The list and the accompanying information shall be made available to such participants and to members of the public through the one-stop delivery system in the State.

''(e) ENFORCEMENT.—

''(1) IN GENERAL.—The criteria and procedures established under this section shall provide the following:

''(A) INTENTIONALLY SUPPLYING INACCURATE INFORMATION.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services, or individual providing information on behalf of the provider, intentionally supplied inaccurate information under this section, the eligibility of such provider to receive funds under chapter 5 shall be terminated for a period of time that is not less than 2 years.

''(B) SUBSTANTIAL VIOLATIONS.—Upon a determination, by an individual or entity specified in the criteria or procedures, that a provider of training services substantially violated any requirement under this title, the eligibility of such provider to receive funds under the program involved may be terminated, or other appropriate action may be taken.

''(C) REPAYMENT.—A provider of training services whose eligibility is terminated under subparagraph (A) or (B) shall be liable for the repayment of funds received under chapter 5 during a period of noncompliance described in such subparagraph.

''(2) CONSTRUCTION.—Paragraph (1) shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.

''(f) AGREEMENTS WITH OTHER STATES.—States may enter into agreements, on a reciprocal basis, to permit eligible providers of training services to accept career scholarship accounts provided in another State.

''(g) OPPORTUNITY TO SUBMIT COMMENTS.—In establishing criteria, procedures, requirements for information, and the list of eligible providers described in subsection (d)(1), the Governor shall provide an opportunity for interested members of the public to make recommendations and submit comments regarding such criteria, procedures, requirements for information, and list.

''(h) TRANSITION PERIOD FOR IMPLEMENTATION.—The requirements of this section shall be implemented not later than December 31, 2006. In order to facilitate early implementation of this section, the Governor may establish transition procedures under which providers eligible to provide training services under chapter 5 as such chapter was in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005 may continue to be eligible to provide such services until December 31, 2006, or until such earlier date as the Governor determines to be appropriate.

''(i) ON-THE-JOB TRAINING, CUSTOMIZED TRAINING, OR INCUMBENT WORKER TRAINING EXCEPTION.—

''(1) IN GENERAL.—Providers of on-the-job training, customized training, or incumbent worker training shall not be subject to the requirements of subsections (a) through (h).

''(2) COLLECTION AND DISSEMINATION OF INFORMATION.—A one-stop operator in a local area shall collect such performance information from providers of on-the-job training, customized training, and incumbent worker training as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers of training services.''.

SEC. 119. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

Section 123 (29 U.S.C. 2843) is amended to read as follows:

''SEC. 123. ELIGIBLE PROVIDERS OF YOUTH ACTIVITIES.

''(a) IN GENERAL.—From the funds allocated under section 128(b) to a local area, the local board for such area shall award grants or contracts on a competitive basis to providers of youth activities identified based on the criteria in the State plan described in section 112 and shall conduct oversight with respect to such providers.

''(b) EXCEPTIONS.—A local board may award grants or contracts on a sole-source basis if such board determines there is an insufficient number of eligible providers of youth activities in the local area involved (such as a rural area) for grants and contracts to be awarded on a competitive basis under subsection (a).''.

SEC. 120. YOUTH ACTIVITIES.

(a) STATE ALLOTMENTS.—Section 127 (29 U.S.C. 2852) is amended—

(1) in subsection (a)(1), by striking ''opportunity'' and inserting ''challenge''; and

(2) by striking subsection (b) and inserting the following:

''(b) ALLOTMENT AMONG STATES.—

''(1) YOUTH ACTIVITIES.—

''(A) YOUTH CHALLENGE GRANTS AND YOUTH ACTIVITIES FOR FARMWORKERS AND NATIVE AMERICANS.—

''(i) IN GENERAL.—For each fiscal year in which the amount appropriated under section 137(a) exceeds $1,000,000,000, the Secretary shall reserve a portion of the amount to provide youth activities under section 167 (relating to migrant and seasonal farmworker programs) and provide youth challenge grants and other activities under section 169 (relating to youth challenge grants).

''(ii) PORTION.—The portion referred to in clause (i) shall equal, for a fiscal year—

''(I) except as provided in subclause (II), the difference obtained by subtracting $1,000,000,000 from the amount appropriated under section 137(a) for the fiscal year; or

''(II) for any fiscal year in which the amount is $1,250,000,000 or greater, $250,000,000.

''(iii) YOUTH ACTIVITIES FOR FARMWORKERS.—For a fiscal year described in clause (i), the Secretary shall reserve the greater of $10,000,000 or 4 percent of the portion described in clause (i) for a fiscal year to provide youth activities under section 167. For a fiscal year not described in clause (i), the Secretary shall reserve $10,000,000 of the amount appropriated under section 137(a) to provide youth activities under section 167.

''(iv) YOUTH ACTIVITIES FOR NATIVE AMERICANS.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under clause (i) or (iii), the Secretary shall reserve not more than 1½ percent of such appropriated amount to provide youth activities under section 166 (relating to Native Americans).

''(B) OUTLYING AREAS.—

''(i) IN GENERAL.—From the amount appropriated under section 137(a) for each fiscal year that is not reserved under subparagraph (A), the Secretary shall reserve not more than ¼ of 1 percent of the appropriated amount to provide assistance to the outlying areas to carry out youth activities and statewide workforce investment activities.

''(ii) LIMITATION FOR FREELY ASSOCIATED STATES.—

''(I) COMPETITIVE GRANTS.—The Secretary shall use funds described in clause (i) to award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States to carry out youth activities and statewide workforce investment activities.

''(II) AWARD BASIS.—The Secretary shall award grants pursuant to subclause (I) on a competitive basis and pursuant to the recommendations of experts in the field of employment and training, working through the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(III) ASSISTANCE REQUIREMENTS.—Any Freely Associated State that desires to receive assistance under this subparagraph shall submit an application to the Secretary and shall include in the application for assistance—

''(aa) information demonstrating that the Freely Associated State will meet all conditions that apply to States under this title;

''(bb) an assurance that, notwithstanding any other provision of this title, the Freely Associated State will use such assistance only for the direct provision of services; and

''(cc) such other information and assurances as the Secretary may require.

''(IV) ADMINISTRATIVE COSTS.—The Secretary may provide not more than 5 percent of the funds made available for grants under subclause (I) to pay the administrative costs of the Pacific Region Educational Laboratory in Honolulu, Hawaii, regarding activities assisted under this clause.

''(iii) ADDITIONAL REQUIREMENT.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to assistance provided to those areas, including the Freely Associated States, under this subparagraph.

''(C) STATES.—

''(i) IN GENERAL.—From the remainder of the amount appropriated under section 137(a) for a fiscal year that exists after the Secretary determines the amounts to be reserved under subparagraphs (A) and (B), the Secretary shall allot to the States—

''(I) an amount of the remainder that is less than or equal to the total amount that was allotted to States for fiscal year 2005 under section 127(b)(1)(C) of this Act (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005), in accordance with the requirements of such section 127(b)(1)(C); and

''(II) the amount of the remainder, if any, in excess of the amount referred to in subclause (I), in accordance with clause (ii).

''(ii) FORMULA.—Subject to clauses (iii) and (iv), of the amount described in clause (i)(II)—

''(I) 33⅓ percent shall be allotted on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each State, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all States;

''(II) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals in each State, compared to the total number of unemployed individuals in all States; and

''(III) 33⅓ percent shall be allotted on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each State, compared to the total number of disadvantaged youth who are ages 16 through 21 in all States.

''(iii) MINIMUM AND MAXIMUM PERCENTAGES.—

''(I) MINIMUM PERCENTAGE.—The Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is less than 90 percent of the allotment percentage of the State for the preceding fiscal year.

''(II) MAXIMUM PERCENTAGE.—Subject to subclause (I), the Secretary shall ensure that no State shall receive an allotment percentage under this subparagraph for a fiscal year that is more than 130 percent of the allotment percentage of the State for the preceding fiscal year.

''(iv) SMALL STATE MINIMUM ALLOTMENT.—Subject to clause (iii), the Secretary shall ensure that no State shall receive an allotment under this subparagraph that is less than the total of—

''(I) 3/10 of 1 percent of $1,000,000,000 of the remainder described in clause (i) for the fiscal year; and

''(II) if the remainder described in clause (i) for the fiscal year exceeds $1,000,000,000, 2/5 of 1 percent of the excess.

''(2) DEFINITIONS.—For the purposes of paragraph (1):

''(A) ALLOTMENT PERCENTAGE.—The term 'allotment percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the remainder described in paragraph (1)(C)(i) that is received by the State involved through an allotment made under this subsection for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allotted to States under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the State involved for fiscal year 2005.

''(B) DISADVANTAGED YOUTH.—Subject to paragraph (3), the term 'disadvantaged youth' means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

''(i) the poverty line; or

''(ii) 70 percent of the lower living standard income level.

''(C) FREELY ASSOCIATED STATE.—The term 'Freely Associated State' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(3) SPECIAL RULE.—For purposes of the formula specified in paragraph (1)(C), the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of disadvantaged youth.''.

(b) REALLOTMENT.—

(1) AMENDMENT.—Section 127(c) (29 U.S.C. 2852(c)) is amended—

(A) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallotment for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under this section during such prior program year (including amounts allotted to the State in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the State under this section during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years that remained available); and

''(B) the accrued expenditures during such prior program year.'';

(B) in paragraph (3)—

(i) by striking ''for the prior program year'' and inserting ''for the program year for which the determination is made''; and

(ii) by striking ''such prior program year'' and inserting ''such program year'';

(C) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that does not have an amount available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.''; and

(D) in paragraph (5), by striking ''obligation'' and inserting ''accrued expenditure''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect for the program year that begins after the date of enactment of this Act.

(c) WITHIN STATE ALLOCATIONS.—

(1) RESERVATION FOR STATEWIDE ACTIVITIES.—Section 128(a) (29 U.S.C. 2853(a)) is amended to read as follows:

''(a) RESERVATIONS FOR STATEWIDE ACTIVITIES.—

''(1) IN GENERAL.—The Governor of a State shall reserve not more than 15 percent of each of the amounts allotted to the State under section 127(b)(1)(C) and paragraphs (1)(B) and (2)(B) of section 132(b) for a fiscal year for statewide workforce investment activities.

''(2) USE OF FUNDS.—Regardless of whether the reserved amounts were allotted under section 127(b)(1)(C), or under paragraph (1)(B) or (2)(B) of section 132(b), the Governor may use the reserved amounts to carry out statewide activities under section 129(b) or statewide employment and training activities, for adults or dislocated workers, under section 134(a).''.

(2) WITHIN STATE ALLOCATION.—Section 128(b) (29 U.S.C. 2853(b)) is amended to read as follows:

''(b) WITHIN STATE ALLOCATIONS.—

''(1) IN GENERAL.—Of the amount allotted to the State under section 127(b)(1)(C) and not reserved under subsection (a)(1)—

''(A) a portion equal to not less than 80 percent of such amount shall be allocated by the Governor to local areas in accordance with paragraph (2); and

''(B) a portion equal to not more than 20 percent of such amount may be allocated by the Governor to local areas in accordance with paragraph (3).

''(2) ESTABLISHED FORMULA.—

''(A) IN GENERAL.—Of the portion described in paragraph (1)(A), the Governor shall allocate—

''(i) 33⅓ percent on the basis of the relative number of individuals in the civilian labor force who are ages 16 through 21 in each local area, compared to the total number of individuals in the civilian labor force who are ages 16 through 21 in all local areas in the State;

''(ii) 33⅓ percent on the basis of the relative number of unemployed individuals in each local area, compared to the total number of unemployed individuals in all local areas in the State; and

''(iii) 33⅓ percent on the basis of the relative number of disadvantaged youth who are ages 16 through 21 in each local area, compared to the total number of disadvantaged youth who are ages 16 through 21 in all local areas in the State.

''(B) MINIMUM AND MAXIMUM PERCENTAGES.—

''(i) MINIMUM PERCENTAGE.—The Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is less than 90 percent of the allocation percentage of the local area for the preceding fiscal year.

''(ii) MAXIMUM PERCENTAGE.—Subject to clause (i), the Governor shall ensure that no local area shall receive an allocation percentage under this paragraph for a fiscal year that is more than 130 percent of the allocation percentage of the local area for the preceding fiscal year.

''(C) DEFINITIONS.—In this paragraph:

''(i) ALLOCATION PERCENTAGE.—The term 'allocation percentage', used with respect to fiscal year 2006 or a subsequent fiscal year, means a percentage of the portion described in paragraph (1)(A) that is received by the local area involved through an allocation made under this paragraph for the fiscal year. The term, used with respect to fiscal year 2005, means the percentage of the amounts allocated to local areas under this chapter (as in effect on the day before the date of enactment of the Workforce Investment Act Amendments of 2005) that is received by the local area involved for fiscal year 2005.

''(ii) DISADVANTAGED YOUTH.—The term 'disadvantaged youth' means an individual who—

''(I) is age 16 through 21;

''(II) is not a college student or member of the Armed Forces; and

''(III) received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of—

''(aa) the poverty line; or

''(bb) 70 percent of the lower living standard income level.

''(3) YOUTH DISCRETIONARY ALLOCATION.—The Governor may allocate the portion described in paragraph (1)(B) to local areas where there are a significant number of eligible youth, after consultation with the State board and local boards.

''(4) LOCAL ADMINISTRATIVE COST LIMIT.—

''(A) IN GENERAL.—Of the amount allocated to a local area under this subsection and section 133(b) for a fiscal year, not more than 10 percent of the amount may be used by the local board involved for the administrative costs of carrying out local workforce investment activities under this chapter or chapter 5.

''(B) USE OF FUNDS.—Funds made available for administrative costs under subparagraph (A) may be used for the administrative costs of any of the local workforce investment activities described in this chapter or chapter 5, regardless of whether the funds were allocated under this subsection or section 133(b).''.

(3) REALLOCATION.—

(A) AMENDMENT.—Section 128(c) (29 U.S.C. 2853(c)) is amended—

(i) in paragraph (1), by striking ''paragraph (2)(A) or (3) of'';

(ii) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallocation for a program year is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under this section during such prior program year (including amounts allocated to the local area in all prior program years that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the local area under this section during the program year prior to the program year for which the determination is made (including amounts allocated to the local area in all prior program years that remained available); and

''(B) the accrued expenditures during such prior program year.'';

(iii) by amending paragraph (3)—

(I) by striking ''subsection (b)(3)'' each place it appears and inserting ''subsection (b)'';

(II) by striking ''for the prior program year'' the first place it appears and inserting ''for the program year for which the determination is made'';

(III) by striking ''such prior program year'' and inserting ''such program year''; and

(IV) by striking the last sentence; and

(iv) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means a local area that does not have an amount available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect for the later of—

(i) the program year that begins after the date of enactment of this Act; or

(ii) program year 2006.

(d) YOUTH PARTICIPANT ELIGIBILITY.—Section 129(a) (29 U.S.C. 2854(a)) is amended to read as follows:

''(a) YOUTH PARTICIPANT ELIGIBILITY.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—To be eligible to participate in activities carried out under this chapter during any program year an individual shall, at the time the eligibility determination is made, be an out-of-school youth or an in-school youth.

''(B) OUT-OF-SCHOOL YOUTH.—In this title the term 'out-of-school youth' means an individual who is—

''(i) not younger than age 16 nor older than age 21; and

''(ii) one of the following:

''(I) A school dropout.

''(II) A youth who is within the age for compulsory school attendance, but has not attended school for at least 1 school year calendar quarter.

''(III) A recipient of a secondary school diploma or its equivalent who is—

''(aa) deficient in basic skills, including limited English proficiency;

''(bb) a low-income individual; and

''(cc) not attending any school.

''(IV) Subject to the juvenile or adult justice system or ordered by a court to an alternative school.

''(V) A low-income individual who is pregnant or parenting and not attending any school.

''(VI) A youth who is not attending school or a youth attending an alternative school, who is homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

''(VII) A low-income individual who is not attending school and requires additional assistance to enter or complete an educational program or to secure or hold employment.

''(C) IN-SCHOOL YOUTH.—In this section the term 'in-school youth' means an individual who is—

''(i) not younger than age 14 nor older than age 21;

''(ii) a low-income individual; and

''(iii) one or more of the following:

''(I) Deficient in basic literacy skills, including limited English proficiency.

''(II) Homeless, a runaway, a foster child, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

''(III) Pregnant or parenting.

''(IV) An offender (other than an individual described in subparagraph (B)(ii)(IV)).

''(V) An individual who requires additional assistance to complete an educational program or to secure or hold employment.

''(2) EXCEPTION.—Not more than 5 percent of the individuals assisted under this section in each local area, in the case of individuals for whom low income is a requirement for eligibility under this section, may be individuals who are not low income.

''(3) LIMITATIONS ON ACTIVITIES FOR IN-SCHOOL YOUTH.—

''(A) IN GENERAL.—For any program year, not more than 60 percent of the funds available for statewide activities under subsection (b), and not more than 60 percent of funds available to local areas under subsection (c), may be used to provide activities for in-school youth meeting the requirements of paragraph (1)(B).

''(B) EXCEPTION.—A State that receives a minimum allotment under section 127(b)(1) in accordance with section 127(b)(1)(C)(iv) or under section 132(b)(1) in accordance with section 132(b)(1)(B)(iv)(II) may increase the percentage described in subparagraph (A) for a local area in the State, if—

''(i) after an analysis of the eligible youth population in the local area, the State determines that the local area will be unable to use at least 40 percent of the funds available for activities under subsection (b) or (c) to serve out-of-school youth due to a low number of out-of-school youth; and

''(ii)(I) the State submits to the Secretary, for the local area, a request including a proposed increased percentage for purposes of subparagraph (A), and the summary of the eligible youth population analysis; and

''(II) the request is approved by the Secretary.

''(4) CONSISTENCY WITH COMPULSORY SCHOOL ATTENDANCE LAWS.—In providing assistance under this section to an individual who is required to attend school under applicable State compulsory school attendance laws, the priority in providing such assistance shall be for the individual to attend school regularly.''.

(e) STATEWIDE ACTIVITIES.—Section 129(b) (29 U.S.C. 2854(b)) is amended to read as follows:

''(b) STATEWIDE ACTIVITIES.—

''(1) IN GENERAL.—Funds reserved by a Governor for a State as described in sections 128(a) and 133(a)(1) shall be used, regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or under paragraph (1)(B) or (2)(B) of section 132(b) for statewide activities, which may include—

''(A) conducting—

''(i) evaluations under section 136(e) of activities authorized under this chapter and

chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

''(ii) research; and

''(iii) demonstration projects;

''(B) providing incentive grants to local areas for regional cooperation among local boards (including local boards in a designated region as described in section 116(c)), for local coordination of activities carried out under this title, and for performance by local areas as described in section 136(i)(2);

''(C) providing technical assistance and capacity building activities to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), and the provision of technology to facilitate remote access to services provided through the one-stop delivery system in the State;

''(D) operating a fiscal and management accountability information system under section 136(f);

''(E) carrying out monitoring and oversight of activities carried out under this chapter and chapter 5, which may include a review comparing the services provided to male and female youth;

''(F) providing additional assistance to local areas that have high concentrations of eligible youth;

''(G) supporting the development of alternative programs and other activities that enhance the choices available to eligible youth and encourage such youth to reenter secondary education, enroll in postsecondary education and advanced training, and obtain career path employment;

''(H) supporting the provision of core services described in section 134(d)(2) in the one-stop delivery system in the State; and

''(I) supporting financial literacy, including—

''(i) supporting the ability to create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

''(ii) supporting the ability to manage spending, credit, and debt, including credit card debt, effectively;

''(iii) increasing awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

''(iv) supporting the ability to ascertain fair and favorable credit terms;

''(v) supporting the ability to avoid abusive, predatory, or deceptive credit offers and financial products;

''(vi) supporting the ability to understand, evaluate, and compare financial products, services, and opportunities;

''(vii) supporting the ability to understand resources that are easily accessible and affordable, and that inform and educate an investor as to the investor's rights and avenues of recourse when the investor believes the investor's rights have been violated by unprofessional conduct of market intermediaries;

''(viii) increasing awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improving the development and distribution of multilingual financial literacy and education materials;

''(ix) promoting bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining accounts with financial institutions; and

''(x) improving financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

''(2) LIMITATION.—Not more than 5 percent of the funds allotted to a State under section 127(b)(1)(C) shall be used by the State for administrative activities carried out under this subsection or section 134(a).

''(3) PROHIBITION.—No funds described in this subsection may be used to develop or implement education curricula for school systems in the State.''.

(f) LOCAL ELEMENTS AND REQUIREMENTS.—

(1) PROGRAM DESIGN.—Section 129(c)(1) (29 U.S.C. 2854(c)(1)) is amended—

(A) in the matter that precedes subparagraph (A), by striking ''paragraph (2)(A) or (3), as appropriate, of'';

(B) in subparagraph (B), by inserting ''are directly linked to 1 or more of the performance measures relating to this chapter under section 136, and that'' after ''for each participant that''; and

(C) in subparagraph (C)—

(i) by redesignating clauses (i) through (iv) as clauses (ii) through (v), respectively;

(ii) by inserting before clause (ii) (as redesignated by clause (i)) the following:

''(i) activities leading to the attainment of a secondary school diploma or its equivalent, or another recognized credential;'';

(iii) in clause (ii) (as redesignated by clause (i)), by inserting ''and advanced training'' after ''opportunities'';

(iv) in clause (iii) (as redesignated by clause (i))—

(I) by inserting ''instruction based on State academic content and student academic achievement standards established under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311)'' after ''academic''; and

(II) by inserting ''that lead to the attainment of recognized credentials'' after ''learning''; and

(v) by striking clause (v) (as redesignated by clause (i)) and inserting the following:

''(v) effective connections to all employers, including small employers, in sectors of the local and regional labor markets that are experiencing high growth in employment opportunities.''.

(2) PROGRAM ELEMENTS.—Section 129(c)(2) (29 U.S.C. 2854(c)(2)) is amended—

(A) in subparagraph (A), by striking ''secondary school, including dropout prevention strategies'' and inserting ''the requirements for a secondary school diploma or its recognized equivalent (including recognized alternative standards for individuals with disabilities) or for another recognized credential, including dropout prevention strategies'';

(B) in subparagraph (B), by inserting '', with a priority on exposing youth to technology and nontraditional jobs'' before the semicolon;

(C) in subparagraph (F), by striking ''during nonschool hours'';

(D) in subparagraph (I), by striking ''and'' at the end;

(E) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(K) on-the-job training opportunities;

''(L) opportunities to acquire financial literacy skills;

''(M) entrepreneurial skills training and microenterprise services; and

''(N) information about average wages for a range of jobs available in the local area, including technology jobs.''.

(3) ADDITIONAL REQUIREMENTS.—Section 129(c)(3)(A) (29 U.S.C. 2854(c)(3)(A)) is amended in the matter preceding clause (i) by striking ''or applicant who meets the minimum income criteria to be considered an eligible youth''.

(4) PRIORITY AND EXCEPTIONS.—Section 129(c) (29 U.S.C. 2854(c)) is amended by striking paragraphs (4) and (5).

(5) PROHIBITIONS AND LINKAGES.—Section 129(c) (29 U.S.C. 2854(c)), as amended by paragraph (4), is further amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (4), (5), and (6), respectively;

(B) in paragraph (4) (as redesignated by subparagraph (A))—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(C) in paragraph (5) (as redesignated by subparagraph (A)), by striking ''youth councils'' and inserting ''local boards''.

SEC. 121. ADULT AND DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.

(a) STATE ALLOTMENTS.—

(1) RESERVATIONS.—Section 132(a)(2)(A) (29 U.S.C. 2862 (a)(2)(A)) is amended by striking ''national emergency grants, other than under subsection (a)(4), (f), and (g)'' and inserting ''national dislocated worker grants, other than under paragraph (4) or (5) of subsection (a), subsection (e), and subsection (f)''.

(2) ALLOTMENT AMONG STATES.—Section 132(b) (29 U.S.C. 2862(b)) is amended—

(A) in paragraph (1)(A)(ii), by striking ''section 127(b)(1)(B),'' and all that follows and inserting ''section 127(b)(1)(B).'';

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

''(ii) FORMULA.—Subject to clauses (iii) and (iv), of the remainder—

''(I) 40 percent shall be allotted on the basis of the relative number of unemployed individuals in areas of substantial unemployment in each State, compared to the total number of unemployed individuals in areas of substantial unemployment in all States;

''(II) 25 percent shall be allotted on the basis of the relative number of individuals in the civilian labor force in each State, compared to the total number of such individuals in all States; and

''(III) 35 percent shall be allotted on the basis of the relative number of disadvantaged adults in each State, compared to the total number of disadvantaged adults in all States, except as described in clause (iii).'';

(C) in paragraph (1)(B)—

(i) in clause (iii), by striking ''section 116(a)(2)(B)'' and inserting ''section 116(a)(2)(A)(iii)'';

(ii) in clause (iv)—

(I) in subclause (I)—

(aa) by striking ''Subject to subclause (IV), the'' and inserting ''The''; and

(bb) by striking ''than the greater of'' and all that follows and inserting ''than an amount based on 90 percent of the allotment percentage of the State for the preceding fiscal year.'';

(II) in subclause (II), by striking ''subclauses (I), (III), and (IV)'' and inserting ''subclauses (I) and (III)''; and

(III) by striking subclause (IV); and

(iii) in clause (v), by striking subclause (VI); and

(D) in paragraph (2)(A)(ii), by striking ''section 127(b)(1)(B)'' and all that follows and inserting ''section 127(b)(1)(B).''.

(3) REALLOTMENT.—Section 132(c) (29 U.S.C. 2862(c)) is amended—

(A) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallotment for a program year for programs

funded under subsection (b)(1)(B) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year (including amounts allotted to the State in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the State under subsection (b)(1)(B) or (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the State in all prior program years under such provisions that remained available); and

''(B) the accrued expenditures from such total amount of funds available under subsection (b)(1)(B) or (b)(2)(B), respectively, during such prior program year.'';

(B) in paragraph (3)—

(i) by striking ''under this section for such activities for the prior program year'' and inserting ''under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for the program year for which the determination is made''; and

(ii) by striking ''under this section for such activities for such prior program year'' and inserting ''under subsection (b)(1)(B) or (b)(2)(B), as appropriate, for such program year'';

(C) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means—

''(A) with respect to funds allotted under subsection (b)(1)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

''(B) with respect to funds allotted under subsection (b)(2)(B), a State that does not have an amount of such funds available for reallotment under paragraph (2) for the program year for which the determination under paragraph (2) is made.''; and

(D) in paragraph (5), by striking ''obligation'' and inserting ''accrued expenditure''.

(4) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(b) WITHIN STATE ALLOCATIONS.—

(1) ALLOCATION.—Section 133(b)(2)(A)(i) (29 U.S.C. 2863(b)(2)(A)(i)) is amended—

(A) in subclause (I), by striking ''33⅓ percent'' and inserting ''40 percent'';

(B) in subclause (II), by striking ''33⅓ percent'' and inserting ''25 percent''; and

(C) in subclause (III), by striking ''33⅓ percent'' and inserting ''35 percent''.

(2) TRANSFER AUTHORITY.—Section 133(b)(4) (29 U.S.C. 2863(b)(4)) is amended by striking ''20 percent'' each place it appears and inserting ''45 percent''.

(3) REQUIREMENTS.—Clauses (i) and (ii) of section 133(b)(5)(B) (29 U.S.C. 2863(b)(5)(B)) are amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(4) REALLOCATION.—Section 133(c) (29 U.S.C. 2863(c)) is amended—

(A) in paragraph (1), by inserting '', and under subsection (b)(2)(B) for dislocated worker employment and training activities,'' after ''activities'';

(B) by striking paragraph (2) and inserting the following:

''(2) AMOUNT.—The amount available for reallocation for a program year for programs funded under paragraphs (2)(A) and (3) of subsection (b) (relating to adult employment and training) and subsection (b)(2)(B) (relating to dislocated worker employment and training), respectively, is equal to the amount by which the unexpended balance at the end of the program year prior to the program year for which the determination is made exceeds 30 percent of the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year (including amounts allocated to the local area in all prior program years under such provisions that remained available). For purposes of this paragraph, the unexpended balance is the amount that is the difference between—

''(A) the total amount of funds available to the local area under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during the program year prior to the program year for which the determination is made (including amounts allotted to the local area in all prior program years under such provisions that remained available); and

''(B) the accrued expenditures from such total amount of funds available under paragraphs (2)(A) and (3) of subsection (b), or subsection (b)(2)(B), respectively, during such prior program year.'';

(C) by striking paragraph (3) and inserting the following:

''(3) REALLOCATION.—In making reallocations to eligible local areas of amounts available pursuant to paragraph (2) for a program year, the Governor shall allocate to each eligible local area within the State—

''(A) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under paragraphs (2)(A) or (3) of subsection (b), an amount based on the relative amount allocated to such local area under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under paragraphs (2)(A) or (3) of subsection (b), as appropriate, for such program year; and

''(B) with respect to amounts that are available for reallocation under paragraph (2) that were allocated under subsection (b)(2)(B), an amount based on the relative amount allocated to such local area under subsection (b)(2)(B) for the program year for which the determination is made, as compared to the total amount allocated to all eligible local areas under subsection (b)(2)(B) for such program year.''; and

(D) by striking paragraph (4) and inserting the following:

''(4) ELIGIBILITY.—For purposes of this subsection, an eligible local area means—

''(A) with respect to funds allocated under paragraphs (2)(A) or (3) of subsection (b), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made; and

''(B) with respect to funds allocated under subsection (b)(2)(B), a local area that does not have an amount of such funds available for reallocation under paragraph (2) for the program year for which the determination under paragraph (2) is made.''.

(5) EFFECTIVE DATE.—The amendments made by paragraph (3) shall take effect for the later of—

(A) the program year that begins after the date of enactment of this Act; or

(B) program year 2006.

(c) USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.—

(1) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—Section 134(a)(2)(A) (29 U.S.C. 2864(a)(2)(A)) is amended to read as follows:

''(A) STATEWIDE RAPID RESPONSE ACTIVITIES.—

''(i) IN GENERAL.—A State shall carry out statewide rapid response activities using funds reserved by a Governor for a State under section 133(a)(2). Such activities shall include—

''(I) provision of rapid response activities, carried out in local areas by the State or by an entity designated by the State, working in conjunction with the local boards and the chief elected officials for the local areas; and

''(II) provision of additional assistance to local areas that experience disasters, mass layoffs, or plant closings, or other events that precipitate substantial increases in the number of unemployed individuals, carried out in local areas by the State, working in conjunction with the local boards and the chief elected officials for the local areas.

''(ii) USE OF UNEXPENDED FUNDS.—Funds reserved under section 133(a)(2) to carry out this subparagraph that remain unexpended after the first program year for which such funds were allotted may be used by the Governor to carry out statewide activities authorized under subparagraph (B) and paragraph (3)(A) in addition to activities under this subparagraph.''.

(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2) (29 U.S.C. 2864(a)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) (regardless of whether the funds were allotted to the States under section 127(b)(1)(C) or paragraphs (1)(B) or (2)(B) of section 132(b)) shall be used for statewide employment and training activities, including—

''(i) disseminating—

''(I) the State list of eligible providers of training services, including eligible providers of nontraditional training services and eligible providers of apprenticeship programs described in section 122(a)(2)(B);

''(II) information identifying eligible providers of on-the-job training, customized training, and incumbent worker training;

''(III) information on effective business outreach, partnerships, and services;

''(IV) performance information and information on costs of attendance, as described in subsections (d) and (i) of section 122; and

''(V) information on physical and programmatic accessibility for individuals with disabilities;

''(ii) conducting evaluations under section 136(e) of activities authorized under this chapter and chapter 5 in coordination with evaluations carried out by the Secretary under section 172;

''(iii) providing incentive grants to local areas, in accordance with section 136(i);

''(iv) developing strategies for ensuring that activities carried out under this section are placing men and women in jobs, education, and training that lead to comparable pay;

''(v) providing technical assistance and capacity building to local areas, one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the development of exemplary program activities, and the provision of technical assistance to local areas that fail to meet local performance measures described in section 136(c), which may include

the development and training of staff to provide opportunities for hard-to-serve populations to enter high-wage, high-skilled, and nontraditional occupations;

''(vi) operating a fiscal and management accountability system under section 136(f); and

''(vii) carrying out monitoring and oversight of activities carried out under this chapter and chapter 4.''.

(C) ALLOWABLE STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(3)(A) (29 U.S.C. 2864(a)(3)(A) is amended to read as follows:

''(A) IN GENERAL.—Funds reserved by a Governor for a State under sections 128(a)(1) and 133(a)(1) and not used under paragraph (1)(A) or (2)(B) (regardless of whether the funds were allotted to the State under section 127(b)(1)(C) or paragraph (1)(B) or (2)(B) of section 132(b)) may be used to carry out additional statewide employment and training activities, which may include—

''(i) implementing innovative programs and strategies designed to meet the needs of all businesses in the State, including small businesses, which may include incumbent worker training programs, sectoral and industry cluster strategies and partnerships, including regional skills alliances, career ladder programs, micro-enterprise and entrepreneurial training and support programs, utilization of effective business intermediaries, activities to improve linkages between the one-stop delivery system in the State and all employers (including small employers) in the State, and other business services and strategies that better engage employers in workforce investment activities and make the workforce investment system more relevant to the needs of State and local businesses, consistent with the objectives of this title;

''(ii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners;

''(iii) implementing innovative programs for displaced homemakers, which for purposes of this clause may include an individual who is receiving public assistance and is within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

''(iv) implementing programs to increase the number of individuals training for and placed in nontraditional employment;

''(v) carrying out activities to facilitate remote access to services, including training services described in subsection (d)(4), provided through a one-stop delivery system, including facilitating access through the use of technology;

''(vi) supporting the provision of core services described in subsection (d)(2) in the one-stop delivery system in the State;

''(vii) coordinating with the child welfare system to facilitate services for children in foster care and those who are eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677);

''(viii) activities—

''(I) to improve coordination between workforce investment activities carried out within the State involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services;

''(II) to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

''(III) to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

''(IV) to improve coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a);

''(V) to develop and disseminate workforce and labor market information;

''(VI) to improve coordination with the corrections system to facilitate provision of training services and employment opportunities that will assist ex-offenders in reentering the workforce; and

''(VII) to promote financial literacy, including carrying out activities described in section 129(b)(1)(I);

''(ix) conducting—

''(I) research; and

''(II) demonstration projects; and

''(x) adopting, calculating, or commissioning a minimum self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.''.

(2) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

(A) ALLOCATED FUNDS.—Section 134(d)(1)(A) (29 U.S.C. 2864(d)(1)(A)) is amended—

(i) in clause (i), by striking ''described in subsection (c)'';

(ii) in clause (iii), by striking ''and'' at the end;

(iii) in clause (iv), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(v) to designate a dedicated business liaison in the local area who may be funded with funds provided under this title or from other sources to establish and develop relationships and networks with large and small employers and their intermediaries; and

''(vi) in order to improve service delivery to avoid duplication of services and enhance coordination of services, to require the colocation of employment services provided under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) at the one-stop centers.''.

(B) CORE SERVICES.—Section 134(d)(2) (29 U.S.C. 2864(d)(2)) is amended—

(i) in the matter preceding subparagraph (A), by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)'';

(ii) in subparagraph (C), by inserting ''(including literacy, numeracy, and English language proficiency)'' after ''skill levels'';

(iii) by striking subparagraph (D) and inserting the following:

''(D) labor exchange services, including—

''(i) job search and placement assistance and, in appropriate cases, career counseling, including—

''(I) exposure to high wage, high skill jobs; and

''(II) nontraditional employment; and

''(ii) appropriate recruitment and other business services for all employers, including small employers, in the local area, which may include services described in this subsection, including information and referral to specialized business services not traditionally offered through the one-stop delivery system;'';

(iv) in subparagraph (E)(iii)—

(I) by inserting '', career ladders,'' after ''earnings''; and

(II) by striking ''and'' at the end;

(v) in subparagraph (F)—

(I) by striking ''and program cost information''; and

(II) by striking ''described in section 123'';

(vi) by striking subparagraph (H) and inserting the following:

''(H) provision of accurate information, in formats that are usable and understandable to all one-stop center customers, relating to the availability of supportive services or assistance, including child care, child support, medical or child health assistance under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.), benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the earned income tax credit under section 32 of the Internal Revenue Code of 1986, and assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and other supportive services and transportation provided through funds made available under such part, available in the local area, and referral to such services or assistance as appropriate;''; and

(vii) in subparagraph (J), by striking ''for—'' and all that follows through ''(ii) programs'' and inserting ''for programs''.

(C) INTENSIVE SERVICES.—Section 134(d)(3) (29 U.S.C. 2864(d)(3)) is amended—

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

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

''(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

''(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

''(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or

''(II) who are employed, but who, after an interview, evaluation, or assessment are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

''(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.''; and

(ii) in subparagraph (C)—

(I) in clause (v), by striking ''for participants seeking training services under paragraph (4)''; and

(II) by adding at the end the following:

''(vii) Internships and work experience.

''(viii) Literacy activities relating to basic work readiness.

''(ix) Financial literacy services, such as activities described in section 129(b)(1)(I).

''(x) Out-of-area job search assistance and relocation assistance.

''(xi) English language acquisition and integrated training programs.''.

(D) TRAINING SERVICES.—Section 134(d)(4) (29 U.S.C. 2864(d)(4)) is amended—

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

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (ii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to

provide training services to adults and dislocated workers, respectively—

''(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

''(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

''(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

''(cc) have the skills and qualifications to successfully participate in the selected program of training services;

''(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

''(III) who meet the requirements of subparagraph (B); and

''(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

''(ii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.'';

(ii) in subparagraph (B)(i), by striking ''Except'' and inserting ''Notwithstanding section 479B of the Higher Education Act of 1965 (20 U.S.C. 1087uu) and except'';

(iii) in subparagraph (D)—

(I) in clause (viii), by striking ''and'' after the semicolon;

(II) in clause (ix), by striking the period and inserting ''; and''; and

(III) by adding at the end the following:

''(x) English language acquisition and integrated training programs.'';

(iv) in subparagraph (F)—

(I) in clause (ii), by striking ''referred to in subsection (c), shall make available—'' and all that follows and inserting ''shall make available a list of eligible providers of training services, and accompanying information, in accordance with section 122(d).'';

(II) in the heading of clause (iii), by striking ''INDIVIDUAL TRAINING ACCOUNTS'' and inserting ''CAREER SCHOLARSHIP ACCOUNTS'';

(III) in clause (iii)—

(aa) by striking ''identifying information'' and inserting ''accompanying information'';

(bb) by striking ''clause (ii)(I)'' and inserting ''clause (ii)''; and

(cc) by striking ''an individual training account'' and inserting ''a career scholarship account''; and

(IV) by adding at the end the following:

''(iv) COORDINATION.—Each local board may, through one-stop centers, coordinate career scholarship accounts with other Federal, State, local, or private job training programs or sources to assist the individual in obtaining training services.''; and

(v) in subparagraph (G)—

(I) in the subparagraph heading, by striking ''INDIVIDUAL TRAINING ACCOUNTS'' and inserting ''CAREER SCHOLARSHIP ACCOUNTS'';

(II) in clause (i), by striking ''individual training accounts'' and inserting ''career scholarship accounts'';

(III) in clause (ii)—

(aa) by striking ''an individual training account'' and inserting ''a career scholarship account'';

(bb) in subclause (II), by striking ''individual training accounts'' and inserting ''career scholarship accounts'';

(cc) in subclause (II) by striking ''or'' after the semicolon;

(dd) in subclause (III), by striking ''special participant populations that face multiple barriers to employment'' and inserting ''hard-to-serve populations'';

(ee) in subclause (III), by striking the period and inserting ''; or''; and

(ff) by adding at the end the following:

''(IV) the local board determines that it would be most appropriate to award a contract to an institution of higher education in order to facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.''; and

(IV) in clause (iv)—

(aa) by redesignating subclause (IV) as subclause (V); and

(bb) by inserting after subclause (III) the following:

''(IV) Individuals with disabilities.''.

(3) PERMISSIBLE ACTIVITIES.—Section 134(e) (29 U.S.C. 2864(e)) is amended—

(A) by striking the matter preceding paragraph (2) and inserting the following:

''(e) PERMISSIBLE LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—

''(1) IN GENERAL.—

''(A) ACTIVITIES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved—

''(i) customized screening and referral of qualified participants in training services described in subsection (d)(4) to employment;

''(ii) customized employment-related services to employers on a fee-for-service basis;

''(iii) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations;

''(iv) technical assistance and capacity building for serving individuals with disabilities in local areas, for one-stop operators, one-stop partners, and eligible providers, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, and the development of performance measures;

''(v) employment and training assistance provided in coordination with child support enforcement activities of the State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

''(vi) activities to improve coordination between employment and training assistance, child support services, and assistance provided by State and local agencies carrying out part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.);

''(vii) activities to improve coordination between employment and training assistance and cooperative extension programs carried out by the Department of Agriculture;

''(viii) activities to facilitate remote access to services provided through a one-stop delivery system, including facilitating access through the use of technology;

''(ix) activities—

''(I) to improve coordination between workforce investment activities carried out within the local area involved and economic development activities, and to promote entrepreneurial skills training and microenterprise services; and

''(II) to improve services and linkages between the local workforce investment system including the local one-stop delivery system, and all employers, including small employers in the local area, through services described in this section, including subparagraph (B);

''(x) training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;

''(xi) using a portion of the funds allocated under section 133(b), activities to carry out business services and strategies that meet the workforce investment needs of local area employers, as determined by the local board, consistent with the local plan under section 118, which services—

''(I) may be provided through effective business intermediaries working in conjunction with the local board, and may also be provided on a fee-for-service basis or through the leveraging of economic development and other resources as determined appropriate by the local board; and

''(II) may include—

''(aa) identifying and disseminating to business, educators, and job seekers, information related to the workforce, economic and community development needs, and opportunities of the local economy;

''(bb) development and delivery of innovative workforce investment services and strategies for area businesses, which may include sectoral, industry cluster, regional skills alliances, career ladder, skills upgrading, skill standard development and certification, apprenticeship, and other effective initiatives for meeting the workforce investment needs of area employers and workers;

''(cc) participation in seminars and classes offered in partnership with relevant organizations focusing on the workforce-related needs of area employers and job seekers;

''(dd) training consulting, needs analysis, and brokering services for area businesses, including the organization and aggregation of training (which may be paid for with funds other than those provided under this title), for individual employers and coalitions of employers with similar interests, products, or workforce needs;

''(ee) assistance to area employers in the aversion of layoffs and in managing reductions in force in coordination with rapid response activities;

''(ff) the marketing of business services offered under this title, to appropriate area employers, including small and mid-sized employers;

''(gg) information referral on concerns affecting local employers; and

''(hh) other business services and strategies designed to better engage employers in workforce investment activities and to make the workforce investment system more relevant to the workforce investment needs of area businesses, as determined by the local board to be consistent with the objectives of this title;

''(xii) activities to adjust the self-sufficiency standards for local factors, or activities to adopt, calculate, or commission a self-sufficiency standard that specifies the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations; and

''(xiii) improved coordination between employment and training assistance and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to mental retardation and developmental disabilities, Statewide Independent Living Councils established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), and centers for independent living defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a).

''(B) WORK SUPPORT ACTIVITIES FOR LOW-WAGE WORKERS.—

''(i) IN GENERAL.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and

funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide, through the one-stop delivery system involved, work support activities designed to assist low-wage workers in retaining and enhancing employment. The one-stop partners shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under this subparagraph.

''(ii) ACTIVITIES.—The activities described in clause (i) may include the provision of activities described in this section through the one-stop delivery system in a manner that enhances the opportunities of such workers to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.'';

(B) in paragraph (2), by striking the matter preceding subparagraph (A) and inserting the following:

''(2) SUPPORTIVE SERVICES.—Funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), may be used to provide supportive services to adults and dislocated workers, respectively—''; and

(C) by adding at the end the following:

''(4) INCUMBENT WORKER TRAINING PROGRAMS.—

''(A) IN GENERAL.—The local board may use up to 10 percent of the funds allocated to the local area involved under section 133(b) to pay for the Federal share of the cost of providing training through an incumbent worker training program carried out in accordance with this paragraph. The Governor or State board may make recommendations to the local board regarding incumbent worker training with statewide impact.

''(B) TRAINING ACTIVITIES.—The training program for incumbent workers carried out under this paragraph shall be carried out by the local board in conjunction with the employers or groups of employers of such workers for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs.

''(C) EMPLOYER SHARE REQUIRED.—

''(i) IN GENERAL.—Employers participating in the program carried out under this paragraph shall be required to pay the non-Federal share of the costs of providing the training to incumbent workers of the employers. The local board shall establish the non-Federal share of such costs, which may include in-kind contributions. The non-Federal share shall not be less than—

''(I) 10 percent of the costs, for employers with 50 or fewer employees;

''(II) 25 percent of the costs, for employers with more than 50 employees but fewer than 100 employees; and

''(III) 50 percent of the costs, for employers with 100 or more employees.

''(ii) CALCULATION OF EMPLOYER SHARE.—The non-Federal share paid by such an employer may include the amount of the wages paid by the employer to a worker while the worker is attending a training program under this paragraph.''.

SEC. 122. PERFORMANCE ACCOUNTABILITY SYSTEM.

(a) STATE PERFORMANCE MEASURES.—

(1) INDICATORS OF PERFORMANCE.—Section 136(b)(2)(A) (29 U.S.C. 2871(b)(2)(A)) is amended—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking ''and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129'';

(ii) by striking subclause (III) and inserting the following:

''(III) increases in earnings from unsubsidized employment; and''; and

(iii) in subclause (IV), by striking '', or by participants'' and all that follows through ''unsubsidized employment''; and

(B) by striking clause (ii) and inserting the following:

''(ii) CORE INDICATORS FOR ELIGIBLE YOUTH.—The core indicators of performance for youth activities authorized under section 129 shall consist of—

''(I) entry into employment, education or advanced training, or military service;

''(II) school retention, and attainment of secondary school diplomas or their recognized equivalents and of postsecondary certificates; and

''(III) literacy or numeracy gains.''.

(2) ADDITIONAL INDICATORS.—Section 136(b)(2)(C) (29 U.S.C. 2871(b)(2)(C)) is amended to read as follows:

''(C) ADDITIONAL INDICATORS.—A State may identify in the State plan additional indicators for workforce investment activities under this subtitle, including indicators identified in collaboration with State business and industry associations, with employee representatives where applicable, and with local boards, to measure the performance of the workforce investment system in serving the workforce needs of business and industry in the State.''.

(3) LEVELS OF PERFORMANCE.—Section 136(b)(3)(A) (29 U.S.C. 2871(b)(3)(A)) is amended—

(A) in clause (iii)—

(i) in the heading, by striking ''FOR FIRST 3 YEARS'';

(ii) by striking ''and the customer satisfaction indicator of performance, for the first 3'' and inserting ''described in clauses (i) and (ii) of paragraph (2)(A) and the customer satisfaction indicator of performance, for the first 2''; and

(iii) by inserting at the end the following: ''Agreements on levels of performance for each of the core indicators of performance for the third and fourth program years covered by the State plan shall be reached prior to the beginning of the third program year covered by the State plan, and incorporated as a modification to the State plan.'';

(B) in clause (iv)—

(i) in the matter preceding subclause (I), by striking ''or (v)'';

(ii) in subclause (II)—

(I) by striking ''taking into account'' and inserting ''and shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(II) by inserting ''(such as differences in unemployment rates and job losses or gains in particular industries)'' after ''economic conditions'';

(III) by inserting ''(such as indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency)'' after ''program''; and

(IV) by striking ''and'' at the end;

(iii) in subclause (III), by striking the period and inserting ''; and''; and

(iv) by adding at the end the following:

''(IV) the extent to which the levels involved will assist the State in meeting the national goals described in clause (v).'';

(C) by striking clause (v) and inserting the following:

''(v) ESTABLISHMENT OF NATIONAL GOALS.—In order to promote enhanced performance outcomes on the performance measures and to facilitate the process of reaching agreements with the States under clause (iii) and to measure systemwide performance for the one-stop delivery systems of the States, the Secretary shall establish long-term national goals for the adjusted levels of performance for that systemwide performance to be achieved by the programs assisted under chapters 4 and 5 on the core indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2). Such goals shall be established in accordance with the Government Performance and Results Act of 1993 in consultation with the States and other appropriate parties.''; and

(D) in clause (vi)—

(i) by striking ''or (v)''; and

(ii) by striking ''with the representatives described in subsection (i)'' and inserting ''with the States and other interested parties''.

(b) LOCAL PERFORMANCE MEASURES.—Section 136(c)(3) (29 U.S.C. 2871(c)(3))—

(1) by striking ''shall take into account'' and inserting ''shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(2) by inserting ''(characteristics such as unemployment rates and job losses or gains in particular industries)'' after ''economic''; and

(3) by inserting ''(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, homelessness, ex-offender status, and welfare dependency)'' after ''demographic''.

(c) REPORT.—Section 136(d) (29 U.S.C. 2871(d)) is amended—

(1) in paragraph (1), by adding at the end the following: ''In the case of a State or local area that chooses to expend funds for activities under subsection (a)(3)(A)(i) or (e)(1)(A)(xi), respectively, of section 134, the report also shall include the amount of such funds so expended and the percentage that such funds are of the funds available for activities under section 134.'';

(2) in paragraph (2)—

(A) in subparagraph (E)—

(i) by striking ''(excluding participants who received only self-service and informational activities)''; and

(ii) by striking ''and'' after the semicolon;

(B) in subparagraph (F)—

(i) by inserting ''noncustodial parents with child support obligations, homeless individuals,'' after ''displaced homemakers,''; and

(ii) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(G) the number of participants who have received services, other than followup services, authorized under this title;

''(H) the number of participants who have received services, other than followup services, authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(3), and training services described in section 134(d)(4), respectively;

''(I) the number of participants who have received followup services authorized under this title;

''(J) the cost per participant for services authorized under this title; and

''(K) the amount of adult and dislocated worker funds spent on—

''(i) core, intensive, and training services, respectively; and

''(ii) services provided under subsection (a)(3)(A)(i) or (e)(1)(A)(xi) of section 134, if applicable.''; and

(3) by adding at the end the following:

''(4) DATA VALIDATION.—In preparing the reports described in this subsection, the States shall establish procedures, consistent with guidelines issued by the Secretary, to

ensure that the information contained in the reports is valid and reliable.''.

(d) EVALUATION OF STATE PROGRAMS.—Section 136(e)(3) is amended by inserting '', including information on promoting self-sufficiency and comparable pay between men and women'' after ''employers''.

(e) SANCTIONS FOR STATE.—Section 136(g) is amended—

(1) in paragraph (1)(B), by striking ''If such failure continues for a second consecutive year'' and inserting ''If a State performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years''; and

(2) in paragraph (2), by striking ''section 503'' and inserting ''subsection (i)(1)''.

(f) SANCTIONS FOR LOCAL AREA.—Section 136(h)(2)(A) (29 U.S.C. 2871(h)(2)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''If such failure continues for a second consecutive year'' and inserting ''If a local area performs at less than 80 percent of the adjusted level of performance for core indicators of performance described in subsection (b)(2)(A) for 2 consecutive years'';

(2) in clause (ii), by striking ''or'' after the semicolon;

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following:

''(iii) redesignate the local area in accordance with section 116(b)(2); or''.

(g) INCENTIVE GRANTS.—Section 136(i) (29 U.S.C. 2871(i)) is amended to read as follows:

''(i) INCENTIVE GRANTS FOR LOCAL AREAS.—

''(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

''(2) BASIS.—The Governor shall award the grants on the basis that the local areas—

''(A) have exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

''(B) have—

''(i) met the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

''(ii) demonstrated—

''(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

''(II) exemplary performance in the State in serving hard-to-serve populations; or

''(III) effective—

''(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment services under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under this title as well as one-stop partner programs described in section 121;

''(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under this title;

''(cc) implementation of coordination activities through agreements with relevant regional or local agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(dd) regional coordination with other local workforce investment boards or areas;

''(ee) alignment of management information systems to integrate participant information across programs; or

''(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

''(3) USE OF FUNDS.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor, including—

''(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

''(B) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(C) activities that support regional economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

''(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

''(E) activities that support the development of an integrated performance information system that includes common measures;

''(F) activities that align management information systems with integrated performance information across education and workforce programs;

''(G) activities that support activities to improve performance and program coordination with other training providers; or

''(H) activities that leverage additional training resources for adults and youth.

''(4) TECHNICAL ASSISTANCE.—The Governor shall reserve 4 percent of the funds available for grants under this subsection to provide technical assistance to local areas to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and regional economic development.''.

(h) USE OF CORE MEASURES IN OTHER DEPARTMENT OF LABOR PROGRAMS.—Section 136 (29 U.S.C. 2871) is amended by adding at the end the following:

''(j) USE OF CORE INDICATORS FOR OTHER PROGRAMS.—In addition to the programs carried out under chapters 4 and 5, and consistent with the requirements of the applicable authorizing laws, the Secretary shall use the indicators of performance described in subparagraphs (A) and (B) of subsection (b)(2) to assess the effectiveness of the programs described in clauses (i), (ii), and (vi) of section 121(b)(1)(B) that are carried out by the Secretary.''.

(i) PREVIOUS DEFINITIONS OF CORE INDICATORS.—Section 502 (29 U.S.C. 9272) is repealed.

SEC. 123. AUTHORIZATION OF APPROPRIATIONS.

(a) YOUTH ACTIVITIES.—Section 137(a) (29 U.S.C. 2872(a)) is amended by striking ''such sums as may be necessary for each of fiscal years 1999 through 2003'' and inserting ''such sums as may be necessary for each of fiscal years 2006 through 2011''.

(b) ADULT EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(b) (29 U.S.C. 2872(b)) is amended by striking ''such sums as may be necessary for each of fiscal years 1999 through 2003'' and inserting ''such sums as may be necessary for each of fiscal years 2006 through 2011''.

(c) DISLOCATED WORKER EMPLOYMENT AND TRAINING ACTIVITIES.—Section 137(c) (29 U.S.C. 2872(c)) is amended by striking ''such sums as may be necessary for each of fiscal years 1999 through 2003'' and inserting ''such sums as may be necessary for each of fiscal years 2006 through 2011''.

Subtitle C—Job Corps

SEC. 131. JOB CORPS.

(a) ELIGIBILITY.—Section 144(3) (29 U.S.C. 2884(3)) is amended by adding at the end the following:

''(F) A child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).''.

(b) IMPLEMENTATION OF STANDARDS AND PROCEDURES.—Section 145(a)(3) (29 U.S.C. 2885(a)(3)) is amended—

(1) in subparagraph (B), by striking ''and'' after the semicolon;

(2) in subparagraph (C), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) child welfare agencies that are responsible for children in foster care and children eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677).''.

(c) INDUSTRY COUNCILS.—Section 154(b) (29 U.S.C. 2894(b)) is amended—

(1) in paragraph (1)(A), by striking ''local and distant''; and

(2) by adding at the end the following:

''(3) EMPLOYERS OUTSIDE OF LOCAL AREA.—The industry council may include, or otherwise provide for consultation with, employers from outside the local area who are likely to hire a significant number of enrollees from the Job Corps center.

''(4) SPECIAL RULE FOR SINGLE LOCAL AREA STATES.—In the case of a single local area State designated under section 116(b), the industry council shall include a representative of the State Board.''.

(d) INDICATORS OF PERFORMANCE.—Section 159 (29 U.S.C. 2899) is amended—

(1) in subsection (c)—

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

''(1) PERFORMANCE INDICATORS.—The Secretary shall annually establish expected levels of performance for Job Corps centers and the Job Corps program relating to each of the core indicators of performance for youth activities identified in section 136(b)(2)(A)(ii).'';

(B) in paragraph (2), by striking ''measures'' each place it appears and inserting ''indicators''; and

(C) in paragraph (3)—

(i) in the first sentence, by striking ''core performance measures, as compared to the expected performance level for each performance measure'' and inserting ''performance indicators described in paragraph (1), as compared to the expected level of performance established under paragraph (1) for each performance measure''; and

(ii) in the second sentence, by striking ''measures'' each place it appears and inserting ''indicators''; and

(2) in subsection (f)(2), in the first sentence, by striking ''core performance measures'' and inserting ''indicators of performance''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 161 (29 U.S.C. 2901) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

Subtitle D—National Programs

SEC. 141. NATIVE AMERICAN PROGRAMS.

(a) ADVISORY COUNCIL.—Section 166(h)(4)(C) (29 U.S.C. 2911(h)(4)(C)) is amended to read as follows:

''(C) DUTIES.—The Council shall advise the Secretary on the operation and administration of the programs assisted under this section, including the selection of the individual appointed as head of the unit established under paragraph (1).''.

(b) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—Section 166(j) (29 U.S.C. 2911(j)) is amended to read as follows:

''(j) ASSISTANCE TO UNIQUE POPULATIONS IN ALASKA AND HAWAII.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary is authorized to provide assistance to the Cook Inlet Tribal Council, Incorporated, and the University of Hawaii at Maui, for the unique populations who reside in Alaska or Hawaii, to improve job training and workforce investment activities.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006.''.

(c) PERFORMANCE INDICATORS.—Section 166 (29 U.S.C. 2911) is amended by adding at the end the following:

''(k) PERFORMANCE INDICATORS.—

''(1) DEVELOPMENT OF INDICATORS.—The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards which shall be applicable to programs under this section.

''(2) SPECIAL CONSIDERATIONS.—Such performance indicators and standards shall take into account—

''(A) the purpose of this section as described in subsection (a)(1);

''(B) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and

''(C) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.''.

SEC. 142. MIGRANT AND SEASONAL FARMWORKER PROGRAMS.

Section 167 (29 U.S.C. 2912) is amended—

(1) in subsection (a), by striking ''2'' and inserting ''2 to 4'';

(2) in subsection (b), by inserting ''and deliver'' after ''administer'';

(3) in subsection (c)—

(A) in paragraph (1), by striking ''2-year'' and inserting ''4-year'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ''describe the population to be served and'' before ''identify''; and

(II) by inserting '', including upgraded employment in agriculture'' before the semicolon;

(ii) in subparagraph (B), by striking ''and'' at the end;

(iii) in subparagraph (C), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(D) describe the availability and accessibility of local resources such as supportive services, services provided through one-stop delivery systems, and education and training services, and how the resources can be made available to the population to be served; and

''(E) describe the plan for providing services under this section, including strategies and systems for outreach, case management, assessment, and delivery through one-stop delivery systems.''; and

(C) by striking paragraph (4) and inserting the following:

''(4) COMPETITION.—The competition for grants made and contracts entered into under this section shall be conducted every 2 to 4 years.'';

(4) in subsection (d), by striking ''include'' and all that follows and inserting ''include outreach, employment, training, educational assistance, literary assistance, English language and literacy instruction, pesticide and worker safety training, housing (including permanent housing), supportive services, school dropout prevention activities, followup services for those individuals placed in employment, self-employment and related business or micro-enterprise development or education as needed by eligible individuals and as identified pursuant to the plan required by subsection (c), customized career and technical education in occupations that will lead to higher wages, enhanced benefits, and long-term employment in agriculture or another area, and technical assistance to improve coordination of services and implement best practices relating to service delivery through one-stop delivery systems.'';

(5) in subsection (f), by striking ''take into account the economic circumstances and demographics of eligible migrant and seasonal farmworkers.'' and inserting ''are adjusted based on the economic and demographic barriers to employment of eligible migrant and seasonal farmworkers.'';

(6) in subsection (g), by striking ''(enacted by the Single Audit Act of 1984)'';

(7) in subsection (h)—

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

''(1) DEPENDENT.—The term 'dependent', used with respect to an eligible migrant or seasonal farmworker, means an individual who—

''(A) was claimed as a dependent on the farmworker's Federal income tax return for the previous year;

''(B) is the spouse of the farmworker; or

''(C) is able to establish—

''(i) a relationship as the farmworker's—

''(I) biological or legally adopted child, grandchild, or great-grandchild;

''(II) foster child;

''(III) stepchild;

''(IV) brother, sister, half-brother, half-sister, stepbrother, or stepsister;

''(V) parent, grandparent, or other direct ancestor (but not foster parent);

''(VI) stepfather or stepmother;

''(VII) uncle or aunt;

''(VIII) niece or nephew; or

''(IX) father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; and

''(ii) the receipt of over half of the individual's total support from the farmworker's family during the eligibility determination period for the farmworker.''; and

(B) in paragraph (4)(A)—

(i) by striking ''disadvantaged person'' and inserting ''low-income individual''; and

(ii) by inserting ''and who faces multiple barriers to self-sufficiency'' before the semicolon;

(8) by redesignating subsection (h) as subsection (i); and

(9) by inserting before subsection (i) the following:

''(h) FUNDING ALLOCATION.—From the funds appropriated and made available to carry out this section, the Secretary shall reserve not more than 1 percent for discretionary purposes, such as providing technical assistance to eligible entities.''

SEC. 143. VETERANS' WORKFORCE INVESTMENT PROGRAMS.

Section 168(a)(3) (29 U.S.C. 2913(a)(3)) is amended—

(1) in subparagraph (A), by inserting '', including services provided by one-stop operators and one-stop partners'' before the semicolon; and

(2) in subparagraph (C), by striking ''section 134(c)'' and inserting ''section 121(e)''.

SEC. 144. YOUTH CHALLENGE GRANTS.

Section 169 (29 U.S.C. 2914) is amended to read as follows:

''SEC. 169. YOUTH CHALLENGE GRANTS.

''(a) IN GENERAL.—Of the amounts reserved by the Secretary under section 127(b)(1)(A) for a fiscal year—

''(1) the Secretary shall use not less than 80 percent to award competitive grants under subsection (b); and

''(2) the Secretary may use not more than 20 percent to award competitive grants under subsection (c).

''(b) COMPETITIVE GRANTS TO STATES AND LOCAL AREAS.—

''(1) ESTABLISHMENT.—From the funds described in subsection (a)(1), the Secretary shall award competitive grants to eligible entities to carry out activities authorized under this subsection to assist eligible youth in acquiring the skills, credentials, and employment experience necessary to achieve the performance outcomes for youth described in section 136.

''(2) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

''(A) a State or consortium of States;

''(B) a local board or consortium of local boards;

''(C) a recipient of a grant under section 166 (relating to Native American programs); or

''(D) a public or private entity (including a consortium of such entities) with expertise in the provision of youth activities, applying in partnership with a local board or consortium of local boards.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the activities the eligible entity will provide to eligible youth under this subsection, and how the eligible entity will collaborate with State and local workforce investment systems established under this title in the provision of such activities;

''(B) a description of the programs of demonstrated effectiveness on which the provision of the activities under subparagraph (A) are based, and a description of how such activities will expand the base of knowledge relating to the provision of activities for youth;

''(C) a description of the State, local, and private resources that will be leveraged to provide the activities described under subparagraph (A) in addition to funds provided under this subsection, and a description of the extent of the involvement of employers in the activities;

''(D) the levels of performance the eligible entity expects to achieve with respect to the indicators of performance for youth specified in section 136(b)(2)(A)(ii); and

''(E) an assurance that the State board of each State in which the proposed activities are to be carried out had the opportunity to review the application, and including the comments, if any, of the affected State boards on the application, except that this subparagraph shall not apply to an eligible entity described in paragraph (2)(C).

''(4) FACTORS FOR AWARD.—

''(A) IN GENERAL.—In awarding grants under this subsection the Secretary shall consider—

''(i) the quality of the proposed activities;

''(ii) the goals to be achieved;

''(iii) the likelihood of successful implementation;

''(iv) the extent to which the proposed activities are based on proven strategies or the extent to which the proposed activities will expand the base of knowledge relating to the provision of activities for eligible youth;

''(v) the extent of collaboration with the State and local workforce investment systems in carrying out the proposed activities;

''(vi) the extent of employer involvement in the proposed activities;

''(vii) whether there are other Federal and non-Federal funds available for similar activities to the proposed activities, and the additional State, local, and private resources

that will be provided to carry out the proposed activities;

''(viii) the quality of the proposed activities in meeting the needs of the eligible youth to be served; and

''(ix) the extent to which the proposed activities will expand on services provided under section 127.

''(B) EQUITABLE GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subsection the Secretary shall ensure an equitable distribution of such grants across geographically diverse areas.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out activities that are designed to assist youth in acquiring the skills, credentials, and employment experience that are necessary to succeed in the labor market, including the activities identified in section 129.

''(B) ACTIVITIES.—The activities carried out pursuant to subparagraph (A) may include the following:

''(i) Training and internships for out-of-school youth in sectors of the economy experiencing, or projected to experience, high growth.

''(ii) Dropout prevention activities for in-school youth.

''(iii) Activities designed to assist special youth populations, such as court-involved youth and youth with disabilities.

''(iv) Activities combining remediation of academic skills, work readiness training, and work experience, and including linkages to postsecondary education, apprenticeships, and career-ladder employment.

''(v) Activities, including work experience, paid internships, and entrepreneurial training, in areas where there is a migration of youth out of the areas.

''(C) PARTICIPANT ELIGIBILITY.—Youth who are 14 years of age through 21 years of age, as of the time the eligibility determination is made, may be eligible to participate in activities carried out under this subsection.

''(6) GRANT PERIOD.—The Secretary shall make a grant under this subsection for a period of 2 years and may renew the grant, if the eligible entity has performed successfully, for a period of not more than 3 succeeding years.

''(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

''(8) EVALUATION.—The Secretary shall reserve not more than 3 percent of the funds described in subsection (a)(1) to provide technical assistance to, and conduct evaluations of (using appropriate techniques as described in section 172(c)), the projects funded under this subsection.

''(c) COMPETITIVE FIRST JOBS FOR YOUTH.—

''(1) ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means a consortium that—

''(A) shall include—

''(i)(I) a State board; or

''(II) a local board; and

''(ii) a consortium of businesses, including small businesses; and

''(B) may include 1 or more—

''(i) local educational agencies;

''(ii) institutions of higher education;

''(iii) business intermediaries;

''(iv) community-based organizations; or

''(v) apprenticeship programs.

''(2) AUTHORIZATION.—From the funds described in subsection (a)(2), the Secretary may award grants to eligible entities to provide activities that will assist youth in preparing for, entering, and retaining employment.

''(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the area to be served, including information demonstrating that the area has—

''(i) high unemployment among individuals ages 16 through 21;

''(ii) high unemployment among youth who are individuals with disabilities; or

''(iii) high job loss;

''(B) a description of the proposed program, including activities, compensation, and expected outcomes;

''(C) an assurance that the participating employers in the proposed program are located in the local area to be served, and a demonstration of the commitment of the participating employers to hire individuals who—

''(i) have successfully completed the program; or

''(ii) continue to work in the program;

''(D) demographic information about the targeted populations to be served by the proposed program, including gender, age, and race;

''(E) a description of how the proposed program will address the barriers to employment of the targeted populations;

''(F) a description of the manner in which the eligible entity will evaluate the program; and

''(G) a description of the ability of the eligible entity to carry out and expand the program after the expiration of the grant period.

''(4) EQUITABLE DISTRIBUTION TO RURAL AREAS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants to rural areas.

''(5) USE OF FUNDS.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the grant funds to carry out—

''(i) activities that will assist youth in preparing for, entering, and retaining employment, including the activities described in section 129 for out-of-school youth;

''(ii) activities designed to strengthen academic skills that would assist—

''(I) in-school participants to be successful in secondary school and continue such participants' education; and

''(II) out-of-school youth to earn a high school diploma or its recognized equivalent, or prepare for postsecondary programs;

''(iii) activities designed to assist youth in economically distressed areas;

''(iv) subsidized employment for not more than 9 months that provides direct experience in a sector that has opportunities for full-time employment;

''(v) career and academic advisement, activities to promote financial literacy and the attainment of entrepreneurial skills, and labor market information on high-skill, high-wage, and nontraditional occupations; and

''(vi) such other activities as the Secretary determines are appropriate to ensure that youth entering the workforce have the skills needed by employers.

''(B) PARTICIPANT ELIGIBILITY.—An individual who is not younger than 16 years of age and not older than 21 years of age, as of the time the eligibility determination is made, who face barriers to employment, including an individual who is an individual with a disability, may be eligible to participate in activities under this subsection.

''(6) SPECIAL RULE.—An eligible entity that receives a grant under this subsection shall coordinate activities with the designated State agency (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)) and other appropriate State agencies in the State to be served.

''(7) MATCHING FUNDS REQUIRED.—The Secretary shall require that an eligible entity that receives a grant under this subsection provide non-Federal matching funds in an amount to be determined by the Secretary that is not less than 10 percent of the cost of activities carried out under the grant. The Secretary may require that such non-Federal matching funds be provided in cash resources, noncash resources, or a combination of cash and noncash resources.

''(8) EVALUATIONS.—The Secretary may require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).''.

SEC. 145. TECHNICAL ASSISTANCE.

Section 170 (29 U.S.C. 2915) is amended—

(1) in subsection (a)(1), by—

(A) inserting ''the training of staff providing rapid response services, the training of other staff of recipients of funds under this title, the training of members of State boards and local boards, peer review activities under this title,'' after ''localities,''; and

(B) striking ''from carrying out activities'' and all that follows through the period and inserting ''to implement the amendments made by the Workforce Investment Act Amendments of 2005.'';

(2) in subsection (a)(2), by adding at the end the following: ''The Secretary shall also hire staff qualified to provide the assistance described in paragraph (1).'';

(3) in subsection (b)(2), by striking the last sentence and inserting ''Such projects shall be administered by the Employment and Training Administration.''; and

(4) by adding at the end the following:

''(c) BEST PRACTICES COORDINATION.—The Secretary shall—

''(1) establish a system through which States may share information regarding best practices with regard to the operation of workforce investment activities under this Act;

''(2) evaluate and disseminate information regarding best practices and identify knowledge gaps; and

''(3) commission research under section 171(c) to address knowledge gaps identified under paragraph (2).''.

SEC. 146. DEMONSTRATION, PILOT, MULTISERVICE, RESEARCH, AND MULTISTATE PROJECTS.

(a) DEMONSTRATION AND PILOT PROJECTS.—Section 171(b) (29 U.S.C. 2916(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''Under a'' and inserting ''Consistent with the priorities specified in the'';

(B) by striking subparagraphs (A) through (E) and inserting the following:

''(A) projects that assist national employers in connecting with the workforce investment system established under this title in order to facilitate the recruitment and employment of needed workers for career ladder jobs and to provide information to such system on skills and occupations in demand;

''(B) projects that promote the development of systems that will improve the maximum effectiveness of programs carried out under this title;

''(C) projects that focus on opportunities for employment in industries and sectors of

industries that are experiencing, or are likely to experience, high rates of growth and jobs with wages leading to self-sufficiency;

''(D) computerized, individualized, self-paced training projects targeted to dislocated, disadvantaged, or incumbent workers utilizing equipment and curriculum designed in partnership with industries for employment in the operations, repair, and maintenance of high-tech equipment that is used in integrated systems technology;

''(E) projects carried out by States and local areas to test innovative approaches to delivering employment-related services;'';

(C) in subparagraph (G), by striking ''and'' after the semicolon; and

(D) by striking subparagraph (H) and inserting the following:

''(H) projects that provide retention grants, which shall—

''(i) be made to qualified job training programs offering instruction, assessment, or professional coaching, upon placement of a low-income individual trained by the program involved in employment with an employer and retention of the low-income individual in that employment with that employer for a period of 1 year, if that employment provides the low-income individual with an annual salary—

''(I) that is at least $10,000 more than the individual's federally adjusted income for the previous year; and

''(II) that is not less than twice the poverty line applicable to the individual; and

''(ii) be made taking into account the economic benefit received by the Federal Government from the employment and retention of the individual, including the economic benefit from tax revenue and decreased public subsidies;

''(I) targeted innovation projects that improve access to and delivery of employment and training services, with emphasis given to projects that incorporate advanced technologies to facilitate the connection of individuals to the information and tools the individuals need to upgrade skills;

''(J) projects that promote the use of distance learning, enabling students to take courses through the use of media technology such as videos, teleconferencing computers, and the Internet; and

''(K) projects that provide comprehensive education and training services, and support services, in coordination with local boards, for populations in targeted high poverty areas where the greatest barriers to employment exist, including ex-offenders, out-of-school youth, and public assistance recipient populations.''; and

(2) in paragraph (2)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(b) MULTISERVICE PROJECTS.—Section 171(c)(2)(B) (29 U.S.C. 2916(c)(2)(B)) is amended to read as follows:

''(B) STUDIES AND REPORTS.—

''(i) NET IMPACT STUDIES AND REPORTS.—

''(I) IN GENERAL.—The Secretary, in coordination with the Secretary of Education, shall conduct studies to determine the net impacts of, including best practices of, programs, services, and activities carried out under this title.

''(II) REPORTS.—The Secretary shall prepare and disseminate to the public reports containing the results of the studies conducted under subclause (I).

''(ii) STUDY ON RESOURCES AVAILABLE TO ASSIST OUT-OF-SCHOOL YOUTH.—The Secretary, in coordination with the Secretary of Education, may conduct a study examining the resources available at the Federal, State, and local levels to assist out-of-school youth in obtaining the skills, credentials, and work experience necessary to become successfully employed, including the availability of funds provided through average daily attendance and other methodologies used by States and local areas to distribute funds.

''(iii) STUDY OF INDUSTRY-BASED CERTIFICATION AND CREDENTIALS.—

''(I) IN GENERAL.—The Secretary shall conduct a study concerning the role and benefits of credentialing and certification to businesses and workers in the economy and the implications of certification to the services provided through the workforce investment system. The study may examine issues such as—

''(aa) the characteristics of successful credentialing and certification systems that serve business and individual needs;

''(bb) the relative proportions of certificates and credentials attained with assistance from the public sector, with private-sector training of new hires or incumbent workers, and by individuals on their own initiative without other assistance, respectively;

''(cc) the return on human capital investments from occupational credentials and industry-based skill certifications, including the extent to which acquisition of such credentials or certificates enhances outcomes such as entry into employment, retention, earnings (including the number and amount of wage increases), career advancement, and layoff aversion;

''(dd) the implications of the effects of skill certifications and credentials to the types and delivery of services provided through the workforce investment system;

''(ee) the role that Federal and State governments play in fostering the development of and disseminating credentials and skill standards; and

''(ff) the use of credentials by businesses to achieve goals for workforce skill upgrading and greater operating efficiency.

''(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study conducted pursuant to subclause (I). Such report may include any recommendations that the Secretary determines are appropriate to include in such report relating to promoting the acquisition of industry-based certification and credentials, and the appropriate role of the Department of Labor and the workforce investment system in supporting the needs of business and individuals with respect to such certification and credentials.

''(iv) STUDY OF EFFECTIVENESS OF WORKFORCE INVESTMENT SYSTEM IN MEETING BUSINESS NEEDS.—

''(I) IN GENERAL.—Using funds available to carry out this section jointly with funds available to the Secretary of Commerce and Administrator of the Small Business Administration, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may conduct a study of the effectiveness of the workforce investment system in meeting the needs of business, with particular attention to the needs of small business, including in assisting workers to obtain the skills needed to utilize emerging technologies. In conducting the study, the Secretary, in coordination with the Secretary of Commerce and the Administrator of the Small Business Administration, may examine issues such as—

''(aa) methods for identifying the workforce needs of businesses and how the requirements of small businesses may differ from larger establishments;

''(bb) business satisfaction with the workforce investment system, with particular emphasis on the satisfaction of small businesses;

''(cc) the extent to which business is engaged as a collaborative partner in the workforce investment system, including the extent of business involvement as members of State boards and local boards, and the extent to which such boards and one-stop centers effectively collaborate with business and industry leaders in developing workforce investment strategies, including strategies to identify high growth opportunities;

''(dd) ways in which the workforce investment system addresses changing skill needs of business that result from changes in technology and work processes;

''(ee) promising practices for serving small businesses;

''(ff) the extent and manner in which the workforce investment system uses technology to serve business and individual needs, and how uses of technology could enhance efficiency and effectiveness in providing services; and

''(gg) the extent to which various segments of the labor force have access to and utilize technology to locate job openings and apply for jobs, and characteristics of individuals utilizing such technology (such as age, gender, race or ethnicity, industry sector, and occupational groups).

''(II) REPORT TO CONGRESS.—The Secretary shall prepare and submit to Congress a report containing the results of the study described in subclause (I). Such report may include any recommendations the Secretary determines are appropriate to include in such report, including ways to enhance the effectiveness of the workforce investment system in meeting the needs of business for skilled workers.''.

(c) ADMINISTRATION.—Section 171(d) (29 U.S.C. 2916(d)) is amended by striking the last sentence and inserting the following: ''Such projects shall be administered by the Employment and Training Administration.''.

(d) NEXT GENERATION TECHNOLOGIES.—Section 171 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) SKILL CERTIFICATION PILOT PROJECTS.—

''(1) PILOT PROJECTS.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (10), the Secretary shall establish and carry out not more than 10 pilot projects to establish a system of industry-validated national certifications of skills, including—

''(A) not more than 8 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), nanotechnology, and energy technology; and

''(B) not more than 2 cross-disciplinary national certifications of skills in homeland security technology.

''(2) GRANTS TO ELIGIBLE ENTITIES.—In carrying out the pilot projects, the Secretary shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1). In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(3) ELIGIBLE ENTITIES.—

''(A) DEFINITION OF ELIGIBLE ENTITY.—In this subsection the term 'eligible entity' means an entity that shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

''(i) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(ii) An advanced technology education center.

''(iii) A local board.

''(iv) A representative of a business in a target industry for the certification involved.

''(v) A representative of an industry association, labor organization, or community development organization.

''(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industry on workforce investment activities that is consistent with the objectives of this title.

''(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(5) CRITERIA.—The Secretary shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.

''(6) PRIORITY.—In selecting eligible entities to receive grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry or nonprofit sources. Such matching funds may be provided in cash or in kind.

''(7) AUTHORIZED ACTIVITIES.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the funds made available through the grant—

''(i) to facilitate the establishment of certification requirements for a certification described in paragraph (1) for an industry;

''(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and

''(iii) to collect and analyze data related to the program at the program's completion, and to identify best practices (consistent with paragraph (8)) that may be used by State and local workforce investment boards in the future.

''(B) BASIS FOR REQUIREMENTS.—The certification requirements established under the grant shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation's Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.

''(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—The eligible entity shall ensure that—

''(i) a training and education program related to competencies for the industry involved, that is flexible in mode and timeframe for delivery and that meets the needs of those seeking the certification, is offered; and

''(ii) the certification program is offered at the completion of the training and education program.

''(D) RELATIONSHIP TO THE ASSOCIATE DEGREE.—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

''(E) AVAILABILITY.—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

''(8) CONSULTATION.—The Secretary shall consult with the Director of the National Science Foundation to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation's Advanced Technological Education Program.

''(9) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary shall—

''(A) establish the core components of a model high-technology certification program;

''(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

''(C) prepare and submit a report on the pilot projects to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

''(D) make available to the public both the data and the report.

''(10) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $30,000,000 for fiscal year 2006 to carry out this subsection.''.

(e) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—Section 171 (29 U.S.C. 2916), as amended by subsection (d), is further amended by adding at the end the following:

''(f) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTEGRATED WORKFORCE TRAINING.—The term 'integrated workforce training' means training that integrates occupational skills training with language acquisition.

''(B) SECRETARY.—The term 'Secretary' means the Secretary of Labor in consultation with the Secretary of Education.

''(2) DEMONSTRATION PROJECT.—In accordance with subsection (b) and from funds appropriated pursuant to paragraph (11), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

''(3) GRANTS.—

''(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(B) PERIODS.—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

''(4) ELIGIBLE ENTITIES.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant 1 or more of the following:

''(i) An employer or employer association.

''(ii) A nonprofit provider of English language instruction.

''(iii) A provider of occupational or skills training.

''(iv) A community-based organization.

''(v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(vi) A labor organization.

''(vii) A local board.

''(B) EXPERTISE.—To be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

''(i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and

''(ii) providing workforce programs with training and English language instruction.

''(5) APPLICATIONS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

''(i) contain information, including capability statements, that demonstrates that the eligible entity has the expertise described in paragraph (4)(B); and

''(ii) include an assurance that the program to be assisted shall—

''(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

''(II) establish a framework by which the employer, employee, and other relevant members of the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

''(III) ensure that the framework established under subclause (II) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

''(IV) establish identifiable measures so that the progress of the employee and employer and the relative efficacy of the program can be evaluated and best practices identified.

''(6) CRITERIA.—The Secretary shall establish criteria for awarding grants under this subsection.

''(7) INTEGRATED WORKFORCE TRAINING PROGRAMS.—

''(A) PROGRAM COMPONENTS.—

''(i) REQUIRED COMPONENTS.—Each program that receives funding under this subsection shall—

''(I) test an individual's English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

''(II) combine training specific to a particular occupation or occupational cluster, with—

''(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

''(bb) basic skills instruction; and

''(cc) supportive services;

''(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

''(IV) require matching or in-kind resources from private and nonprofit entities.

''(ii) PERMISSIBLE COMPONENTS.—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

''(B) GOAL.—Each program that receives funding under this subsection shall be designed to prepare limited English proficient adults for, and place such adults in employment in, growing industries with identifiable career ladder paths.

''(C) PROGRAM TYPES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:

''(i) A program that—

''(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph as employment that provides at least 75 percent of the median wage in the local area.

''(ii) A program that—

''(I) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services provided at the worksite, or at a location central to several work sites, during work hours.

''(iii) A program that—

''(I) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

''(II) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

''(iv) A program that includes funds from private and nonprofit entities.

''(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to obtain comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels, and to assess how different curricula work for limited English proficient populations. Such approaches may include—

''(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

''(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

''(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

''(8) EVALUATION BY ELIGIBLE ENTITY.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

''(9) EVALUATION BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

''(B) DATA COLLECTION AND ANALYSIS.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

''(C) REPORT.—The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and make available to the public, a report on the demonstration project, including the results of the evaluation.

''(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.

''(11) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $10,000,000 for fiscal year 2006 to carry out this subsection.''.

(f) COMMUNITY-BASED JOB TRAINING.—Section 171 (29 U.S.C. 2916), as amended by subsection (e), is further amended by adding at the end the following:

''(g) COMMUNITY-BASED JOB TRAINING.—

''(1) DEFINITIONS.—In this subsection:

''(A) COMMUNITY COLLEGE.—The term 'community college' means—

''(i) an institution of higher education, as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001), that provides a 2-year degree that is acceptable for full credit toward a bachelor's degree; or

''(ii) a tribally controlled college or university, as defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

''(B) ELIGIBLE ENTITY.—The term 'eligible entity' means a community college or a consortium composed of a community college and an institution of higher education, that shall work with—

''(i) a local board;

''(ii) a business in the qualified industry or an industry association in the qualified industry, as identified in the application of the entity; and

''(iii) an economic development entity.

''(C) INSTITUTION OF HIGHER EDUCATION.—Except as otherwise provided in subparagraph (A)(i), the term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001) and the meaning given the term postsecondary vocational institution in section 102(a)(1)(B) of such Act (20 U.S.C. 1002(a)(1)(B)).

''(D) QUALIFIED INDUSTRY.—The term 'qualified industry' means an industry or economic sector that is projected to experience significant growth, such as an industry or economic sector that—

''(i) is projected to add substantial numbers of new jobs to the regional economy;

''(ii) has or is projected to have significant impact on the regional economy;

''(iii) impacts or is projected to impact the growth of other industries or economic sectors in the regional economy;

''(iv) is being transformed by technology and innovation requiring new knowledge or skill sets for workers;

''(v) is a new or emerging industry or economic sector that is projected to grow; or

''(vi) requires high skills and has significant labor shortages in the regional economy.

''(2) DEMONSTRATION PROJECT.—In addition to the demonstration projects authorized under subsection (b), the Secretary may establish and implement a national demonstration project designed—

''(A) to develop local innovative solutions to the workforce challenges facing high-growth, high-skill industries with labor shortages; and

''(B) to increase employment opportunities for workers in high-growth, high-demand occupations by establishing partnerships among education entities, the workforce investment system, and businesses in high-growth, high-skill industries or sectors.

''(3) GRANTS.—In carrying out the national demonstration project authorized under this subsection, the Secretary shall award grants, on a competitive basis, for 2, 3, or 4 years, in accordance with generally applicable Federal requirements, to eligible entities to enable the eligible entities to carry out activities authorized under this subsection.

''(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(A) a description of the eligible entity that will offer training under the grant;

''(B) a justification of the need for discretionary funding under the grant, including the need for external funds to create a program to carry out the activities described in paragraph (6);

''(C) an economic analysis of the local labor market to identify—

''(i) high-growth, high-demand industries;

''(ii) the workforce issues faced by such industries; and

''(iii) potential participants in programs funded under this subsection;

''(D) a description of the qualified industry for which the training will occur, the availability of competencies on which the training will be based, and how the grant will help workers acquire the competencies and skills necessary for employment;

''(E) a description of the involvement of the local board and businesses, including small businesses, in the geographic area where the proposed grant will be implemented;

''(F) performance measures for the grant, including the expected number of individuals to be trained in a qualified industry, the employment and retention rates for such individuals in a qualified industry, and initial earnings and earnings increases for such individuals;

''(G) a description of how the activities funded by the grant will be coordinated with activities provided through the one-stop center in the local area; and

''(H) a description of the local or private resources that will—

''(i) support the activities carried out under this subsection; and

''(ii) enable the entity to carry out and expand such activities after the expiration of the grant.

''(5) FACTORS FOR AWARD OF GRANT.—

''(A) IN GENERAL.—In awarding grants under this subsection, the Secretary shall consider—

''(i) the extent of public and private collaboration, including existing partnerships among qualified industries, the eligible entity, and the public workforce investment system;

''(ii) the extent to which the grant will provide job seekers with high-quality training for employment in high-growth, high-demand occupations;

''(iii) the extent to which the grant will expand the eligible entity and local one-stop center's capacity to be demand-driven and responsive to local economic needs;

''(iv) the extent to which local businesses commit to hire, retain, or advance individuals who receive training through the grant; and

''(v) the extent to which the eligible entity commits to make any newly developed products, such as skill standards, assessments, or industry-recognized training curricula, available for dissemination nationally.

''(B) LEVERAGING OF RESOURCES.—In awarding grants under this subsection, the Secretary shall also consider—

''(i) the extent to which local or private resources will be made available to support the activities carried out under this subsection, taking into account the resources of the eligible entity and the entity's partners; and

''(ii) the ability of an eligible entity to continue to carry out and expand such activities after the expiration of the grant.

''(C) DISTRIBUTION OF GRANTS.—In awarding grants under this subsection, the Secretary shall ensure an equitable distribution of such grants across diverse industries and geographic areas.

''(6) USE OF FUNDS.—An eligible entity that receives a grant under this subsection—

''(A) shall use the grant funds for—

''(i) the development by the community college that is a part of the eligible entity in collaboration with other partners identified in the application, and, if applicable, other representatives of qualified industries, of rigorous training and education programs leading to an industry-recognized credential or degree and employment in the qualified industry; and

''(ii) training of adults, incumbent workers, dislocated workers, or out-of-school youth in the skills and competencies needed to obtain or upgrade employment in a qualified industry identified in the eligible entity's application; and

''(B) may use the grant funds for—

''(i) disseminating information on training available for high-growth, high-demand occupations in qualified industries through the one-stop delivery system to prospective participants, businesses, business intermediaries, and community-based organizations in the region, including training available through the grant;

''(ii) referring individuals trained under the grant for employment in qualified industries;

''(iii) enhancing integration of community colleges, training and education with businesses, and the one-stop system to meet the training needs of qualified industries for new and incumbent workers;

''(iv) providing training and relevant job skills to small business owners or operators to facilitate small business development in high-growth industries; or

''(v) expanding or creating programs for distance, evening, weekend, modular, or compressed learning opportunities that provide relevant skill training in high-growth, high-demand industries.

''(7) AUTHORITY TO REQUIRE NON-FEDERAL SHARE.—The Secretary may require that recipients of grants under this subsection provide a non-Federal share, from either cash or noncash resources, of the costs of activities carried out under a grant awarded under this subsection.

''(8) PERFORMANCE ACCOUNTABILITY AND EVALUATION.—

''(A) PERFORMANCE ACCOUNTABILITY.—The Secretary shall require an eligible entity that receives a grant under this subsection to submit an interim and final report to the Secretary on the impact on business partners and employment outcomes obtained by individuals receiving training under this subsection using the performance measures identified in the eligible entity's grant application.

''(B) EVALUATION.—The Secretary shall require that an eligible entity that receives a grant under this subsection participate in an evaluation of activities carried out under this subsection, including an evaluation using the techniques described in section 172(c).''.

SEC. 147. NATIONAL DISLOCATED WORKER GRANTS.

(a) IN GENERAL.—Section 173 (29 U.S.C. 2918) is amended—

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

''SEC. 173. NATIONAL DISLOCATED WORKER GRANTS.'';

and

(2) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

''(a) IN GENERAL.—The Secretary is authorized to award national dislocated worker grants—'';

(B) in paragraph (1), by striking ''subsection (c)'' and inserting ''subsection (b)'';

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

(D) by striking paragraph (4) and inserting the following:

''(4) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (e), including providing assistance to eligible individuals;

''(5) to a State or entity (as defined in subsection (b)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals;

''(6) to provide additional assistance to a State board or local board where a higher than average demand for employment and training activities for dislocated members of the Armed Forces, or spouses, as described in section 101(11)(E), of members of the Armed Forces, described in subsection (b)(2)(A)(iv), exceeds State and local resources for providing such services, and where such programs are to be carried out in partnership with the Department of Defense and Department of Veterans Affairs transition assistance programs; and

''(7) to provide assistance to a State for statewide or local use in order to—

''(A) address cases in which there have been worker dislocations across multiple sectors, across multiple businesses within a sector, or across multiple local areas, and such workers remain dislocated;

''(B) meet emerging economic development needs; and

''(C) train eligible individuals who are dislocated workers described in subparagraph (A).

The Secretary shall issue a final decision on an application for a national dislocated worker grant under this subsection not later than 45 calendar days after receipt of the application. The Secretary shall issue a notice of obligation for such a grant not later than 10 days after the award of the grant.''.

(b) ADMINISTRATION AND ADDITIONAL ASSISTANCE.—Section 173 (29 U.S.C. 2918) is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively;

(3) in paragraph (2) of subsection (b) (as redesignated by paragraph (2))—

(A) in subparagraph (A), in the matter preceding clause (i), by striking ''national emergency grant'' and inserting ''national dislocated worker grant''; and

(B) in subparagraph (C), by striking ''national emergency grants'' and inserting ''national dislocated worker grants'';

(4) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

''(d) ADDITIONAL ASSISTANCE.—

''(1) IN GENERAL.—From the amount appropriated and made available to carry out this section for any program year, the Secretary shall use not more than $20,000,000 to make grants to States to provide employment and training activities under section 134, in accordance with subtitle B.

''(2) ELIGIBLE STATES.—The Secretary shall make a grant under paragraph (1) to a State for a program year if—

''(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003, is greater than

''(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).

''(3) AMOUNT OF GRANTS.—Subject to paragraph (1), the amount of the grant made under paragraph (1) to a State for a program year shall be based on the difference between—

''(A) the amount of the allotment that was made to the State for the program year 2003 under the formula specified in section 132(b)(1)(B) as such section was in effect on July 1, 2003; and

''(B) the amount of the allotment that would be made to the State for the program year under the formula specified in section 132(b)(1)(B).'';

(5) in subsection (e) (as redesignated by paragraph (2))—

(A) in paragraph (1), by striking ''paragraph (4)(A)'' and inserting ''paragraph (4)'';

(B) in paragraph (2), by striking ''subsection (g)'' and inserting ''subsection (f)'';

(C) in paragraph (3)(B), by striking ''subsection (a)(4)(A)'' and inserting ''subsection (a)(4)'';

(D) in paragraph (4), by striking ''subsection (g)'' and inserting ''subsection (f)'';

(E) in paragraph (5), by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(F) in paragraph (6)—

(i) by striking ''subsection (g)'' and inserting ''subsection (f)''; and

(ii) by striking ''subsection (c)(1)(B)'' and inserting ''subsection (b)(1)(B)''; and

(6) in subsection (f) (as redesignated by paragraph (2))—

(A) in paragraph (1)—

(i) by striking ''paragraph (4)(B)'' and inserting ''paragraph (5)''; and

(ii) by striking ''subsection (f)(1)(A)'' and inserting ''subsection (e)(1)(A)''; and

(B) in paragraph (4)(B), by striking ''subsection (a)(4)(B)'' and inserting ''subsection (a)(5)''.

SEC. 148. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL ACTIVITIES.

(a) IN GENERAL.—Section 174(a)(1) (29 U.S.C. 2919(a)(1)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

(b) RESERVATIONS.—Section 174(b) (29 U.S.C. 2919(b)) is amended to read as follows:

''(b) TECHNICAL ASSISTANCE; DEMONSTRATION AND PILOT PROJECTS, EVALUATIONS, INCENTIVE GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to carry out sections 170 through 172, section 136(i), and section 503 such sums as may be necessary for each of fiscal years 2006 through 2011.

''(2) RESERVATION.—Of the amount appropriated pursuant to the authorization of appropriations under paragraph (1) for a fiscal year, the Secretary shall, for each of the fiscal years 2006 through 2011, reserve not less than 25 percent for carrying out section 503.''.

(c) ASSISTANCE FOR ELIGIBLE WORKERS.—Section 174(c) (29 U.S.C. 2919(c)) is amended—

(1) in paragraphs (1)(A) and (2)(A), by striking ''subsection (a)(4)(A)'' and inserting ''subsection (a)(4)''; and

(2) in paragraphs (1)(B) and (2)(B), by striking ''subsection (a)(4)(B)'' and inserting ''subsection (a)(5)''.

Subtitle E—Administration

SEC. 151. REQUIREMENTS AND RESTRICTIONS.

Section 181(e) (29 U.S.C. 2931(e)) is amended by striking ''economic development activities,''.

SEC. 152. REPORTS.

Section 185(c) (29 U.S.C. 2935(c)) is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon;

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) shall have the option to submit or disseminate electronically any reports, records, plans, or any other data that are required to be collected or disseminated under this title.''.

SEC. 153. ADMINISTRATIVE PROVISIONS.

(a) ANNUAL REPORT.—Section 189(d) (29 U.S.C. 2939(d)) is amended—

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

(2) by redesignating paragraph (4) as paragraph (5); and

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

''(4) the negotiated levels of performance of the States, the States' requests for adjustments of such levels, and the adjustments of such levels that are made; and''.

(b) AVAILABILITY.—Section 189(g)(2) (29 U.S.C. 2939(g)(2)) is amended, in the first sentence—

(1) by striking ''Funds'' and inserting ''Except as otherwise provided in this paragraph, funds''; and

(2) by striking ''each State receiving'' and inserting ''each recipient of''.

(c) GENERAL WAIVERS.—Section 189(i)(4) (29 U.S.C. 2939(i)(4)) is amended—

(1) in subparagraph (A)(i), by inserting ''the funding of infrastructure costs for one-stop centers,'' after ''local boards,'';

(2) in subparagraph (C), by striking ''90'' and inserting ''60''; and

(3) by adding at the end the following:

''(D) EXPEDITED REQUESTS.—The Secretary shall expedite requests for waivers of statutory or regulatory requirements that have been approved for a State pursuant to subparagraph (B), if the requirements of this paragraph have been satisfied.

''(E) SPECIAL RULE.—With respect to any State that has a waiver under this paragraph relating to the transfer authority under section 133(b)(4), and has the waiver in effect on the date of enactment of the Workforce Investment Act Amendments of 2005 or subsequently receives such a waiver, the waiver shall continue to apply for so long as the State meets or exceeds State performance measures relating to the indicators described in section 136(b)(2)(A)(i).''.

SEC. 154. USE OF CERTAIN REAL PROPERTY.

Section 193 (29 U.S.C. 2943) is amended to read as follows:

''SEC. 193. TRANSFER OF FEDERAL EQUITY IN STATE EMPLOYMENT SECURITY AGENCY REAL PROPERTY TO THE STATES.

''(a) TRANSFER OF FEDERAL EQUITY.—Notwithstanding any other provision of law, any Federal equity acquired in real property through grants to States awarded under title III of the Social Security Act (42 U.S.C. 501 et seq.) or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) is transferred to the States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act. Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under title III of the Social Security Act or the Wagner-Peyser Act.

''(b) LIMITATION ON USE.—A State shall not use funds awarded under title III of the Social Security Act or the Wagner-Peyser Act to amortize the costs of real property that is purchased by any State on or after the effective date of this provision.''.

SEC. 155. GENERAL PROGRAM REQUIREMENTS.

Section 195 (29 U.S.C. 2945) is amended by adding at the end the following:

''(14) Funds provided under this title shall not be used to establish or operate fee-for-service enterprises that are not affiliated with the one-stop service delivery systems described in section 121(e) and that compete with private sector employment agencies (as defined in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e)).''.

SEC. 156. TABLE OF CONTENTS.

Section 1(b) (29 U.S.C. 9201 note) is amended—

(1) by striking the item relating to section 106 and inserting the following:

''Sec. 106. Purposes.'';

(2) by striking the item relating to section 123 and inserting the following:

''Sec. 123. Eligible providers of youth activities.'';

(3) by striking the item relating to section 169 and inserting the following:

''Sec. 169. Youth challenge grants.'';

(4) by striking the item relating to section 173 and inserting the following:

''Sec. 173. National dislocated worker grants.'';

(5) by striking the item relating to section 193 and inserting the following:

''Sec. 193. Transfer of Federal equity in State employment security agency real property to the States.'';

(6) by inserting after the item relating to section 243 the following:

''Sec. 244. Integrated English literacy and civics education.'';

and

(7) by striking the item relating to section 502.

Subtitle F—Incentive Grants

SEC. 161. INCENTIVE GRANTS.

Section 503 (20 U.S.C. 9273) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—

''(1) TIMELINE.—

''(A) PRIOR TO JULY 1, 2006.—Prior to July 1, 2006, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.

''(B) BEGINNING JULY 1, 2006.—Beginning on July 1, 2006, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

''(2) BASIS.—The Secretary shall award the grants on the basis that States—

''(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); or

''(B) have—

''(i) met the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); and

''(ii) demonstrated—

''(I) exemplary coordination of Federal workforce and education programs, statewide economic development, or business needs;

''(II) exemplary performance in serving hard-to-serve populations; or

''(III) effective—

''(aa) coordination of multiple systems into a comprehensive workforce investment system, including coordination of employment activities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) and core activities under title I as well as one-stop partner programs described in section 121;

''(bb) expansion of access to training, including through increased leveraging of resources other than those funded through programs under title I;

''(cc) implementation of statewide coordination activities through agreements with relevant State agencies and offices, including those responsible for programs under the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(dd) statewide coordination through local workforce investment boards or areas;

''(ee) alignment of management information systems to integrate participant information across programs; or

''(ff) integration of performance information systems and common measures for accountability across workforce and education programs.

''(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, including—

''(A) activities that support business needs, especially for incumbent workers and enhancing opportunities for retention and advancement;

''(B) activities that support linkages with secondary, postsecondary, or career and technical education programs, including activities under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), the Adult Education and Family Literacy Act (20 U.S.C. 9201 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

''(C) activities that support statewide economic development plans that support high-wage, high-skill, or high-demand occupations leading to self-sufficiency;

''(D) activities that coordinate workforce investment programs with other Federal and State programs related to the activities under this Act;

''(E) activities that support the development of a statewide integrated performance information system that includes common measures;

''(F) activities that align management information systems with integrated performance information across education and workforce programs; or

''(G) activities that support local workforce investment boards or areas in improving performance and program coordination.

''(4) WAIVER.—For States that have developed and implemented a statewide integrated performance information system with common measures, as described in paragraph (3)(E), for federally funded workforce and education programs, the Secretary may waive specified Federal reporting requirements for such State to be in compliance with reporting requirements under this Act and other workforce and education programs as the Secretary has authority or agreement to waive.

''(5) TECHNICAL ASSISTANCE.—The Secretary shall reserve 4 percent of the funds available for grants under this section to provide technical assistance to States to replicate best practices or to develop integrated performance information systems and strengthen coordination with education and economic development.''; and

(2) by striking subsection (d).

Subtitle G—Conforming Amendments

SEC. 171. CONFORMING AMENDMENTS.

(a) OLDER AMERICANS ACT OF 1965.—Section 512(a) of the Older Americans Act of 1965 (42 U.S.C. 3056j(a)) is amended by striking ''(B)(vi)'' and inserting ''(B)(v)''.

(b) ADULT EDUCATION AND FAMILY LITERACY ACT.—Section 212(b)(3)(A)(vi) of the Adult Education and Family Literacy Act (20 U.S.C. 9212(b)(3)(A)(vi)) is amended by striking ''the representatives described in section 136(i)(1)'' and inserting ''representatives of appropriate Federal agencies, and representatives of States and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 101), educators, and participants (as defined in section 101), with expertise regarding workforce investment policies and workforce investment activities (as defined in section 101)''.

TITLE II—AMENDMENTS TO THE ADULT EDUCATION AND FAMILY LITERACY ACT

SEC. 201. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Adult Education and Family Literacy Act Amendments of 2005''.

(b) PURPOSE.—Section 202 of the Adult Education and Family Literacy Act (20 U.S.C. 9201) is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon;

(2) in paragraph (3), by striking ''education.'' and inserting ''education and in the transition to postsecondary education; and''; and

(3) by adding at the end the following:

''(4) assist immigrants and other individuals with limited English proficiency in improving their reading, writing, speaking, and mathematics skills and acquiring an understanding of the American free enterprise system, individual freedom, and the responsibilities of citizenship.''.

SEC. 202. DEFINITIONS.

Section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''services or instruction below the postsecondary level'' and inserting ''academic instruction and education services below the postsecondary level that increase an individual's ability to read, write, and speak in English and perform mathematics''; and

(B) by striking subparagraph (C)(i) and inserting the following:

''(i) are basic skills deficient as defined in section 101;'';

(2) in paragraph (2), by striking ''activities described in section 231(b)'' and inserting ''programs and services which include reading, writing, speaking, or mathematics skills, workplace literacy activities, family literacy activities, English language acquisition activities, or other activities necessary for the attainment of a secondary school diploma or its State recognized equivalent'';

(3) in paragraph (5)—

(A) by inserting ''an organization that has demonstrated effectiveness in providing adult education, that may include'' after ''means'';

(B) in subparagraph (B), by striking ''of demonstrated effectiveness'';

(C) in subparagraph (C), by striking ''of demonstrated effectiveness''; and

(D) in subparagraph (I), by inserting ''or coalition'' after ''consortium'';

(4) in paragraph (6)—

(A) by striking ''LITERACY PROGRAM'' and inserting ''LANGUAGE ACQUISITION PROGRAM'';

(B) by striking ''literacy program'' and inserting ''language acquisition program''; and

(C) by inserting ''reading, writing, and speaking'' after ''competence in'';

(5) by striking paragraph (10);

(6) by redesignating paragraphs (7) through (9) and (12) through (18) as paragraphs (8) through (10) and (13) through (19), respectively;

(7) by inserting after paragraph (6) the following:

''(7) ESSENTIAL COMPONENTS OF READING INSTRUCTION.—The term 'essential components of reading instruction' has the meaning given the term in section 1208 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6368).'';

(8) by inserting after paragraph (11) the following:

''(12) LIMITED ENGLISH PROFICIENCY.—The term 'limited English proficiency', when used with respect to an individual, means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

''(A) whose native language is a language other than English; or

''(B) who lives in a family or community environment where a language other than English is the dominant language.'';

(9) by striking paragraph (15), as redesignated by paragraph (6), and inserting the following:

''(15) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(10) by striking paragraph (19), as redesignated by paragraph (6), and inserting the following:

''(19) WORKPLACE LITERACY PROGRAM.—The term 'workplace literacy program' means an educational program designed to improve the productivity of the workforce through the improvement of literacy skills that is offered by an eligible provider in collaboration with an employer or an employee organization at a workplace, at an off-site location, or in a simulated workplace environment.''.

SEC. 203. HOME SCHOOLS.

Section 204 of the Adult Education and Family Literacy Act (20 U.S.C. 9203) is amended to read as follows:

''SEC. 204. HOME SCHOOLS.

''Nothing in this title shall be construed to affect home schools, whether a home school is treated as a home school or a private school under State law, or to compel a parent engaged in home schooling to participate in an English language acquisition program, family literacy services, or adult education.''.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Adult Education and Family Literacy Act (20 U.S.C. 9204) is amended—

(1) by striking ''1999'' and inserting ''2006''; and

(2) by striking ''2003'' and inserting ''2011''.

SEC. 205. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

Section 211 of the Adult Education and Family Literacy Act (20 U.S.C. 9211) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) RESERVATION OF FUNDS.—From the sum appropriated under section 205 for a fiscal year, the Secretary—

''(1) shall reserve 1.5 percent to carry out section 242, except that the amount so reserved shall not exceed $10,000,000;

''(2) shall reserve 1.5 percent to carry out section 243 and subsection (f)(4), except that the amount so reserved shall not exceed $8,000,000;

''(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 136(i); and

''(4) shall reserve 12 percent of the amount that remains after reserving funds under paragraphs (1), (2) and (3) to carry out section 244.'';

(2) in subsection (c)(2)—

(A) by inserting ''and the sole agency responsible for administering or supervising policy for adult education and literacy in the Republic of Palau'' after ''an initial allotment under paragraph (1)'';

(B) by inserting ''or served by the agency for the Republic of Palau'' after ''by the eligible agency''; and

(C) by striking ''States and outlying areas'' and inserting ''States, outlying areas, and the Republic of Palau'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

(ii) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, or'' and inserting ''or''; and

(B) in paragraph (3)—

(i) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

(ii) by striking ''2001'' and inserting ''2007''; and

(4) by striking subsection (f) and inserting the following:

''(f) HOLD-HARMLESS PROVISIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (c) and subject to paragraph (2), for fiscal year 2005 and each succeeding fiscal year, no eligible agency shall receive an allotment under this section that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this section.

''(2) 100 PERCENT ALLOTMENT.—Notwithstanding paragraphs (1) and (2) of subsection (e), an eligible agency that receives only an initial allotment under subsection (c)(1) (and no additional allotment under subsection (c)(2)) shall receive an allotment under this section that is equal to 100 percent of the initial allotment under subsection (c)(1).

''(3) RATABLE REDUCTION.—If for any fiscal year the amount available for allotment under this subtitle is insufficient to satisfy the provisions of paragraphs (1) and (2), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

''(4) ADDITIONAL ASSISTANCE.—

''(A) IN GENERAL.—From amounts reserved under subsection (a)(2), the Secretary shall make grants to eligible agencies described in subparagraph (B) to enable such agencies to provide activities authorized under chapter 2.

''(B) ELIGIBILITY.—An eligible agency is eligible to receive a grant under this paragraph for a fiscal year if the amount of the allotment such agency receives under this section for the fiscal year is less than the amount such agency would have received for the fiscal year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year.

''(C) AMOUNT OF GRANT.—The amount of a grant made to an eligible agency under this paragraph for a fiscal year shall be the difference between—

''(i) the amount of the allotment such agency would have received for the fiscal

year if the allotment formula under this section as in effect on September 30, 2003, were in effect for such year; and

''(ii) the amount of the allotment such agency receives under this section for the fiscal year.''.

SEC. 206. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 212 of the Adult Education and Family Literacy Act (20 U.S.C. 9212) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(ii), by striking ''additional indicators of performance (if any)'' and inserting ''the employment performance indicators'';

(B) by striking paragraph (2) and inserting the following:

''(2) INDICATORS OF PERFORMANCE.—

''(A) CORE INDICATORS OF PERFORMANCE.—An eligible agency shall identify in the State plan individual academic performance indicators that include, at a minimum, the following:

''(i) Measurable improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

''(ii) Placement in, retention in, or completion of, postsecondary education or other training programs.

''(iii) Completion of a secondary school diploma, its recognized equivalent, or a recognized alternative standard for individuals with disabilities.

''(B) EMPLOYMENT PERFORMANCE INDICATORS.—

''(i) IN GENERAL.—An eligible agency shall identify in the State plan individual participant employment performance indicators that include, at a minimum, the following:

''(I) Entry into unsubsidized employment.

''(II) Retention in unsubsidized employment 6 months after entry into the employment.

''(III) Increases in earnings from unsubsidized employment.

(ii) DATA COLLECTION.—The State workforce investment board shall assist the eligible agency in obtaining and using quarterly wage records to collect data for each of the indicators described in clause (i), consistent with applicable Federal and State privacy laws.

''(C) INDICATORS FOR WORKPLACE LITERACY PROGRAMS.—Special accountability measures may be negotiated for workplace literacy programs.''; and

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (i)(II), by striking ''in performance'' and inserting ''the agency's performance outcomes in an objective, quantifiable, and measurable form'';

(II) in clause (ii), by striking ''3 programs years'' and inserting ''2 program years'';

(III) in clause (iii), by striking ''FIRST 3 YEARS'' and inserting ''FIRST 2 YEARS'';

(IV) in clause (iii), by striking ''first 3 program years'' and inserting ''first 2 program years'';

(V) in clause (v), by striking ''4TH AND 5TH'' and inserting ''3RD AND 4TH'';

(VI) in clause (v), by striking ''to the fourth'' and inserting ''to the third'';

(VII) in clause (v), by striking ''fourth and fifth'' and inserting ''third and fourth''; and

(VIII) in clause (vi), by striking ''(II)'' and inserting ''(I)'';

(ii) in subparagraph (B)—

(I) by striking the heading and inserting ''LEVELS OF EMPLOYMENT PERFORMANCE'';

(II) by striking ''may'' and inserting ''shall''; and

(III) by striking ''additional'' and inserting ''employment performance''; and

(iii) by adding at the end the following:

''(C) ALTERNATIVE ASSESSMENT SYSTEMS.—Eligible agencies may approve the use of assessment systems that are not commercially available standardized systems if such systems meet the Standards for Educational and Psychological Testing issued by the Joint Committee on Standards for Educational and Psychological Testing of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ''the Governor, the State legislature, and the State workforce investment board'' after ''Secretary''; and

(ii) by striking ''including'' and all that follows through the period and inserting ''including the following:

''(A) Information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance, and employment performance indicators.

''(B) Information on the number or percentage of qualifying adults (as defined in section 211(d)) who are participants in adult education programs under this subtitle and making satisfactory progress toward 1 or more of each of the following:

''(i) Core indicators of performance.

''(ii) Employment performance indicators.

''(iii) Other long-term objectives.

''(C) The number and type of each eligible provider that receives funding under such grant.

''(D) The number of enrollees 16 to 18 years of age who enrolled in adult education not later than 1 year after participating in secondary school education.'';

(B) in paragraph (2)(A), by inserting ''eligible providers and'' after ''available to''; and

(C) by adding at the end the following:

''(3) DATA ACCESS.—The report made available under paragraph (2) shall indicate which eligible agencies did not have access to State unemployment insurance wage data in measuring employment performance indicators.''; and

(3) by adding at the end the following:

''(d) PROGRAM IMPROVEMENT.—

''(1) IN GENERAL.—If the Secretary determines that an eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A) for any program year, the eligible agency shall—

''(A) work with the Secretary to develop and implement a program improvement plan for the 2 program years succeeding the program year in which the eligible agency did not meet its adjusted levels of performance; and

''(B) revise its State plan under section 224, if necessary, to reflect the changes agreed to in the program improvement plan.

''(2) FURTHER ASSISTANCE.—If, after the period described in paragraph (1)(A), the Secretary has provided technical assistance to the eligible agency but determines that the eligible agency did not meet its adjusted levels of performance for the core indicators of performance described in subsection (b)(2)(A), the Secretary may require the eligible agency to make further revisions to the program improvement plan described in paragraph (1). Such further revisions shall be accompanied by further technical assistance from the Secretary.''.

SEC. 207. STATE ADMINISTRATION.

Section 221(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9221(1)) is amended by striking ''and implementation'' and inserting ''implementation, and monitoring''.

SEC. 208. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

Section 222 of the Adult Education and Family Literacy Act (20 U.S.C. 9222) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''82.5'' the first place such term appears and inserting ''80''; and

(ii) by striking ''the 82.5 percent'' and inserting ''such amount'';

(B) in paragraph (2), by striking ''not more than 12.5 percent'' and inserting ''not more than 15 percent''; and

(C) in paragraph (3), by striking ''$65,000'' and inserting ''$75,000''; and

(2) in subsection (b)(1), by striking ''equal to'' and inserting ''that is not less than''.

SEC. 209. STATE LEADERSHIP ACTIVITIES.

Section 223 of the Adult Education and Family Literacy Act (20 U.S.C. 9223) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''to develop or enhance the adult education system of the State or outlying area'' after ''activities'';

(B) in paragraph (1), by striking ''instruction incorporating'' and all that follows through the period and inserting ''instruction incorporating the essential components of reading instruction and instruction provided by volunteers or by personnel of a State or outlying area.'';

(C) in paragraph (2), by inserting '', including development and dissemination of instructional and programmatic practices based on the most rigorous research available in reading, writing, speaking, mathematics, English language acquisition programs, distance learning, and staff training'' after ''activities'';

(D) in paragraph (5), by striking ''monitoring and'';

(E) by striking paragraph (6) and inserting the following:

''(6) The development and implementation of technology applications, translation technology, or distance learning, including professional development to support the use of instructional technology.''; and

(F) by striking paragraph (7) through paragraph (11) and inserting the following:

''(7) Coordination with—

''(A) other partners carrying out activities authorized under this Act; and

''(B) existing support services, such as transportation, child care, mental health services, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, for adults enrolled in such activities.

''(8) Developing and disseminating curricula, including curricula incorporating the essential components of reading instruction as such components relate to adults.

''(9) The provision of assistance to eligible providers in developing, implementing, and reporting measurable progress in achieving the objectives of this subtitle.

''(10) The development and implementation of a system to assist in the transition from adult basic education to postsecondary education, including linkages with postsecondary educational institutions.

''(11) Integration of literacy and English language instruction with occupational skill training, and promoting linkages with employers.

''(12) Activities to promote workplace literacy programs.

''(13) Activities to promote and complement local outreach initiatives described in section 243(b)(3)(F).

''(14) In cooperation with efforts funded under sections 242 and 243, the development

of curriculum frameworks and rigorous content standards that—

''(A) specify what adult learners should know and be able to do in the areas of reading and language arts, mathematics, and English language acquisition; and

''(B) take into consideration the following:

''(i) State academic standards established under section 1111(b) of the Elementary and Secondary Education Act of 1965.

''(ii) The current adult skills and literacy assessments used in the State or outlying area.

''(iii) The core indicators of performance established under section 212(b)(2)(A).

''(iv) Standards and academic requirements for enrollment in non-remedial, for-credit, courses in postsecondary education institutions supported by the State or outlying area.

''(v) Where appropriate, the basic and literacy skill content of occupational and industry skill standards widely used by business and industry in the State or outlying area.

''(15) In cooperation with efforts funded under sections 242 and 243, development and piloting of—

''(A) new assessment tools and strategies that—

''(i) are based on scientifically based research, where available and appropriate; and

''(ii) identify the needs and capture the gains of students at all levels, with particular emphasis on—

''(I) students at the lowest achievement level;

''(II) students who have limited English proficiency; and

''(III) adults with learning disabilities;

''(B) options for improving teacher quality and retention; and

''(C) assistance in converting research into practice.

''(16) The development and implementation of programs and services to meet the needs of adult learners with learning disabilities or limited English proficiency.

''(17) Other activities of statewide significance that promote the purpose of this title.''; and

(2) in subsection (c), by striking ''being State- or outlying area-imposed'' and inserting ''being imposed by the State or outlying area''.

SEC. 210. STATE PLAN.

Section 224 of the Adult Education and Family Literacy Act (20 U.S.C. 9224) is amended—

(1) in subsection (a)—

(A) by striking the heading and inserting ''4-YEAR PLANS''; and

(B) in paragraph (1), by striking ''5'' and inserting ''4'';

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''and the role of provider and cooperating agencies in preparing the assessment'' after ''serve'';

(B) by striking paragraph (2) and inserting the following:

''(2) a description of how the eligible agency will address the adult education and literacy needs identified under paragraph (1) in each workforce development area of the State, using funds received under this subtitle, as well as other Federal, State, or local funds received in partnership with other agencies for the purpose of adult literacy as applicable;'';

(C) in paragraph (3)—

(i) by inserting ''and measure'' after ''evaluate'';

(ii) by inserting ''and improvement'' after ''effectiveness''; and

(iii) by striking ''212'' and inserting ''212, including—

''(A) how the eligible agency will evaluate and measure annually such effectiveness on a grant-by-grant basis; and

''(B) how the eligible agency—

''(i) will hold eligible providers accountable regarding the progress of such providers in improving the academic achievement of participants in adult education programs under this subtitle and regarding the core indicators of performance described in section 212(b)(2)(A); and

''(ii) will use technical assistance, sanctions, and rewards (including allocation of grant funds based on performance and termination of grant funds based on performance)'';

(D) by redesignating paragraphs (5) through (12) as paragraphs (6) through (13), respectively;

(E) by inserting after paragraph (4) the following:

''(5) a description of how the eligible agency will improve teacher quality, the professional development of eligible providers, and instruction;'';

(G) in paragraph (6) (as redesignated by subparagraph (D)), by striking ''who'' and all that follows through the semicolon and inserting ''that—

''(A) offers flexible schedules and coordinates with necessary Federal, State, and local support services (such as child care, transportation, mental health services, and case management) to enable individuals, including individuals with disabilities or individuals with other special needs, to participate in adult education and literacy activities; and

''(B) attempts to coordinate with support services that are not provided under this subtitle prior to using funds for adult education and literacy activities provided under this subtitle for support services;'';

(H) in paragraph (10) (as redesignated by subparagraph (D)), by striking ''plan;'' and inserting ''plan, which process—

''(A) shall include the State Workforce Investment Board, the Governor, State officials representing public schools, community colleges, welfare agencies, agencies that provide services to individuals with disabilities, other State agencies that promote or operate adult education and literacy activities, and direct providers of such adult literacy services; and

''(B) may include consultation with the State agency for higher education, institutions responsible for professional development of adult education and literacy education program instructors, institutions of higher education, representatives of business and industry, refugee assistance programs, and community-based organizations (as such term is defined in section 101);'';

(I) in paragraph (11) (as redesignated by subparagraph (D))—

(i) by inserting ''assess potential population needs and'' after ''will'';

(ii) in subparagraph (A), by striking ''students'' and inserting ''individuals'';

(iii) in subparagraph (C), by striking ''and'' after the semicolon; and

(iv) by adding at the end the following:

''(E) the unemployed; and

''(F) those individuals who are employed, but at levels below self-sufficiency, as defined in section 101.'';

(J) in paragraph (12) (as redesignated by subparagraph (D))—

(i) by inserting ''and how the plan submitted under this subtitle is coordinated with the plan submitted by the State under title I'' after ''eligible agency''; and

(ii) by striking ''and'' after the semicolon;

(K) in paragraph (13) (as redesignated by subparagraph (D)), by striking ''231(c)(1).'' and inserting ''231(c)(1), including—

''(A) how the State will build the capacity of organizations that provide adult education and literacy activities; and

''(B) how the State will increase the participation of business and industry in adult education and literacy activities;''; and

(L) by adding at the end the following:

''(14) a description of how the eligible agency will consult with any State agency responsible for postsecondary education to develop adult education programs and services (including academic skill development and support services) that prepare students to enter postsecondary education upon the attainment of a secondary school diploma or its recognized equivalent;

''(15) a description of how the eligible agency will consult with the State agency responsible for workforce development to develop adult education programs and services that are designed to prepare students to enter the workforce; and

''(16) a description of how the eligible agency will improve the professional development of eligible providers of adult education and literacy activities.'';

(3) in subsection (c), by adding at the end the following: ''At the end of the first 2-year period of the 4-year State plan, the eligible agency shall review and, as needed, revise the 4-year State plan.''; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board'' after ''Governor''; and

(B) in paragraph (2), by striking ''comments'' and all that follows through the period and inserting ''comments regarding the State plan by the Governor, the chief State school officer, the State officer responsible for administering community and technical colleges, and the State Workforce Investment Board, and any revision to the State plan, are submitted to the Secretary.''.

SEC. 211. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

Section 225 of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''basic education'' and inserting ''adult education and literacy activities'';

(B) in paragraph (2), by inserting ''and'' after the semicolon;

(C) by striking paragraph (3); and

(D) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (d), by striking ''DEFINITION OF CRIMINAL OFFENDER.—'' and inserting ''DEFINITIONS.—In this section:''.

SEC. 212. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

Section 231 of the Adult Education and Family Literacy Act (20 U.S.C. 9241) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''workplace literacy services'' and inserting ''workplace literacy programs''; and

(B) in paragraph (3), by striking ''literacy'' and inserting ''language acquisition''; and

(2) in subsection (e)—

(A) in paragraph (1), by inserting ''to be achieved annually on the core indicators of performance and employment performance indicators described in section 212(b)(2)'' after ''outcomes'';

(B) by striking paragraph (3) and inserting the following:

''(3) the commitment of the eligible provider to be responsive to local needs and to serve individuals in the community who were identified by the assessment as most in

need of adult literacy services, including individuals who are low-income, have minimal literacy skills, have learning disabilities, or have limited English proficiency;'';

(C) in paragraph (4)(B), by striking '', such as'' and all that follows through the semicolon and inserting ''that include the essential components of reading instruction;'';

(D) in paragraph (5), by striking ''research'' and inserting ''the most rigorous research available, including scientifically based research,'';

(E) in paragraph (7), by inserting '', when appropriate and based on the most rigorous research available, including scientifically based research,'' after ''real life contexts'';

(F) in paragraph (9), by inserting ''education, job training, and social service'' after ''other available'';

(G) in paragraph (10)—

(i) by inserting ''coordination with Federal, State, and local'' after ''schedules and''; and

(ii) by striking ''and transportation'' and inserting '', transportation, mental health services, and case management'';

(H) in paragraph (11)—

(i) by inserting ''measurable'' after ''report'';

(ii) by striking ''eligible agency'';

(iii) by inserting ''established by the eligible agency'' after ''performance measures''; and

(iv) by striking ''and'' after the semicolon;

(I) in paragraph (12), by striking ''literacy programs.'' and inserting ''language acquisition programs and civics education programs;''; and

(J) by adding at the end the following:

''(13) the capacity of the eligible provider to produce information on performance results, including enrollments and measurable participant outcomes;

''(14) whether reading, writing, speaking, mathematics, and English language acquisition instruction provided by the eligible provider are based on the best practices derived from the most rigorous research available;

''(15) whether the eligible provider's applications of technology and services to be provided are sufficient to increase the amount and quality of learning and lead to measurable learning gains within specified time periods; and

''(16) the capacity of the eligible provider to serve adult learners with learning disabilities.''.

SEC. 213. LOCAL APPLICATION.

Section 232 of the Adult Education and Family Literacy Act (20 U.S.C. 9242) is amended—

(1) in paragraph (1)—

(A) by inserting ''consistent with the requirements of this subtitle'' after ''spent''; and

(B) by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) information that addresses each of the considerations required under section 231(e).''.

SEC. 214. LOCAL ADMINISTRATIVE COST LIMITS.

Section 233 of the Adult Education and Family Literacy Act (20 U.S.C. 9243) is amended—

(1) in subsection (a)(2)—

(A) by inserting ''and professional'' after ''personnel''; and

(B) by inserting ''development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation,'' after ''development,''; and

(2) in subsection (b)—

(A) by inserting ''and professional'' after ''personnel''; and

(B) by inserting ''development of measurable goals in reading, writing, and speaking the English language, and in mathematical computation,'' after ''development,''.

SEC. 215. ADMINISTRATIVE PROVISIONS.

Section 241(b) of the Adult Education and Family Literacy Act (20 U.S.C. 9251(b)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''adult education and literacy activities'' each place the term appears and inserting ''activities under this subtitle''; and

(B) by striking ''was'' and inserting ''were''; and

(2) in paragraph (4)—

(A) by inserting ''not more than'' after ''this subsection for''; and

(B) by striking ''only''.

SEC. 216. NATIONAL INSTITUTE FOR LITERACY.

Section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9252) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''literacy'' and inserting ''effective literacy programs for children, youth, adults, and families'';

(B) in paragraph (2), by inserting ''and disseminates information on'' after ''coordinates''; and

(C) by striking paragraph (3)(A) and inserting the following:

''(A) coordinating and participating in the Federal effort to identify and disseminate information on literacy that is derived from scientifically based research, or the most rigorous research available, and effective programs that serve children, youth, adults, and families; and'';

(2) by striking subsection (b)(3) and inserting the following:

''(3) RECOMMENDATIONS.—The Interagency Group, in consultation with the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (e), shall plan the goals of the Institute and the implementation of any programs to achieve the goals. The Board may also request a meeting of the Interagency Group to discuss any recommendations the Board may make.'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by striking ''to establish'' and inserting ''to maintain'';

(II) in clause (i), by striking ''phonemic awareness, systematic phonics, fluency, and reading comprehension'' and inserting ''the essential components of reading instruction'';

(III) in clause (iii), by striking ''and'' after the semicolon;

(IV) in clause (iv), by inserting ''and'' after the semicolon; and

(V) by adding at the end the following:

''(v) a list of local adult education and literacy programs;'';

(ii) in subparagraph (C)—

(I) by striking ''reliable and replicable research'' and inserting ''reliable and replicable research as defined by the Institute of Education Sciences''; and

(II) by striking ''especially with the Office of Educational Research and Improvement in the Department of Education,'';

(iii) in subparagraph (D), by striking ''phonemic awareness, systematic phonics, fluency, and reading comprehension based on'' and inserting ''the essential components of reading instruction and'';

(iv) in subparagraph (H), by striking ''and'' after the semicolon;

(v) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(vi) by adding at the end the following:

''(J) to work cooperatively with the Department of Education to assist States that are pursuing the implementation of standards-based educational improvements for adults through the dissemination of training, technical assistance, and related support and through the development and dissemination of related standards-based assessment instruments; and

''(K) to identify scientifically based research where available, or the most rigorous research available, on the effectiveness of instructional practices and organizational strategies relating to literacy programs on the acquisition of skills in reading, writing, English acquisition, and mathematics.''; and

(B) by adding at the end the following:

''(3) COORDINATION.—In identifying the reliable and replicable research the Institute will support, the Institute shall use standards for research quality that are consistent with those of the Institute of Education Sciences.'';

(4) in subsection (e)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking ''literacy programs'' and inserting ''language acquisition programs'';

(ii) in clause (ii), by striking ''literacy programs'' and inserting ''or have participated in or partnered with workplace literacy programs'';

(iii) in clause (iv), by inserting '', including adult literacy research'' after ''research'';

(iv) in clause (vi), by striking ''and'' after the semicolon;

(v) in clause (vii), by striking the period at the end and inserting ''; and''; and

(vi) by adding at the end the following:

''(viii) institutions of higher education.'';

(B) in paragraph (2)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

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

(iii) by adding at the end the following:

''(D) review the biennial report submitted to Congress pursuant to subsection (k).''; and

(C) in paragraph (5), by striking the second sentence and inserting the following: ''A recommendation of the Board may be passed only by a majority of the Board's members present at a meeting for which there is a quorum.''; and

(5) in subsection (k)—

(A) by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''; and

(B) by striking ''The Institute shall submit a report biennially to'' and inserting ''Not later than 1 year after the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005, and biennially thereafter, the Institute shall submit a report to''.

SEC. 217. NATIONAL LEADERSHIP ACTIVITIES.

Section 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9253) is amended to read as follows:

''SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

''(a) IN GENERAL.—The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide.

''(b) PERMISSIVE ACTIVITIES.—The national leadership activities described in subsection (a) may include the following:

''(1) Technical assistance, including—

''(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

''(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult

education and literacy activities, including family literacy services, based on scientific evidence where available;

''(C) assistance in distance learning and promoting and improving the use of technology in the classroom;

''(D) assistance in developing valid, measurable, and reliable performance data, including data about employment and employment outcome, and using performance information for the improvement of adult education and literacy programs; and

''(E) assistance to help States, particularly low-performing States, meet the requirements of section 212.

''(2) A program of grants, contracts, or cooperative agreements awarded on a competitive basis to national, regional, or local networks of private nonprofit organizations, public libraries, or institutions of higher education to build the capacity of such networks' members to meet the performance requirements of eligible providers under this title and involve adult learners in program improvement.

''(3) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

''(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using the essential components of reading instruction based on the work of the National Institute of Child Health and Human Development;

''(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

''(C) carrying out rigorous research, including scientifically based research where appropriate, on national literacy basic skill acquisition for adult learning, including estimating the number of adults functioning at the lowest levels of literacy proficiency;

''(D)(i) carrying out demonstration programs;

''(ii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs; and

''(iii) developing and replicating best practices and innovative programs, including—

''(I) the development of models for basic skill certificates;

''(II) the identification of effective strategies for working with adults with learning disabilities and with adults with limited English proficiency;

''(III) integrated basic and workplace skills education programs;

''(IV) coordinated literacy and employment services; and

''(V) postsecondary education transition programs;

''(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

''(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

''(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

''(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

''(iv) the extent to which different types of providers measurably improve the skills of participants in adult education and literacy programs;

''(F) supporting efforts aimed at capacity building of programs at the State and local levels such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this subtitle;

''(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems;

''(H) supporting the development of an entity that would produce and distribute technology-based programs and materials for adult education and literacy programs using an interconnection system (as defined in section 397 of the Communications Act of 1934 (47 U.S.C. 397)) and expand the effective outreach and use of such programs and materials to adult education eligible providers;

''(I) determining how participation in adult education and literacy activities prepares individuals for entry into postsecondary education and employment and, in the case of prison-based services, has an effect on recidivism; and

''(J) other activities designed to enhance the quality of adult education and literacy activities nationwide.''.

SEC. 218. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

Chapter 4 of subtitle A of title II (29 U.S.C. 9251 et seq.) is amended by adding at the end the following:

''SEC. 244. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION.

''(a) IN GENERAL.—From funds made available under section 211(a)(4) for each fiscal year, the Secretary shall award grants to States, from allotments under subsection (b), for integrated English literacy and civics education.

''(b) ALLOTMENT.—

''(1) IN GENERAL.—Subject to paragraph (2), from amounts made available under section 211(a)(4) for a fiscal year, the Secretary shall allocate—

''(A) 65 percent to the States on the basis of a State's need for integrated English literacy and civics education as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years; and

''(B) 35 percent to the States on the basis of whether the State experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available.

''(2) MINIMUM.—No State shall receive an allotment under paragraph (1) in an amount that is less than $60,000.''.

SEC. 219. TRANSITION.

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of the Adult Education and Family Literacy Act (as amended by this title) from any authority under provisions of the Adult Education and Family Literacy Act (as such Act was in effect on the day before the date of enactment of the Adult Education and Family Literacy Act Amendments of 2005).

TITLE III—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 301. WAGNER-PEYSER ACT.

(a) CONFORMING AMENDMENT.—Section 2(3) of the Wagner-Peyser Act (29 U.S.C. 49a(3)) is amended by striking ''section 134(c)'' and inserting ''section 121(e)''.

(b) COLOCATION.—Section 3 of the Wagner-Peyser Act (29 U.S.C. 49b) is amended by adding at the end the following:

''(d) In order to avoid duplication of services and enhance integration of services, employment services offices in each State shall be colocated with one-stop centers established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

''(e) The Secretary, in consultation with States, is authorized to assist in the development of national electronic tools that may be used to improve access to workforce information for individuals through—

''(1) the one-stop delivery systems established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

''(2) such other delivery systems as the Secretary determines to be appropriate.''.

(c) COOPERATIVE STATISTICAL PROGRAM.—Section 14 of the Wagner-Peyser Act (29 U.S.C. 491–1) is amended by striking the section heading and all that follows through ''There'' and inserting the following:

''SEC. 14. COOPERATIVE STATISTICAL PROGRAM.

''There''.

(d) WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.—Section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 15. WORKFORCE AND LABOR MARKET INFORMATION SYSTEM.'';

(2) by striking ''employment statistics system'' each place it appears and inserting ''workforce and labor market information system'';

(3) in subsection (a)(1), by striking ''of employment statistics'';

(4) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''The'' and inserting the following:

''(A) STRUCTURE.—The''; and

(ii) by adding at the end the following:

''(B) GRANTS OR COOPERATIVE AGREEMENTS.—

''(i) IN GENERAL.—The Secretary shall carry out the provisions of this section in a timely manner through grants or cooperative agreements with States.

''(ii) DISTRIBUTION OF FUNDS.—With regard to distributing funds appropriated under subsection (g) (relating to workforce and labor market information funding) for fiscal years 2006 through 2011, the Secretary shall continue to distribute the funds to States in the manner in which the Secretary distributed funds to the States under this section for fiscal years 1999 through 2003.''; and

(B) in paragraph (2)(E)—

(i) in clause (i), by adding ''and'' at the end;

(ii) in clause (ii), by striking ''; and'' and inserting a period; and

(iii) by striking clause (iii);

(5) by striking subsections (c) and (d) and inserting the following:

''(c) TWO-YEAR PLAN.—The Secretary, working through the Commissioner of Labor Statistics, and in cooperation with the States and with the assistance of the Assistant Secretary for Employment and Training and heads of other appropriate Federal agencies, shall prepare a 2-year plan which shall be the mechanism for achieving cooperative

management of the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system. The plan shall—

''(1) describe the steps the to be taken in the following 2 years to carry out the duties described in subsection (b)(2);

''(2) evaluate the performance of the system and recommend needed improvements, with particular attention to the improvements needed at the State and local levels; and

''(3) describe the involvement of States in the development of the plan, through consultation between the Secretary and representatives from State agencies in accordance with subsection (d).

''(d) COORDINATION WITH THE STATES.—The Secretary, working though the Commissioner of Labor Statistics and in coordination with the Assistant Secretary for Employment and Training, shall consult at least annually with representatives of each of the Federal regions of the Department of Labor, elected (pursuant to a process established by the Secretary) by and from the State workforce and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2).'';

(6) in subsection (e)(2)—

(A) in subparagraph (G), by adding ''and'' at the end;

(B) by striking subparagraph (H); and

(C) by redesignating subparagraph (I) as subparagraph (H); and

(7) in subsection (g), by striking ''1999 through 2004'' and inserting ''2006 through 2011''.

TITLE IV—REHABILITATION ACT AMENDMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Rehabilitation Act Amendments of 2005''.

SEC. 402. TECHNICAL AMENDMENTS TO TABLE OF CONTENTS.

(a) EXPANDED TRANSITION SERVICES.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 110 the following:

''Sec. 110A. Reservation for expanded transition services.''.

(b) INCENTIVE GRANTS.—Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 112 the following:

''Sec. 113. Incentive grants.''.

(c) INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.—Section 1(b) of the Rehabilitation Act of 1973 is amended by striking the items relating to sections 752 and 753 and inserting the following:

''Sec. 752. Training and technical assistance.

''Sec. 753. Program of grants.

''Sec. 754. Authorization of appropriations.''.

SEC. 403. PURPOSE.

Section 2 of the Rehabilitation Act of 1973 (29 U.S.C. 701) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7)(A) a high proportion of youth who are individuals with disabilities is leaving special education without being employed or being enrolled in continuing education; and

''(B) there is a substantial need to support those youth as the youth transition from school to postsecondary life.''; and

(2) in subsection (b)—

(A) in paragraph (1)(F), by striking ''and'' after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) to provide opportunities for employers and vocational rehabilitation service providers to provide meaningful input at all levels of government to ensure successful employment of individuals with disabilities.''.

SEC. 404. DEFINITIONS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (2)(B)—

(A) in the matter preceding clause (i), by inserting ''and literacy services'' after ''supported employment''; and

(B) in clause (iii), by inserting ''and literacy skills'' after ''educational achievements'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) ASSISTIVE TECHNOLOGY DEFINITIONS.—

''(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

''(B) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (20)(A).

''(C) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section—

''(i) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (20)(A); and

''(ii) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.'';

(3) by striking paragraph (7) and inserting the following:

''(7) CONSUMER ORGANIZATION.—The term 'consumer organization' means a membership organization in which a majority of the organization's members and a majority of the organization's officers are individuals with disabilities.'';

(4) in paragraph (17)—

(A) in subparagraph (C), by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(E) maintaining individuals with significant disabilities in, or transitioning individuals with significant disabilities to, community-based living.'';

(5) by redesignating paragraphs (24) through (28), (29) through (34), (35) through (37), and (38) through (39), as paragraphs (25) through (29), (31) through (36), (38) through (40), and (42) through (43), respectively;

(6) by inserting after paragraph (23) the following:

''(24) LITERACY.—The term 'literacy' has the meaning given the term in section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202).'';

(7) by inserting after paragraph (29), as redesignated by paragraph (5), the following:

''(30) POST-EMPLOYMENT SERVICE.—The term 'post-employment' service means a service identified in section 103(a) that is—

''(A) provided subsequent to the achievement of an employment outcome; and

''(B) necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.'';

(8) by inserting after paragraph (36), as redesignated by paragraph (5), the following:

''(37) STUDENT WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'student with a disability' means an individual with a disability who attends an elementary school or secondary school and who—

''(i) is not younger than 16 years of age;

''(ii) is not older than 22 years of age;

''(iii) has been determined to be eligible under section 102(a) for assistance under title I; and

''(iv)(I) is eligible for, and receiving, special education or related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

''(II) is an individual with a disability, for purposes of section 504.

''(B) STUDENTS WITH DISABILITIES.—The term 'students with disabilities' means more than 1 student with a disability.'';

(9) in paragraph (38)(A)(ii), as redesignated by paragraph (5), by striking ''paragraph (36)(C)'' and inserting ''paragraph (39)(C)''; and

(10) by inserting after paragraph (40), as redesignated by paragraph (5), the following:

''(41) TRANSITION SERVICES EXPANSION YEAR.—The term 'transition services expansion year' means—

''(A) the first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) for fiscal year 2006 by not less than $100,000,000; and

''(B) each fiscal year subsequent to that first fiscal year.''.

SEC. 405. ADMINISTRATION OF THE ACT.

Section 12(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 709(a)(1)) is amended—

(1) by inserting ''(A)'' after ''(1)'';

(2) by adding at the end the following:

''(B) provide technical assistance to the designated State units on developing successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities; and

''(C) provide technical assistance on developing self-employment opportunities and outcomes for individuals with disabilities;''.

SEC. 406. REPORTS.

Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 710) is amended by adding at the end the following:

''(d)(1)(A) The Commissioner shall ensure that the reports, information, and data described in subparagraph (B) will be posted in a timely manner on the website of the Department of Education, in order to inform the public about the administration and performance of programs in each State under this Act.

''(B) The reports, information, and data referred to in subparagraph (A) shall consist of—

''(i) reports submitted by a designated State unit under this Act;

''(ii) accountability information (including State performance information relating to evaluation standards and performance indicators under section 106 and State performance information relating to State performance measures under section 136 of the Workforce Investment Act of 1998 (29 U.S.C. 2871)) submitted by a designated State unit under this Act or submitted under such section 136;

''(iii) data collected from each designated State unit under this Act with the approval of the Office of Management and Budget; and

''(iv) monitoring reports conducted under this Act.

''(C) The Commissioner shall maintain, and post on the website, a listing of the reports, information, and data required to be submitted by designated State units under this Act.

''(D) The Commissioner shall post on the website, or establish links on the website to, evaluations, studies, and audits, including evaluations, studies, and audits conducted by agencies of the Federal government, concerning programs carried out under this Act.

''(E) The Commissioner shall maintain on the website a list of the designated State units and shall establish links on the website to websites maintained by those units.

''(2) The Commissioner shall maintain public use read-only access to the State and aggregated reports and analyzed data filed and maintained on the Rehabilitation Services Administration management information system or a similar system maintained by the Department of Education.''.

SEC. 407. CARRYOVER.

Section 19 of the Rehabilitation Act of 1973 (29 U.S.C. 716) is amended—

(1) in subsection (a)(1)—

(A) by striking '', section 509 (except as provided in section 509(b))'';

(B) by striking ''or C''; and

(C) by striking ''752(b)'' and inserting ''753(b)''; and

(2) by adding at the end the following:

''(c) CLIENT ASSISTANCE PROGRAM; PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—

''(1) APPROPRIATED AMOUNTS.—Notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out a grant program under section 112 or 509 (except as provided in section 509(b)), including any funds reallotted under such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

''(2) PROGRAM INCOME.—Notwithstanding any other provision of law, any amounts of program income received by recipients under a grant program under section 112 or 509 in a fiscal year that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available until expended.''.

Subtitle A—Vocational Rehabilitation Services

SEC. 411. DECLARATION OF POLICY; AUTHORIZATION OF APPROPRIATIONS.

Section 100(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 720(b)(1)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 412. STATE PLANS.

(a) IN GENERAL.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended—

(1) in paragraph (2), by adding at the end the following:

''(D) STATE AGENCY FOR REIMBURSEMENT PURPOSES.—A governing body of an Indian tribe that receives a grant under section 121 shall be considered, for purposes of the cost reimbursement provisions—

''(i) in section 222(d)(1) of the Social Security Act (42 U.S.C. 422(d)(1)), to be a State; and

''(ii) in subsections (d) and (e) of section 1615 of the Social Security Act (42 U.S.C. 1382d), to be a State agency described in subsection (d) of that section.'';

(2) in paragraph (6)(B), by striking ''to employ and advance in employment'' and inserting ''to recruit, employ, and advance in employment'';

(3) in paragraph (7)(A)(v), by striking subclause (I) and inserting the following:

''(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology, including training implemented in coordination with State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003); and'';

(4) in paragraph (10)—

(A) in subparagraph (B), by striking ''annual reporting on the eligible individuals receiving the services, on those specific data elements described in section 136(d)(2) of the Workforce Investment Act of 1998'' and inserting ''annual reporting of information on eligible individuals receiving the services that is needed to assess performance on the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i))'';

(B) in subparagraph (C), by striking clauses (iii) and (iv) and inserting the following:

''(iii) the number of applicants and eligible recipients, including the number of individuals with significant disabilities, who exited the program carried out under this title and the number of such individuals who achieved employment outcomes after receiving vocational rehabilitation services; and

''(iv) the number of individuals who received vocational rehabilitation services who entered and retained employment and the earnings of such individuals, as such entry, retention, and earnings are defined for purposes of the core indicators of performance described in section 136(b)(2)(A)(i) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)(i)).''; and

(C) in subparagraph (E)(ii), by striking ''in meeting'' and all that follows through the period and inserting ''in meeting the standards and indicators established pursuant to section 106.'';

(5) in paragraph (11)—

(A) by striking subparagraph (C) and inserting the following:

''(C) INTERAGENCY COOPERATION WITH OTHER AGENCIES.—The State plan shall include descriptions of interagency cooperation with, and utilization of the services and facilities of, Federal, State, and local agencies and programs, including the State programs carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), programs carried out by the Under Secretary for Rural Development of the Department of Agriculture, and State use contracting programs, to the extent that such agencies and programs are not carrying out activities through the statewide workforce investment system.'';

(B) by striking subparagraph (D)(ii) and inserting the following:

''(ii) transition planning by personnel of the designated State agency and the State educational agency that will facilitate the development and completion of the individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) and, as appropriate, the development and completion of the individualized plan for employment, in order to achieve post-school employment outcomes of students with disabilities;''; and

(C) by adding at the end the following:

''(G) COORDINATION WITH ASSISTIVE TECHNOLOGY PROGRAMS.—The State plan shall include an assurance that the designated State unit, and the lead agency and implementing agency (if any) designated by the Governor of the State under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), have developed working relationships and will enter into agreements for the coordination of their activities, including the referral of individuals with disabilities to programs and activities described in that section.

''(H) COORDINATION WITH TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.—The State plan shall include an assurance that the designated State unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19).'';

(6) in paragraph (15)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) in subclause (II), by striking ''and'' after the semicolon;

(II) in subclause (III), by inserting ''and'' after the semicolon; and

(III) by adding at the end the following:

''(IV) for purposes of addressing needs in a transition services expansion year, students with disabilities, including their need for transition services;'';

(ii) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(iii) by inserting after clause (i) the following:

''(ii) include an assessment of the needs of individuals with disabilities for transition services provided under this Act, and coordinated with transition services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and an assessment as to whether the transition services provided under those Acts meet the needs of individuals with disabilities;''; and

(B) in subparagraph (D)—

(i) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(ii) by inserting after clause (ii) the following:

''(iii) for use in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to postsecondary life, including the receipt of vocational rehabilitation services under this title, postsecondary education, or employment;'';

(7) in paragraph (20)—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) by inserting after subparagraph (A) the following:

''(B) INFORMATION ON ASSISTANCE FOR BENEFICIARIES OF ASSISTANCE UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT.—The State plan shall include an assurance that the designated State agency will make available to individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

''(i) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and medical assistance authorized under other federally funded programs;

''(ii) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

''(iii) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph

(B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B).''; and

(C) in subparagraph (C)(ii), as redesignated by subparagraph (A)—

(i) in subclause (II), by inserting '', to the maximum extent possible,'' after ''point of contact''; and

(ii) in subclause (III), by striking ''or regain'' and inserting ''regain, or advance in''; and

(8) by adding at the end the following:

''(25) SERVICES FOR STUDENTS WITH DISABILITIES.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State—

''(A) has developed and shall implement, in each transition services expansion year, strategies to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and

''(B) in each transition services expansion year—

''(i) shall not use more than 5 percent of the funds reserved under section 110A and available for this subparagraph, to pay for administrative costs; and

''(ii) shall use the remaining funds to carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities, through partnerships described in subparagraph (C), that—

''(I) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D);

''(II) improve the achievement of post-school goals of students with disabilities through the provision of transition services, including improving the achievement through participation (as appropriate when vocational goals are discussed) in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

''(III) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities;

''(IV) support the provision of training and technical assistance to local educational agency personnel responsible for the planning and provision of services to students with disabilities; and

''(V) support outreach activities to students with disabilities who are eligible for, and need, services under this title; and

''(C) in each transition services expansion year, shall ensure that the funds described in subparagraph (B)(ii) are awarded only to partnerships that—

''(i) shall include local vocational rehabilitation services providers and local educational agencies; and

''(ii) may include (or may have linkages with) other agencies such as employment, social service, and health organizations, that contribute funds for the provision of vocational rehabilitation services described in subparagraph (B)(ii) for eligible students with disabilities.''.

(b) CONSTRUCTION.—Section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721) is amended by adding at the end the following:

''(c) CONSTRUCTION.—

''(1) DEFINITIONS.—In this subsection, the terms 'child with a disability', 'free appropriate public education', 'related services', and 'special education' have the meanings given the terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

''(2) OBLIGATION TO PROVIDE OR PAY FOR TRANSITION SERVICES.—Nothing in this part shall be construed to reduce the obligation of a local educational agency or any other agency to provide or pay for any transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education to children with disabilities within the State involved.''.

SEC. 413. ELIGIBILITY AND INDIVIDUALIZED PLAN FOR EMPLOYMENT.

Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the semicolon at the end and inserting '', including a listing of all the community resources (including resources from consumer organizations), to the maximum extent possible, to assist in the development of such individual's individualized plan for employment to enable the individual to make informed and effective choices in developing the individualized plan for employment;''; and

(ii) in subparagraph (D)—

(I) in clause (i), by striking ''and'' after the semicolon;

(II) in clause (ii), by striking the period at the end and inserting a semicolon; and

(III) by adding at the end the following:

''(iii) for individuals entitled to benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) on the basis of a disability or blindness—

''(I) information on the availability of benefits and medical assistance authorized under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and medical assistance authorized under other federally funded programs;

''(II) information on the availability of assistance through benefits planning and assistance programs authorized under section 1149 of the Social Security Act (42 U.S.C. 1320b–20) and services provided by the State protection and advocacy system and authorized under section 1150 of the Social Security Act (42 U.S.C. 1320b–21); and

''(III) in the case of individuals who are also eligible for a ticket under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), general information regarding the options for using the ticket and information on how to contact a program manager of the Ticket to Work and Self-Sufficiency Program to obtain information on approved employment networks, on providers for the benefits planning and assistance programs described in subparagraph (B) in the State, and on the services provided by the State protection and advocacy system and described in subparagraph (B).'';

(B) in paragraph (2)(E)—

(i) in clause (i)(II), by striking ''and'' after the semicolon;

(ii) in clause (ii), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) amended, as necessary, to include the post-employment services and service providers that are necessary for the individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.''; and

(C) in paragraph (3)—

(i) in subparagraph (B)(i)(I), by striking ''and personal assistance services'' and all that follows and inserting ''mentoring services, and personal assistance services, including training in the management of such services, and referrals described in section 103(a)(3) to the device reutilization programs and device demonstrations described in subparagraphs (B) and (D) of section 4(e)(2) of the Assistive Technology Act of 1998 (42 U.S.C. 3003(e)(2)) through agreements developed under section 101(a)(11)(G); and'';

(ii) in subparagraph (F)(ii), by striking ''and'' after the semicolon;

(iii) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(H) for an individual who is receiving assistance from an employment network under the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), a list of the services that are listed in the individual work plan that the individual developed with the employment network under subsection (g) of that section.''; and

(2) in subsection (c)(7), by inserting ''that take into consideration the informed choice of the individual,'' after ''plan development''.

SEC. 414. VOCATIONAL REHABILITATION SERVICES.

Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by inserting ''literacy services,'' after ''vocational adjustment services,'';

(B) by striking paragraph (15) and inserting the following:

''(15) transition services for students with disabilities, that facilitate the transition from school to postsecondary life (including employment through the achievement of the employment outcome identified in the individualized plan for employment), including, in a transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);'';

(C) in paragraph (17), by striking ''and'' after the semicolon;

(D) in paragraph (18), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following:

''(19) mentoring services.''; and

(2) in subsection (b), by striking paragraph (6) and inserting the following:

''(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to postsecondary life, including employment.

''(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

''(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(25)(B), to assist in the transition from school to postsecondary life, including employment.''.

SEC. 415. STATE REHABILITATION COUNCIL.

Section 105 of the Rehabilitation Act of 1973 (29 U.S.C. 725) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking clause (ix) and inserting the following:

''(ix) in a State in which one or more projects provide services under section 121, at least one representative of the directors of the projects;'';

(ii) in clause (x), by striking the ''and'' after the semicolon;

(iii) in clause (xi), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(xii) the director of the State's comprehensive statewide program of technology-related assistance funded under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003).''; and

(B) by striking paragraph (5) and inserting the following:

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.''; and

(2) in subsection (c)(6), by inserting before the semicolon the following: ''and with the activities of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.)''.

SEC. 416. EVALUATION STANDARDS AND PERFORMANCE INDICATORS.

Section 106 of the Rehabilitation Act of 1973 (29 U.S.C. 726) is amended—

(1) in subsection (a), by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following:

''(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that include measures of the program's performance with respect to the transition from school to postsecondary life, including employment, and achievement of the postsecondary vocational goals, of students with disabilities served under the program.''; and

(2) in subsection (b)(2)(B)(i), by striking '', if necessary'' and all that follows through the semicolon and inserting '', if the State has not improved its performance to acceptable levels, as determined by the Commissioner, direct the State to make further revisions to the plan to improve performance, which may include revising the plan to allocate a higher proportion of the State's resources for services to individuals with disabilities if the State agency's spending on such services is low in comparison to spending on such services by comparable agencies in other States;''.

SEC. 417. MONITORING AND REVIEW.

Section 107(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 727(b)(1)) is amended by inserting before the semicolon the following: '', including—

''(A) consulting with the Department of Labor, the Small Business Administration, other appropriate Federal agencies, and businesses or business-led intermediaries; and

''(B) based on information obtained through the consultations, providing technical assistance that improves that quality by enabling designated State units to develop successful partnerships with local and multi-State businesses in an effort to employ individuals with disabilities, and technical assistance on developing self-employment opportunities and improving outcomes for individuals with disabilities''.

SEC. 418. STATE ALLOTMENTS.

Section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) is amended—

(1) by striking subsection (b) and inserting the following:

''(b)(1) Not later than 45 days prior to the end of the fiscal year, the Commissioner shall determine, after reasonable opportunity for the submission to the Commissioner of comments by the State agency administering or supervising the program established under this title, that any amount from the payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title.

''(2)(A) As soon as practicable but not later than the end of the fiscal year, the Commissioner shall reallot the amount available under paragraph (1) to other States, consistent with subparagraphs (B) and (C), for carrying out the purposes of this title to the extent the Commissioner determines such other State will be able to use such additional amount during that fiscal year or the subsequent fiscal year for carrying out such purposes.

''(B)(i) The Commissioner shall reallot a portion of the amount available under paragraph (1) for a fiscal year to each State whose allotment under subsection (a) for such fiscal year is less than such State's allotment under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

''(ii)(I) A State that is eligible to receive a reallotment under clause (i) shall receive a portion for a fiscal year from the amount available for reallotment under paragraph (1) that is equal to the difference between—

''(aa) the amount such State was allotted under subsection (a) for such fiscal year; and

''(bb) the amount such State was allotted under subsection (a) for the immediately preceding fiscal year adjusted by the percentage change in the funds available for subsection (a) from the immediately preceding fiscal year.

''(II) If the amount available for reallotment under paragraph (1) is insufficient to provide each State eligible to receive a reallotment with the portion described in subclause (I), the amount reallotted to each eligible State shall be determined by the Commissioner.

''(C) If there are funds remaining after each State eligible to receive a reallotment under subparagraph (B)(i) receives the portion described in subparagraph (B)(ii), the Commissioner shall reallot the remaining funds among the States requesting a reallotment.

''(3) The Commissioner shall reallot an amount to a State under this subsection only if the State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated.

''(4) For the purposes of this part, any amount made available to a State for any fiscal year pursuant to this subsection shall be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.''; and

(2) by striking subsection (c)(2) and inserting the following:

''(2)(A) In this paragraph:

''(i) The term 'appropriated amount' means the amount appropriated under section 100(b)(1) for allotment under this section.

''(ii) The term 'covered year' means a fiscal year—

''(I) that begins after September 30, 2004; and

''(II) for which the appropriated amount exceeds the total of—

''(aa) the appropriated amount for the preceding fiscal year; and

''(bb) 0.075 percent of the appropriated amount for the preceding fiscal year.

''(B) For each covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(i) not less than the total of the sum reserved under this subsection for the preceding fiscal year and 0.1 percent of the appropriated amount for the covered year, subject to clause (ii); and

''(ii) not more than 1.5 percent of the appropriated amount for the covered year.

''(C) For each fiscal year that is not a covered year, the sum referred to in paragraph (1) shall be, as determined by the Secretary—

''(i) not less than the sum reserved under this subsection for the preceding fiscal year, subject to clause (ii); and

''(ii) not more than 1.5 percent of the appropriated amount for the covered year.''.

SEC. 419. RESERVATION FOR EXPANDED TRANSITION SERVICES.

The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following:

''SEC. 110A. RESERVATION FOR EXPANDED TRANSITION SERVICES.

''(a) RESERVATION.—From the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Commissioner under subsection (b) to carry out programs and activities under sections 101(a)(25)(B) and 103(b)(6).

''(b) CALCULATION.—The Commissioner shall calculate the amount to be reserved for such programs and activities for a fiscal year by each State by multiplying $50,000,000 by the percentage determined by dividing—

''(1) the amount allotted to that State under section 110 for the prior fiscal year; by

''(2) the total amount allotted to all States under section 110 for that prior fiscal year.''.

SEC. 420. CLIENT ASSISTANCE PROGRAM.

Section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''States'' and inserting ''agencies designated under subsection (c)''; and

(B) in the second sentence, by striking ''State'' and inserting ''State in which the program is located'';

(2) in subsection (b), by striking ''the State has in effect not later than October 1, 1984, a client assistance program which'' and inserting ''the State designated under subsection (c) an agency that'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''The Secretary'' and all that follows through the period and inserting the following: ''After reserving funds under subparagraphs (E) and (F), the Secretary shall allot the remainder of the sums appropriated for each fiscal year under this section among the agencies designated under subsection (c) within the States (referred to individually in this subsection as a 'designated agency') on the basis of relative population of each State, except that no such agency shall receive less than $50,000.'';

(ii) in subparagraph (B), by inserting ''the designated agencies located in'' after ''each to'';

(iii) in subparagraph (D)(i)—

(I) by inserting ''the designated agencies located in'' after ''$100,000 for''; and

(II) by inserting ''the designated agencies located in'' after ''$45,000 for''; and

(iv) by adding at the end the following:

''(E)(i) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $13,000,000, the Secretary shall reserve funds appropriated under this section to make a grant to the protection and advocacy system serving the American Indian Consortium to provide client assistance services in accordance with this section. The amount of such a grant shall be the same amount as is provided to a territory under subparagraph (B), as increased under clauses (i) and (ii) of subparagraph (D).

''(ii) In this subparagraph:

''(I) The term 'American Indian Consortium' has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002).

''(II) The term 'protection and advocacy system' means a protection and advocacy

system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

''(F) For any fiscal year for which the amount appropriated to carry out this section equals or exceeds $14,000,000, the Secretary shall reserve not less than 1.8 percent and not more than 2.2 percent of such amount to provide a grant for training and technical assistance for the programs established under this section. Such training and technical assistance shall be coordinated with activities provided under section 509(c)(1)(A).''; and

(B) in paragraph (2)—

(i) by striking ''State'' each place such term appears and inserting ''designated agency''; and

(ii) by striking ''States'' each place such term appears and inserting ''designated agencies'';

(4) in subsection (f), by striking ''State'' and inserting ''agency designated under subsection (c)'';

(5) in subsection (g)(1), by striking ''State'' and inserting ''State in which the program is located''; and

(6) in subsection (h), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 421. INCENTIVE GRANTS.

Part B of title I of the Rehabilitation Act of 1973 (29 U.S.C. 730 et seq.) is amended by adding at the end the following:

''SEC. 113. INCENTIVE GRANTS.

''(a) AUTHORITY.—The Commissioner is authorized to make incentive grants to States that, based on the criteria established under subsection (b)(1), demonstrate—

''(1) a high level of performance; or

''(2) a significantly improved level of performance in a reporting period as compared to the previous reporting period or periods.

''(b) CRITERIA.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Commissioner shall establish, and publish in the Federal Register, criteria for making grant awards under subsection (a).

''(2) DEVELOPMENT AND EVALUATION STANDARDS.—The criteria established under paragraph (1) shall—

''(A) be developed with input from designated State agencies and other vocational rehabilitation stakeholders, including vocational rehabilitation consumers and consumer organizations; and

''(B) be based upon the evaluation standards and performance indicators established under section 106 and other performance-related measures that the Commissioner determines to be appropriate.

''(c) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use the grant funds for any approved activities in the State's State plan submitted under section 101.

''(d) NO NON-FEDERAL SHARE REQUIREMENT.—The provisions of sections 101(a)(3) and 111(a)(2) shall not apply to this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.''.

SEC. 422. VOCATIONAL REHABILITATION SERVICES GRANTS.

Section 121 of the Rehabilitation Act of 1973 (29 U.S.C. 741) is amended—

(1) in subsection (a), in the first sentence, by inserting '', consistent with such individuals' strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for, and engage in, gainful employment'' before the period at the end; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

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

(iii) by adding at the end the following:

''(D) contains assurances that—

''(i) all decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of such services, will be made by a representative of the tribal vocational rehabilitation program; and

''(ii) such decisions will not be delegated to another agency or individual.'';

(B) in paragraph (3), by striking the first sentence and inserting the following: ''An application approved under this part that complies with the program requirements set forth in the regulations promulgated to carry out this part shall be effective for 5 years and shall be renewed for additional 5-year periods if the Commissioner determines that the grant recipient demonstrated acceptable past performance and the grant recipient submits a plan, including a proposed budget, to the Commissioner that the Commissioner approves that identifies future performance criteria, goals, and objectives.''; and

(C) by striking paragraph (4) and inserting the following:

''(4) In allocating funds under this part, the Secretary shall give priority to paying the continuation costs of projects in existence on the date of the allocation and may provide for increases in funding for such projects that the Secretary determines to be necessary.''.

SEC. 423. GAO STUDIES.

(a) STUDY ON TITLE I AND TICKET TO WORK.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the interaction of programs carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) with the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19), including the impact of the interaction on beneficiaries, community rehabilitation programs (as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705)), and State vocational rehabilitation agencies.

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with all types of participants in the Ticket to Work and Self-Sufficiency Program, including the Social Security Administration, the Rehabilitation Services Administration, ticketholders, designated State agencies, entities carrying out such community rehabilitation programs (including employment networks and nonemployment networks), protection and advocacy agencies, MAXIMUS, and organizations representing the interests of ticketholders.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

(b) STUDY ON THE ALLOTMENT FORMULA.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the relationship between the State allotment formula under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730) and the ability of States to provide vocational rehabilitation services in accordance with the States' State plans under section 101 of such Act (29 U.S.C. 721).

(2) CONDUCT OF STUDY.—In conducting the study under paragraph (1), the Comptroller General of the United States shall consult with appropriate entities.

(3) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit the study conducted pursuant to this subsection to the appropriate committees of Congress.

Subtitle B—Research and Training

SEC. 431. DECLARATION OF PURPOSE.

Section 200(3) of the Rehabilitation Act of 1973 (29 U.S.C. 760(3)) is amended by inserting '', in a timely and efficient manner,'' before ''through''.

SEC. 432. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''; and

(2) in paragraph (2), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 433. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Section 202 of the Rehabilitation Act of 1973 (29 U.S.C. 762) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by inserting before the semicolon the following: '', including convening a national assistive technology summit, to be held at or in conjunction with a national conference relating to assistive technology with respect to all categories of disabilities''; and

(B) in paragraph (10), by striking ''and telecommuting'' and inserting '', supported employment, and telecommuting'';

(2) in subsection (f)(1)—

(A) by striking ''Federal employees'' and inserting ''Department of Education employees''; and

(B) by adding at the end the following: ''The peer review panel shall include a director of a designated State unit. It shall include a member of the covered school community (for an activity resulting in educational materials or a product to be used in a covered school), a member of the business community (for an activity resulting in a product to be used in an employment activity), assistive technology developers and manufacturers (for an activity relating to assistive technology), or information technology vendors and manufacturers (for an activity relating to information technology).'';

(3) by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l), respectively;

(4) by inserting after subsection (h) the following:

''(i)(1) The Director, with the assistance of the Rehabilitation Research Advisory Council established under section 205, shall determine if entities that receive financial assistance under this title are complying with the applicable requirements of this Act and achieving measurable goals, described in section 204(d)(2), that are consistent with the requirements of the programs under which the entities received the financial assistance.

''(2) To assist the Director in carrying out the responsibilities described in paragraph (1), the Director shall require recipients of financial assistance under this title to submit relevant information to evaluate program outcomes with respect to the measurable goals described in section 204(d)(2).''; and

(5) by adding at the end the following:

''(m)(1) Not later than December 31 of each year, the Secretary shall prepare, and submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of

the Senate, a report on the activities funded under this title.

''(2) Such report shall include—

''(A) a compilation and summary of the information provided by recipients of financial assistance for such activities under this title; and

''(B) a summary of the applications for financial assistance received under this title and the progress of the recipients of financial assistance in achieving the measurable goals described in section 204(d)(2).

''(n)(1) If the Director determines that an entity that receives financial assistance under this title fails to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals described in section 204(d)(2), with respect to the covered activities involved, the Director shall assist the entity through technical assistance or other means, within 90 days after such determination, to develop a corrective action plan.

''(2) If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Director:

''(A) Partial or complete termination of financial assistance for the covered activities, until the entity develops and complies with such a plan.

''(B) Ineligibility to receive financial assistance for such covered activities for the following year.

''(3) The Secretary shall establish appeals procedures for entities described in paragraph (1) that the Secretary determines fail to comply with the applicable requirements of this Act, or to make progress toward achieving the measurable goals.

''(4) As part of the annual report required under subsection (m), the Secretary shall describe each action taken by the Secretary under paragraph (1) or (2) and the outcomes of such action.''.

SEC. 434. INTERAGENCY COMMITTEE.

Section 203 of the Rehabilitation Act of 1973 (29 U.S.C. 763) is amended—

(1) in subsection (a)(1), by striking ''and the Director of the National Science Foundation'' and inserting ''the Director of the National Science Foundation, the Secretary of Commerce, and the Administrator of the Small Business Administration''; and

(2) in subsection (b)(2)—

(A) in subparagraph (D), by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(F) conduct a study, on the assistive technology industry, for which the Committee shall—

''(i) determine the number of individuals who use assistive technology and the scope of the technologies they use;

''(ii) separately identify categories of assistive technology companies by the disability group served, and the type of product or service provided, categorized by—

''(I) size (small, medium, and large) of the companies;

''(II) capitalization of the companies;

''(III) region in which the companies are located; and

''(IV) products or services produced by the companies;

''(iii) compile aggregate data on revenues and unit sales of such companies, including information on international sales, for a recent reporting period, categorized by institution or user type acquiring the products or services, disability for which the products or services are used, and industry segment for the companies;

''(iv) identify platform availability and usage, for those products and services that are electronic and information technology-related;

''(v) identify the types of clients of the companies, such as government, school, business, private payor, and charitable clients, and funding sources for the clients; and

''(vi) specify geographic segments for the companies, to determine whether there are significant distinctions in industry opportunities on the basis of geography, other than distinctions related to population.''.

SEC. 435. RESEARCH AND OTHER COVERED ACTIVITIES.

Section 204 of the Rehabilitation Act of 1973 (29 U.S.C. 764) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)—

(i) in clause (vi), by striking ''and'' after the semicolon;

(ii) in clause (vii), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(viii) studies, analyses, and other activities affecting employment outcomes, including self-employment and telecommuting, of individuals with disabilities.''; and

(B) by adding at the end the following:

''(3) In carrying out this section, the Director shall emphasize covered activities that are collaborations between—

''(A) for-profit companies working in the assistive technology, rehabilitative engineering, or information technology fields; and

''(B) States or public or private agencies and organizations.

''(4) In carrying out this section, the Director shall emphasize covered activities that include plans for—

''(A) dissemination of educational materials, research results, or findings, conclusions, and recommendations resulting from covered activities; or

''(B) the commercialization of marketable products resulting from the covered activities.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''(18)'' each place it appears and inserting ''(19)'';

(B) in paragraph (2)—

(i) in subparagraph (A)(i), by striking ''rehabilitation services or'' and inserting ''rehabilitation services, developers or providers of assistive technology devices, assistive technology services, or information technology devices or services, or providers of'' after ''rehabilitation services'';

(ii) in subparagraph (B)—

(I) in clause (i), by inserting ''improve the evaluation process for determining the assistive technology needs of individuals with disabilities,'' after ''conditions,'';

(II) in clause (ii), by inserting ''and assistive technology services'' before the semicolon; and

(III) in clause (iii), by inserting '', assistive technology services personnel,'' before ''and other'';

(iii) in subparagraph (C)—

(I) in clause (i), by inserting '', including research on assistive technology devices, assistive technology services, and accessible electronic and information technology devices'' before the semicolon; and

(II) in clause (iii), by inserting '', including the use of assistive technology devices and accessible electronic and information technology devices in employment'' before the semicolon;

(iv) in subparagraph (D), by inserting '', including training to provide knowledge about assistive technology devices, assistive technology services, and accessible electronic and information technology devices and services,'' after ''personnel''; and

(v) in subparagraph (G)(i), by inserting '', assistive technology-related, and accessible electronic and information technology-related'' before ''courses''; and

(C) in paragraph (3)—

(i) in subparagraph (D)(ii), by adding at the end the following: ''Each such Center conducting activities including the creation of an assistance technology device shall include in the committee representatives from the assistive technology industry and accessible electronic and information technology industry. Each such Center conducting activities involving a covered school, or an employer, shall include in the committee a representative of the covered school, or of the employer, respectively.''; and

(ii) in subparagraph (G)(ii) by inserting ''the success of any commercialized product researched or developed through the Center,'' after ''disabilities,'';

(D) in paragraph (8), by inserting ''the Department of Commerce, the Small Business Administration,'' before ''other Federal agencies,'';

(E) in paragraph (13), in the matter preceding clause (i), by striking ''employment needs of individuals with disabilities'' and inserting ''employment needs, opportunities, and outcomes, including self-employment, supported employment, and telecommuting needs, opportunities, and outcomes, of individuals with disabilities, including older individuals with disabilities, and students with disabilities who are transitioning from school to postsecondary life, including employment''; and

(E) by adding at the end the following:

''(19) Research grants may be used to provide for research and demonstration projects that—

''(A) explore methods and practices for promoting access to electronic commerce activities for individuals with disabilities; and

''(B) will—

''(i) ensure dissemination of research findings;

''(ii) provide encouragement and support for initiatives and new approaches by companies engaged in electronic commerce activities; and

''(iii) result in the establishment and maintenance of close working relationships between the disability, research, and business communities.'';

(3) in subsection (c)(2), by striking ''$500,000'' and inserting ''$750,000''; and

(4) by adding at the end the following:

''(d)(1) In awarding grants, contracts, or other financial assistance under this title, the Director shall award the financial assistance on a competitive basis.

''(2)(A) To be eligible to receive financial assistance described in paragraph (1) for a covered activity, an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(B) The application shall include information describing—

''(i) measurable goals, and a timeline and specific plan for meeting the goals, that the applicant has set for addressing priorities related to—

''(I) commercialization of a marketable product (including a marketable curriculum or research) resulting from the covered activity;

''(II) in the case of a covered activity relating to technology, technology transfer;

''(III) in the case of research, dissemination of research results to, as applicable, government entities, individuals with disabilities, covered schools, the business community, the assistive technology community, and the accessible electronic and information technology community; and

''(IV) other matters as required by the Director; and

''(ii) information describing how the applicant will quantifiably measure the goals to determine whether the goals have been accomplished.

''(3)(A) In the case of an application for financial assistance under this title to carry out a covered activity that results in the development of a marketable product, the application shall also include a commercialization and dissemination plan, containing commercialization and marketing strategies for the product involved, and strategies for disseminating information about the product. The financial assistance shall not be used to carry out the commercialization and marketing strategies.

''(B) In the case of any other application for financial assistance to carry out a covered activity under this title, the application shall also include a dissemination plan, containing strategies for disseminating educational materials, research results, or findings, conclusions, and recommendations, resulting from the covered activity.''.

SEC. 436. REHABILITATION RESEARCH ADVISORY COUNCIL.

Section 205 of the Rehabilitation Act of 1973 (29 U.S.C. 765) is amended—

(1) in subsection (a), by inserting ''at least'' before ''12''; and

(2) in subsection (c), by inserting after ''rehabilitation researchers,'' the following: ''the directors of community rehabilitation programs, the business community (and shall include a representative of the small business community) that has experience with the system of vocational rehabilitation services carried out under this Act and with hiring individuals with disabilities, the community of assistive technology developers and manufacturers, the community of information technology vendors and manufacturers, the community of entities carrying out programs under the Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.), the community of covered school professionals,''.

SEC. 437. DEFINITION.

Title II of the Rehabilitation Act of 1973 (29 U.S.C. 761 et seq.) is amended by adding at the end the following:

''SEC. 206. DEFINITION.

''In this title, the term 'covered school' means an elementary school or secondary school (as such terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), a community college, or an institution of higher education.''.

Subtitle C—Professional Development and Special Projects and Demonstrations

SEC. 441. TRAINING.

Section 302 of the Rehabilitation Act of 1973 (29 U.S.C. 772) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (F), by striking the ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(H) personnel trained in providing assistive technology services.'';

(2) in subsection (b)(1)(B)(i), by striking ''or prosthetics and orthotics'' and inserting ''prosthetics and orthotics, rehabilitation teaching for the blind, or orientation and mobility instruction''; and

(3) in subsection (i), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 442. DEMONSTRATION AND TRAINING PROGRAMS.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) in subsection (b)(5)(A)(i), by striking ''special projects'' and inserting ''not less than 2 special projects'';

(2) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (i), respectively;

(3) by inserting after subsection (b) the following:

''(c) DEMONSTRATION PROJECTS FOR EMPLOYMENT OF STUDENTS WITH INTELLECTUAL DISABILITIES OR MENTAL ILLNESS.—

''(1) PURPOSE.—The purpose of this subsection is to support model demonstration projects to provide supported and competitive employment experiences for students with intellectual disabilities or students with mental illness, and training for personnel that work with students described in this paragraph, to enable the students to gain employment skills and experience that will promote effective transitions from school to postsecondary life, including employment.

''(2) AWARDS AUTHORIZED.—

''(A) COMPETITIVE AWARDS AUTHORIZED.—The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to eligible organizations described in paragraph (3), to enable the organizations to carry out demonstration projects described in paragraph (1).

''(B) DURATION.—The Secretary shall award grants, contracts, and cooperative agreements under this subsection for periods of 3 to 5 years.

''(3) ELIGIBLE ORGANIZATIONS.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an organization shall—

''(A) have expertise in providing employment and support services for individuals with intellectual disabilities or individuals with mental illness;

''(B) have a proven track record in successfully running supported employment programs;

''(C) provide employment services that are exclusively integrated community-based supported employment services;

''(D) have expertise in creating natural supports for employment;

''(E) have expertise in providing computer training for the targeted population for the project involved; and

''(F) have experience operating mentoring programs for the target population in middle and high schools for at least a decade in diverse communities throughout the Nation.

''(4) APPLICATIONS.—Each organization desiring to receive a grant, contract, or cooperative agreement under this subsection shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may require. Each application shall include—

''(A) a description of how the organization plans to carry out the activities authorized in this subsection through a demonstration project;

''(B) a description of how the organization will evaluate the project;

''(C) a description of how the organization will disseminate information about the activities and the impact of the activities on the lives of students served by the project; and

''(D) a description of how the organization will coordinate activities with any other relevant service providers in the locality where the organization is based, including federally supported independent living centers.

''(5) AUTHORIZED ACTIVITIES.—An organization that receives a grant, contract, or cooperative agreement under this subsection shall use the funds made available through the grant, contract, or cooperative agreement to carry out 1 or more of the following activities for individuals, ages 14 through 21, who are students with intellectual disabilities or students with mental illness:

''(A) PROVIDING SUPPORTED AND COMPETITIVE EMPLOYMENT EXPERIENCES.—The development of innovative and effective supported and competitive employment experiences after school, on weekends, and in the summer, utilizing natural supports that lead to competitive high-paying jobs.

''(B) PROVIDING TRAINING TO SCHOOL AND TRANSITION PERSONNEL.—The development and deployment of experts to work with transition programs (including personnel working with students on transition) so that personnel from the programs develop skills needed to train students with intellectual disabilities or students with mental illness to be successful in competitive employment in a range of settings, including office settings. The training shall include training for the personnel in providing instruction to students in computer skills, office skills, interview etiquette, and appropriate social behavior required for successful long-term employment in professional environments.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007 through 2011.

''(d) DEMONSTRATION PROJECT FOR EMPLOYMENT OF INDIVIDUALS WHO ARE DEAF AND LOW FUNCTIONING.—

''(1) PURPOSE.—The purpose of this subsection is to support a model demonstration project to provide training and employment and support services for individuals who are deaf and low functioning to enable them to gain employment skills that will allow them to become employed and economically self-sufficient.

''(2) DEFINITION.—

''(A) IN GENERAL.—In this subsection, the term 'individual who is deaf and low functioning' means an individual who has been deaf from birth or very early childhood, reads at or below the second grade level, has little or no intelligible speech, and lacks a secondary school diploma or its recognized equivalent.

''(B) SECONDARY DISABILITIES.—Such term may include an individual with a secondary disability.

''(3) GRANTS AUTHORIZED.—

''(A) COMPETITIVE GRANTS AUTHORIZED.—The Secretary may award grants to State agencies, other public agencies or organizations, or not-for-profit organizations with expertise in providing training and employment and support services for individuals who are deaf and low functioning to support model demonstration projects.

''(B) DURATION.—Grants under this subsection shall be awarded for a period not to exceed 5 years.

''(4) AUTHORIZED ACTIVITIES.—

''(A) DEVELOPING A COMPREHENSIVE TRAINING PROGRAM.—Each grant recipient under this subsection shall develop an innovative, comprehensive training program for individuals who are deaf and low functioning that can be implemented at multiple training locations through such means as distance learning and use of advanced technology, as appropriate. Such training program shall be developed to maximize the potential for replication of the program by other training providers.

''(B) IMPLEMENTATION.—Each grant recipient under this subsection shall implement the comprehensive training program developed under subparagraph (A) as soon as feasible. Such training shall provide instruction on the job and the social skills necessary for successful long-term employment of individuals who are deaf and low functioning.

''(C) ESTABLISHING A POST-TRAINING PROGRAM OF EMPLOYMENT AND SUPPORT SERVICES.—Each grant recipient under this subsection shall implement employment and

support services to assist individuals who complete the training program under subparagraph (A) in securing employment and transitioning to the workplace, for a period of not less than 90 days subsequent to placement in the employment.

''(5) APPLICATIONS.—Each entity desiring to receive a grant under this subsection for a model demonstration project shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require including—

''(A) a description of how the applicant plans to address the activities authorized under this subsection;

''(B) a description of the evaluation plan to be used in the model demonstration project;

''(C) a description of how the applicant will disseminate information about the training program developed and the results of the project; and

''(D) a description of how the entity will coordinate activities with any other relevant service providers or entities providing training and employment and support services for individuals who are deaf and low functioning.

''(6) MANDATED EVALUATION AND DISSEMINATION ACTIVITIES.—

''(A) ANNUAL REPORT.—Not later than 2 years after the date on which a grant under this subsection is awarded and annually thereafter, the grant recipient shall submit to the Commissioner a report containing information on—

''(i) the number of individuals who are participating in the demonstration project funded under this subsection;

''(ii) the employment and other skills being taught in the project;

''(iii) the number of individuals participating in the project that are placed in employment;

''(iv) the job sites in which those individuals are placed and the type of jobs the individuals are placed in; and

''(v) the number of individuals who have dropped out of the project and the reasons for their terminating participation in the project.

''(B) EVALUATION OF THE PROJECT.—Each grant recipient under this subsection shall implement the evaluation plan approved in its application for determining the results of the project within the timeframe specified in, and following the provisions of, the approved application.

''(C) PARTICIPANT EVALUATION PROCESS; FINAL EVALUATION.—In the final year of the project, the grant recipient will prepare and submit to the Commissioner a final evaluation report of the results of the model demonstration project containing—

''(i) information on—

''(I) the number of individuals who participated in the demonstration project;

''(II) the number of those individuals that are placed in employment;

''(III) the job sites in which those individuals were placed and the type of jobs the individuals were placed in;

''(IV) the number of those individuals who have dropped out of the project and the reasons for their terminating participation in the project; and

''(V) the number of those individuals who participated in the project and who remain employed as of 2 months prior to the date on which the final report is submitted to the Secretary;

''(ii) a written analysis of the project, including both the strengths and weaknesses of the project, to assist other entities in replicating the training program developed through the project; and

''(iii) such other information as the Secretary determines appropriate.

''(D) DISSEMINATION.—Not later than 5 years after the date on which a grant is awarded under this subsection, the evaluation report containing results of activities funded by such grant shall be disseminated to designated State agencies, school systems providing instruction to students who are individuals who are deaf and low functioning, supported employment providers, postsecondary vocational training programs, employers, the Social Security Administration, and other interested parties.

''(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for fiscal year 2006 and such sums as may be necessary for each of fiscal years 2007 through 2011.

''(e) TRAINING AND TECHNICAL ASSISTANCE CENTER TO PROMOTE HIGH-QUALITY EMPLOYMENT OUTCOMES FOR INDIVIDUALS RECEIVING SERVICES FROM DESIGNATED STATE AGENCIES.—

''(1) IN GENERAL.—The Commissioner shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

''(A) responds to State-specific information requests concerning high-quality employment outcomes, from designated State agencies funded under title I, including—

''(i) requests for information on the expansion of self-employment, business ownership, and business development opportunities, and other types of entrepreneural employment opportunities for individuals with disabilities;

''(ii) requests for information on the expansion and improvement of transition services to facilitate the transition of students with disabilities from school to postsecondary life, including employment;

''(iii) requests for examples of policies, practices, procedures, or regulations, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

''(iv) requests for information on effective approaches to enhance informed choice and a consumer-directed State vocational rehabilitation system;

''(v) requests for assistance developing corrective action plans;

''(vi) requests for assistance in developing and implementing effective data collection and reporting systems that measure the outcomes of the vocational rehabilitation services, and preparing reports for the Commissioner as described in section 106(b)(1); and

''(vii) requests for information on effective approaches that enhance employment outcomes for individuals with disabilities, including conducting outreach and forming partnerships with business and industry; and

''(B) provides State-specific, regional, and national training and technical assistance concerning vocational rehabilitation services and related information to designated State agencies, including—

''(i) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect vocational rehabilitation programs authorized under title I;

''(ii) enabling the designated State agencies to coordinate training and data collection efforts with one-stop centers established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e));

''(iii) enabling the designated State agencies to provide information on how the vocational rehabilitation programs authorized under title I can provide technical assistance to the one-stop centers on making programs offered through the centers physically and programmatically accessible to individuals with disabilities;

''(iv) sharing evidence-based and promising practices among the vocational rehabilitation programs;

''(v) maintaining an accessible website that includes links to—

''(I) the vocational rehabilitation programs;

''(II) appropriate Federal departments and agencies, and private associations;

''(III) State assistive technology device and assistive technology service demonstration programs, device loan programs, device reutilization programs, alternative financing systems, or State financing activities, operated through, or independently of, comprehensive statewide programs of technology-related assistance carried out under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003), telework programs, and other programs that provide sources of funding for assistive technology devices; and

''(IV) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities;

''(vi) enhancing employment outcomes for individuals with mental illness and individuals with cognitive disabilities;

''(vii) convening experts from the vocational rehabilitation programs to discuss and make recommendations with regard to the employment of individuals with disabilities and national emerging issues of importance to individuals with vocational rehabilitation needs;

''(viii) enabling the designated State agencies to provide practical information on effective approaches for business and industry to use in employing individuals with disabilities, including provision of reasonable accommodations;

''(ix) providing information on other emerging issues concerning the delivery of publicly funded employment and training services and supports to assist individuals with disabilities to enter the workforce, achieve improved outcomes, and become economically self-sufficient; and

''(x) carrying out such other activities as the Secretary may require.

''(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this subsection, an entity shall have (or agree to award a grant or contract to an entity that has)—

''(A) experience and expertise in administering vocational rehabilitation services;

''(B) documented experience with and knowledge about self-employment, business ownership, business development, and other types of entrepreneural employment opportunities and outcomes for individuals with disabilities, providing transition services for students with disabilities, and assistive technology; and

''(C) the expertise necessary to identify the additional data elements needed to provide comprehensive reporting of activities and outcomes of the vocational rehabilitation programs authorized under title I, and experience in utilizing data to provide annual reports.

''(3) COLLABORATION.—In developing and providing training and technical assistance under this subsection, a recipient of a grant, contract, or cooperative agreement under this subsection shall collaborate with other organizations, in particular—

''(A) agencies carrying out vocational rehabilitation programs under title I and national organizations representing such programs;

''(B) organizations representing individuals with disabilities;

''(C) organizations representing State officials and agencies engaged in the delivery of assistive technology;

''(D) relevant employees from Federal departments and agencies, other than the Department of Education;

''(E) representatives of businesses;

''(F) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services; and

''(G) family members, guardians, advocates, and authorized representatives of such individuals.'';

(4) by inserting after subsection (g), as redesignated by paragraph (2), the following:

''(h) ACCESS TO TELEWORK.—

''(1) DEFINITION OF TELEWORK.—In this subsection, the term 'telework' means work from home and other telework sites with the assistance of a computer and with reasonable accommodations, including the necessary equipment to facilitate successful work from home and other telework sites.

''(2) AUTHORIZATION OF PROGRAM.—The Commissioner is authorized to make grants to States and governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay for the Federal share of the cost of establishing or expanding a telework program.

''(3) APPLICATION.—A State or Indian tribe that desires to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall establish or expand a telework program that shall provide assistance through loans or other alternative financing mechanisms to individuals with disabilities. The State or Indian tribe shall provide the assistance through the program to enable such individuals to purchase computers or other equipment, including adaptive equipment, to facilitate access to employment and enhance employment outcomes by providing the individual with the opportunity—

''(i) to work from home or other telework sites so that such individuals are able to telework; or

''(ii) to become self-employed on a full-time or part-time basis from home or other telework sites.

''(B) DEVELOPMENT OF TELEWORK OPPORTUNITIES AND BUSINESS PLANS.—A State or Indian tribe that receives a grant under this subsection may use not more than 10 percent of the grant award to develop telework opportunities with employers and assist in the development of business plans for individuals with disabilities interested in self-employment, before such individuals apply for assistance through the telework program.

''(C) SELF EMPLOYMENT.—A State or Indian tribe that receives a grant under this subsection shall enter into cooperative agreements with small business development centers for the development of business plans as described in section 103(a)(13) for individuals described in subparagraph (B), and provide assurances that the State or Indian tribe will, through plans to achieve self-support, vocational rehabilitation services, or other means, identify ways for the individuals described in subparagraph (B) to pay for the development of business plans, before such individuals apply for assistance through the telework program.

''(D) DEFINITIONS.—In this paragraph:

''(i) PLAN TO ACHIEVE SELF-SUPPORT.—The term 'plan to achieve self-support' means a plan described in sections 416.1180 through 416.1182 of title 20, Code of Federal Regulations (or any corresponding similar regulation or ruling).

''(ii) SMALL BUSINESS DEVELOPMENT CENTER.—The term 'small business development center' means a center established under section 21 of the Small Business Act (15 U.S.C. 648).

''(5) FEDERAL SHARE.—The Federal share of the cost of establishing or expanding a telework program under this section shall be 10 percent of the cost.

''(6) EXISTING GRANT RECIPIENTS.—An entity that receives a grant under the Access to Telework Fund Program under subsection (b) for a fiscal year may use the funds made available through that grant for that fiscal year in accordance with this subsection rather than subsection (b).

''(7) ANNUAL REPORT.—

''(A) IN GENERAL.—A State or Indian tribe that receives a grant under this subsection shall prepare and submit an annual report to the Commissioner.

''(B) CONTENTS.—The report under subparagraph (A) shall include the following:

''(i) Information on the characteristics of each individual with a disability that receives assistance through a loan or other alternative financing mechanism under the program, including information about the individual such as the following:

''(I) Age.

''(II) Ethnicity.

''(III) Employment status at the time of application for assistance through a loan or other alternative financing mechanism under this subsection.

''(IV) Whether the individual attempted to secure financial support from other sources to enable the individual to telework and, if so, a description of such sources.

''(V) Whether the individual is working and, if so, whether the individual teleworks, the occupation in which the individual is working, the hourly salary the individual receives, and the hourly salary of the individual prior to receiving assistance through a loan or other alternative financing mechanism under the program.

''(VI) Whether the individual has repaid assistance from the loan or other alternative financing mechanism received under the program, is in repayment status, is delinquent on repayments, or has defaulted on the assistance from the loan or other alternative financing mechanism.

''(ii) An analysis of the individuals with disabilities that have benefited from the program.

''(iii) Any other information that the Commissioner may require.''; and

(5) in subsection (i), as redesignated by paragraph (2)—

(A) by striking ''this section'' and inserting ''this section (other than subsections (c) and (d))''; and

(B) by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 443. DISABILITY CAREER PATHWAYS PROGRAM.

Section 303 of the Rehabilitation Act of 1973 (29 U.S.C. 773) is amended—

(1) by redesignating subsection (i) (as redesignated by section 442(2) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

''(i) GRANTS FOR DISABILITY CAREER PATHWAYS PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

''(B) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a center for independent living funded under subtitle C of title VII.

''(C) COVERED INSTITUTION.—The term 'covered institution' means—

''(i) a secondary school; and

''(ii) in the discretion of the eligible consortium involved, an institution of higher education.

''(D) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium described in paragraph (3)(A).

''(E) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

''(2) PURPOSE OF PROGRAM.—The Commissioner may establish a Disability Career Pathways program, through which the Commissioner may make grants, for periods of up to 5 years, to institutions of higher education that establish eligible consortia, to enable the consortia to develop and carry out training and education related to disability studies and leadership development. The consortia shall provide the training and education for the purpose of providing career pathways for students at a covered institution, in fields pertinent to individuals with disabilities, and particularly pertinent to the employment of individuals with disabilities.

''(3) APPLICATION.—To be eligible to receive a grant under this subsection on behalf of a consortium, an institution of higher education shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including information demonstrating—

''(A) that the institution of higher education has established a consortium of members that represent—

''(i) the institution of higher education;

''(ii) a community college;

''(iii) a secondary school;

''(iv) a center for independent living;

''(v) a designated State agency;

''(vi) a one-stop center established under section 121(e) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(e)); and

''(vii) the local business community;

''(B) the collaborative working relationships between the institution of higher education and the other members of the consortium, and describing the activities that each member shall undertake; and

''(C) the capacity and expertise of the institution of higher education—

''(i) to coordinate training and education related to disability studies and leadership development with educational institutions and disability-related organizations; and

''(ii) to conduct such training and education effectively.

''(4) DISTRIBUTION OF GRANTS.—In making grants under this subsection, the Commissioner shall ensure that the grants shall be distributed for a geographically diverse set of eligible consortia throughout all regions.

''(5) MANDATORY USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium shall ensure that the consortium shall use the grant funds to—

''(A) encourage interest in, enhance awareness and understanding of, and provide educational opportunities in, disability-related fields, and encourage leadership development among students at a covered institution, including such students who are individuals with disabilities;

''(B) enable the students at a covered institution to gain practical skills and identify work experience opportunities, including opportunities developed by the consortium in conjunction with the private sector, that benefit individuals with disabilities;

''(C) develop postsecondary school career pathways leading to gainful employment, the attainment of an associate or baccalaureate degree, or the completion of further coursework or a further degree, in a disability-related field;

''(D) offer credit-bearing, college-level coursework in a disability-related field to qualified students at a covered institution; and

''(E) ensure faculty and staff employed by the members are available to students at a covered institution for educational and career advising, and to teachers and staff at a covered institution for disability-related training.

''(6) PERMISSIBLE USES OF FUNDS.—An institution of higher education that receives a grant under this subsection on behalf of a consortium may permit the consortium to use the grant funds to assess the feasibility of developing or adapting disabilities studies curricula, including curricula with distance learning opportunities, for use at institutions of higher education.

''(7) CONSULTATION.—The consortium shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the consortium, concerning the program of education and training carried out by the consortium.

''(8) REVIEWS.—

''(A) ADVISORY COMMITTEE.—For an institution of higher education to be eligible to receive a grant under this subsection on behalf of a consortium, the consortium shall have an advisory committee that consists of members that represent the interests of individuals with disabilities, including—

''(i) a professional in the field of vocational rehabilitation;

''(ii) an individual with a disability or a family member of such an individual; and

''(iii) a representative of each type of entity or community represented on the consortium.

''(B) QUARTERLY REVIEWS.—The advisory committee shall meet at least once during each calendar quarter to conduct a review of the program of education and training carried out by the consortium. The committee shall directly advise the governing board of the institution of higher education in the consortium about the views and recommendations of the advisory committee resulting from the review.

''(9) ACCOUNTABILITY.—Every 2 years, the Commissioner shall—

''(A) using information collected from the reviews required in paragraph (8), assess the effectiveness of the Disability Career Pathways program carried out under this subsection, including assessing how many individuals were served by each eligible consortium and how many of those individuals received postsecondary education, or entered into employment, in a disability-related field; and

''(B) prepare and submit to Congress a report containing the results of the assessments described in subparagraph (A).''.

SEC. 444. MIGRANT AND SEASONAL FARMWORKERS.

Section 304(b) of the Rehabilitation Act of 1973 (29 U.S.C. 774(b)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 445. RECREATIONAL PROGRAMS.

Section 305 of the Rehabilitation Act of 1973 (29 U.S.C. 775) is amended—

(1) in subsection (a)(1)(B), by striking ''construction of facilities for aquatic rehabilitation therapy,''; and

(2) in subsection (b), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle D—National Council on Disability

SEC. 451. AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Rehabilitation Act of 1973 (29 U.S.C. 785) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle E—Rights and Advocacy

SEC. 461. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

Section 502(j) of the Rehabilitation Act of 1973 (29 U.S.C. 792(j)) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 462. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

Section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e) is amended—

(1) in subsection (c)(1)(A), by inserting ''a grant for'' after ''to provide'';

(2) in subsection (g)(2), by striking ''was paid'' and inserting ''was paid, except that program income generated from the amount paid to an eligible system shall remain available to such system until expended''; and

(3) in subsection (*l*), by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle F—Employment Opportunities for Individuals With Disabilities

SEC. 471. PROJECTS WITH INDUSTRY.

Section 611(a) of the Rehabilitation Act of 1973 (29 U.S.C. 795(a)) is amended—

(1) in paragraph (1), by inserting '', locally and nationally'' before the period at the end; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''local and national'' before ''Projects With Industry''; and

(B) in subparagraph (A)—

(i) in clause (iii), by striking ''and'' after the semicolon;

(ii) in clause (iv), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(v) coordinate activities with the Job Corps center industry councils established under section 154 of the Workforce Investment Act of 1998 (29 U.S.C. 2894);''.

SEC. 472. PROJECTS WITH INDUSTRY AUTHORIZATION OF APPROPRIATIONS.

Section 612 of the Rehabilitation Act of 1973 (29 U.S.C. 795a) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 473. SERVICES FOR INDIVIDUALS WITH SIGNIFICANT DISABILITIES AUTHORIZATION OF APPROPRIATIONS.

Section 628 of the Rehabilitation Act of 1973 (29 U.S.C. 795n) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle G—Independent Living Services and Centers for Independent Living

SEC. 481. STATE PLAN.

Section 704 of the Rehabilitation Act of 1973 (42 U.S.C. 795c) is amended by adding at the end the following:

''(o) PROMOTING FULL ACCESS TO COMMUNITY LIFE.—

''(1) IN GENERAL.—The plan shall describe how the State will provide independent living services that promote full access to community life for individuals with significant disabilities.

''(2) SERVICES.—The services shall include, as appropriate—

''(A) facilitating transitions of—

''(i) youth who are individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

''(ii) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

''(B) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

''(C) promoting home ownership among individuals with significant disabilities.''.

SEC. 482. STATEWIDE INDEPENDENT LIVING COUNCIL.

Section 705(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(b)) is amended—

(1) in paragraph (2), by striking subparagraph (C) and inserting the following:

''(C) in a State in which 1 or more projects provide services under section 121, not less than 1 representative of the directors of the projects.''; and

(2) by striking paragraph (5) and inserting the following:

''(5) CHAIRPERSON.—The Council shall select a chairperson from among the voting membership of the Council.''.

SEC. 483. INDEPENDENT LIVING SERVICES AUTHORIZATION OF APPROPRIATIONS.

Section 714 of the Rehabilitation Act of 1973 (29 U.S.C. 796e–3) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 484. PROGRAM AUTHORIZATION.

Section 721 of the Rehabilitation Act of 1973 (42 U.S.C. 796f) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) ALLOTMENTS TO STATES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADDITIONAL APPROPRIATION.—The term 'additional appropriation' means the amount (if any) by which the appropriation for a fiscal year exceeds the total of—

''(i) the amount reserved under subsection (b) for that fiscal year; and

''(ii) the appropriation for fiscal year 2003.

''(B) APPROPRIATION.—The term 'appropriation' means the amount appropriated to carry out this part.

''(C) BASE APPROPRIATION.—The term 'base appropriation' means the portion of the appropriation for a fiscal year that is equal to the lesser of—

''(i) an amount equal to 100 percent of the appropriation, minus the amount reserved under subsection (b) for that fiscal year; or

''(ii) the appropriation for fiscal year 2003.

''(2) ALLOTMENTS TO STATES FROM BASE APPROPRIATION.—After the reservation required by subsection (b) has been made, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount that bears the same ratio to the base appropriation as the amount the State received under this subsection for fiscal year 2003 bears to the total amount that all States received under this subsection for fiscal year 2003.

''(3) ALLOTMENTS TO STATES OF ADDITIONAL APPROPRIATION.—From any additional appropriation for each fiscal year, the Commissioner shall allot to each State whose State plan has been approved under section 706 an amount equal to the sum of—

''(A) an amount that bears the same ratio to 50 percent of the additional appropriation as the population of the State bears to the population of all States; and

''(B) 1/56 of 50 percent of the additional appropriation.''; and

(2) by adding at the end the following:

''(e) CARRYOVER AUTHORITY.—Notwithstanding any other provision of law—

''(1) any funds appropriated for a fiscal year to carry out a grant program under section 722 or 723, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year; and

''(2) any amounts of program income received by recipients under a grant program under section 722 or 723 in a fiscal year, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year, shall remain available for obligation and expenditure by such recipients during that succeeding fiscal year and the subsequent fiscal year.''.

SEC. 485. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

Section 722(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–1(c)) is amended—

(1) by striking ''grants'' and inserting ''grants for a fiscal year''; and

(2) by striking ''by September 30, 1997'' and inserting ''for the preceding fiscal year''.

SEC. 486. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

Section 723(c) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–2(c)) is amended—

(1) by striking ''grants'' and inserting ''grants for a fiscal year''; and

(2) by striking ''by September 30, 1997'' and inserting ''for the preceding fiscal year''.

SEC. 487. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

Section 725(b) of the Rehabilitation Act of 1973 (29 U.S.C. 796f–4(b)) is amended by adding at the end the following:

''(8) PROMOTING FULL ACCESS TO COMMUNITY LIFE.—

''(A) IN GENERAL.—The center shall provide independent living services that promote full access to community life for individuals with significant disabilities.

''(B) SERVICES.—The services shall include, as appropriate—

''(i) facilitating transitions of—

''(I) youth who are individuals with significant disabilities and have completed individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)) to postsecondary life, including employment; and

''(II) individuals with significant disabilities from nursing homes and other institutions, including institutions serving individuals with cognitive disabilities, to community-based residences;

''(ii) assisting individuals with significant disabilities at risk of entering institutions to remain in the community; and

''(iii) promoting home ownership among individuals with significant disabilities.''.

SEC. 488. CENTERS FOR INDEPENDENT LIVING AUTHORIZATION OF APPROPRIATIONS.

Section 727 of the Rehabilitation Act of 1973 (29 U.S.C. 796f–6) is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

SEC. 489. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

Chapter 2 of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796j et seq.) is amended—

(1) by redesignating sections 752 and 753 as sections 753 and 754, respectively; and

(2) by inserting after section 751 the following:

''SEC. 752. TRAINING AND TECHNICAL ASSISTANCE.

''(a) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year for which the funds appropriated to carry out this chapter exceed the funds appropriated to carry out this chapter for fiscal year 2003, the Commissioner shall first reserve from such excess, to provide training and technical assistance to designated State agencies for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of the funds appropriated to carry out this chapter for the fiscal year involved.

''(b) ALLOCATION.—From the funds reserved under subsection (a), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities that demonstrate expertise in the provision of services to older individuals who are blind to provide training and technical assistance with respect to planning, developing, conducting, administering, and evaluating independent living programs for older individuals who are blind.

''(c) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of designated State agencies that receive grants under section 753 regarding training and technical assistance needs in order to determine funding priorities for grants, contracts, and other arrangements under this section.

''(d) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this section, an entity shall submit an application to the Commissioner at such time, in such manner, containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require.

''(e) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this section may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such reserved funds are separately identified in the agreement for such grant or payment and are used for the purposes of this chapter.''.

SEC. 490. PROGRAM OF GRANTS.

Section 753 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended—

(1) by striking subsection (h);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively;

(3) in subsection (b), by striking ''section 753'' and inserting ''section 754'';

(4) in subsection (c)—

(A) in paragraph (1), by striking ''section 753'' and inserting ''section 754''; and

(B) in paragraph (2)—

(i) by striking ''subsection (j)'' and inserting ''subsection (i)''; and

(ii) by striking ''subsection (i)'' and inserting ''subsection (h)'';

(5) in subsection (g), by inserting '', or contracts with,'' after ''grants to'';

(6) in subsection (h), as redesignated by paragraph (2)—

(A) in paragraph (1), by striking ''subsection (j)(4)'' and inserting ''subsection (i)(4)''; and

(B) in paragraph (2)—

(i) in subparagraph (A)(vi), by adding ''and'' after the semicolon;

(ii) in subparagraph (B)(ii)(III), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (C); and

(7) in subsection (i), as redesignated by paragraph (2)—

(A) by striking paragraph (2) and inserting the following:

''(2) MINIMUM ALLOTMENT.—

''(A) STATES.—In the case of any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico, the amount referred to in paragraph (1)(A) for a fiscal year is the greater of—

''(i) $350,000;

''(ii) an amount equal to the amount the State, the District of Columbia, or the Commonwealth of Puerto Rico received to carry out this chapter for fiscal year 2003; or

''(iii) an amount equal to ⅓ of 1 percent of the amount appropriated under section 754, and not reserved under section 752, for the fiscal year and available for allotments under subsection (a).

''(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the amount referred to in paragraph (1)(A) for a fiscal year is $60,000.'';

(B) in paragraph (3)(A), by striking ''section 753'' and inserting ''section 754, and not reserved under section 752,''; and

(C) in paragraph (4)(B)(i), by striking ''subsection (i)'' and inserting ''subsection (h)''.

SEC. 491. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND AUTHORIZATION OF APPROPRIATIONS.

Section 754 of the Rehabilitation Act of 1973, as redesignated by section 489, is amended by striking ''fiscal years 1999 through 2003'' and inserting ''fiscal years 2006 through 2011''.

Subtitle H—Miscellaneous

SEC. 495. HELEN KELLER NATIONAL CENTER ACT.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 205(a) of the Helen Keller National Center Act (29 U.S.C. 1904(a)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

(b) HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT FUND.—The first sentence of section 208(h) of the Helen Keller National Center Act (29 U.S.C. 1907(h)) is amended by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

TITLE V—TRANSITION AND EFFECTIVE DATE

SEC. 501. TRANSITION PROVISIONS.

The Secretary of Labor shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles I and III of this Act. The Secretary of Education shall, at the discretion of the Secretary, take such actions as the Secretary determines to be appropriate to provide for the orderly implementation of titles II and IV of this Act.

SEC. 502. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

Mr. KENNEDY. Mr. President, It is a privilege to join my colleagues in introducing this bipartisan bill to reauthorize the Workforce Investment Act and increase the opportunities for workers to obtain the services and training they need to hold good jobs in the years ahead.

This bill strengthens the current One-Stop system we established in 1998, so that many more people can be served. The bill creates stronger partnerships with businesses to recruit new workers, collaborate in training current workers, improve career ladder opportunities, and work with local leaders to meet the changing needs of their community.

The One-Stop system is needed more than ever now, to serve hard-working Americans who have lost their jobs

through no fault of their own as we struggle to rebuild our economy and adjust to the new century and the globalization forces that are transforming our society and our workforce. Current employees, especially the growing number of manufacturing workers, need effective training to be eligible for the available jobs in their area.

We have also worked to remove the sequencing of services for persons entering the workforce who face barriers to employment. Providers can move adults directly to skills training, or create training programs that include literacy and language skills as well, so that job training is not delayed.

The bill also encourages local providers to continue the training programs until employees can be self-sufficient. For those who start on the minimum wage, the support system should be there to help them qualify for the better-paying jobs that will enable them to support their families. Some men and women may obtain their first job through the system, and continue to participate as they move up their career ladders.

The bill will also help young people. Last summer, the youth unemployment rate rose to 17 percent and we were all acutely aware of the special challenges that young workers face in this economy. The youth program will continue to work with both in-school and out-of-school young men and women to help them obtain the education and the real job experience they need to be competitive.

The bill pays particular attention to the needs of people with disabilities. Their access to the program is essential if the system is to be truly universal. It's unacceptable today that hundreds of thousands of people with disabilities are unable to find employment. Workforce training programs must coordinate with vocational rehabilitation programs to provide many more opportunities for those with physical and mental challenges.

For over thirty years, since the Vocational Rehabilitation Act was first enacted in 1973, state vocational rehabilitation programs have brought new hope to individuals with disabilities throughout the country, so that they can reach their full potential and actively participate in their communities.

Through vocational rehabilitation, individuals with disabilities can obtain the training, counseling, support and job opportunities they need in order to have independent, productive, and fulfilling lives. For millions of these Americans, vocational rehabilitation is the difference between dependence and independence, between lost potential and a productive career.

In 1998, vocational rehabilitation became part of the state-wide workforce system in each state. This reauthorization will strengthen that partnership, so that many more working-age individuals with disabilities, even those with the most significant challenges, have realistic opportunities to obtain the services and support they need to reach their employment goals.

The legislation also strengthens other aspects of independent living, so that students and adults with disabilities can receive the services and support they need for community-based living.

Our goal in this reauthorization is to see that the talents and strengths of all individuals with disabilities are recognized, enhanced, and fairly rewarded in communities and workplaces across the nation.

The bill also contains the Adult Literacy Act, which funds critical programs for states to assist adults in obtaining the basic reading, writing, numeracy and English language skills that they need to be full participants in the workplace and in society.

We all know that education is the great equalizer. Improving basic literacy is a key component of job training. Large numbers of persons are on waiting lists across the country to be served under this program—25,000 people in Massachusetts alone—and we need to do more to serve adults who recognize their need to improve these skills in order to improve their lives.

I commend my colleagues and the many organizations representing governors, mayors, county officials, youth, women, and low-income persons who were so actively involved in preparing this legislation. We have tried to listen carefully to the many leaders who have practical experience in implementing these laws.

I look forward to continuing this bipartisan effort and to the early enactment of this needed legislation.

By Mr. SMITH (for himself, Mrs. LINCOLN, and Mr. GRASSLEY):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit; to the Committee on Finance.

Mr. SMITH. Mr. President, water and energy are precious resources that we must manage as efficiently as possible. That is why I am joining with my colleagues Senator LINCOLN and Finance Chairman GRASSLEY to introduce the ''Resource Efficient Appliance Incentives Act of 2005.'' This bill would provide for manufacturers' tax credits of varying levels for certain energy and water efficient home appliances.

Under this bill, for the first time, water efficiency is included in the eligibility criteria for the tax credits for clothes washers. This bill provides graduated credits to appliance manufacturers. The more efficient the dishwasher, clothes washer or refrigerator, the higher the credit.

To spur increased production, the bill provides that these tax credits would apply only to production that exceeds historical production levels, and requires a three-year rolling average to calculated this production baseline. The bill only applies to appliances manufactured in the United States. This will encourage innovation and investment in domestic manufacturing facilities, which employ about 95,000 Americans.

Energy savings from this bill would be significant. Super-energy efficient and water conserving clothes washers would have to use at least 65 percent less energy than the 2004 federal standard to qualify for the higher credit. Refrigerators must exceed the 2001 energy conservation standards for comparably sized models by at least 15 percent to receive a credit under this bill.

This bill will not only save energy, and reduce the consumers' energy bills over the life of the appliance. It is estimated that, over twenty years, the credit would reduce the amount of water used to wash clothes by approximately a trillion gallons, the amount used in two years by a city the size of Phoenix, Arizona.

In several parts of the country, development is constrained by the lack of good quality water and water infrastructure. Having dealt with the water crisis in the Klamath Basin in 2001, when 1,200 farmers and ranchers had their irrigation water cut off, I can tell you firsthand that the conflicts between competing human and environmental needs are real and are growing.

As Benjamin Franklin observed, ''When the well is dry, we know the worth of water.'' In many parts of the arid west, the well is running dry on a regular basis. The 10-year drought in the Colorado River Basin, which has seen relief this year, had produced the lowest flows on record last year, straining an important resource for millions of people. The Columbia River Basin has also experienced below average flows in recent years.

The daily per capita water use around the world varies significantly. The U.N. Population Fund cites that, in the United States, we use an estimated 152 gallons per day per person, while in the United Kingdom they use 88 gallons. Africans use 12 gallons a day.

According to the Rocky Mountain Institute, 47 percent of all water supplied to communities in the United States by public and private utilities is for residential water use. Of that, clothes washers account for approximately 22 percent of residential use, while dishwashers account for about 3 percent.

I firmly believe that we can use technology to improve our environmental stewardship. Water efficiency can extend our finite water supplies, and also reduce the amount of wastewater that communities must treat.

I would urge my colleagues to join me in cosponsoring this important bill to provide incentives for water and energy efficient residential appliances. I ask unanimous consent that the text of legislation be printed in the RECORD.

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

S. 1022

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 ''Resource Efficient Appliance Incentives Act of 2005.''.

SEC. 2. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45J. ENERGY EFFICIENT APPLIANCE CREDIT.

''(a) GENERAL RULE.—

''(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

''(2) CREDIT AMOUNTS.—The credit amount determined for any type of qualified energy efficient appliance is—

''(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

''(B) the eligible production for such type.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (a)—

''(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

''(i) is manufactured in calendar year 2006 or 2007, and

''(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

''(B) CLOTHES WASHERS.—The applicable amount is—

''(i) $50, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2005, and

''(II) has an MEF of at least 1.42,

''(ii) $100, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2005, 2006, or 2007, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007, and

''(iii) the energy and water savings amount, in the case of a clothes washer which—

''(I) is manufactured in calendar year 2008, 2009, or 2010, and

''(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2010.

''(C) REFRIGERATORS.—

''(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

''(I) is manufactured in calendar year 2005 or 2006, and

''(II) consumes at least 15 percent less kilowatt hours per year than the 2001 energy conservation standard.

''(ii) 20 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 20 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

''(I) $125 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

''(II) $100 for a refrigerator which is manufactured in calendar year 2008.

''(iii) 25 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

''(I) $175 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

''(II) $150 for a refrigerator which is manufactured in calendar year 2008, 2009, or 2010.

''(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

''(A) IN GENERAL.—The energy savings amount is the lesser of—

''(i) the product of—

''(I) $3, and

''(II) 100 multiplied by the energy savings percentage, or

''(ii) $100.

''(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

''(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

''(ii) the EF required by the Energy Star program for dishwashers in 2007.

''(3) ENERGY AND WATER SAVINGS AMOUNT.—For purposes of paragraph (1)(B)(iii)—

''(A) IN GENERAL.—The energy and water savings amount is the lesser of—

''(i) the product of—

''(I) $10, and

''(II) 100 multiplied by the energy and water savings percentage, or

''(ii) $200.

''(B) ENERGY AND WATER SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy and water savings percentage is the average of the MEF savings percentage and the WF savings percentage.

''(C) MEF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the MEF savings percentage is the ratio of—

''(i) the MEF required by the Energy Star program for clothes washers in 2010 minus the MEF required by the Energy Star program for clothes washers in 2007, to

''(ii) the MEF required by the Energy Star program for clothes washers in 2010.

''(D) WF SAVINGS PERCENTAGE.—For purposes of this subparagraph, the WF savings percentage is the ratio of—

''(i) the WF required by the Energy Star program for clothes washers in 2010 minus the WF required by the Energy Star program for clothes washers in 2007, to

''(ii) the WF required by the Energy Star program for clothes washers in 2010.

''(c) ELIGIBLE PRODUCTION.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

''(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

''(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

''(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

''(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

''(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

''(3) SPECIAL RULE FOR 2005 PRODUCTION.—For purposes of determining eligible production for calendar year 2005—

''(A) only production after the date of enactment of this section shall be taken into account under paragraphs (1)(A) and (2)(A), and

''(B) the amount taken into account under paragraphs (1)(B) and (2)(B) shall be an amount which bears the same ratio to the amount which would (but for this paragraph) be taken into account under such paragraph as—

''(i) the number of days in calendar year 2005 after the date of enactment of this section, bears to

''(ii) 365.

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1)(A),

''(2) clothes washers described in subsection (b)(1)(B)(i),

''(3) clothes washers described in subsection (b)(1)(B)(ii),

''(4) clothes washers described in subsection (b)(1)(B)(iii),

''(5) refrigerators described in subsection (b)(1)(C)(i),

''(6) refrigerators described in subsection (b)(1)(C)(ii)(I),

''(7) refrigerators described in subsection (b)(1)(C)(ii)(II),

''(8) refrigerators described in subsection (b)(1)(C)(iii)(I), and

''(9) refrigerators described in subsection (b)(1)(C)(iii)(II).

''(e) LIMITATIONS.—

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

''(2) AMOUNT ALLOWED FOR CERTAIN APPLIANCES.—

''(A) IN GENERAL.—In the case of appliances described in subparagraph (C), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

''(B) ELECTION TO INCREASE ALLOWABLE CREDIT.—In the case of any taxpayer who makes an election under this subparagraph—

''(i) subparagraph (A) shall be applied by substituting '$25,000,000' for '$20,000,000', and

''(ii) the aggregate amount of the credit allowed under subsection (a) with respect to such taxpayer for any taxable year for appliances described in subparagraph (C) and the additional appliances described in subparagraph (D) shall not exceed $50,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

''(C) APPLIANCES DESCRIBED.—The appliances described in this subparagraph are—

''(i) clothes washers described in subsection (b)(1)(B)(i), and

''(ii) refrigerators described in subsection (b)(1)(C)(i).

''(D) ADDITIONAL APPLIANCES.—The additional appliances described in this subparagraph are—

''(i) refrigerators described in subsection (b)(1)(C)(ii)(I), and

''(ii) refrigerators described in subsection (b)(1)(C)(ii)(II).

''(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection

(a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(f) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1)(A),

''(B) any clothes washer described in subsection (b)(1)(B), and

''(C) any refrigerator described in subsection (b)(1)(C).

''(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

''(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

''(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(5) MEF.—The term 'MEF' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

''(6) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

''(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

''(8) PRODUCED.—The term 'produced' includes manufactured.

''(9) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

''(g) SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

''(2) CONTROLLED GROUP.—

''(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.''.

(b) CONFORMING AMENDMENT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the energy efficient appliance credit determined under section 45J(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45J. Energy efficient appliance credit''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

By Mr. DODD (for himself, Ms. SNOWE, Mr. DURBIN, and Mr. BURNS):

S. 1023. A bill to provide for the establishment of a Digital Opportunity Investment Trust; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. 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. 1023

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 ''Digital Opportunity Investment Trust Act''.

SEC. 2. ORGANIZATION.

(a) IN GENERAL.—There is established a nonprofit corporation to be known as the ''Digital Opportunity Investment Trust'' (referred to in this Act as the ''Trust'') which shall not be an agency or establishment of the United States Government. The Trust shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(b) FUNDING.—

(1) IN GENERAL.—There is established in the Treasury a separate fund to be known as the ''Digital Opportunity Investment Trust Fund'' (referred to in this Act as the ''Trust Fund''). The Trust Fund shall contain such amounts as are transferred to the Trust Fund under paragraph (2) and any interest earned on the investment of amounts in the Trust Fund under section 4.

(2) TRANSFER OF FUNDS.—The Secretary of the Treasury shall in each fiscal quarter through the last quarter of fiscal year 2028, transfer from the General Fund of the Treasury to the Trust Fund, an amount equal to 30 percent of the proceeds received by the Federal Government during the preceding fiscal quarter from any use (including any auction, sale, fee derived from, or other revenue generated from) of the electromagnetic spectrum conducted under section 309 (or any other section) of the Communications Act of 1934 (47 U.S.C. 309 (j)) (or any other provision of Federal law) after September 30, 2007.

(c) BOARD OF DIRECTORS; FUNCTIONS, AND DUTIES.—

(1) BOARD.—

(A) IN GENERAL.—A board of directors of the Trust (referred to in this Act as the ''Board'') shall be established to oversee the administration of the Trust. Such Board shall consist of 9 members to be appointed by the President, by and with the advice and consent of the Senate, who—

(i) reflect representation from the public and private sectors;

(ii) are not regular full-time employees of the Federal Government;

(iii) are eminent in such fields as telecommunications including public television, information technology, labor and workforce development, education, cultural and civic affairs, or the arts and humanities;

(iv) shall provide, as nearly as practicable, a broad representation of various regions of the United States, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Trust; and

(v) shall be responsible for establishing the priorities and funding obligations of the Trust.

(B) INITIAL MEMBERS.—The initial members of the Board shall serve as incorporators of the Trust and shall take whatever actions are necessary to establish the Trust under the District of Columbia Nonprofit Corporation Act (D.C. Code, section 29–501 et seq.).

(C) RECOMMENDATIONS.—The Majority Leader of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall jointly submit to the President recommendations of individuals, selected from nominations submitted to Congress from associations representing the fields of science and learning relative to the work of the Board, to serve as members of the Board.

(D) TERMS OF APPOINTMENT.—

(i) DATE.—Members of the Board shall be appointed not later than 90 days after the date of enactment of this Act.

(ii) TERMS.—

(I) IN GENERAL.—Except as provided in subclause (II), each member of the Board shall be appointed for a 6-year term with terms set to expire in non-Federal election years.

(II) STAGGERED TERMS.—With respect to the initial members of the Board—

(aa) 3 members shall serve for a term of 6 years;

(bb) 3 members shall serve for a term of 4 years; and

(cc) 3 members shall serve for a term of 2 years.

(iii) VACANCIES.—A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

(E) CHAIR AND VICE-CHAIR.—

(i) SELECTION.—The Board shall select, from among the members of the Board, an individual to serve for a 2-year term as Chair of the Board and an individual to serve for a 2-year term as vice-Chair of the Board.

(ii) CONSECUTIVE TERMS.—An individual may not serve for more than 2 consecutive terms as Chair of the Board.

(F) MEETINGS.—

(i) FIRST MEETING.—Not later than 30 days after the date on which all of the members of the Board have been confirmed by the Senate, the Chair of the Board shall call the first meeting of the Board.

(ii) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(G) BOARD PERSONNEL MATTERS.—

(i) COMPENSATION.—Members of the Board shall not receive compensation, allowances, or benefits by reason of the members' service on the Board.

(ii) TRAVEL EXPENSES.—The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(H) SOLICITATION OF ADVICE.—The Board from time to time may solicit advice from—

(i) the Secretary of Health and Human Services;

(ii) the Secretary of Commerce;

(iii) the Secretary of Education;

(iv) the Secretary of Agriculture;

(v) the Secretary of Defense;

(vi) the Secretary of Energy;

(vii) the Secretary of Homeland Security;

(viii) the Secretary of the Interior;

(ix) the Secretary of Labor;
(x) the Administrator of the National Aeronautics and Space Administration;
(xi) the Director of the National Security Agency;
(xii) the Director of the National Science Foundation;
(xiii) the Director of the Office of Science and Technology Policy;
(xiv) the Director of the National Endowment for the Arts;
(xv) the Director of the National Endowment for the Humanities;
(xvi) the Director of the Institute of Museum and Library Services;
(xvii) the Librarian of Congress; and
(xviii) the President and Chief Executive Officer of the Corporation for Public Broadcasting.

(2) DIRECTOR.—A majority of the members of the Board shall select a Director of the Trust who shall serve at the discretion of the Board and shall be responsible for instituting procedures to carry out the policies and priorities established by the Board, and for hiring all personnel of the Trust. The rate of compensation of the Director and personnel shall be fixed by the Board.

(d) TRUST FUND USES.—

(1) USES OF FUNDS.—To achieve the objectives of this Act, the Director of the Trust, after consultation with the Board, may use Trust funds—

(A) to support the digitization of collections and other significant holdings of the nation's universities, museums, libraries, public television stations, and other cultural institutions;

(B) to support basic and applied research, including demonstrations of innovative learning and assessment systems as well as the components and tools needed to create them;

(C) to use the research results developed under subparagraph (B) to create prototype applications designed to meet learning objectives in a variety of subject areas and designed for learners with many different educational needs, including—

(i) strengthening instruction in reading, science, mathematics, history, and the arts in elementary and secondary schools, community colleges, and other colleges and universities;

(ii) providing the training needed for people now in the workplace to advance in a constantly changing work environment; and

(iii) developing new applications for lifelong learning in non-traditional learning environments such as libraries, museums, senior and community centers, and public television and radio;

(D) to conduct assessments of legal, regulatory, and other issues that must be resolved to ensure rapid development and use of advanced learning technologies; and

(E) to coordinate and disseminate information about initiatives throughout the Federal Government that focus on uses of technology in education and learning.

(2) CONTRACTS AND GRANTS.—

(A) IN GENERAL.—In order to carry out the activities described in paragraph (1), the Director of the Trust, with the agreement of a majority of the members of the Board, may award contracts and grants to nonprofit public institutions (with or without private partners) and for-profit organizations and individuals.

(B) PUBLIC DOMAIN.—

(i) IN GENERAL.—The research and development properties and materials associated with a project in which a majority of the funding used to carry out the project is from a grant or contract under this Act shall be freely and nonexclusively available to the general public.

(ii) EXEMPTION.—The Director of the Trust may exempt specific projects from the requirement of clause (i) if the Director of the Trust and a majority of the members of the Board determine that the general public will benefit significantly in the long run due to the project not being freely and nonexclusively available to the general public.

(C) EVALUATION OF PROPOSALS.—To the extent practicable, proposals for such contracts or grants shall be evaluated on the basis of comparative merit by panels of experts who represent diverse interests and perspectives, and who are appointed by the Director of the Trust from recommendations from the fields served and the Board of Directors.

(3) COOPERATION.—The Director of the Trust, after consultation with the Board, may cooperate with business, industry, philanthropy, noncommercial education broadcast, television and radio licensees and permittees, and local and national public service institutions, including in activities that seek to enhance the work of such public service institutions by seeking new ways to put telecommunications and information technologies to work in their areas of interest.

SEC. 3. ACCOUNTABILITY AND REPORTING.

(a) REPORT.—

(1) IN GENERAL.—Not later than April 30 of each year, the Director of the Trust shall prepare a report for the preceding fiscal year that contains the information described in paragraph (2).

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a comprehensive and detailed report of the Trust's operations, activities, financial condition, and accomplishments, and such recommendations as the Director of the Trust determines appropriate; and

(B) a comprehensive and detailed inventory of funds distributed from the Trust Fund during the fiscal year for which the report is being prepared.

(3) STATEMENT OF THE BOARD.—Each report under paragraph (1) shall include a statement from the Board containing—

(A) a clear description of the plans and priorities of the Board for the subsequent 5-year period for expenditures from the Trust Fund; and

(B) an estimate of the funds that will be available for such expenditures from the Trust Fund.

(4) SUBMISSION TO THE PRESIDENT AND CONGRESS.—A report under this subsection shall be submitted to the President and the appropriate committees of Congress.

(b) TESTIMONY.—The Chair of the Board, other members of the Board, and the Director and principal officers of the Trust shall testify before the appropriate committees of Congress, upon request of such committees, with respect to—

(1) a report prepared under subsection (a)(1); and

(2) any other matter that such committees may determine appropriate.

SEC. 4. INVESTMENT OF TRUST FUNDS.

(a) IN GENERAL.—The Secretary of the Treasury, after consultation with the Board, shall invest the funds of the Trust Fund in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(b) EXPENDITURES.—

(1) IN GENERAL.—The Director of the Trust shall not undertake grant or contract activities under this Act until the Trust has received the interest or other proceeds from the investment of the Trust Funds for not less than 1 year's duration. Thereafter, upon Board approval of the annual budget of the Trust, the Director of the Trust may commence such grant or contract activities at the start of each fiscal year.

(2) OBLIGATION OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in awarding grants or contracts or making other expenditures under this Act, the Director of the Trust shall not obligate funds from the Trust that exceed the proceeds received from the investment of the funds in the Trust Fund during the preceding fiscal year.

(B) CARRY OVER.—Funds from the Trust Fund that are available for obligation for a fiscal year that are not obligated for such fiscal year shall remain available for obligation for the succeeding fiscal year.

SEC. 5. SPECIAL ACCOUNT FOR DISTRIBUTION TO PUBLIC TELEVISION STATIONS.

(a) RESERVATION.—An amount equivalent to 21 percent of the interest derived from the investment proceeds referred to in section 2(b)(2) shall be reserved in a special account within the Trust Fund for distribution on a regular basis to those noncommercial educational television broadcast stations (as defined in section 397(6) of the Communications Act of 1934 (47 U.S.C. 397(6)) that are qualified to receive grants from the Corporation for Public Broadcasting pursuant to section 396(k)(6)(B) of such Act (47 U.S.C. 396(k)(6)(B)) and to the Public Broadcasting Service in partnership with such stations.

(b) RESPONSIBILITY FOR DISTRIBUTION.—The Director of the Trust shall—

(1) through a special contract, designate the Corporation for Public Broadcasting as the sole agent responsible for the distribution of funds under this section; and

(2) transfer the funds referred to in subsection (a) to the Corporation for Public Broadcasting on a regular basis.

(c) GRANTS.—In making the distribution referred to in subsection (a), the Corporation for Public Broadcasting shall utilize a competitive grant application process that is governed by criteria that ensures that funds are directed to the creation of locally delivered digital education and learning services and ensures that a diversity of licensee types and geographic service areas are adequately served. The Corporation for Public Broadcasting shall develop such criteria in consultation with public television licensees, permitees, and representatives designated by their national organizations.

By Ms. LANDRIEU:

S. 1026. A bill to ensure that offshore energy development on the outer Continental Shelf continues to serve the needs of the United States, to create opportunities for new development and the use of alternative resources, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. LANDRIEU. Mr. President, today I rise to introduce legislation, The Stewardship for our Coasts and Opportunities for Reliable Energy Act—SCORE Act—which will ensure that offshore energy development on the Outer Continental Shelf—OCS—continues to serve our nation's needs, create opportunities for new development on the OCS as well as the use of alternative resources such as renewable energy.

Since the energy frontier of the OCS was officially opened to significant oil and gas exploration in 1953, no single region has contributed nearly as much to our Nation's energy production. Today, the OCS represents more than

25 percent of our Nation's natural gas production and more than 30 percent of our domestic oil production and it is estimated that 60 percent of the oil and natural gas still to be discovered in U.S. will come from the OCS.

An average of more than $5 billion in revenues from oil and gas production are returned to the federal treasury each year from the OCS—$145 billion since production began. That is the second biggest contributor of revenue to the Federal Treasury after income taxes.

But just as the Western frontier once represented a great unknown to our Nation's policymakers, the impact and reality of the OCS seems lost in a time warp. While much of the OCS has been off limits for decades, technological advancements have developed in that time to better target the resources and dramatically reduce the environmental footprint. These innovations will continue to allow crucial exploration and production to take place but in an environmentally responsible way. For example, we have produced three times as many resources on the OCS as we thought existed 30 years ago.

In fact, the Minerals Management Service—MMS—estimates that from 1985 to 2001, OCS offshore facilities and pipelines accounted for only 2 percent of the oil released into U.S. waters. In fact, 97 percent of OCS spills are one barrel or less in volume. Serving America's energy needs and being good stewards of the environment need not be mutually exclusive goals.

However, despite our technological prowess and responsible exploration, we have yet to fully realize the potential the OCS has to offer. Today only 2.5 percent of the 1.76 billion acres that make up the OCS are leased. Most of the Pacific Coast and the eastern Gulf of Mexico are off limits as is the entire Atlantic seaboard.

Almost all of the area on the OCS that is currently leased is in the Central and Western Gulf of Mexico, off the coasts of Louisiana and Texas, where 98 percent of total OCS production occurs. However, we cannot continue to take without giving something back in return. A significant portion of OCS revenues must be returned to the coastal producing states off whose coasts they are generated.

The Mineral Leasing Act of 1920 shares automatically with states 50 percent of revenues from mineral production on Federal lands within that State's boundaries. These funds are distributed to States automatically, outside the budget process and not subject to appropriations. In fiscal year 2004, the State of Wyoming received $564 million as a result of this law and the State of New Mexico received $365 million. However, there is no similar provision in law for coastal producing states to share federal oil and gas revenues generated on the OCS.

For both onshore and offshore production, the justification for sharing with the state is the same: the state serves as the platform which enables the Federal Government to support a basic element of our daily lives—turning on our lights, heating our homes and running our commuter trains. In light of the OCS' vital contribution to our Nation's energy needs, economy and national security, it seems only fair and logical that we should return a portion of these revenues to the few states that are providing this crucial supply of energy.

The SCORE Act would automatically distribute a significant portion of OCS revenues to the five coastal producing States without moratoria off their coasts Alaska, Texas, Louisiana, Mississippi and Alabama based on each state's production, with 35 percent of each State's allocation directed to coastal counties and parishes.

When Hurricane Ivan struck back in September of last year, it should have been a wake up call to us all. Although the storm did not hit Louisiana directly, its impact on the price and supply of oil and gas in this country could still be felt four months later. One can only imagine what the impact would have been had Ivan cut a more Western path in the Gulf. How many more hurricane seasons are we going to spend playing Russian roulette with our oil and gas supply?

Returning a portion of OCS revenues to coastal producing states is crucial to restoring and preserving the vital wetlands and the billions in energy investments they protect. It will also help further strengthen our national economic security by maintaining our current energy supply and continuing to provide the platform for us to go further in our quest to develop domestic resources while attempting to reduce our reliance on foreign energy supplies.

In addition to ensuring that the vital offshore energy development that has served our Nation's needs for 50 years can continue, the SCORE Act also seeks to establish opportunities for new development on the OCS.

The legislation would direct the Secretary of Interior to establish seaward lateral boundaries for all coastal States by regulation. Coastal States with a moratoria currently in place off their coasts would have the option, through their Governor with the consent of the State legislature, to explore the possibility of offshore energy development off their coasts.

These coastal States could petition the Secretary of Interior for a resource assessment of energy sources located within their seaward lateral boundaries. With these assessments in hand, the State legislature of the State could request that any or all of the area within their boundaries, but only beyond 20 miles from their coastline, be made available for leasing. If the Secretary permits leasing within the requesting State's boundary, the State qualifies to receive a portion of revenues generated from any production that takes place within their seaward lateral boundary.

Finally, SCORE would provide the opportunity for innovative, alternative uses of the OCS, including renewable energy projects such as wind, wave and solar. A portion of revenues from this production would be shared with the State off whose coastline the production took place.

Next week the Senate Energy and Natural Resources Committee, under the leadership of Chairman DOMENICI and Senator BINGAMAN, will begin marking up comprehensive energy legislation. I am hopeful that some aspects of the proposal I have laid out today will be included as part of the bill reported out of committee. I look forward to working with my colleagues on the Committee over the next few weeks to further discuss these concepts and make them a reality.

Quite simply, SCORE allows our country to continue to utilize the tremendous and vital natural resources of the OCS while also providing us the opportunity to further explore the unlimited potential of this vast frontier. It is time to base our decisions on modern successes rather than out-dated worries.

By Mrs. CLINTON (for herself and Ms. COLLINS):

S. 1028. A bill to amend title 10, United States Code, to enhance the protection of members of the Armed Forces and their spouses from unscrupulous financial services sales practices through increased consumer education, and for other purposes, to the Committee on Armed Services.

Mrs. CLINTON. Mr. President, today I am introducing the Military Personnel Financial Services Education Act of 2005. Senator COLLINS, my colleague on the Armed Services Committee, has agreed to cosponsor this legislation. This bill will directly address a problem that has plagued military servicemen and women for years: a lack of general knowledge about the insurance and other financial services available to them. This deficiency in information has led to many of our brave men and women in uniform being taken advantage of by unscrupulous companies that have targeted and preyed on junior members of our military.

Last year, a series of articles in the New York Times uncovered a serious problem: there were a number of companies using misleading sales practices to sell expensive life insurance policies to Iraq-bound recruits and other uniformed personnel. These articles led to investigations by the Department of Justice, reports by the GAO, and legislation by Congress. Earlier this year, I joined with Senator ENZI to introduce the Military Personnel Financial Services Protection Act. That legislation goes a long way toward tracking unscrupulous companies, and eliminating investment schemes which take advantage of our men and women in uniform.

But we also need to address our more fundamental responsibilities to our

servicemen and women, and their families, to ensure that we provide them with adequate financial education so that they can make informed decisions about their future.

This bill will require the Department of Defense to provide consumer education for members of the armed forces and their spouses. It instructs the Secretary of Defense to carry out a comprehensive education program for military members regarding public and private financial services, including life insurance and the marketing practices of these services, available to them. This education will be institutionalized in the initial and recurring training for members of the military.

This bill also requires that counseling services on these issues be made available, upon request, to members and their spouses. I think it is very important to include the spouses in this program, because we all know that investment decisions should be made as a family. Too many times, a military spouse has to make these decisions alone, while their husband or wife is deployed. This bill will require a permanent, trained counselor at military bases with at least 750 assigned personnel, and a part-time, equally capable counselor available at smaller bases with less than 750. By our calculations, this means about 230 installations will have full-time counselors.

Finally, regarding life insurance, this bill will take existing legislation and DoD policy one more step in the military member's favor. During counseling of members or spouses regarding life insurance, counselors must include information on the availability of Servicemembers' Group Life Insurance—SGLI—as well as other available products. It requires that any enlisted member in the grades of E1–E4 must provide confirmation that they have received counseling from their approved counselor or commander before entering into any new contract with a private sector life insurer. Our legislation will keep the current rule of a 7 day waiting period for allotments to take effect to facilitate time for counseling. Existing policies will not be impacted by our legislation.

I am pleased to be working on this issue with Senator COLLINS, my colleague on the Armed Services Committee, who has taken such a strong interest in ensuring proper financial education for our servicemembers.

In closing, I want to reiterate the importance of this bill to military families. If implemented, this legislation will ensure our military families are fully equipped to make informed decisions that will best meet their financial and insurance needs. In my view, this is a provision long overdue. Thank you.

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. 1028

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 ''Military Personnel Financial Services Education Act of 2005''.

SEC. 2. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 992. Consumer education: financial services

''(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

''(A) financial services that are available under law to members;

''(B) financial services that are routinely offered by private sector sources to members;

''(C) practices relating to the marketing of private sector financial services to members;

''(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

''(E) such other financial practices as the Secretary considers appropriate.

''(2) Training under this subsection shall be provided to members as—

''(A) a component of the members' initial entry training;

''(B) a component of each level of the members' professional development training that is required for promotion; and

''(C) a component of periodically recurring required training that is provided for the members at military installations.

''(3) The training provided at a military installation under paragraph (2)(C) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

''(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall provide counseling on financial services to each member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall, upon request, provide counseling on financial services to the spouse of any member of the armed forces under the jurisdiction of the Secretary.

''(2) The Secretary concerned shall provide counseling on financial services under this subsection as follows:

''(A) In the case of members, and the spouses of members, assigned to a military installation to which at least 750 members of the armed forces are assigned, through a full-time financial services counselor at such installation.

''(B) In the case of members, and the spouses of members, assigned to a military installation other than an installation described in subparagraph (A), through such mechanisms as the Secretary considers appropriate, including through the provision of counseling by a member of the armed forces in grade E–7 or above, or a civilian, at such installation who provides such counseling as a part of the other duties performed by such member or civilian, as the case may be, at such installation.

''(3) Each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

''(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A), and each individual providing counseling on financial services under paragraph (2)(B), is free from conflicts of interest relevant to the performance of duty under this section and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

''(5) The Secretary concerned may authorize financial services counseling to be provided to members of a unit of the armed forces by unit personnel under the guidance and with the assistance of a financial services counselor under paragraph (2)(A) or an individual providing counseling on financial services under paragraph (2)(B), as applicable.

''(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A), or an individual providing counseling on financial services under subsection (b)(2)(B), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

''(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, or by a financial services counselor referred to in subsection (b)(2)(A) or an individual providing counseling on financial services under subsection (b)(2)(B), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

''(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until 7 days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

''(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

''(D) In this paragraph, the term 'covered member of the armed forces' means a member of the armed forces in grades E–1 through E–4.

''(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

''(1) Life insurance, casualty insurance, and other insurance.

''(2) Investments in securities or financial instruments.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''992. Consumer education: financial services.''.

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Subsection (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

Ms. COLLINS. Mr. President, I am pleased to join with Senator CLINTON on legislation that will address the persistent problems that we have experienced with the sale of inappropriate life insurance and investment products to our servicemen and women. Although these issues were newly publicized last year in a series of articles in the New York Times, these problems actually go back for decades according to a 2002 Defense Department report.

According to that report, deceptive practices have been employed to sell unnecessary and inappropriate financial products to our military for more than thirty years. Furthermore, these sales have been in violation of DoD's policies aimed at regulating the sale of commercial products on military bases.

One of the report's most alarming findings is that these practices have a ''clear and present'' effect on morale, discipline and unit integrity. It states:

Service members who have been coerced or deceived into buying insurance on a military installation blame not only the sales agents. The victims blame their military superiors for placing them in a position to be misled. The trust and respect that military leaders seek to instill in their subordinates are clearly reduced among those who have bought insurance that is of little or no value to them. This adversely affects the unit integrity.

The author of this study, an Army General and lawyer, spoke to numerous victims of these deceptive sales practices. He stated in his report that these soldiers told him that they had less trust in their military superiors after these incidents. They also expressed a reduced interest in reenlisting.

With so many of our troops in harm's way, it is time for Congress to take decisive action on this matter. Although DoD has issued another set of draft regulations, it is barred by statute from implementing these reforms until this fall. Moreover, I am not convinced that merely tightening the regulation of such sales on base will have the desired outcome of significantly reducing the sale of inappropriate insurance products.

The Clinton-Collins legislation would: establish a requirement that DoD provide real financial education for service members and their spouses; provide for financial counselors at military bases; and require that junior enlisted personnel receive information on their federally provided life insurance before allotting part of their pay toward the purchase of private life insurance products.

These provisions reflect the problems and deficiencies identified by DoD's own report. Specifically, the report concluded that DoD's current personal financial education programs were inadequate, noting particularly that the education provided enlisted personnel was ''substantially less than that provided to junior officers.'' It is our belief that providing military personnel with a sound financial education and access to information is the best method of providing them and their families with the protection that they deserve.

While that report went much further in its recommendations, even recommending that such sales be barred, our legislation provides for more moderate measures in the hope that we can make real progress on this matter without resorting to extreme measures that would unfairly punish the countless ethical insurance agents who responsibly serve the military life insurance market. Instead, our legislation would give our troops the tools to protect themselves against those who engage in these abusive and deceptive sales practices.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1029. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, and Mrs. MURRAY):

S. 1030. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce two bills to expand access to college. I am pleased to be joined in this effort by Senators COLLINS, KENNEDY, and MURRAY.

We are slated to reauthorize the Higher Education Act this Congress, after being unable to do so in the 108th Congress. Over the course of this time, the discussions on higher education have not focused on proposals that would help the neediest students attend college. This is troubling, particularly as more and more students are being priced out of college, which shortchanges their future and that of our Nation.

An individual's climb up the economic ladder is directly related to the amount of education he or she receives. Given the strong correlation among educational attainment, employment, and wages, the cost of not going to college is just too high.

And yet, too many college students are underprepared, underfinanced, and overworked. Those who make it through are saddled by huge loans. But as reports such as Empty Promises by the Advisory Committee on Student Financial Assistance have shown, many more cannot afford the cost of college at all.

Even though there have been gains due to the Higher Education Act, the current approach to student aid is not working to close the gap in college attendance between our lowest and highest income students or the gap between the aid low-income students receive and the actual cost of attendance. Indeed, about seven times as many students from high-income families graduate from college by age 24 as students from low-income families. Low-income, college-qualified high school graduates have an annual ''unmet need'' of $4,000 and rising in college expenses.

A decline in real dollars spent on grants and sharp increases in the cost of college have been key causal factors of this unfortunate situation. Indeed, there has been a steep decline in the purchasing power of the Pell Grant, which was established by my predecessor, Senator Claiborne Pell, to ensure higher education was not an ''unachievable dream.'' According to the State PIRGs' Higher Education Project, the maximum Pell Grant covered 84 percent of average four-year public tuition costs in 1976. Today, the maximum Pell Grant of $4,050 covers only about 39 percent.

Over the last 10 years, tuition and fees at public and private 4-year colleges rose 51 percent and 36 percent, respectively, (after adjusting for inflation), which is a more rapid growth rate than consumer prices. Students have felt the bite as states have drastically cut funding for public colleges.

In 2008, the largest number of students in our history will graduate from high school. Another demographic reality is that our nation will need to ensure a steady stream of replacement workers as college-educated baby boomers begin to retire in increasing numbers.

This crisis calls out for action. An educated citizenry and a world class workforce should be a national imperative. Our nation cannot afford to lose out on the countless returns from a robust education investment.

Today we introduce two bills to expand college access.

The first bill, the ACCESS—Accessing College through Comprehensive Early Outreach and State Partnerships—Act, focuses on a program I have long worked with Senator COLLINS and the other cosponsors to save, reinvigorate, and fund the Leveraging Educational Assistance Partnership or LEAP program. LEAP is the only program in which the federal and state governments are partners in extending higher education opportunities to financially needy students.

The ACCESS Act forges a new Federal incentive for States to do even more to help low-income students by creating within LEAP an access and persistence partnership program. States will be rewarded—via higher

levels of federal matching dollars—for creating vibrant partnerships with colleges, early intervention and mentoring programs, foundations, and businesses and providing cohesion and coordination among these entities. Access and persistence partnerships have three main goals: to provide low-income students with a grant that fills the gap of their unmet need; to increase participation of low-income students in early information, intervention, mentoring, and outreach programs; and to provide early notification to low-income students of their eligibility for financial aid. Research has shown that successful college access programs are those that offer early intervention and mentoring services coupled with early information about estimated financial aid awards and adequate grant funding to make the dream of higher education a reality. Students participating in such programs are more financially and academically prepared, and thus more likely to enroll in college and persist to degree completion.

The second bill we introduce today, the FAFSA—Financial Aid Form Simplification and Access Act—has several key components designed to make the college application process both simple and certain. As the advisory committee's recent report, The Student Aid Gauntlet, has shown, students today confront an overly burdensome and complex financial aid application process. Our legislation would simplify this process by allowing more students to qualify for an Automatic-Zero—autozero—Expected Family Contribution by aligning its eligibility with the standards of other federal means-tested programs, like free school lunch, SSI, and Food Stamps. Students and families should not have to prove over and over again that they are low-income, and asking students to fill out lengthy forms when they already meet the eligibility level for Pell Grants is a burden we should ease.

In a similar vein, the legislation establishes a short, paper EZ-FAFSA application form for students qualifying for the auto-zero; phases out the printing of the long paper form and utilizes the savings to bridge the digital divide for students without web access; requires the utilization of smart technology to create a tailored web-based application form that ensures students answer only the questions needed to determine financial aid eligibility in the State in which they reside; and creates a free telefile system for students without Internet access. Additionally, the FAFSA Act requires the Secretary, in cooperation with states and colleges, to develop a system for students to get early estimates of aid from multiple sources, learn if they qualify to fill out an EZ FAFSA, and notify those participating in Federal means-tested programs of their potential eligibility for a maximum Pell Grant. Simplified forms and an early information system providing details on what filling out these forms means to students is critical, particularly given the American Council on Education's findings that one of every five dependent low-income students and one of every four independent low-income students failed to take advantage of financial aid programs because they did not submit a FAFSA.

The FAFSA Act also expands college access for low-income students, in part by simplifying the application process for students with special circumstances, including students in foster care and emancipated youth; ensuring the equitable treatment of prepaid tuition and college savings plans; and reducing the work penalty. The current income protection allowance levels are unrealistically low, creating a disincentive for students to work in order to pay college costs.

We must act on these bills and others to make sure that every student who works hard and plays by the rules gets the opportunity to live the American Dream.

I was pleased to work with the Advisory Committee on Student Financial Assistance and a host of other higher education organizations and charitable foundations on these bills.

I urge my colleagues to cosponsor these bills and work for their inclusion in the upcoming reauthorization of the Higher Education Act.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1029

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 ''Accessing College through Comprehensive Early Outreach and State Partnerships Act''.

SEC. 2. GRANTS FOR ACCESS AND PERSISTENCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $500,000,000 for fiscal year 2006, and such sums as may be necessary for each of the 5 succeeding fiscal years.

''(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.''.

(b) APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking ''$5,000'' and inserting ''$12,500'';

(2) in paragraph (9), by striking ''and'' after the semicolon;

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) provides notification to eligible students that such grants are—

''(A) Leveraging Educational Assistance Partnership Grants; and

''(B) funded by the Federal Government and the State.''.

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a) is amended to read as follows:

''SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

''(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

''(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties to carry out activities under this section and to provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend college;

''(2) provide need-based access and persistence grants to eligible low-income students;

''(3) provide early notification to low-income students of their eligibility for financial aid; and

''(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

''(b) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share of the cost of carrying out the activities under subsection (d).

''(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

''(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in its application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

''(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements under paragraph (2)(B)(ii).

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year may not exceed 66.66 percent.

''(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

''(i) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and philanthropic organizations that are located in, or that provide funding in, the State or private corporations that are located in, or that do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

''(ii) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, philanthropic organizations that are located in, or that provide funding in, the State, and private corporations that are located in, or that do business in, the State, then the Federal

share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

''(c) APPLICATION FOR ALLOTMENT.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—A State that desires to receive an allotment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

''(i) A description of the State's plan for using the allotted funds.

''(ii) Assurances that the State will provide matching funds, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). Matching funds from philanthropic organizations used to provide early information and intervention, mentoring, or outreach programs may be in cash or in kind. The State shall specify the methods by which matching funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's matching obligation under this clause.

''(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

''(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

''(v) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

''(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

''(I) Leveraging Educational Assistance Partnership Grants; and

''(II) funded by the Federal Government and the State.

''(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

''(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

''(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State;

''(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

''(C) not less than 1—

''(i) philanthropic organization located in, or that provides funding in, the State; or

''(ii) private corporation located in, or that does business in, the State.

''(4) ROLES OF PARTNERS.—

''(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) serve as the primary administrative unit for the partnership;

''(II) provide or coordinate matching funds, and coordinate activities among partners;

''(III) encourage each institution of higher education in the State to participate in the partnership;

''(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

''(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

''(ii) may provide early information and intervention, mentoring, or outreach programs.

''(B) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

''(II) provide support services to students who receive an access and persistence grant under this section and are enrolled at such institution; and

''(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

''(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

''(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

''(D) PHILANTHROPIC ORGANIZATION OR PRIVATE CORPORATION.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for access and persistence grants for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

''(d) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF PARTNERSHIP.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award access and persistence grants to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

''(B) AMOUNT.—

''(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

''(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of an access and persistence grant awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership.

''(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student).

''(ii) PARTNERSHIP WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(ii), the amount of an access and persistence grant awarded by such State shall be not more than an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership.

''(2) EARLY NOTIFICATION.—

''(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

''(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

''(i) shall include—

''(I) information about early information and intervention, mentoring, or outreach programs available to the student;

''(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early information and intervention, mentoring, or outreach program;

''(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

''(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

''(V) an explanation that in order to be eligible for an access and persistence grant, at a minimum, a student shall meet the requirement under paragraph (3), graduate from secondary school, and enroll at an institution of higher education that is a partner in the partnership;

''(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

''(VII) instructions on how to apply for an access and persistence grant and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

''(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

''(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

''(II) annual Federal and State appropriations; and

''(III) other aid received by the student at the time of the student's enrollment at an institution of higher education that is a partner in the partnership.

''(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that each such student meets not less than 1 of the following:

''(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

''(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

''(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

''(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

''(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

''(B) Is receiving, or has received, an access and persistence grant under this section, in accordance with paragraph (5).

''(4) GRANT AWARD.—Once a student, including those who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

''(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

''(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

''(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

''(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than 3.5 percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

''(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

''(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

''(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

''(i) SPECIAL RULE.—Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

''(j) REPORTS.—Not later than 3 years after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.''.

(d) CONTINUATION AND TRANSITION.—During the 2-year period commencing on the date of enactment of this Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a), as such section existed on the day before the date of enactment of this Act, to States that choose to apply for grants under such predecessor section.

(e) IMPLEMENTATION AND EVALUATION.—Section 491(j) of the Higher Education Act of 1965 (20 U.S.C. 1098(j)) is amended—

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

(2) by striking paragraph (5) and inserting the following:

''(5) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, advise the Secretary on means to implement the activities under section 415E, and the Advisory Committee shall continue to monitor, evaluate, and make recommendations on the progress of partnerships that receive allotments under such section; and''.

S. 1030

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 ''Financial Aid Form Simplification and Access Act''.

SEC. 2. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

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

''(i) the student's parents—

''(I) file, or are eligible to file, a form described in paragraph (3);

''(II) certify that they are not required to file an income tax return;

''(III) 1 of whom is a dislocated worker; or

''(IV) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) by striking subparagraph (B)(i) and inserting the following:

''(i) the student (and the student's spouse, if any)—

''(I) files, or is eligible to file, a form described in paragraph (3);

''(II) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

''(III) is a dislocated worker; or

''(IV) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(B) in paragraph (3), by striking ''A student or family files a form described in this subsection, or subsection (c), as the case may be, if the student or family, respectively, files'' and inserting ''In the case of an independent student, the student, or in the case of a dependent student, the family, files a form described in this subsection, or subsection (c), as the case may be, if the student or family, as appropriate, files'';

(2) in subsection (c)—

(A) in paragraph (1)—

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

''(A) the student's parents—

''(i) file, or are eligible to file, a form described in subsection (b)(3);

''(ii) certify that they are not required to file an income tax return;

''(iii) 1 of whom is a dislocated worker; or

''(iv) or the student received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) the sum of the adjusted gross income of the parents is less than or equal to $25,000; or'';

(B) in paragraph (2)—

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

''(A) the student (and the student's spouse, if any)—

''(i) files, or is eligible to file, a form described in subsection (b)(3);

''(ii) certifies that the student (and the student's spouse, if any) is not required to file an income tax return;

''(iii) is a dislocated worker; or

''(iv) received benefits at some time during the previous 24-month period under a means-tested Federal benefit program as defined under subsection (d); and''; and

(ii) by striking subparagraph (B) and inserting the following:

''(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $25,000.''; and

(C) by striking the flush matter at the end and inserting the following:

''The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 478(f).''; and

(3) by adding at the end the following:

''(d) DEFINITIONS.—In this section:

''(1) DISLOCATED WORKER.—The term 'dislocated worker' has the same meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

''(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term 'means-tested Federal benefit program' means a mandatory spending

program of the Federal Government in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit, and includes the supplemental security income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).''.

(b) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended in the third sentence by inserting ''a family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)),'' after ''recent unemployment of a family member,''.

(c) REPORTING REQUIREMENTS.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The Secretary shall evaluate every 3 years the impact of including whether a student or parent received benefits under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 3 IMPROVING PAPER AND ELECTRONIC FORMS.

(a) SIMPLIFIED NEEDS TEST.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(a)) is amended by adding at the end the following:

''(3) SIMPLIFIED FORMS.—The Secretary shall make special efforts to notify families meeting the requirements of subsection (c) that such families may use the EZ FAFSA described in section 483(a)(2)(B) and notify families meeting the requirements of subsection (b) that such families may use the simplified electronic application form described in section 483(a)(3)(B).''.

(b) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1), (2), and (5);

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (8), (9), (10), and (11), respectively;

(C) by inserting before paragraph (8), as redesignated by subparagraph (B), the following:

''(1) IN GENERAL.—

''(A) COMMON FINANCIAL REPORTING FORMS.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid' or 'FAFSA'.

''(B) EARLY ANALYSIS.—The Secretary shall permit an applicant to complete a form described in this subsection prior to enrollment in order to obtain an estimate from the Secretary of the applicant's expected family contribution, as defined in section 473. Such applicant shall be permitted to update information submitted on a form described in this subsection completed prior to enrollment using the process described in paragraph (4).

''(2) PAPER FORMAT.—

''(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of subparagraph (B).

''(B) EZ FAFSA.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements of section 479(c).

''(ii) REDUCED DATA REQUIREMENTS.—The EZ FAFSA shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(c).

''(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

''(C) PHASING OUT THE PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE AUTOMATIC ZERO EXPECTED FAMILY CONTRIBUTION.—

''(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

''(ii) PHASEOUT OF FULL PAPER FAFSA.—Not later than 5 years after the date of enactment of the Financial Aid Form Simplification and Access Act, to the extent practicable, the Secretary shall phaseout the printing of the full paper Free Application for Federal Student Aid described in subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

''(iii) AVAILABILITY OF FULL PAPER FAFSA.—

''(I) IN GENERAL.—Prior to and after the phaseout described in clause (ii), the Secretary shall maintain an online printable version of the paper forms described in subparagraphs (A) and (B).

''(II) ACCESSIBILITY.—The online printable version described in subclause (I) shall be made easily accessible and downloadable to students on the same website used to provide students with the electronic application forms described in paragraph (3).

''(III) SUBMISSION OF FORMS.—The Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded and printed in order to meet the filing requirements of this section and to receive aid from programs established under this title.

''(iv) USE OF SAVINGS TO ADDRESS THE DIGITAL DIVIDE.—

''(I) IN GENERAL.—The Secretary shall utilize savings accrued by phasing out the full paper Free Application for Federal Student Aid and moving more applicants to the electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

''(II) REPORT.—The Secretary shall report annually to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on steps taken to eliminate the digital divide and on the phaseout of the full paper Free Application for Federal Student Aid described in subparagraph (A). The report shall specifically address the impact of the digital divide on independent students, adults, and dependent students, including students completing applications described in this paragraph and paragraphs (3) and (4).

''(3) ELECTRONIC FORMAT.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—The Secretary shall produce, distribute, and process common financial reporting forms in electronic format (such as through a website called 'FAFSA on the Web') to meet the requirements of paragraph (1). The Secretary shall include an electronic version of the EZ FAFSA form for applicants who meet the requirements of paragraph (2)(B) and develop common electronic forms for applicants who meet the requirements of subparagraph (B) and common electronic forms for applicants who do not meet the requirements of subparagraph (B).

''(ii) STATE DATA.—The Secretary shall include on the common electronic forms described in clause (i) space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5). The Secretary may not require an applicant to complete data required by any State other than the applicant's State of residence.

(iii) STREAMLINED FORMAT.—The Secretary shall use, to the fullest extent practicable, all available technology to ensure that a student answers only the minimum number of questions necessary.

''(B) SIMPLIFIED APPLICATION.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

''(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application form shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(b).

''(iii) STATE DATA.—The Secretary shall include on the simplified electronic application form space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the simplified electronic application form.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application form, and the data collected by means of the simplified electronic application form shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the form developed under this subparagraph.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the use of the form developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium of such entities, or such other entities as the Secretary may designate.

''(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such electronic version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

''(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form to be submitted without a signature, if a signature is subsequently submitted by the applicant.

''(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

''(i) to enable the applicants to use such numbers in lieu of a signature for purposes of completing a form under this paragraph; and

''(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

''(4) REAPPLICATION.—

''(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to the year in which such applicant first applied for financial assistance under this title.

''(B) UPDATED.—The Secretary shall determine, in cooperation with States, institutions of higher education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

''(C) RULE OF CONSTRUCTION.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

''(D) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

''(5) STATE REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form on October 7, 1998, unless States notify the Secretary that they no longer require those data items for the distribution of State need-based aid.

''(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which forms and data items the States require to award need-based State aid and other application requirements that the States may impose.

''(C) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring each State agency to inform the Secretary—

''(i) if the agency is unable to permit applicants to utilize the forms described in paragraphs (2)(B) and (3)(B); and

''(ii) of the State-specific data that the agency requires for delivery of State need-based financial aid.

''(D) STATE NOTIFICATION TO THE SECRETARY.—

''(i) IN GENERAL.—Each State shall notify the Secretary—

''(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid; and

''(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

''(ii) NO PERMISSION.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid—

''(I) the State shall notify the Secretary if it is not permitted to do so because of either State law or because of agency policy; and

''(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete the forms described in paragraphs (2)(B) and (3)(B).

''(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

''(I) permit residents of that State to complete the forms described in paragraphs (2)(B) and (3)(B); and

''(II) not require any resident of that State to complete any data previously required by that State.

''(E) RESTRICTION.—The Secretary shall not require applicants to complete any nonfinancial data or financial data that are not required by the applicant's State agency, except as may be required for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

''(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form developed by the Secretary pursuant to this subsection. No student may receive assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document, which the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and free financial aid application process, for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's Personal Identification Number for purposes of submitting an application on an applicant's behalf except State agencies that have entered into an agreement with the Secretary to streamline applications, eligible institutions, or programs under this title as permitted by the Secretary.

''(7) APPLICATION PROCESSING CYCLE.—The Secretary shall, prior to January 1 of a student's planned year of enrollment to the extent practicable—

''(A) enable the student to submit a form described under this subsection in order to meet the filing requirements of this section and receive aid from programs under this title; and

''(B) initiate the processing of a form under this subsection submitted by the student.''; and

(D) by adding at the end the following:

''(12) EARLY APPLICATION AND AWARD DEMONSTRATION PROGRAM.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall implement an early application demonstration program enabling dependent students to—

''(i) complete applications under this subsection in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education; and

''(ii) be eligible to receive aid under this title, aid from participants under this paragraph, State financial assistance as provided under section 415C, and other aid provided by participating institutions through the submission of an application as described in clause (i).

''(B) PURPOSE.—The purpose of the demonstration program under this paragraph is to measure the benefits, in terms of student aspirations and plans to attend college, and the adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this title, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from the year prior to the year prior to enrollment at an institution of higher education. Additional objectives associated with implementation of the demonstration program are the following:

''(i) Measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in such students' junior year of secondary school, using information from the year prior to the year prior to enrollment, by completing any of the application forms under this subsection.

''(ii) Determine the feasibility, benefits, and adverse effects of implementing a data match with the Internal Revenue Service.

''(iii) Identify whether receiving final financial aid awards not later than the fall of a student's senior year positively impacts the college aspirations and plans of such student.

''(iv) Measure the impact of using income information from the year prior to the year prior to enrollment on—

''(I) eligibility for financial aid under this title and for other institutional aid; and

''(II) the cost of financial aid programs under this title.

''(v) Effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of aid.

''(C) PARTICIPANTS.—The Secretary shall select, in consultation with States and institutions of higher education, States and institutions within the States interested in participating in the demonstration program under this paragraph. The States and institutions of higher education shall participate in programs under this title and be willing to make final financial aid awards to students

based on such students' application information from the year prior to the year prior to enrollment. Such awards may be contingent on the student being admitted to and enrolling in the participating institution the following year. The Secretary shall also select as participants in the demonstration program secondary schools that are located in the participating States and dependent students who reside in the participating States.

''(D) APPLICATION PROCESS.—The Secretary shall ensure that the following provisions are included in the demonstration program:

''(i) Participating States and institutions of higher education shall—

''(I) allow participating students to apply for financial aid as provided under this title during such students' junior year of secondary school using information from the year prior to the year prior to enrollment; and

''(II) award final financial aid awards to participating students based on the applications provided under the demonstration program.

''(ii) Participating States and institutions of higher education shall not require students participating in the demonstration program to complete an additional application in the year prior to enrollment in order to receive State aid under section 415C and any other institutional aid.

''(iii) Financial aid administrators at participating institutions of higher education shall be allowed to use such administrators' discretion in awarding financial aid to participating students, as outlined under sections 479A and 480(d).

''(E) DATA MATCH WITH THE INTERNAL REVENUE SERVICE.—The Secretary shall include in the demonstration project a data match with the Internal Revenue Service in order to verify data provided by participating students and gauge the feasibility of implementing such a data match for all students applying for aid under this title.

''(F) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program in order to measure the program's benefits and adverse effects as required under subparagraph (B).

''(G) OUTREACH.—The Secretary shall make appropriate efforts in order to notify States of the demonstration program. Upon determination of which States will be participating in the demonstration program, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within such participating States of the opportunity to participate in the demonstration program and of the participation requirements.

''(H) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance, established under section 491, on the design and implementation of the demonstration program and on the evaluation described in paragraph (F).'';

(2) by striking subsection (b) and inserting the following:

''(b) EARLY AWARENESS OF AID ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary shall make every effort to provide students with early information about potential financial aid eligibility.

''(2) AVAILABILITY OF MEANS TO DETERMINE ELIGIBILITY.—

''(A) IN GENERAL.—The Secretary shall provide, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, both through a widely disseminated printed form and the Internet or other electronic means, a system for individuals to determine easily, by entering relevant data, approximately the amount of grant, work-study, and loan assistance for which an individual would be eligible under this title upon completion and verification of a form under subsection (a).

''(B) DETERMINATION OF WHETHER TO USE SIMPLIFIED APPLICATION.—The system established under this paragraph shall also permit an individual to determine whether or not the individual may apply for aid using an EZ FAFSA described in subsection (a)(2)(B) or a simplified electronic application form described in subsection (a)(3)(B).

''(3) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

''(A) LOWER-INCOME STUDENTS.—The Secretary shall—

''(i) make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or benefits under such programs as the Secretary shall determine, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

''(ii) disseminate informational materials regarding the linkage between eligibility for means-tested Federal benefit programs and eligibility for a Federal Pell Grant, as determined necessary by the Secretary.

''(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other cooperating independent outreach programs, make special efforts to notify middle school students of the availability of financial assistance under this title and of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title.

''(C) SECONDARY SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, secondary schools, programs under this title that serve secondary school students, and cooperating independent outreach programs, make special efforts to notify students in their junior year of secondary school the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title upon completion and verification of an application form under subsection (a).'';

(3) in subsection (c), by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions'';

(4) by striking subsection (d);

(5) by redesignating subsection (e) as subsection (d); and

(6) by amending subsection (d), as redesignated by paragraph (5), to read as follows:

''(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

''(1) PREPARATION AUTHORIZED.—Nothing in this Act shall limit an applicant from using a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a).

''(2) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such common financial reporting form.

''(3) SPECIAL RULE.—Nothing in this Act shall limit preparers of common financial reporting forms required to be made under this title from collecting source information, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

''(4) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

''(A) clearly inform individuals upon initial contact (including advertising in clear and conspicuous language on the website of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such services through a website) that the common financial reporting forms that are required to determine eligibility for financial assistance under parts A through E (other than subpart 4 of part A) may be completed for free via paper or electronic forms provided by the Secretary;

''(B) refrain from producing or disseminating any form other than the forms produced by the Secretary under subsection (a); and

''(C) not charge any fee to any individual seeking such services who meets the requirements under subsection (b) or (c) of section 479.''.

(c) TOLL-FREE APPLICATION AND INFORMATION.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss), as amended by section 2, is further amended by adding at the end the following:

''(e) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide an application mechanism and timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or another appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 663 of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall test and implement, to the extent practicable, a toll-free telephone-based application system to permit applicants who are eligible to utilize the EZ FAFSA described in section 483(a) over such system.''.

(d) MASTER CALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1089(a)(1)(B)) is amended to read as follows:

''(B) by March 1: proposed modifications and updates pursuant to sections 478, 479(c), and 483(a)(5) published in the Federal Register;''.

(e) SIMPLIFYING THE VERIFICATION PROCESS.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

''(s) VERIFICATION OF STUDENT ELIGIBILITY.—

''(1) REGULATORY REVIEW.—The Secretary shall review all regulations of the Department related to verifying the information provided on a student's financial aid application in order to simplify the verification process for students and institutions.

''(2) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit a final report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on steps taken, to the extent practicable, to simplify the verification process. The report shall specifically address steps taken to—

''(A) reduce the burden of verification on students who are selected for verification at multiple institutions;

''(B) reduce the number of data elements that are required to be verified for applicants meeting the requirements of subsection (b) or (c) of section 479, so that only those data elements required to determine eligibility under subsection (b) or (c) of section 479 are subject to verification;

''(C) reduce the burden and costs associated with verification for institutions that are eligible to participate in Federal student aid programs under this title; and

''(D) increase the use of technology in the verification process.''.

SEC. 4. ALLOWANCE FOR STATE AND OTHER TAXES.

Section 478(g) of the Higher Education Act of 1965 (20 U.S.C. 1087rr(g)) is amended to read as follows:

''(g) STATE AND OTHER TAX ALLOWANCE.—

''(1) HOLD HARMLESS.—Notwithstanding any other provision of law, the annual updates to the allowance for State and other taxes in the tables used in the Federal Need Analysis Methodology to determine a student's expected family contribution for the award year 2005–2006 under part F of title IV, published in the Federal Register on Thursday, December 23, 2004 (69 Fed. Reg. 76926), shall not apply to a student to the extent the updates will reduce the amount of Federal student assistance for which the student is eligible.

''(2) PUBLICATION IN THE FEDERAL REGISTER.—For each award year after award year 2005–2006, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent. The Secretary shall phase-in the State and other tax allowances from the revised table for an award year proportionately over a period of time of not less than 2 years if a revised table was not published in the Federal Register during the previous award year.

''(3) AGREEMENT.—The Secretary is authorized to enter into agreement with the Commissioner of the Internal Revenue Service to develop the data required to revise the table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2).''.

SEC. 5. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Section 475(g)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087oo(g)(2)(D)) is amended to read as follows:

''(D) $9,000;''.

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended to read as follows:

''(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

''(I) $10,000 for single or separated students;

''(II) $10,000 for married students where both are enrolled pursuant to subsection (a)(2); and

''(III) $13,000 for married students where 1 is enrolled pursuant to subsection (a)(2);''.

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qq(b)(4)) is amended to read as follows:

''(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

''Income Protection Allowance

Family Size	Number in College				
	1	2	3	4	5
2	$17,580	$15,230			
3	20,940	17,610	$16,260		
4	24,950	22,600	20,270	$17,930	
5	28,740	26,390	24,060	21,720	$19,390
6	32,950	30,610	28,280	25,940	23,610

NOTE: For each additional family member, add $3,280.
For each additional college student, subtract $2,330.''.

SEC. 6. SIMPLIFICATION FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.

(a) INDEPENDENT STUDENT.—Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended to read as follows:

''(d) INDEPENDENT STUDENT.—

''(1) DEFINITION.—The term 'independent', when used with respect to a student, means any individual who—

''(A) is 24 years of age or older by December 31 of the award year;

''(B) is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;

''(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

''(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1)) or is currently serving on active duty in the Armed Forces;

''(E) is a graduate or professional student;

''(F) is a married individual;

''(G) has legal dependents other than a spouse; or

''(H) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

''(2) SIMPLIFYING THE DEPENDENCY OVERRIDE PROCESS.—Nothing in this section shall prohibit a financial aid administrator from making a determination of independence, as described in paragraph (1)(H), based upon a determination of independence previously made by another financial aid administrator in the same application year.''.

(b) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)), as amended by section 3, is further amended by adding at the end the following:

''(13) APPLICATIONS FOR STUDENTS SEEKING A DOCUMENTED DETERMINATION OF INDEPENDENCE.—In the case of a dependent student seeking a documented determination of independence by a financial aid administrator, as described in section 480(d), nothing in this section shall prohibit the Secretary from—

''(A) allowing such student to—

''(i) indicate the student's request for a documented determination of independence on an electronic form developed pursuant to this subsection; and

''(ii) submit such form for preliminary processing that only contains those data elements required of independent students, as defined in section 480(d);

''(B) collecting and processing on a preliminary basis data provided by such a student using the electronic forms developed pursuant to this subsection; and

''(C) distributing such data to institutions of higher education, guaranty agencies, and States for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards on a preliminary basis, pending a documented determination of independence by a financial aid administrator.''.

SEC. 7. TREATMENT OF PREPAYMENT AND SAVINGS PLANS UNDER STUDENT FINANCIAL AID NEEDS ANALYSIS.

(a) DEFINITION OF ASSETS.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)) is amended—

(1) in paragraph (1), by inserting ''qualified education benefits, except as provided in subparagraph (2),'' after ''tax shelters,'';

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following:

''(2) A qualified education benefit shall not be considered an asset of a dependent student for purposes of section 475. The value of a qualified education benefit for purposes of determining the assets of parents or an independent student shall be—

''(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; or

''(B) the current balance of any account that is established as a qualified education benefit for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account.

''(3) In this subsection, the term 'qualified education benefit' means—

''(A) a qualified tuition program (as defined in section 529(b)(1) of the Internal Revenue Code of 1986) or another prepaid tuition plan offered by a State; or

''(B) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).''.

(b) DEFINITION OF OTHER FINANCIAL ASSISTANCE.—Section 480(j) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(j)) is amended—

(1) in the heading, by striking ''; TUITION PREPAYMENT PLANS'';

(2) by striking paragraph (2);

(3) in paragraph (3), by inserting '', or a distribution that is not includable in gross income under section 529 of such Code, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such Code'' after ''1986''; and

(4) by redesignating paragraph (3) as paragraph (2).

(c) TOTAL INCOME.—Section 480(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(a)(2)) is amended to read as follows:

''(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), no portion of any tax

credit taken under section 25A of the Internal Revenue Code of 1986, and no distribution from any qualified education benefit defined in subsection (f)(3) that is not subject to Federal income tax, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.''.

SEC. 8. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098) is further amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(D) to provide knowledge and understanding of early intervention programs and make recommendations that will result in early awareness by low- and moderate-income students and families of their eligibility for assistance under this title, and, to the extent practicable, their eligibility for other forms of State and institutional need-based student assistance; and

''(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions, and private entities to increase the awareness and total amount of need-based student assistance available to low- and moderate-income students.'';

(2) in subsection (d)—

(A) in paragraph (6), by striking '', but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses'';

(B) in paragraph (8), by striking ''and'' after the semicolon;

(C) by redesignating paragraph (9) as paragraph (10); and

(D) by inserting after paragraph (8) the following:

''(9) monitor the adequacy of total need-based aid available to low- and moderate-income students from all sources, assess the implications for access and persistence, and report those implications annually to Congress and the Secretary; and'';

(3) in subsection (j)—

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

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) monitor and assess implementation of improvements called for under this title, make recommendations to the Secretary that ensure the timely design, testing, and implementation of the improvements, and report annually to Congress and the Secretary on progress made toward simplifying overall delivery, reducing data elements and questions, incorporating the latest technology, aligning Federal, State, and institutional eligibility, enhancing partnerships, and improving early awareness of total student aid eligibility for low- and moderate-income students and families.''; and

(4) in subsection (k), by striking ''2004'' and inserting ''2011''.

By Ms. CANTWELL (for herself, Mr. JEFFORDS, and Mrs. CLINTON):

S. 1031. A bill to enhance the reliability of the electric system; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, I rise today to reintroduce the Electric Reliability Act of 2005, which I am pleased to introduce with my colleagues, Senator CLINTON and Senator JEFFORDS. This legislation would give the Federal Energy Regulatory Commission—FERC—authority to devise a system of mandatory and enforceable standards for the reliable operation of our Nation's electricity grid.

Enactment of this bill is long overdue. The provisions of this bill have passed the United States Senate many times. They represent crucial steps forward in the effort to modernize our Nation's electricity grid and reform the rules by which it is operated. I believe this body can and must make necessary progress in upgrading our electricity grid.

As surely my colleagues recall, in August of 2003 much of the Northeast and Midwest suffered a massive power outage, affecting 50 million consumers from New York to Michigan. This blackout, the biggest in our Nation's history, has underscored the need for mandatory and enforceable reliability standards—as envisioned in the Electric Reliability Act of 2005. To date, the system has operated under a set of voluntary guidelines, with no concrete penalties for those that break the rules and jeopardize the reliable energy service that is the foundation of our Nation's economy.

Following the August 2003 blackout in the NE, a joint report issued by the United States and Canada the following April recommended a number of policy changes on both sides of our shared border. The first recommendation in that report was to make reliability standards mandatory and enforceable with penalties for non-compliance. The Electric Reliability Security Act of 2005 does exactly that.

While the August 2003 blackout was certainly a potent reminder, the call for reliability legislation dates back at least another 5 years. In 1997, both a Task Force established by the Clinton administration's Department of Energy and a blue ribbon panel formed by the North American Electric Reliability Council—NERC—determined that reliability rules for our Nation's electric system had to be made mandatory and enforceable.

These conclusions resulted, in part, from an August 1996 blackout in the Western Interconnection, where the short-circuit of two overloaded transmission lines near Portland, OR, caused a sweeping outage that knocked out power for up to 16 hours in 10 States, including my home State of Washington. The blackout affected 7.5 million consumers from Idaho to California, resulting in the automatic shutdown of 15 large thermal nuclear generating plants in California and the Southwest—compromising the West's energy supply for several days, even after power had mostly been restored to end-users.

As outlined in Economic Impacts of Infrastructure Failures, a 1997 report submitted to the President's Commission on Critical Infrastructure Protection, the blackout was estimated to exact between $1 billion and $4 billion in direct and indirect costs to utilities, industry and consumers. The report also detailed the risks the outage posed to public health and safety, including an exponential increase in traffic accidents, hospitals forced to rely on emergency back-up power generation, and the grounding of more than 2,000 airline passengers.

While it took time to develop consensus, the Senate recognized the human and economic stakes associated with the reliable operation of the electricity grid. Stand-alone legislation very similar to what I have introduced today passed this body in June 2000, when this Chamber was under Republican control. And even as the majority has twice changed hands since then, the United States Senate has twice passed the very provisions included in the Electric Reliability Act of 2005 as part of comprehensive energy legislation.

Today I am introducing the Electric Reliability Act of 2005 as I believe it is time for this body to take concrete steps towards ensuring the continued reliable operation of our electric grid. This legislation would mark a substantial achievement in the effort to upgrade the reliability of our Nation's grid and insulate our economy from the disastrous impacts of electricity outages.

I ask my colleagues to support this bill.

By Mrs. BOXER:

S. 1032. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, at the end of 2002, the Maritime Transportation Security Act became law.

I was a member of the conference committee on that bill, and I think it was a good first step in improving security at our Nation's ports.

It had many good provisions, such as the creation of national and regional maritime transportation/port security plans to be approved by the Coast Guard; better coordination of Federal State, local, and private enforcement agencies; and the establishment of a grant program for port authorities, waterfront facilities operators, and State and local agencies to provide security infrastructure improvements.

The problem with the bill was that it had no guaranteed funding mechanism. As a result, we are underfunding port security. Since the passage of the Maritime Transportation Security Act, the Department of Homeland Security has awarded approximately $625 million in port security grants. This is not enough. The Coast Guard has estimated a need for $5.4 billion over 10 years for port facility upgrades, and $7.3 billion over 10 years for all port security. At the same time, the administration only requested $600 million for infrastructure protection in fiscal year 2006, and this meager figure does not even specify a dedicated portion for port security grants.

With over 40 percent of the Nation's goods imported through California's ports, a terrorist attack at a California port would not only be tragic but would be devastating for our Nation's economy.

So, today, I am reintroducing a bill to provide more funding to the ports. Specifically, it will create a Port Security Grant Program in the Department of Homeland Security; provide $800 million per year for 5 years in grant funding; and—this is very important to California's ports—allow the Federal Government to help finance larger multi-year projects similar to what is done with many of our airports for aviation security.

I hope that the Senate will act on this bill. Now is not the time to slow down or delay our efforts to increase and improve transportation security. The job is not done, and it must be done.

By Mr. MCCAIN (for himself, Mr. KENNEDY, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. GRAHAM, and Mr. SALAZAR):

S. 1033. A bill to improve border security and immigration; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, after more than 5 months of work, I am pleased to be joined by Senators KENNEDY, BROWNBACK, LIEBERMAN, GRAHAM, and SALAZAR in introducing the Secure America and Orderly Immigration Act. This bipartisan, comprehensive immigration reform legislation is designed to fix our Nation's broken immigration system. This landmark legislation would bring common sense to the current system and promote our national security interests. I am equally pleased by the effort of Congressmen KOLBE, FLAKE, and GUTIERREZ who are introducing the House companion bill.

While in previous years we worked independently on immigration reform legislation, we are coming together today to introduce what we believe is groundbreaking, comprehensive legislation. Over a year ago, the President laid out a framework for what comprehensive immigration reform should look like. We have used the President's framework to craft this package and I applaud the President for his leadership on this issue.

The simple fact is that America's immigration system is broken. Recent vigilante activities along the southwestern border have shown that the current situation is not sustainable. Americans are frustrated with our lack of border security and our inability to control illegal immigration. We have spent billions of dollars on border enforcement. We have sent more, but still not enough, Federal agents to the border equipped with sophisticated technology. We have worked to harden the border in key places. And yet, illegal immigration continues.

I would like to mention some startling statistics that demonstrate the critical need for immigration reform. I think the numbers speak for themselves: Over 300 people died last year trying to cross the border; about 200 of those deaths occurred in Arizona's desert. Last year 1.1 million illegal immigrants were caught by the Border Patrol in 2004. Fifty-one percent of those were caught in Arizona. The Border Patrol is currently apprehending over 1,000 undocumented immigrants a day in Arizona. According to the FBI, an increasing number of these individuals are OTMs, Other Than Mexicans, from ''countries of interest.''

Homeland security is our Nation's number one priority, and this legislation includes numerous provisions that together will make our nation more secure. This bill includes provisions to strengthen border security, both on our side of the border and throughout this hemisphere. Through the establishment of a new electronic employment verification system, the bill will create a more secure mechanism to better enforce our nation's immigration laws within our borders. Additionally, the bill enhances the authority of the Department of Labor and the Department of Homeland Security to conduct random audits to ensure that employers are holding up their end of the bargain. And if they aren't, they face double fines.

Make no mistake, this is not an amnesty bill. We are not here to reward law-breakers, and any accusations to the contrary are patently untrue. This bill recognizes the problems inherent in the current system and provides a logical and effective means to address these problems. The reality is, there are an estimated million undocumented people living and working in this country. It would be impossible to identify and round up all 10 to 11 million of the current undocumented, and if we did, it would ground our Nation's economy to a halt. These millions of people are working. Aliens will not come forward to simply ''report and deport.'' We have a national interest in identifying these individuals, incentivizing them to come forward out of the shadows, go through security background checks, pay back taxes, pay penalties for breaking the law, learn to speak English, and regularize their status. Anyone who thinks this goal can be achieved without providing an eventual path to a permanent legal status is not serious about solving this problem.

Part of the failure of the existing system is its inability to provide sufficient legal channels to pair willing workers with willing employers. This bill establishes a new market-based temporary worker program so that when there is no U.S. worker to fill a job, employers will be able to hire willing and able foreign workers who have gone through security background checks, medical exams, and paid a fee for their visa. And, by doing away with outdated numerical caps on this program, this bill recognizes that the needs of the U.S. economy are constantly in flux, and our immigration system must match those needs.

I don't believe there is another issue that is more important to our Nation than immigration reform. For far too long, our Nation's broken immigration laws have gone unreformed, leaving Americans vulnerable. We can no longer afford to delay reform.

The complex and difficult problems associated with immigration reform will not be solved overnight, but they are among the most difficult challenges facing our Nation today. That is why it is so important that the President shares our commitment to comprehensive reform. Together with the President, I am committed to this process and remain very hopeful that we will succeed.

I want to especially express my appreciation to Senator KENNEDY and his staff for their sincere commitment to this critical issue. Also, the contributions to the bill as recommended by Senator BROWNBACK have been invaluable to this effort. I would also like to thank Senator LUGAR, who allowed us to incorporate critical international border enforcement provisions from his legislation, the North American Cooperative Security Act.

Through the collective efforts of a wide range of bipartisan interests in both Houses of Congress, not to mention immigration advocacy groups, representatives of our Nation's businesses, and several labor unions, this comprehensive legislation provides a meaningful direction for how our immigration system should be reformed, and our border security strengthened.

I look forward to working with all interested parties in the important and necessary effort to once and for all reform our broken immigration system.

Mr. KENNEDY. Mr. President, it's an honor to join Senator MCCAIN and Congressmen GUTIERREZ, KOLBE, and FLAKE in introducing our bipartisan legislation to reform the Nation's immigration laws. The status quo is unacceptable, and legislation is urgently needed to deal with all the inadequacies in our current law, to end the suffering of long-separated families imposed by the broken system, and to do so in a way that reflects current realities.

We must modernize our broken immigration system to meet the challenges of the 21st century. And we need policies that continue to reflect our best values as a nation—fairness, equal opportunity, and respect for the rule of law.

One of the mistakes of the past is to assume that we can control illegal immigration on our own. A realistic immigration policy must be a two-way street. Under our plan, America will do its part, but we expect Mexico and other nations to do their part, too, to replace an illegal immigration flow with regulated, legal immigration.

Our bill will make our immigration policies more realistic and enforceable,

restore legality as the prevailing norm, and make it easier for immigrants to cooperate with local authorities. It will protect the labor rights of all workers, and create an even playing field for employers. It will strengthen our economy, restore control of our borders, and improve national security.

Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. Many industries depend heavily on immigrant labor. These men and women enrich our Nation and improve the quality of our lives. Yet, millions of today's immigrant workers are not here legally. They and their families live shadow lives in constant fear of deportation, and easy targets for abuse and exploitation by unscrupulous employers and criminals as well. Many risk great danger, and even death, to cross our borders.

Our bill offers practical solutions to deal with these basic problems. It contains an earned legalization program for immigrants who have been working in the United States for at least 6 years, a way to reduce the enormous backlog of petitions to unify immigrant families, and a revised temporary worker program. The bill also contains strict border security and enforcement provisions, and measures to ensure that other countries do their part by requiring them to help control the flow of their citizens to jobs in the United States.

We feel the bill is a realistic and practical solution to the complex immigration challenges facing the Nation for so long, and we've worked closely with as many interested groups as possible to make it fair to all.

Despite our compromises and bipartisan solutions, there are some who oppose these reforms. They misleadingly categorize our efforts as ''immigrant amnesty.'' They refuse to accept that these reforms simply create a legalization program for U.S. workers who have already been residing and working in the U.S. It is not a guarantee of citizenship, but an opportunity to continue working hard, start playing by the rules, and earn permanent residency.

And by bringing immigrants out of the shadows so they can earn a fair day's pay for a fair day's work, we are protecting American workers' rights and wages, too.

The legal status must be earned by proving past work contributions, making a substantial future work commitment, and paying of $2,000 in penalties.

First, workers will receive temporary resident status, based on their past work contributions. To earn permanent residence, they must work 6 more years. Otherwise, they will be dropped from the program and required to leave the country.

It's not an amnesty for them, because they have to earn it. We offer a fair deal: if they are willing to work hard for us openly, then we're willing to do something fair for them. It is the only realistic solution.

If there's any amnesty involved, it's what they have today—an acquiescence in their presence, because countless businesses could not function without them since no American workers can be found to fill their jobs. To be eligible for legal status, applicants must have no criminal or national security problems. All will be required to undergo rigorous security clearances. Their names will be checked against the government's criminal and terrorist databases, and the applicant's fingerprints will be sent to the FBI for a thorough background check.

It's long past time to put the underground economy above ground, and recognize the reality of immigrants in our workforce. It's the only way to achieve effective enforcement rules to protect and strengthen our labor system, and to stabilize our workforce for employers.

Our bill allows long-term, tax-paying immigrant workers to apply for earned adjustment of status. Studies show that there are now millions of illegal immigrants working in the U.S., and it would be irresponsible to continue to ignore this hidden past of our economic landscape.

Our bill is also about fairness. It ensures that the rights of all workers are protected—that the rights to organize, to change jobs between employers, and to have fair wages, fair hours, and fair working conditions—cannot be denied. Through this legislation, America can be proud again that our Nation protects the safety and rights of all our workers.

Our legislation is also about protecting families. Family unity has always been a fundamental cornerstone of America's immigration policy. Yet, millions of individuals today are waiting for immigrant visas to join with their families.

Our bill will allow these families to be reunited more quickly and humanely. It also removes and amends unnecessary obstacles in current law that separate families, such as the affidavit-of-support requirements and the rigid bars to admissibility. Our bill contains provisions that will expedite visas to reunite spouses and children of legal immigrants with their loved ones. It also provides measures to clear up the backlog of employment-based visas.

In addition, this bill recognizes the need for strong border protection and enforcement as part of immigration reform. It directs the Secretary of Homeland Security to develop and implement a National Strategy for Border Security to coordinate the efforts of Federal, State, local, and tribal authorities on border management and security. The Strategy will identify the areas most in need of enforcement and propose cost-effective ways to defend the border, including better ways of technology, improved intelligence-sharing and coordination. It also includes plans to combat human smuggling.

To further improve border enforcement, the bill improves the security of Mexico's southern border and assesses the needs of Central American governments in securing their borders. It provides a framework for better management, communication, coordination, and immigration control for all our governments, and encourages other governments to control alien smuggling and trafficking, prevent the use and manufacture of fraudulent travel documents, and share relevant information.

The bill also encourages so-called circular migration patterns. It provides for unprecedented cooperation with the governments of the United States, Canada, Mexico, and other Central American countries on issues of migration. It asks foreign countries to enter into agreements with the U.S. to help control the flow of their citizens to jobs in the U.S., with emphasis on encouraging the re-integration of citizens returning home.

It also encourages the U.S. government to partner with Mexico to promote economic opportunity back home and reduce the pressure for its citizens to immigrate to the U.S. It encourages partnership between the U.S. and Mexico on health care, so that we are not unfairly burdened by the cost of administering health care to Mexican nationals.

Further, the bill mandates that immigration-related documents issued by DHS be biometric, machine-readable, and tamper-resistant. It creates an Employment Eligibility Confirmation System, so that employers can verify an employee's identity and employment authorization, and an improved system to collect entry and exit data to determine the status of aliens after their arrival to and departure from the U.S. It protects against immigration fraud by improving regulations on who may appear in immigration matters.

Another important component of our bill is its State Criminal Alien Assistance Program, to reimburse states for the direct and indirect costs of incarcerating illegal aliens.

We know that these reforms are long overdue. The illegal workers here today are not leaving, and new ones continue to come in. A significant part of the workforce in many sectors of the economy, especially agriculture, is undocumented. Massive deportations are unrealistic as policy, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Americans want and deserve realistic solutions to the very real immigration problems we face. They don't want open borders, and they don't want closed borders. They want smart borders, which mean fair and realistic immigration laws that can actually be enforced, immigration laws that protect our security, respect our ideals, and honor our heritage as a Nation of immigrants.

America has been the Promised Land for generations of immigrants who

have found haven, hope, opportunity and freedom here. Immigrants have always been an indispensable part of our Nation. They have contributed immensely to our communities, created new jobs and whole new industries, served in our armed forces, paid their taxes, and help make America the continuing land of promise it is today.

It's obvious why the Nation's founders chose ''E Pluribus Unum''—''out of many, one'' as America's motto two centuries ago. These words, chosen by Benjamin Franklin, John Adams, and Thomas Jefferson, referred to their ideal that tiny quarreling colonies could be transformed into one Nation, with one destiny. That basic ideal applies to individuals as well. Our diversity is our greatest strength.

We are a Nation of immigrants, and we always will be, and our laws must be true to that proud heritage. Our bipartisan bill attempts to do that, and I look forward to working with the Administration and our colleagues on both sides of the aisle to enact it into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 136—DESIGNATING THE MONTH OF MAY 2005 AS ''NATIONAL DRUG COURT MONTH''

Mr. BIDEN (for himself, Mr. SESSIONS, and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 136

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality;

Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders;

Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and

Whereas the drug court movement has grown from the 12 original drug courts in 1994 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as ''National Drug Court Month''; and

(2) encourages the people of the United States and interested groups to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 137—DESIGNATING MAY 1, 2005, AS ''NATIONAL CHILD CARE WORTHY WAGE DAY''

Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DODD, Mr. FEINGOLD, Mr. INOUYE, Mr. DURBIN, Mr. KERRY, Mr. KENNEDY, and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources maybe reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy Wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designate May 1, 2005, as ''National Child Care Worthy Wage Day''; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

SENATE RESOLUTION 138—DESIGNATING JULY 23, 2005, ''NATIONAL DAY OF THE AMERICAN COWBOY''

Mr. THOMAS (for himself, Mr. BURNS, Mr. INHOFE, Mr. DORGAN, Mr. CRAPO, Mr. SALAZAR, Mr. ENZI, Mr. ALLARD, Mr. BAUCUS, Mr. ALLEN, Mr. STEVENS, Mr. MARTINEZ, Mr. BINGAMAN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 139—EXPRESSING SUPPORT FOR THE WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA

Mr. REID (for himself, Mr. FRIST, and Mr. MCCAIN) submitted the following resolution; which was considered and agreed to:

S. RES. 139

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics;

Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the disposition of former Soviet troops stationed in certain newly independent countries was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania;

Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia;

Whereas, during the Organization for Security and Co-operation in Europe summit at Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty;

Whereas as part of such bilateral agreement, which is known as the ''Istanbul Commitments'', on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000;

Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments;

Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country;

Whereas, during November 2003, the Georgian people, in the historic ''Rose Revolution'', peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a new government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development; and

Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve

congratulations for the accomplishments and successful reforms carried out in Georgia since President Mikheil Saakashvili's inauguration in January 2004, and that the United States should continue to support such reforms and should encourage and assist Georgia with strengthening its democratic institutions and resolving its separatist conflicts peacefully; and

(C) the United States should continue to support Georgia in its efforts to negotiate an agreement for ending Russia's military presence in Georgia, in accordance with Russia's obligations under the bilateral agreement made between Russia and Georgia as part of the Adapted Conventional Forces in Europe Treaty known as the ''Istanbul Commitments''; and

(2) the Senate—

(A) supports the efforts of President Bush to encourage Russia and Georgia to expeditiously reach agreement on the closure of Russian military bases in, and the withdrawal of military personnel from, Georgia;

(B) commends President Bush for being the first United States President to visit Georgia since its recognition as an independent and sovereign country; and

(C) will continue to monitor the situation in Georgia closely.

SENATE RESOLUTION 140—EXPRESSING SUPPORT FOR THE HISTORIC MEETING IN HAVANA OF THE ASSEMBLY TO PROMOTE THE CIVIL SOCIETY IN CUBA ON MAY 20, 2005, AS WELL AS TO ALL THOSE COURAGEOUS INDIVIDUALS WHO CONTINUE TO ADVANCE LIBERTY AND DEMOCRACY FOR THE CUBAN PEOPLE

Mr. MARTINEZ (for himself and Mr. NELSON of Florida, Mr. CORZINE, Mr. LUGAR, Mr. FEINGOLD, Mr. INHOFE, Mr. BAYH, Mr. DEWINE, Mr. LAUTENBERG, Mr. SANTORUM, Mr. SALAZAR, Mr. COBURN, Mr. LIEBERMAN, Mr. MCCAIN, Mr. CRAIG, Mrs. DOLE, Mr. ENSIGN, Mr. VITTER, and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 140

Whereas on May 20, 1902, the Republic of Cuba obtained its independence;

Whereas in the spirit of Jose Marti, many of the future leaders of a free Cuba have called for a meeting of the Assembly of the Civil Society in Cuba, an organization that consists of over 360 dissident and civil society groups in Cuba;

Whereas, on May 20, 2005, the Assembly to Promote the Civil Society in Cuba seeks to convene a historic meeting in Havana on the 103rd anniversary of Cuban Independence; and

Whereas the Assembly to Promote the Civil Society in Cuba will focus on bringing democracy and liberty to the island of Cuba: Now, therefore, be it

Resolved, That the Senate—

(1) extends its support and solidarity to the participants of the historic meeting, in Havana, of the Assembly to Promote the Civil Society in Cuba on May 20, 2005;

(2) urges the international community to support the Assembly and its mission to bring democracy and human rights to Cuba;

(3) encourages the international community to oppose any attempts by the Cuban government to repress, punish, or intimidate the organizers and participants of the Assembly; and

(4) shares the pro-democracy ideals of the Assembly to Promote the Civil Society in Cuba and believes that the Assembly and its mission will advance freedom and democracy for the people of Cuba.

SENATE RESOLUTION 141—DESIGNATING SEPTEMBER 9, 2005, AS ''NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY''

Ms. MURKOWSKI (for herself, Mr. JOHNSON, Mr. STEVENS, Mr. DURBIN, Mr. COLEMAN, Mr. DODD, and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 141

Whereas the term ''fetal alcohol spectrum disorders'' includes a broader range of conditions and therefore has replaced the term ''fetal alcohol syndrome'' as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas the economic cost of fetal alcohol syndrome alone to the Nation was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost United States taxpayers between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked ''What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?''; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; and

(2) calls upon the people of the United States to—

(A) observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies to—

(i) promote awareness of the effects of prenatal exposure to alcohol;

(ii) increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) minimize further effects of prenatal exposure to alcohol; and

(iv) ensure healthier communities across the United States; and

(B) observe a moment of reflection on the ninth hour of September 9, 2005, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

SENATE CONCURRENT RESOLUTION 32—EXPRESSING THE SENSE OF CONGRESS THAT THE GOVERNMENT OF THE RUSSIAN FEDERATION SHOULD ISSUE A CLEAR AND UNAMBIGUOUS STATEMENT OF ADMISSION AND CONDEMNATION OF THE ILLEGAL OCCUPATION AND ANNEXATION BY THE SOVIET UNION FROM 1940 TO 1991 OF THE BALTIC COUNTRIES OF ESTONIA, LATVIA, AND LITHUANIA

Mr. SMITH (for himself, Mrs. FEINSTEIN, and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 32

Whereas the incorporation in 1940 of the Baltic countries of Estonia, Latvia, and Lithuania into the Soviet Union was an act of aggression carried out against the will of sovereign people;

Whereas the United States was steadfast in its policy of not recognizing the illegal Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Russian Federation is the successor state to the Soviet Union;

Whereas the Molotov-Ribbentrop Pact of 1939, including its secret protocols, between Nazi Germany and the Soviet Union provided the Soviet Union with the opportunity to occupy and annex Estonia, Latvia, and Lithuania;

Whereas the occupation brought countless suffering to the Baltic peoples through terror, killings, and deportations to Siberian concentration camps;

Whereas the peoples of Estonia, Latvia, and Lithuania bravely resisted Soviet aggression first through armed resistance movements and later through political resistance movements;

Whereas the Government of Germany renounced its participation in the Molotov-Ribbentrop Pact of 1939 and publicly apologized for the destruction and terror that Nazi Germany unleashed on the world;

Whereas, in 1989, the Congress of Peoples' Deputies of the Soviet Union declared the Molotov-Ribbentrop Pact of 1939 void;

Whereas the illegal occupation and annexation of the Baltic countries is one of the largest remaining unacknowledged incidents of oppression in Russian history;

Whereas a declaration of acknowledgment of such incident by the Russian Federation would lead to improved relations between the people of Estonia, Latvia, and Lithuania and the people of Russia, would form the basis for improved relations between the governments of the countries, and strengthen stability in the region;

Whereas the Russian Federation is to be commended for beginning to acknowledge grievous and regrettable incidents in their history, such as admitting complicity in the massacre of Polish soldiers in the Katyn Forest in 1940;

Whereas the truth is a powerful weapon for healing, forgiving, and reconciliation, but its absence breeds distrust, fear, and hostility; and

Whereas countries that cannot clearly admit their historical mistakes and make

peace with their pasts cannot successfully build their futures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania, the consequence of which will be a significant increase in good will among the affected peoples and enhanced regional stability.

AMENDMENTS SUBMITTED AND PROPOSED

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. BAUCUS to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. FEINGOLD and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. DORGAN (for himself and Mr. REID) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 746. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 747. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. WARNER and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 749. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 750. Mr. LOTT (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. ALLEN (for himself and Mr. ENSIGN) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 751. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 752. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 753. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. SANTORUM (for himself and Mr. SPECTER) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra .

SA 756. Mrs. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 681 proposed by Mrs. CLINTON to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 758. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 647 submitted by Mr. SESSIONS and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 760. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

MAY 11, 2005

SA 695. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title I, insert the following:

SEC. 1830. ANNUAL REPORT ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 180 days after the end of each fiscal year, the head of each Federal agency shall submit to Congress a report on the acquisitions that were made of articles, materials, or supplies by the agency in that fiscal year from entities that manufacture the articles, materials, or supplies outside the United States.

''(2) CONTENT OF REPORT.—The report for a fiscal year under paragraph (1) shall separately indicate the following information:

''(A) The dollar value of any articles, materials, or supplies that were manufactured outside the United States.

''(B) An itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act.

''(C) A summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available by posting on an Internet website.''.

SA 696. Mr. SARBANES submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

SEC. ___. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.

(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct a study on tax-free transit benefits and ways to promote improved access to and increased usage of such benefits, at Federal agencies in the National Capital Region, including agencies not currently offering the benefit.

(2) CONTENT.—The study under this subsection shall include—

(A) an examination of how agencies offering the benefit make its availability known to their employees and the methods agencies use to deliver the benefit to employees, including examples of best practices; and

(B) an analysis of the impact of Federal employees' use of transit on traffic congestion and pollution in the National Capital Region.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the results of the study under this subsection.

(b) AUTHORITY TO USE GOVERNMENT VEHICLES TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—

(1) IN GENERAL.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g)(1) A passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

''(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) shall absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

''(3) In carrying out this subsection, a Federal agency shall—

''(A) to the maximum extent practicable, use alternative fuel vehicles to provide transportation services;

''(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

''(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

''(4) For purposes of any determination under chapter 81 of title 5, an individual shall not be considered to be in the 'performance of duty' by virtue of the fact that such individual is receiving transportation services under this subsection.

''(5)(A) The Administrator of General Services, after consultation with the National Capital Planning Commission and other appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

''(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

''(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle, aircraft, boat, ship, or other similar means of transportation that is owned or leased by the United States Government or the government of the District of Columbia.''.

(2) FUNDS FOR MAINTENANCE, REPAIR, ETC.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

''(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.''.

(3) COORDINATION.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

TEXT OF AMENDMENTS

SA 743. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 713 proposed by Mr. BAUCUS to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 270, following the matter on line 15, insert the following:

(d) In addition to other eligible uses, the State of Montana may use funds apportioned under section 104(b)(2) for the operation of public transit activities that serve a nonattainment or maintenance area.

SA 744. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 676 submitted by Mr. FEINGOLD and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 15 through 22, and insert the following:

''(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—Subsection (a) shall not apply with respect to any expenses relating to the performance of services for compensation.

''(c) NO DOUBLE BENEFIT.—A taxpayer may not claim a deduction or credit under any other provision of this title with respect to the expenses under subsection (a).

''(d) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''.

SA 745. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 652 submitted by Mr. DORGAN (for himself and Mr. REID) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike all of page 2 and insert the following:

''(b) The Secretary of Energy shall direct the National Petroleum Council to conduct an evaluation and analysis determining the extent to which environmental and other regulations detrimentally affect new domestic refinery construction and significant expansion of existing refinery capacity.''

''(c) REPORTS TO CONGRESS.—

(1) On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission

(2) On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis;

(B) any recommendations of the National Petroleum Council.''

SA 746. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

''(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

''(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

''(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State based on the proportion that, under the most recent published report of the Appalachian Regional Commission under section 14501 of title 40—

''(1) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in the State; bears to

''(2) the cost of construction of highways and access roads that are in 'final design status' for the Appalachian development highway system program in all States.

''(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

''(e) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $650,000,000 for the period of fiscal years 2005 through 2009, of which—

''(A) $130,000,000 shall be for fiscal year 2005;

''(B) $130,000,000 shall be for fiscal year 2006;

''(C) $130,000,000 shall be for fiscal year 2007;

''(D) $130,000,000 shall be for fiscal year 2008; and

''(E) $130,000,000 shall be for fiscal year 2009.

''(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

''(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

''(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other and any apportioned formula program including the equity bonus program; and

''(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end of the following:

''178. Appalachian development highway system completion program.''.

SA 747. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 1816. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM COMPLETION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(a)), is amended by adding at the end the following:

''§ 178. Appalachian development highway system completion program

(a) IN GENERAL.—The Secretary shall carry out a program, to be known as the 'Appalachian development highway system completion program' (referred to in this section as the 'program'), to allocate capital funding to expedite the completion of 'ready-to-go' segments of the Appalachian development highway system.

(b) ELIGIBLE ACTIVITIES.—A State that receives an allocation of funds under this section shall use the funds to construct highways and access roads in accordance with chapter 145 of title 40.

(c) ALLOCATION OF FUNDS.—The Secretary shall allocate funds under the program to each State all counties of which are located, as of the date of enactment of this section, within the established 13-State Appalachian region, as determined by the Appalachian Regional Commission.

(d) FEDERAL SHARE.—The Federal share of the cost of carrying out any project or activity using funds allocated under the program shall be 80 percent.

(e) FUNDING.—

(1) IN GENERAL.—There shall be available to the Secretary to carry out this section, from the Highway Trust Fund (other than the Mass Transit Account), $300,000,000 for the period of fiscal years 2005 through 2009, of which—

(A) $60,000,000,000 shall be for fiscal year 2005;

(B) $60,000,000,000 shall be for fiscal year 2006;

(C) $60,000,000,000 shall be for fiscal year 2007;

(D) $60,000,000,000 shall be for fiscal year 2008; and

(E) $60,000,000,000 shall be for fiscal year 2009.

(2) OBLIGATION, ELIGIBILITY, AND AVAILABILITY.—Funds authorized to be appropriated under section 1101(16) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2004 and made available under paragraph (1) to carry out this section—

(A) shall be available for obligation by the Secretary in the same manner as if the funds were apportioned under this chapter;

(B) shall not be considered in determining the eligibility of any State to receive funds under section 105 or any other apportioned formula program including the equity bonus program; and

(C) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1815(b)), is amended by adding at the end the following:

178. Appalachian development highway system completion program.''.

SA 748. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 683 submitted by Mr. WARNER and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(b) Coalfields Expressway, West Virginia.—

(1) DESIGNATION.—Except as provided in paragraph (2), there is designated as an addition to the Appalachian Development Highway System in the State of West Virginia, the Coalfields Expressway from Paynesville, West Virginia to Beckley, West Virginia.

(2) MODIFICATION OF MILEAGE.—Section 14501(a) of title 40, United States Code, is amended in the second sentence by striking ''3,090'' and inserting ''3,153.''.

SA 749. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 3, to authorize funds for Federal-aid highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 8, strike ''in the State of Maine'' and insert ''in the State of Maine (including the area designated as the Maine Turnpike)''.

SA 750. Mr. LOTT (for himself and Mr. INOUYE) submitted an amendment intended to be proposed to amendment SA 611 proposed by Mr. ALLEN (for himself and Mr. ENSIGN) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

(a) IN GENERAL.—Section 405 is amended to read as follows:

''§ 405. Safety belt performance grants

''(a) IN GENERAL.—The Secretary of Transportation shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

''(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

''(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

''(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

''(B) in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate for each of the 2 calendar years immediately preceding the fiscal year of a grant of 85 percent or more, as measured under criteria determined by the Secretary.

''(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) of this subsection is equal to 500 percent of the amount apportioned to the State for fiscal year 2003 under section 402(c) of this title.

''(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (l)(A), a primary safety belt use law enacted after June 30th of any year shall—

''(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

''(B) be considered as if it were enacted after the beginning of the next Federal fiscal year.

''(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, then the Secretary shall make grants under this subsection to States in the order in which—

''(A) the primary safety belt use law came into effect; or

''(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured by criteria determined by the Secretary),

whichever first occurs.

''(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to paragraph (4)).

''(c) GRANTS FOR PRE-2003 LAWS.—To the extent that amounts made available for any of fiscal years 2006 through 2009 exceed the total amounts to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003. The amount of a grant available to a State under this subsection shall be equal to 250 percent of the amount of funds apportioned to the State under section 402(c) of this title for fiscal year 2003. The Secretary may award the grant in up to 4 installments over a period of 4 fiscal years beginning with fiscal year 2006.

''(d) ALLOCATION OF UNUSED GRANT FUNDS.—The Secretary shall make additional grants under this section of any amounts available for grants under this section that, on July 1, 2009, are neither obligated nor expended.The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c) of this title.

''(e) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

''(A) intersection improvements;

''(B) pavement and shoulder widening;

''(C) installation of rumble strips and other warning devices;

''(D) improving skid resistance;

''(E) improvements for pedestrian or bicyclist safety;

''(I) railway-highway crossing safety;

''(G) traffic calming;

''(H) the elimination of roadside obstacles;

''(I) improving highway signage and pavement marking;

''(J) installing priority control systems for emergency vehicles at signalized intersections;

''(K) installing traffic control or warning devices at locations with high accident potential;

''(L) safety-conscious planning; and

''(M) improving crash data collection and analysis.

''(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated or expended for safety activities under this chapter.

''(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

''(f) CARRY FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

''(g) FEDERAL SHARE.—The Federal share payable for grants under this subsection is 100 percent.

''(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—

''(1) a passenger car,

''(2) a pickup truck,

''(3) a van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.'' .

SA 751. Mr. DEWINE submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which

was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. .—SENSE OF THE SENATE REAFFIRMING SUPPORT FOR CURRENT FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT

FINDINGS.—Congress finds that—

On March 11, 1998, the Senate agreed unanimously to a resolution reaffirming limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

In 2000, the United States Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles;

In 2004, the United States Department of Transportation released the Western Uniformity Scenario Analysis report, which stated the Department does not favor change in federal truck size and weight policy; that nationwide, the Department believes an appropriate balance has been struck on truck size and weight; and that the Department opposes a piecemeal approach to truck size and weight policy;

SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under section 127(a) and (d) of title 23, United States Code, should not be amended so as to weaken the current 'freeze' on those vehicles or result in any more or less restrictive prohibition or restriction on those vehicles.

SA 752. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to proposed by him to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transmit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment; insert the following:

Sec.____ Incentives for the installation of Alternative Fuel Refueling Stations.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 753. Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, Mr. DAYTON, and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 5 and all that follows and insert the following:

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d),

but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 5310. MODIFICATION OF RECAPTURE RULES FOR AMORTIZABLE SECTION 197 INTANGIBLES.

(a) IN GENERAL.—Subsection (b) of section 1245 is amended by adding at the end the following new paragraph:

''(9) DISPOSITION OF AMORTIZABLE SECTION 197 INTANGIBLES.—

''(A) IN GENERAL.—If a taxpayer disposes of more than 1 amortizable section 197 intangible (as defined in section 197(c)) in a transaction or a series of related transactions, all such amortizable 197 intangibles shall be treated as 1 section 1245 property for purposes of this section.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any amortizable section 197 intangible (as so defined) with respect to which the adjusted basis exceeds the fair market value.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions of property after the date of the enactment of this Act.

SA 754. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 639 submitted by Mr. LAUTENBERG and intended to be proposed to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. SENSE OF THE SENATE REAFFIRMING SUPPORT FOR FEDERAL LIMITATIONS ON TRUCK SIZE AND WEIGHT.

(a) FINDINGS.—Congress finds that –

(1) on March 11, 1998, the Senate agreed unanimously to reaffirm limitations on the length and weight of commercial motor vehicles as part of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1997;

(2) in 2000, the Department of Transportation released the Comprehensive Truck Size and Weight Study, which raised new safety, infrastructure, and cost recovery concerns about lifting limitations on the length and weight of commercial motor vehicles; and

(3) in 2004, the Department of Transportation released the Western Uniformity Scenario Analysis report, which stated that the Department—

(A) does not favor change in Federal truck size and weight policy;

(B) believes an appropriate balance has been struck nationwide on truck size and weight; and

(C) opposes a piecemeal approach to truck size and weight policy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions on commercial motor vehicles under subsections (a) and (d) of section 127 of title 23, United States Code, should not be amended so as to—

(1) weaken the current ''freeze'' on those vehicles; or

(2) result in any more or less restrictive prohibition or restriction on those vehicles.

SA 755. Mr. LEVIN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 725 proposed by Mr. SANTORUM (for himself and Mr. SPECTER) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. 1831. TRANSPORTATION NEEDS, GRAYLING, MICHIGAN.

Item number 820 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 287) is amended by striking ''Conduct'' and all that follows through ''interchange'' and inserting ''Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area''.

SA 756. CLINTON (for herself and Mr. INHOFE) submitted an amendment intended to be proposed to the amendment SA 681 proposed by Mrs. CLINTON to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel;

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

''(8) if the project or program is for—

''(A) diesel retrofit technologies that are—

''(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(ii) published in the list under subsection (f)(5) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(I) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(II) funded, in whole or in part, under this title; or

''(B) outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the emission reduction strategy.''.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

(c) RESPONSIBILITY OF STATES.—Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(f) COST-EFFECTIVE EMISSION REDUCTION STRATEGIES.—

''(1) DEFINITIONS.—In this subsection:

''(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(B) CMAQ RESOURCES.—The term 'CMAQ resources' means resources available to a State to carry out the congestion mitigation and air quality improvement program under this section.

''(C) DIESEL RETROFIT TECHNOLOGY.—The term 'diesel retrofit technology' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

''(2) EMISSION REDUCTION STRATEGIES.—Each State shall develop, implement, and periodically revise emission reduction strategies comprised of any methods determined to be appropriate by the State that are consistent with section 209 of the Clean Air Act (42 U.S.C. 7542) for engines and vehicles that are used in construction projects that are—

''(A) located in nonattainment areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(B) funded, in whole or in part, under this title.

''(3) STATE CONSIDERATIONS.—In developing emission reduction strategies, each State—

''(A) may include any means to reduce emissions that are determined to be appropriate by the State; but

''(B) shall—

''(i) consider guidance issued by the Administrator under paragraph (5);

''(ii) limit technologies to those identified by the Administrator under paragraph (5);

''(iii) provide contractors with guidance and technical assistance regarding the implementation of emission reduction strategies;

''(iv) give special consideration to small businesses that participate in projects funded under this title;

''(v) place priority on the use of—

''(I) diesel retrofit technologies and activities;

''(II) cost-effective strategies;

''(III) financial incentives using CMAQ resources and State resources; and

''(IV) strategies that maximize health benefits; and

''(vi) not include any activities prohibited by paragraph (4).

''(4) STATE LIMITATIONS.—Emission reduction strategies may not—

''(A) authorize or recommend the use of bans on equipment or vehicle use during specified periods of a day;

''(B) authorize or recommend the use of contract procedures that would require retrofit activities, unless funds are made available by the State under this section or other State authority to offset the cost of those activities; or

''(C) authorize the use of contract procedures that would discriminate between bidders on the basis of a bidder's existing equipment or existing vehicle emission technology.

''(5) EMISSION REDUCTION STRATEGY GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a nonbinding list of emission reduction strategies and supporting technical information for—

''(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

''(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources board that is submitted not later that 18 months of the date of enactment of this Act;

''(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration health effects;

''(D) options and recommendations for the structure and content of emission reduction strategies including—

''(i) emission reduction performance criteria;

''(ii) financial incentives that use CMAQ resources and State resources;

''(iii) procedures to facilitate access by contractors to financial incentives;

''(iv) contract incentives, allowances, and procedures;

''(v) methods of voluntary emission reductions; and

''(vi) other means that may be employed to reduce emissions from construction activities; and

''(6) PRIORITY.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion management and air quality projects and programs to finance of diesel retrofit and cost-effective emission reduction activities identified by States in the emission reduction strategies developed under this subsection.

''(7) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.).''.

SA 757. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 670 proposed by Mr. OBAMA (for himself, Mr. COLEMAN, Mr. LUGAR, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, Mr. BAYH, Mr. TALENT, and Mr. DAYTON) to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 5309. INCENTIVES FOR THE INSTALLATION OF ALTERNATIVE FUEL REFUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

''SEC. 30B. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

''(b) LIMITATION.—

''(1) IN GENERAL.—The credit allowed under subsection (a)—

''(A) with respect to any retail alternative fuel vehicle refueling property, shall not exceed $30,000, and

''(B) with respect to any residential alternative fuel vehicle refueling property, shall not exceed $1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified alternative fuel vehicle refueling property' has the same meaning given for clean-fuel vehicle refueling property by section 179A(d), only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, CNG, LEG, LPG & hydrogen.

''(2) RESIDENTIAL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'residential alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—The term 'retail alternative fuel vehicle refueling property' means qualified alternative fuel vehicle refueling property which is of a character subject to an allowance for depreciation.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

''(e) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(f) SPECIAL RULES.—For purposes of this section—

''(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

''(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the

cost of any property taken into account under section 179.

''(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

''(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 30B(f)(1).''.

(2) Section 55(c)(2) is amended by inserting ''30B(d),'' after ''30(b)(3),''.

(3) Section 6501(m) is amended by inserting ''30B(f)(5),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SA 758. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 647 by Mr. SESSIONS and intended to be proposed to the amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

SEC. _____. RAILWAY-HIGHWAY CROSSINGS.

Section 130(e) of title 23, United States Code (as amended by section 1401(c)(1)), is amended by inserting after ''railway-highway crossings'' the following: '', and at least $150,000,000 shall be authorized to be appropriated from the general fund of the Treasury for the elimination of hazards, installation of protective devices, and the purchase of automatic warning signals for use at railway-highway crossings''.

SA 759. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 398, strike line 17 and all that follows through page 400, line 13, and insert the following:

SEC. 1819. HIGH-SPEED MAGNETIC LEVITATION SYSTEM DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Section 322 of title 23, United States Code, is amended to read as follows:

''§ 322. High-speed magnetic levitation system deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities.

''(B) INCLUSION.—The term 'eligible project costs' includes the costs of preconstruction planning activities.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—

''(A) IN GENERAL.—The term 'MAGLEV' means transportation systems in revenue service employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(B) INCLUSION.—The term 'MAGLEV' includes power, control, and communication facilities required for the safe operation of the vehicles within a system described in subparagraph (A).

''(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(5) SPECIAL PURPOSE ENTITY.—The term 'special purpose entity' means a nonprofit entity that—

''(A) is not a State-designated authority; but

''(B) is eligible, as determined by the Governor of the State in which the entity is located, to participate in the program under this section.

''(6) TEA–21 CRITERIA.—The term 'TEA–21 criteria' means—

''(A) the criteria set forth in subsection (d) of this section (as in effect on the day before the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005), including applicable regulations; and

''(B) with respect to subsection (e)(2), the criteria set forth in subsection (d)(8) of this section (as so in effect).

''(b) PHASE I—PRECONSTRUCTION PLANNING.—

''(1) IN GENERAL.—A State, State-designated authority, multistate-designated authority, or special purpose entity may apply to the Secretary for grants to conduct preconstruction planning for proposed new MAGLEV projects, or extensions to MAGLEV systems planned, studied, or deployed under this or any other program.

''(2) APPLICATIONS.—An application for a grant under this subsection shall include a description of the proposed MAGLEV project, including, at a minimum—

''(A) a description of the purpose and need for the proposed MAGLEV project;

''(B) a description of the travel market to be served;

''(C) a description of the technology selected for the MAGLEV project;

''(D) forecasts of ridership and revenues;

''(E) a description of preliminary engineering that is sufficient to provide a reasonable estimate of the capital cost of constructing, operating, and maintaining the project;

''(F) a realistic schedule for construction and equipment for the project;

''(G) an environmental assessment;

''(H) a preliminary identification of the 1 or more organizations that will construct and operate the project; and

''(I) a cost-benefit analysis and tentative financial plan for construction and operation of the project.

''(3) DEADLINE FOR APPLICATIONS.—The Secretary shall establish an annual deadline for receipt of applications under this subsection.

''(4) EVALUATION.—The Secretary shall evaluate all applications received by the annual deadline to determine whether the applications meet criteria established by the Secretary.

''(5) SELECTION.—The Secretary, except as otherwise provided in this section, shall select for Federal support for preconstruction planning any project that the Secretary determines meets the criteria.

''(c) PHASE II—ENVIRONMENTAL IMPACT STUDIES.—

''(1) IN GENERAL.—A State, State-designated authority, or multistate-designated authority or special purpose entity that has conducted (under this section or any other provision of law) 1 or more studies that address each of the requirements of subsection (b)(2) may apply for Federal funding to assist in—

''(A) preparing an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(B) planning for construction, operation, and maintenance of a MAGLEV project.

''(2) DEADLINE FOR APPLICATIONS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish an annual deadline for receipt of Phase II applications; and

''(ii) evaluate all applications received by that deadline in accordance with criteria established under subparagraph (B).

''(B) CRITERIA.—The Secretary shall establish criteria to evaluate applications that include whether—

''(i) the technology selected is available for deployment at the time of the application;

''(ii) operating revenues combined with known and dedicated sources of other revenues in any year will exceed annual operation and maintenance costs;

''(iii) over the life of the MAGLEV project, total project benefits will exceed total project costs; and

''(iv) the proposed capital financing plan is realistic and does not assume Federal assistance that is greater than the maximums specified in clause (ii).

''(C) PROJECTS SELECTED.—If the Secretary determines that a MAGLEV project meets the criteria established under subparagraph (B), the Secretary shall—

''(i) select that project for Federal Phase II support; and

''(ii) publish in the Federal Register a notice of intent to prepare an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) PHASE III—DEPLOYMENT.—The State, State-designated agency, multistate-designated agency, or special purpose entity that is part of a public-private partnership (meeting the TEA–21 criteria) sponsoring a MAGLEV project that has completed a final environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for both the MAGLEV project and the entire corridor of which the MAGLEV project is the initial operating segment, and has completed planning studies for the construction, operation, and maintenance of the MAGLEV project, under this or any other program, may submit an application to the Secretary for Federal funding of a portion of the capital costs of planning, financing, constructing, and equipping the preferred alternative identified in the final environmental impact statement or analysis.

''(e) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of the full project costs of projects selected under this section.

''(2) PREVAILING WAGE AND CERTAIN TEA–21 CRITERIA.—Sections 5333(a) of title 49, and

the TEA–21 criteria, shall apply to financial assistance made available under this section and projects funded with that assistance.

''(3) FEDERAL SHARE.—

''(A) PHASE I AND PHASE II.—For Phase I—preconstruction planning and Phase II—environmental impact studies carried out under subsections (b) and (c), respectively, the Federal share of the costs of the planning and studies shall be not more than ⅔ of the full cost of the planning and studies.

''(B) PHASE III.—For Phase III—deployment projects carried out under subsection (d), not more than ⅔ of the full capital cost of such a project shall be made available from funds appropriated for this program.

''(4) FUNDING.—

''(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 2005 through 2009 to carry out this section—

''(I) $10,000,000 for Phase I—preconstruction planning studies;

''(II) $20,000,000 for Phase II—environmental impact studies; and

''(III) $60,000,000 for Phase III—deployment projects.

''(ii) OBLIGATION AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter I, except that—

''(I) the Federal share of the cost of the project shall be in accordance with paragraph (2); and

''(II) the availability of the funds shall be in accordance with subsection (f).

''(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(i) PHASE I.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase I—preconstruction planning studies under subsection (b)—

''(I) $6,000,000 for fiscal year 2005; and

''(II) $2,000,000 for each of fiscal years 2006 through 2009.

''(ii) PHASE II.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase II—environmental impact studies under subsection (c)—

''(I) $25,000,000 for fiscal year 2005;

''(II) $37,000,000 for fiscal year 2006;

''(III) $21,000,000 for fiscal year 2007; and

''(IV) $9,000,000 for each of fiscal years 2008 and 2009.

''(iii) PHASE III.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out Phase III—deployment projects under subsection (d)—

''(I) $500,000,000 for fiscal year 2005;

''(II) $650,000,000 for fiscal year 2006;

''(III) $850,000,000 for fiscal year 2007;

''(IV) $850,000,000 for fiscal year 2008; and

''(V) $600,000,000 for fiscal year 2009.

''(iv) PROGRAM ADMINISTRATION.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out administration of this program—

''(I) $13,000,000 for fiscal year 2005;

''(II) $16,000,000 for fiscal year 2006;

''(III) $8,000,000 for fiscal year 2007; and

''(IV) $5,000,000 for each of fiscal years 2008 and 2009.

''(v) RESEARCH AND DEVELOPMENT.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out research and development activities to reduce MAGLEV deployment costs $4,000,000 for each of fiscal years 2005 through 2009.

''(f) AVAILABILITY OF FUNDS.—Funds made available under subsection (e) shall remain available until expended.

''(g) OTHER FEDERAL FUNDS.—Funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement programs under section 149 may be used by any State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(h) OTHER FEDERAL FUNDS.—A project selected for funding under this section shall be eligible for other forms of financial assistance provided by this title and title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), including loans, loan guarantees, and lines of credit.

''(i) MANDATORY ADDITIONAL SELECTION.—

''(1) IN GENERAL.—Subject to paragraph 2, in selecting projects for preconstruction planning, deployment, and financial assistance, the Secretary may only provide funds to MAGLEV projects that meet the criteria established under subsection (b)(4).

''(2) PRIORITY FUNDING.—The Secretary shall give priority funding to a MAGLEV project that—

''(A) has already met the TEA–21 criteria and has received funding prior to the date of enactment of the Safe, Affordable, Flexible, and Efficient Transportation Equity Act of 2005 as a result of evaluation and contracting procedures for MAGLEV transportation, to the extent that the project continues to fulfill the requirements of this section;

''(B) to the maximum extent practicable, has met safety guidelines established by the Secretary to protect the health and safety of the public;

''(C) is based on designs that ensure the greatest life cycle advantages for the project;

''(D) contains domestic content of at least 70 percent; and

''(E) is designed and developed through public/private partnership entities and continues to meet the TEA–21 criteria relating to public/private partnerships.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 322 and inserting the following:

''322. High-speed magnetic levitation system deployment program.''.

SA 760. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed to amendment SA 605 proposed by Mr. INHOFE to the bill H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 566, strike lines 2 through 9 and insert the following:

''(C) blast furnace slag aggregate;

''(D) silica fume;

''(E) foundry sand; and

''(F) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 9:30 a.m., in closed session to mark up the National Defense Authorization Act for Fiscal Year 2006.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 12, 2005, at 10 a.m., on S. 967, Issues Related to the Broadcast of Prepackaged News Stories Produced by the Government Agencies.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 12, 2005, at 10 a.m., to hold a Business Meeting.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, May 12, 2005, at 9:30 a.m., in SD226.

Agenda

I. Nominations: Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit; William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit; and Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia.

II. Bills: S. 852—A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. SPECTER, LEAHY, HATCH, FEINSTEIN, GRASSLEY, DEWINE, GRAHAM

III. Matters: Senate Judiciary Committee Rules.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Executive Nominations'' on Thursday, May 12, 2005 at 4 p.m. in Dirksen Senate Office Building, Room 226.

Witness List

Panel I: The Honorable THAD COCHRAN, U.S. Senator, R–MS; the Honorable CHUCK GRASSLEY, U.S. Senator, R–IA; and the Honorable MITCH MCCONNELL, U.S. Senator, R–KY.

Panel II: Rachel Beard, to be an Assistant Attorney General; Alice S.

Fisher, to be an Assistant Attorney General; and Regina B. Schofield, to be an Assistant Attorney General.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 12, 2005, for a committee hearing titled ''An Open Discussion: Planning, Providing and Paying for Veterans' Long Term Care.'' The hearing will take place in room 418 of the Russell Senate Office Building at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 12, 2005, at 2:30 p.m., to hold a business meeting.

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

SPECIAL COMMITTEE ON AGING

Mr. INHOFE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Thursday, May 12, 2005, from 3 to 5 p.m., in Hart 216 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, May 12, 2005, at 10:30 a.m., for a hearing entitled ''Examining USAID's Anti-Malaria Policies.''

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

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Emily Meeker, Rob Grayson, Waylon Mathern, and Jorlie Cruz for the remainder of the consideration of S. 732.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 59. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

John Paul Woodley, Jr., of Virginia, to be an Assistant Secretary of the Army.

NOMINATIONS DISCHARGED AND PLACED ON THE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of the nominations of Thomas Dorr, PN 68 and PN 69, and that the nominations be placed on the calendar, and finally that the Senate then return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DRUG COURT MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 136, submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 136) designating the month of May 2005 as ''National Drug Court Month.''

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 136) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 136

Whereas drug courts provide the focus and leadership for community-wide, antidrug systems, bringing together public safety professionals and other community partners in the fight against drug abuse and criminality;

Whereas the results of more than 100 program evaluations and at least 3 experimental studies have yielded definitive evidence that drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders;

Whereas the judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement and community supervision personnel, researchers and educators, national and community leaders, and others dedicated to the movement have had a profound impact within their communities; and

Whereas the drug court movement has grown from the 12 original drug courts in 1994 to 1,621 operational drug courts as of December 2004: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of May 2005 as ''National Drug Court Month''; and

(2) encourages the people of the United States and interested groups to observe the month with appropriate ceremonies and activities.

NATIONAL CHILD CARE WORTHY WAGE DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 137, submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 137) designating May 1, 2005, as ''National Child Care Worthy Wage Day.''

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. CORZINE. Mr. President, I rise today, along with Senators LAUTENBERG, BINGAMAN, DODD, DURBIN, FEINGOLD, INOUYE, KERRY, BOXER and KENNEDY, to speak about a resolution supporting National Child Care Worthy Wage Day. It is my hope that it will bring attention to early childhood education and the importance of attracting and retaining qualified childcare workers.

Every day, approximately 13 million children are cared for outside the home so that their parents can work. This figure includes 6 million of our Nation's infants and toddlers. Children begin to learn at birth, and the quality of care they receive will affect them for the rest of their lives. Early childcare affects language development, math skills, social behavior, and general readiness for school. Experienced childcare workers can identify children who have development or emotional problems and provide the care they need to take on life's challenges. Through the creative use of play, structured activities and individual attention, childcare workers help young children learn about the world around them and how to interact with others. They also teach the skills children will need to be ready to read and to learn when they go to school.

Unfortunately, despite the importance of their work, the committed individuals who nurture and teach our Nation's young children are undervalued. The average salary of a childcare worker is just under $18,000 annually. In 1998, the middle 50 percent of child care workers and preschool teachers earned between $5.82 and $8.13 an hour, according to the Department of Labor. The lowest 10 percent of childcare workers were paid an hourly rate of $5.49 or less. Only one third of our Nation's childcare workers have health insurance and even fewer have

pension plans. This grossly inadequate level of wages and benefits for childcare staff has led to difficulties in attracting and retaining quality caretakers and educators. As a result, the turnover rate for childcare providers is 30 percent a year. This high turnover rate interrupts consistent and stable relationships that children need to have with their caregivers.

If we want our children cared for by qualified providers with higher degrees and more training, we will have to make sure they are adequately compensated. Otherwise, we will continue to lose early childhood educators with BA degrees to kindergarten and first grade, losing some of our best teachers of young children from the early years of learning.

In order to bring attention to childcare workers, I am sponsoring a resolution that would designate May as National Child Care Worthy Wage Day. On May 1 each year, childcare providers and other early childhood professionals nationwide conduct public awareness and education efforts highlighting the importance of good early childhood education.

I encourage my colleagues to join me in recognizing the importance of the work and professionalism that childcare workers provide and the need to increase their compensation accordingly. The Nation's childcare workforce, the families who depend on them, and the children they care for, deserve our support.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 137) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 137

Whereas approximately 14,000,000 children are in out-of-home care during part or all of the day so that their parents may work;

Whereas the turnover rate of early-childhood educators is approximately 30 percent per year because low wages and a lack of benefits make it difficult to retain high-quality educators;

Whereas research has demonstrated that young children require caring relationships and a consistent presence in their lives for their positive development;

Whereas the compensation of early-childhood educators should be commensurate with the important job of helping the young children of the United States develop the social, emotional, physical, and intellectual skills they need to be ready for school; and

Whereas resources may be reallocated to improve the compensation of early-childhood educators to ensure that quality care and education are accessible for all families;

Whereas the Center for the Child Care Workforce and other early childhood education organizations recognize May 1st as National Child Care Worthy wage Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 1, 2005, as ''National Child Care Worthy Wage Day''; and

(2) calls on the people of the United States to observe National Child Care Worthy Wage Day by—

(A) honoring early-childhood educators and programs in their communities; and

(B) working together to resolve the early-childhood educator compensation crisis.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 138, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 138) designating July 23, 2005, as National Day of the American Cowboy.

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

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 138) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 138

Whereas pioneering men and women, recognized as cowboys, helped establish the American West;

Whereas that cowboy spirit continues to infuse this country with its solid character, sound family values, and good common sense;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy loves, lives off of, and depends on the land and its creatures, and is an excellent steward, protecting and enhancing the environment;

Whereas the cowboy continues to play a significant role in America's culture and economy;

Whereas approximately 800,000 ranchers are conducting business in all 50 of these United States and are contributing to the economic well being of nearly every county in the Nation;

Whereas rodeo is the sixth most-watched sport in America;

Whereas membership in rodeo and other organizations surrounding the livelihood of a cowboy transcends race and gender and spans every generation;

Whereas the cowboy is an American icon;

Whereas to recognize the American cowboy is to acknowledge America's ongoing commitment to an esteemed and enduring code of conduct; and

Whereas the ongoing contributions made by cowboys to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 23, 2005, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

EXPRESSING SUPPORT FOR WITHDRAWAL OF RUSSIAN TROOPS FROM GEORGIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 139 submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 139) expressing support for the withdrawal of Russian troops from Georgia.

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

Mr. FRIST. Mr. President, on April 9, 1991, the Republic of Georgia declared its independence from the Soviet Union. Later that December, it was formally recognized by the international community as a sovereign and independent nation.

Throughout the Cold War, the Soviet Union stationed troops and maintained military bases in many of the republics and countries along its border. When the Soviet Union collapsed in 1991, most of these forces withdrew to Russia and former Soviet military bases were closed.

Today, however, more than a decade after obtaining its independence, Georgia has not been able to rid itself of the Russian military presence. Several years ago, Russia pledged to withdraw its military personnel and close its military bases in Georgia. However, Russia has failed to fulfill its commitments. More than 3,000 Russian troops are still present in Georgia.

It is time for these forces to leave. I urge Russia's leaders to respect the sovereignty and territorial integrity of Georgia, to fulfill its obligations, and work with Georgia's leaders to end its military presence there.

In November 2003, the people of Georgia demonstrated their desire to free themselves of the bonds of foreign domination.

They peacefully protested fraudulent elections and succeeded in installing a government committed to democracy, human rights, and the rule of law. The Rose Revolution was a triumph for freedom and has truly been an inspiration to us all.

Georgia's President Mikheil Saakashvili and the Government and people of Georgia have exhibited steadfast determination in their efforts to regain their sovereignty and protect their new democracy.

The United States should continue to support the Georgian people as they work to strengthen their democratic institutions and end Russia's military presence.

I applaud President Bush for his recent visit to the Georgia Republic. And I wholeheartedly support his commitment to the spread of freedom and democracy in the states of the former Soviet Union.

President Saakashvili and the people of Georgia deserve deep admiration for their extraordinary accomplishment. I

am confident that their example will continue to inspire millions around the world who hope for a future of freedom and prosperity.

Mr. REID. Mr. President, I appreciate the support of the Senate in approving this resolution regarding the territorial integrity of Georgia. It is important that the Senate speak on this matter with one voice and at this time, as President Bush just wrapped up his trip to Europe and Russia with a 2-day visit to Tiblisi, Georgia.

I was in Georgia 6 weeks ago. I went there at the urging of the former Prime Minister, who died tragically in an accident several months ago. The Prime Minister came to visit me here in my Capitol office, and he described his country to me: mountainous, filled with historic churches, strategically important, and a friend to the United States. ''You have to go there,'' he said. I promised him that I would go there, and even after he died, I wanted to fulfill that commitment.

And after having spent 2 days and nights in Georgia, I can say that the Prime Minister's description was right on the mark. Georgia is a beautiful country, with an incredible history and stunning architecture. Above all, the Georgian people have a wonderful spirit.

Less than years ago, Georgia underwent the peaceful ''Rose Revolution.'' A group of young, thoughtful and energetic reformers took on the corrupt leaders of the Soviet era, denying them an opportunity to steal a parliamentary election. Thousands gathered in Freedom Square, night after night, to expose the fraud and criminality of the previous regime. From that point on, there was no turning back. Democracy had finally arrived in Georgia.

But Georgian sovereignty and independence has been put at some risk recently through the continued basing of Russian troops on Georgian soil. Previous agreements negotiated with the Russian government calling for the complete withdrawal of Russian troops have been ignored. Some 3,000 Russian military personnel still remain in Georgia. It is time for them to go. I am confident that President Bush carried that message to President Putin during his recent visit.

I am glad we could pass this Resolution calling on Russia to support the territorial integrity of Georgia, and expressing our support for the Georgian people and their pursuit of democracy. Georgia is our friend, our ally and our strategic partner. Passage of this resolution sends exactly the right message to the Russian Government and to the people of Georgia. Again, I appreciate the support of my colleagues and I commend the President for his decision to visit Georgia. I know he was as well received as our Senate delegation was.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 139

Whereas, on April 9, 1991, the Republic of Georgia declared independence from the Union of Soviet Socialist Republics;

Whereas, during December 1991, the Republic of Georgia was internationally recognized as an independent and sovereign country following the formal dissolution of the Union of Soviet Socialist Republics;

Whereas the disposition of former Soviet troops stationed in certain newly independent countries was resolved by 1994 with the complete withdrawal of Russian Federation military personnel from the Republics of Estonia, Latvia, and Lithuania;

Whereas in the years following the restoration of Georgian independence, successive governments of Georgia sought to negotiate the closure of Russian military bases located in, and the withdrawal of military personnel from, Georgia;

Whereas, during the Organization for Security and Co-operation in Europe summit at Istanbul, Turkey in 1999, Georgia and Russia concluded a bilateral agreement as part of the Adapted Conventional Forces in Europe Treaty;

Whereas as part of such bilateral agreement, which is known as the ''Istanbul Commitments'', on November 17, 1999, Russia committed to close bases at Gudauta and Vaziani by July 1, 2001, and committed to conclude negotiations on bases at Batumi and Akhalkalaki, and all other Russian military facilities during 2000;

Whereas Russia has failed to fulfill its obligations under the Istanbul Commitments;

Whereas more than 3,000 Russian military personnel remain in Georgia at various bases and facilities throughout the country;

Whereas, during November 2003, the Georgian people, in the historic ''Rose Revolution'', peacefully protested fraudulent elections resulting in the holding of new elections and the installation of a new government committed to democracy, the rule of law, observance of human rights, restoration of sovereignty, and economic development; and

Whereas on March 10, 2005, the democratically elected Parliament of the Republic of Georgia passed a measure expressing its dissatisfaction with Russia's continued military presence in Georgia: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) the Russian Federation should respect the territorial integrity and sovereignty of the Republic of Georgia;

(B) President Mikheil Saakashvili and the Government and people of Georgia deserve congratulations for the accomplishments and successful reforms carried out in Georgia since President Mikheil Saakashvili's inauguration in January 2004, and that the United States should continue to support such reforms and should encourage and assist Georgia with strengthening its democratic institutions and resolving its separatist conflicts peacefully; and

(C) the United States should continue to support Georgia in its efforts to negotiate an agreement for ending Russia's military presence in Georgia, in accordance with Russia's obligations under the bilateral agreement made between Russia and Georgia as part of the Adapted Conventional Forces in Europe Treaty known as the ''Istanbul Commitments''; and

(2) the Senate—

(A) supports the efforts of President Bush to encourage Russia and Georgia to expeditiously reach agreement on the closure of Russian military bases in, and the withdrawal of military personnel from, Georgia;

(B) commends President Bush for being the first United States President to visit Georgia since its recognition as an independent and sovereign country; and

(C) will continue to monitor the situation in Georgia closely.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

AUTHORIZING USE OF CAPITOL GROUNDS FOR DISTRICT OF COLUMBIA SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN

AUTHORIZING USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the en bloc consideration of the following concurrent resolutions which were received from the House: H. Con. Res. 86, H. Con. Res. 135, H. Con. Res. 136.

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

The Senate proceeded to consider the concurrent resolutions.

Mr. FRIST. I ask unanimous consent that the concurrent resolutions be agreed to and the motions to reconsider be laid upon the table en bloc.

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

The concurrent resolutions (H. Con. Res. 86, H. Con. Res. 135, and H. Con. Res. 136) were agreed to.

NATIONAL FETAL ALCOHOL SPECTRUM DISORDERS AWARENESS DAY

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 141, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 141) designating September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day.''

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

Ms. MURKOWSKI. On Wednesday, May 18, parents of children afflicted with Fetal Alcohol Spectrum Disorders and their advocates will travel to our Nation's Capital for the Second Annual FASD Hill Day. FASD Hill Day is sponsored by the National Organization on Fetal Alcohol Syndrome and organizations that support those who care for FASD children in our States and communities.

Nobody knows better than a parent of a child afflicted with FASD how challenging it is to raise a child who

was exposed to alcohol before birth. Nobody knows better the physical, mental, behavioral and learning disabilities that can have lifelong implications. I would urge my colleagues to open their offices to the parents and advocates who participate in FASD Hill Day because they have a very important story to tell. Their stories will move you.

At the conclusion of FASD Hill Day, the National Organization on Fetal Alcohol Syndrome will host its annual Leadership Awards Benefit Reception. All of the parents and advocates are invited to participate. I am pleased to inform my colleagues that the distinguished Senator from Wyoming, Mr. ENZI, and our distinguished colleague from Illinois, Mr. DURBIN, will receive the 2005 Leadership Award at the benefit reception. As a Senator who represents a State with one of the highest incidence rates of Fetal Alcohol Spectrum Disorders, I appreciate the leadership of Senator DURBIN and Senator ENZI, and the support of all of our colleagues, in the crusade to eradicate fetal alcohol spectrum disorders.

The term fetal alcohol spectrum disorders, or FASD, was coined by experts as an umbrella term to describe the range of effects that can occur in an individual whose mother drank alcohol during pregnancy. It refers to conditions such as fetal alcohol syndrome, fetal alcohol effects, alcohol-related neurodevelopmental disorder and alcohol-related birth defects.

The only cause of FASD is alcohol use during pregnancy. When a pregnant woman drinks, the alcohol crosses the placenta into the fetal blood system. Thus, alcohol reaches the fetus, its developing tissues and organs. This is how brain damage occurs, which in turn can lead to mental retardation, social and emotional problems, learning disabilities and other problems. In fact, FASD is the leading cause of mental retardation in all of western civilization, including the United States.

Since the only cause of FASD is prenatal alcohol consumption it follows that by abstaining from the consumption of alcohol during pregnancy a woman can completely foreclose the possibility that her baby will be born with one or another of the conditions that are regarded fetal alcohol spectrum disorders.

Every day of the year we must remind women that no amount of alcohol consumed during pregnancy is safe for their baby. No alcohol during pregnancy is safe. None at all.

To dramatize this point, a group of parents who were raising children afflicted with fetal alcohol came together on the Internet and wondered in cyberspace, ''What if a world full of FAS and FAE parents all got together on the 9th hour of the 9th day of the 9th month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol?'' If this were to occur, they wondered, ''Would the world listen?''

On the 9th hour of the 9th day of the 9th month every year they called upon all the peoples of the world to observe a moment of silence to remind women of childbearing age that no amount of alcohol is safe during pregnancy.

These pioneering activists, most of whom were adoptive and foster parents, led by Brian Philcox and Bonnie Buxton of Toronto, Canada, and Teresa Kellerman of Tucson, AZ, did not have the resources of large public relations firms or well connected lobbyists. They organized the first International FAS Awareness Day, which was observed on September 9, 1999, on a shoestring using the Internet. Rapidly their group grew to include more than 70 volunteer coordinators in eight countries. Each year I receive e-mails from places like New Zealand, Germany, and my own State of Alaska, telling me about their local FAS Day observances. Through this grassroots awareness effort, many women of childbearing age learned for the first time that no amount of alcohol in pregnancy is good.

On September 9, 2004, for the first time, the moment of silence was observed on the Senate floor. I would hope that this would become an annual tradition until fetal alcohol spectrum disorders are eradicated.

The resolution that I have introduced today designates September 9, 2005, as National Fetal Alcohol Spectrum Awareness Day. Although September 9 is several months off, I have asked that the resolution be considered at this time as a tribute to the efforts of the FASD parents and advocates who have come to Washington, DC, educate all of us about the dangers of alcohol and pregnancy and to provide them with a tool to encourage each of their communities to observe and participate in FASDAY 2005 when they return home.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 141) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 141

Whereas the term ''fetal alcohol spectrum disorders'' includes a broader range of conditions and therefore has replaced the term ''fetal alcohol syndrome'' as the umbrella term describing the range of effects that can occur in an individual whose mother drank alcohol during pregnancy;

Whereas fetal alcohol spectrum disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable;

Whereas fetal alcohol spectrum disorders are a major cause of numerous social disorders, including learning disabilities, school failure, juvenile delinquency, homelessness, unemployment, mental illness, and crime;

Whereas the incidence rate of fetal alcohol syndrome is estimated at 1 out of 500 live births and the incidence rate of fetal alcohol spectrum disorders is estimated at 1 out of every 100 live births;

Whereas the economic cost of fetal alcohol syndrome alone to the Nation was $5,400,000,000 in 2003 and it is estimated that each individual with fetal alcohol syndrome will cost United States taxpayers between $1,500,000 and $3,000,000 in his or her lifetime;

Whereas in February 1999, a small group of parents of children who suffer from fetal alcohol spectrum disorders came together with the hope that in 1 magic moment the world could be made aware of the devastating consequences of alcohol consumption during pregnancy;

Whereas the first International Fetal Alcohol Syndrome Awareness Day was observed on September 9, 1999;

Whereas Bonnie Buxton of Toronto, Canada, the co-founder of the first International Fetal Alcohol Syndrome Awareness Day, asked ''What if . . . a world full of FAS/E [Fetal Alcohol Syndrome/Effect] parents all got together on the ninth hour of the ninth day of the ninth month of the year and asked the world to remember that during the 9 months of pregnancy a woman should not consume alcohol . . . would the rest of the world listen?''; and

Whereas on the ninth day of the ninth month of each year since 1999, communities around the world have observed International Fetal Alcohol Syndrome Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 9, 2005, as ''National Fetal Alcohol Spectrum Disorders Awareness Day''; and

(2) calls upon the people of the United States to—

(A) observe National Fetal Alcohol Spectrum Disorders Awareness Day with appropriate ceremonies to—

(i) promote awareness of the effects of prenatal exposure to alcohol;

(ii) increase compassion for individuals affected by prenatal exposure to alcohol;

(iii) minimize further effects of prenatal exposure to alcohol; and

(iv) ensure healthier communities across the United States; and

(B) observe a moment of reflection on the ninth hour of September 9, 2005, to remember that during the 9 months of pregnancy a woman should not consume alcohol.

ORDERS FOR FRIDAY, MAY 13, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Friday, May 13. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 3, the highway bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will resume consideration of the highway bill. Earlier today we invoked cloture on the substitute amendment, and the chairman and ranking member were able to construct a final list of amendments. We are now on a glidepath to complete work on this legislation early next week, and I do want to thank all Members for their hard work and cooperation.

With that being said, there is still work to be done. The bill managers will be here tomorrow morning to receive the final few amendments. There will be no rollcall votes tomorrow, but I encourage those Members who have amendments on the final list to come to the floor tomorrow to offer and debate their amendments. We will be voting on Monday evening, and that would be the next rollcall vote.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:40 p.m., adjourned until Friday, May 13, 2005, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, May 12, 2005:

DEPARTMENT OF DEFENSE

JOHN PAUL WOODLEY, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.