BENNETT) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1774, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension.

At the request of Mr. Vitter, the name of the Senator from Mississippi (Mr. Lott) was added as a cosponsor of S. 1787, a bill to provide bankruptcy relief for victims of natural disasters, and for other purposes.

S. 1796

At the request of Mr. Corzine, the names of the Senator from Illinois (Mr. Durbin) and the Senator from Washington (Ms. Murray) were added as cosponsors of S. 1796, a bill to amend title XI and XVIII of the Social Security Act to prohibit outbound call telecommunications to individuals eligible to receive benefits under title XVIII of such Act.

S. 1804

At the request of Mrs. Lincoln, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 1804, a bill to provide emergency assistance to agricultural producers who have suffered losses as a result of drought, Hurricane Katrina, and other natural disasters occurring during 2005, and for other purposes.

S. 1808

At the request of Mr. Bingaman, the names of the Senator from New York (Mrs. Clinton), the Senator from Washington (Mrs. Murray), the Senator from South Dakota (Mr. Johnson) and the Senator from Minnesota (Mr. Dayton) were added as cosponsors of S. 1808, a bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (QMB) and specified low-income medicare beneficiary (SLMB) programs within the medicare programs.

S.J. RES. 25

At the request of Mr. Talent, the name of the Senator from Tennessee (Mr. Alexander) was added as a cosponsor of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. RES. 180

At the request of Mr. Schumer, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. Res. 180, a resolution supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

AMENDMENT NO. 1811

At the request of Ms. Snowe, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of amendment No. 1811 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1911

At the request of Mr. Levin, the name of the Senator from Michigan (Ms. Stabenow) was added as a cosponsor of amendment No. 1929 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2077

At the request of Mr. Nelson of Florida, the names of the Senator from Vermont (Mr. Jeffords), the Senator from Nebraska (Mr. Hagel), the Senator from South Dakota (Mr. Johnson) and the Senator from Delaware (Mr. Biden) were added as cosponsors of amendment No. 2077 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. Kohl (for himself and Mr. Bentsen) S. 1826. A bill to amend the Internal Revenue Code of 1986 to allow a credit to encourage employers to offer flexible and phased work opportunities to older workers, to expand the credit for dependent care expenses to cover eldercare expenses, to extend COBRA coverage for certain older workers who lose health insurance coverage due to a reduction in work, to improve older workers' access to job training services, and for other purposes; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to discuss an issue that will greatly affect our Nation's aging population, workforce, and economy: the need to expand opportunities for older Americans to work into their later years if they so choose.

As older Americans live longer and healthier lives, many are planning to work longer. According to a recent survey, 80 percent of baby boomers expect to work past traditional retirement age. Yet, for many, the physical and mental benefits of work, while some may need the additional income to remain financially secure. Whatever the reason people decide to stay on the job, it's time to change the way our Nation thinks about retirement. A one-size-fits-all retirement will no longer match the very different plans that seniors and baby boomers have for their later years.

Rethinking retirement is also vital to our Nation's economic future. By 2030, businesses could face a labor force shortage of 35 million workers, and the projected slowdown in labor force growth could translate into lower economic growth and job insecurity. However, we can soften the potentially serious impact of these trends if we develop policies that expand opportunities for older Americans to work longer.

Today, we are taking a first step by introducing The Older Worker Opportunity Act. This legislation addresses a variety of issues that affect older workers and employers: workplace flexibility, pensions, health insurance coverage, job training, and caregiving needs. Back in April, as ranking member of the Aging Committee, I chaired a hearing on older workers which identified barriers and disincentives to working longer. This legislation specifically targets those issues.

First, today's workplace rarely offers flexible and part-time work arrangements for older workers. Most older workers would choose to work past traditional retirement age, but would prefer to gradually transition into retirement instead of fully retiring at a traditional retirement age.

To encourage employers to offer flexible and part-time work arrangements, we propose a tax credit for employers that give their older workers such opportunities while protecting them from the loss of health or pension benefits. Our aim is to encourage more workplace flexibility, which would benefit both older workers and employers through increased productivity and job retention.

Second, the bill provides an extra safety net for older workers who reduce their work but whose employers do not keep them on their health plan. In those cases, of course, the employer would not qualify for the tax credit we are offering. However, we would extend COBRA coverage from 18 to 36 months for their workers from the age of 62 until they are eligible for Medicare.

Third, one major reason why older workers exit the workforce is the need to care for aging family members. Older workers who are also caregivers often face a significant loss of earnings and retirement income, and their employers lose up to $29 billion per year in lost work time and productivity. To help older workers balance the demands of work and caregiving, and to help employers by increasing productivity and reducing turnover costs, we propose expanding the dependent care credit to cover the care of chronically ill family members.

Fourth, as GAO has found, job training programs are often discouraged...
from enrolling older workers because their effectiveness is measured in part by participants’ earnings. Older workers tend to seek part-time work and receive lower earnings when they get new jobs. As a result, older workers do not have the same job training services they need to develop their technological skills and increase their productivity. We propose adjusting older workers’ lower earnings when measuring the success of job training programs in order to more accurately reflect the value of training programs to the older workforce. We also ask states to collect more data on the success of our current job training programs in meeting the unique needs of older workers.

Fifth, it is clear that the barriers this bill addresses are not the only barriers facing older workers. This bill is just the beginning. Therefore, we propose a “Task Force on Older Workers,” composed of experts from all relevant federal agencies and to further identify barriers and disincentives in current law, and recommend solutions.

We face an historic challenge, and with it, an historic opportunity. We need a 21st century workplace that is a win-win for older workers and their employers—and an effective strategy for retaining our competitive advantage against other countries facing the same demographic tidal wave. We need to usher in a new age of work to take advantage of the new demographics. We need to pass this historic opportunity. We face an historic challenge, and with it, a historic opportunity.

Mr. President, I ask unanimous consent—

SEC. 401. Federal task force on older workers.

TITLE I—TAX INCENTIVES

Sec. 101. Tax credit for older workers in flexible and phased work programs.

(a) Congress finds that—

(1) most older workers expect to work past traditional retirement age;

(2) most older workers would prefer not to work a traditional full-time schedule;

(3) older workers’ preference for flexible and phased work is not matched by opportunities currently offered by employers;

(4) many older workers would choose to work longer if they were offered flexible and phased work which would also reduce employer costs by increasing employee retention; and

(5) many older workers would like to gradually transition into retirement instead of taking full retirement immediately.

(b) FLEXIBLE AND PHASED WORK CREDIT.—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. 45N. FLEXIBLE AND PHASED WORK CREDIT.

(a) In general.—For purposes of section 38, in the case of an eligible employer, the flexible and phased work credit determined under this section for the taxable year shall be equal to 40 percent of the qualified wages for such year.

(b) Eligible employer.—For purposes of this section, the term ‘eligible employer’ means an employer which—

(1) maintains a qualified trust (within the meaning of section 403(b)(1)(A)), and

(2) pays no less than 60 percent of the cost of health insurance coverage with respect to each full-time employee receiving such coverage.

(c) QUALIFIED WAGES DEFINED.—For purposes of this section—

(1) QUALIFIED WAGES.—The term ‘qualified wages’ means the wages paid or incurred by an eligible employer during the taxable year to individuals whom at the time such wages are paid or incurred—

(A) have attained the age of 591⁄2, and

(B) are participating in a formal flexible or phased work program.

(2) WAGES.—

(A) IN GENERAL.—The term ‘wages’ has the meaning given such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

(B) OTHER RULES.—Rules similar to the rules of paragraph (2) and (3) of section 38(c) shall apply for purposes of this section.

(C) TERMINATION.—The term ‘wages’ shall not include any amount paid or incurred to an individual in respect to services performed during a period of 30 days ending on the date on which the individual’s status as a participant in a formal flexible or phased work program terminates.

(3) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $6,000 per year.

(d) FORMAL FLEXIBLE WORK PROGRAM.—For purposes of this section—

(1) IN GENERAL.—The term ‘formal flexible work program’ means a program of an eligible employer which—

(A) which consists of core time and flex time,

(B) under which core time does not exceed—

(i) 20 hours per week,

(ii) 3 days per week, or

(iii) 1,000 hours per year, and

(C) which meets the requirements of subsection (f).

(2) CORE TIME.—The term ‘core time’ means the specific time—

(A) during which an employee is required to perform services related to employment, and

(B) which is determined at the election of the employer.

(3) FLEX TIME.—The term ‘flex time’ means the time other than core time—

(A) during which an employee is required to perform services related to employment, and

(B) which is determined at the election of the employer.

(e) FORMAL PHASED WORK PROGRAM.—For purposes of this section, the term ‘formal phased work program’ means—

(1) a program of an eligible employer—

(A) under which the employee and an employee enter into an agreement, in good faith, that the employee’s work schedule will be no more than 80 percent of the work schedule of a similarly situated full-time employee, and

(B) which meets the requirements of subsection (f), or

(2) any phased retirement program of an eligible employer which—

(A) is authorized by the Secretary, and

(B) meets the requirements of subsection (f).

(f) REQUIREMENTS.—A program shall not be considered a formal flexible work program or a formal phased work program under this section unless such program meets the following requirements:

(1) DURATION OF PROGRAM.—The program shall allow for participation for a period of at least 1 year.

(2) NO CHANGE IN HEALTH BENEFITS.—With respect to a participant whose work schedule is reduced to no less than 20 percent of the work schedule of a similarly situated full-time employee—

(A) such participant shall be entitled to the same health insurance coverage to which a similarly situated full-time employee would be entitled,

(B) the employer shall contribute the same percentage of the cost of health insurance coverage for such participant as the employer would contribute for a similarly situated full-time employee, and

(C) such participant shall be entitled to participate in a retiree health benefits plan of the employer in the same manner as a similarly situated full-time employee, except that service credited under the plan for any plan year shall be equal to the ratio of the participant’s work schedule during such year to the work schedule of a similarly situated full-time employee during such year.

(3) NO REDUCTION IN PENSION BENEFITS.—

(A) DEFINED BENEFIT PLANS.—

(i) A participant shall be entitled to participate in a defined benefit plan (within the meaning of section 41(j)) of the employer in the same manner as a similarly situated full-time employee.

(ii) Service credited to a participant under the plan for any plan year shall be equal to the ratio of the participant’s work...
made by this section shall apply to wages earned by a spouse of a taxpayer described in clause (i), in the case of a qualifying event described in paragraph (1)(D), or '(ii) a qualifying individual described in paragraph (1)(D), or'.

(2) CONFORMING AMENDMENT.—Clause (iii) of section 21(b)(2)(B), as redesignated by paragraph (1), is amended—

(a) EXPANSION OF DEPENDENT CARE CREDIT TO ELDERCARE EXPENSES.—

(1) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162) is amended—

(1) in paragraph (2)(A), by inserting after subparagraph (A)(vi) the following:

(ii) a qualifying individual described in paragraph (2)(A)(vi).''.

(b) EXPANSION OF COBRA CONTINUATION COVERAGE.—

(1) The heading of section 21 of the Internal Revenue Code of 1986 is amended by striking 'AND DEPENDENT CARE SERVICES' and inserting ', and dependent care services.'.

(2) The item relating to section 21 in the table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended striking 'plus' and inserting ', plus', and by adding at the end the following new paragraph:

'The rules similar to the rules of paragraphs (1) and (2) of section 51(i) of the Internal Revenue Code of 1986 are prescribed such regulations as are necessary to carry out the purposes of this section, including simplified rules to satisfy the requirements of subsection (f)(3)(C) taking into account the requirements of section 411 and section 203 of the Employee Retirement Income Security Act of 1974.'.

(d) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking 'and 1986 is amended by striking 'and 1986 is amended by inserting '45N(a),' after '46A(a),'.'.

(e) CREDIBLE SERVICE.—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. 45N. Flexible and phased work credit.'.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid in calendar years beginning after December 31, 2005.

SEC. 201. EXTENDED COBRA CONTINUATION COVERAGE FOR CERTAIN OLDER WORKERS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 602 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162) is amended—

(1) in paragraph (2), by adding at the end the following:

'(v) SPECIAL RULE FOR CERTAIN OLDER WORKERS.—

(I) IN GENERAL.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in subparagraph (A) of this paragraph to which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.'; and

(2) in paragraph (3), by adding at the end the following:

'(vii) 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 who do not have a 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 those with dependent children), and such other groups as the Governor determines to be hard to serve.'.

SEC. 202. STATEWIDE EMPLOYMENT AND TRAINING ACT DEFINITION

Section 134(a)(3)(A) of such Act (29 U.S.C. 2864(a)(3)(A)) is amended—

(1) in clause (vi), by striking ‘‘and at the end;'

(2) by redesignating clause (vii) as clause (viii); and

(3) by redesignating clause (viii) as clause (v).
(b) 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.

"(ii) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(iii) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(iv) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(v) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(vi) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(vii) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(viii) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(ix) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(x) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(xi) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.

"(xii) SPECIAL RULE.—A new interview, evaluation, or assessment, has been 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.
title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

(2) 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 exemplary performance in serving older workers.

(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 that replicate innovative programs or programs that increase coordination and enhanced service to program participants, particularly hard-to-serve populations; and

(4) 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 that replicate innovative programs or programs that increase coordination and enhanced service to program participants, particularly hard-to-serve populations.

TITLe IV—FEDERAL TASK FORCE ON OLDER WORKERS

SEC. 405. FEDERAL TASK FORCE ON OLDER WORKERS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall establish a Federal Task Force on Older Workers (referred to in this Act as the “Task Force”).

(b) MEMBERSHIP.—The Task Force established pursuant to subsection (a) shall be composed of representatives from all relevant Federal agencies that have regulatory jurisdiction over, or a clear policy interest in, issues relating to older workers, including the Social Security Administration, the Equal Employment Opportunity Commission, the Administration on Aging of the Department of Health and Human Services, and the Equal Employment Opportunity Commission of the United States.

(c) ACTIVITIES.—

(1) AFTER ONE YEAR.—Not later than 1 year after the date of establishment of the Task Force, the Task Force shall—

(A) identify statutory and regulatory provisions in current law that tend to limit opportunities for older workers, and develop legislative and regulatory proposals to address such limitations;

(B) identify best practices in the private sector for hiring and retaining older workers, and serve as a clearinghouse of such information; and

(C) assess the effectiveness and cost of programs that Federal agencies have implemented to hire and retain older workers (including the Senior Environmental Employment Service (SEE) Program of the Environmental Protection Agency), and recommend cost-effective programs for all Federal agencies to hire and retain older workers.

(2) AFTER THREE YEARS.—Not later than 3 years after the date of establishment of the Task Force, the Task Force shall—

(A) assess the effectiveness of the provisions of this Act; and

(B) organize a Conference on the Aging Workforce, which includes the participation of senior, business, labor, and other interested organizations.

(3) REPORT.—The Task Force shall submit a report to Congress on the activities of the Task Force pursuant to paragraph (1). Such report shall be made available to the public.

(4) REPORT.—Not later than 3 years after the date of enactment of this Act, the Task Force shall submit a report to Congress on the activities of the Task Force pursuant to section 402. The report shall be made available to the public.

(5) APPLICABILITY OF FACA; TERMINATION OF TASK FORCE.—

(a) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Task Force established pursuant to this Act.

(b) TERMINATION.—The Task Force shall terminate 30 days after the date the Task Force completes all of its duties under this Act.

INTERFAITH,


Hon. Herb Kohl,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Dear Senator Kohl: It is a privilege to support Senator Kohl’s proposed “Older Worker Opportunity Act of 2005.” As an executive director, I fully recognize the importance of retaining and hiring older workers to our nation’s workforce. We believe that Federal legislation might work towards helping older workers transition gradually to full retirement or helping mature workers continue working part time. The extended COBRA might be just the incentive a 62-year-old needs to want to retire, has frightening implications for business, government and the economy.

Keeping older workers employed is crucial to keeping America strong and competitive in the global marketplace. While we know the older worker is the workforce of the future, and we believe the experience, work ethic and dedication to quality of the older worker, will have a positive impact on business.

Government also needs older workers to remain employed and contributing to the tax base, rather than become consumers of public benefits and services. As an example, an older worker who remains employed may also delay drawing Social Security benefits, while at the same time continuing to contribute to the fund through payroll withholdings.

We also know that older people who remain active, both physically and mentally, live longer and healthier lives. Healthier individuals are in less need of publicly funded health care services. Older workers who are employed are also less likely to need assistance from other social service programs such
as meal programs, food pantries, subsidized housing, food stamps, and energy assistance. These programs are already faced with rising demand and shrinking budgets, and extending their support to older Americans can help delay, or at least reduce, the need for these services.

With the many benefits of keeping the older worker employed in mind, we would like to address each of the five key points of your proposal:

**ElderCare Tax Credit**

The Baby-Boom generation will have a significant impact on both the workforce and the workplace as they continue to age. Employers will need to accommodate the unique needs of this cohort, with a key issue being flexibility. When an older worker leaves their job, they take with them years of knowledge and experience. This sudden loss of expertise negatively impacts an organization's productivity, and therefore their bottom line. To prevent this, older workers need to be offered incentives to remain in their jobs.

Employers need to consider such concepts as flex time, job sharing, compressed work weeks, telecommuting, part-time employment, on-site day care, and phased retirement. Many of these new work modes can be implemented at little or no cost to the employer. All of them will benefit the employer through a skilled, experienced, and stable workforce.

Using tax credits as an incentive to employers may bring about change, if the credit is attractive, and comes with minimal paperwork.

As further incentive to creating an "older worker friendly" workplace, the tax credit should be based on the number of flexible options an employer offers, and employers who hire older workers should receive additional tax credits.

**Extension of Cobra Coverage**

As you have noted, current COBRA law allows for only 18 months of continued coverage if group policy coverage is lost as the result of a reduction in hours. Under many other circumstances, coverage can be extended to 36 months.

Older workers who are no longer able to work due to health reasons, or due to health-related circumstances, often opt for early retirement at age 62. This results in a loss of insurance benefits, and an increased reliance on publicly funded health care.

Extending COBRA coverage until age 65 may accommodate an older worker's need for both reduced hours and insurance, thereby delaying their need for Social Security and publicly funded health care.

**ElderCare Tax Credit**

Today, employees of any age are often times faced with choosing between working and taking on the responsibilities of caring for the elderly, a choice that often affects their ability to be healthy and productive. Many of these caregivers find they are not able to remain productive at work because of demands of caretaking have become so great. Often times they will leave their job to devote their time to the care of another. At times, their loss of productivity could result in their termination. In either instance, their employer has lost the benefit of their knowledge and experience, and they have lost the many benefits of being engaged in gainful and meaningful employment.

However, studies show older workers who receive assistance with their caretaking responsibilities, can maintain their productivity, and therefore remain employed. A tax credit to help offset the cost for adult day care services, through a plan that is designed to help the older worker balance their life and work needs.

Further, employers will increasingly be asked to provide assistance for employees tending to the needs of another. This legislation should consider extending the eldercare tax credit to those who offer adult day care services or benefits.

**Access to the Workforce Investment Act (WIA)**

As a provider of employment services to older adults, we have been gratified to see that your bill would modify the WIA Title V of the Older Americans Act of 1965 (AAA) and the Department of Labor (DOL). This unique program provides a lower-income, older adult with the opportunity to learn new skills, and build the experience necessary to transition into employment.

The SCSEP is unique from all other employment and training programs in many respects. It serves on those aged 55 or older. It provides paid training, intensive case management, and supportive services to all eligible individuals. And, training activities result in services that benefit the general welfare of the community.

The SCSEP is also unique in that it takes a "whole person" approach in providing assistance. As a SCSEP operator, we understand that an older person often times has needs other than, or in addition to, employment. Without a job, we are able to link our customers with the programs and services they need to address non-employment issues.

Over the past decade, the SCSEP has experienced a shift in the balance between aging services and employment services. The AOA has admittedly distanced itself from administration of the program, effectively yielding its authority to the DOL. As a result, less value is placed on the community service aspects of the program, the connection to the aging network of services is almost nonexistent, and the program has actually become less accessible to older job seekers.

With the upcoming expiration of the Older Americans Act, perhaps now is an opportune time to revisit the intended purpose of the SCSEP and explore ways to strengthen its services in providing assistance. Because it is unique from other programs funded under the OAA, and equally unique from the WIA, perhaps the SCSEP is better placed among the unique contractors served under the Older Worker Opportunity Act of 2005.

**Task Force on Older Workers**

Finally, the creation of a task force to address the on-going needs of the aging workforce, will prove a great asset as we face the challenges and opportunities presented by an aging workforce, and the need to keep them employed.

Senator Kohl, thank you for the opportunity to comment on, and support The Older Worker Opportunity Act of 2005. We also thank you for your support of the older worker as is evidenced in this progressive and forward-thinking proposal. If we can be of any further assistance, please do not hesitate to call.

Sincerely,

Robert Kellerman, Executive Director, Michael Krauss, Older Worker Program Coordinator.

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**COMMITTEE FOR ECONOMIC DEVELOPMENT**

**WASHINGTON, DC, SEPTEMBER 28, 2005**

Hon. Herb Kohl, U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Senator Kohl: on behalf of the Committee for Economic Development (CED), I commend you for your efforts in addressing issues related to the aging of the American workforce with your bill, the Older Worker Opportunity Act..."
This bill recognizes that consumers seeking routine hospital services need to know what they are paying so they can make educated decisions about their own health care. This legislation aims to give Americans that information in a user friendly format.

Specifically, this bill would require hospitals to regularly report to the Secretary of U.S. Department of Health and Human Services the amount they charge for the 25 most commonly performed inpatient procedures, the 25 most common outpatient procedures, and the 50 most frequently administered medications. The Department would then post this information on the Internet for easy access.

Under the current system, patients often have no idea what they will be charged until they receive a bill. This is a problem because hospital charges vary significantly based on facility and procedure. Some hospitals charge one-hundred and twenty dollars for a chest x-ray while others charge more than fifteen hundred. Uninsured patients and those who pay with cash are often surprised with unexpected hospital charges because there is no way for them to know what they will be charged up front.

No other industry expects consumers to commit to buying before they know the true cost. Patients should have access to price information before they commit to a procedure.

This bipartisan bill is good for the uninsured and for consumer driven healthcare. Individuals cannot be expected to get comfortable making their own health care decisions unless they know how much they will be expected to pay for different services.

I am grateful to Senators RICHARD DURBIN and JOHN CORNYN for joining me as original cosponsors of this bipartisan legislation. I am also pleased that Representatives BOB INGLIS and DAN LIPINSKI have introduced companion legislation in the House. They recognize that information is power, and this bill is an important step in empowering Americans with the tools to be smart consumers. 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. 1827

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 “Hospital Price Reporting and Disclosure Act of 2005”.

SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.
Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following new section:

“DATA REPORTING BY HOSPITALS AND PUBLIC HEALTH SYSTEMS.—Nothing in this Act shall be construed as precluding or otherwise affecting any provision of State law relating to the disclosure of charges or other information for a hospital.

SEC. 3. REPORTING "DRUG" CHARGES.
Nothing in this Act shall be construed as precluding or otherwise affecting any provision of State law relating to the disclosure of charges or other information for a hospital.

SEC. 4. FORM OF REPORT AND NOTICE.

The regulations and guidelines under paragraph (1) shall specify the electronic form and manner by which a hospital shall report data under subsection (a) and the form for posting of notices under subsection (b).
For several years now, I’ve been asking the Secretary of Health and Human Services to undertake reforms to fix our flu vaccine supply problems, and the legislation I’m introducing with Senator Roberts today provides a mechanism through which we can develop and distribute the seasonal flu vaccine.

There is a great deal of risk involved with developing an annual flu vaccine. Because the dominant strain changes from year to year, manufacturers must develop an annual vaccine both out of being able to store or resell any excess vaccine the following year. There’s also no steady demand for a flu vaccine, largely because shortages have confused so many of us as to when we should or shouldn’t get vaccinated.

This legislation will help create a stable flu vaccine market for manufacturers by increasing coordination between the public and private sectors, so that we can set targets and procedures for dealing with both shortages and surpluses before they hit.

Stabilizing the vaccine market will also require increasing demand for vaccination. This bill increases the funding for the CDC’s educational initiatives, and sets up grants through which State and local health departments, in collaboration with health care institutions, insurance companies, and patient groups, can increase vaccination rates among all Americans, but, in particular, priority populations.

Another major problem with our national influenza supply mechanisms is that we rely on production methods that haven’t kept pace with our other biomedical advances. In order to make a vaccine, strains of influenza virus are cultivated in chicken eggs, a non-sterile environment. Many of the contamination problems we have seen with vaccine result when problems arise in this cultivation process.

Although we are not to rely on this technology for the time being, we need to increase research into safer, faster, and more reliable methods of vaccine production. This legislation would provide the National Institutes of Health with increased funding for research into alternative forms of vaccine development.

Of course, vaccine does us no good if it can’t get to the people who need it, and in last season’s epidemic, we had problems getting stocks of vaccine to the high priority populations, like senior citizens, who were in need of vaccine. It took weeks before we could determine how much vaccine was actually in communities, and where it was needed. We wasted time and valuable public health resources—in trying to track this vaccine.

This bill sets up a tracking system through which the CDC and State and local health departments can share the information they need to ensure that high priority populations in all parts of the country will have access to vaccine.

Improving our system for vaccine manufacture and distribution will not only help us in the event of a pandemic, but will help us every winter when senior citizens, children, and chronically ill individuals need to get a flu shot to protect them from the virus.

I hope that the legislation Senator Roberts and I are introducing today will call attention to the immediate needs of our priority populations, and I look forward to working with our colleagues in the Senate on both seasonal and pandemic prevention initiatives.

Mr. Roberts, Mr. President, I am pleased to be introducing the Influenza Vaccine Security Act with Senator Clinton today because I believe this legislation is critical to strengthening our public health preparedness here in the U.S. The experiences of the flu vaccine shortage last year made us all aware that our system needs improvement. This legislation takes a comprehensive approach to addressing the root causes of seasonal flu vaccine shortages by creating stability in the U.S. vaccine market.

Our legislation requires the Department of Health and Human Services to purchase for the U.S. vaccine market, to stockpile up to 10 percent of the vaccine each year in the event of a shortage, and to create a vaccine buyback program to provide market guarantees for our vaccine manufacturers. The legislation also provides a much-needed framework for public health officials to track vaccines and provides increased education and outreach about getting an annual flu vaccine.

I now want to turn to some of the provisions in this legislation that deal with an issue I believe deserves our utmost attention: pandemic influenza. I think we can agree that we all learned a good lesson from Hurricane Katrina: government at all levels must be prepared to deal with a large-scale public health emergency. Unfortunately, our government is not currently not prepared to deal with pandemic influenza. Our legislation seeks to address this by strengthening the underlying public health infrastructure to heighten our ability to respond to both seasonal and pandemic flu.

As Chairman of the Senate Intelligence Committee and a member of the Senate Health, Education, Labor and Pensions (HELP) Committee and Senate Health, Education, Labor and Pensions (HELP), I take the threat of an influenza pandemic very seriously. I view it as not only a public health concern, but a national security concern. The timing for a large-scale worldwide influenza pandemic is ripe. Many experts believe the next flu pandemic will come in the form of avian flu.

Unlike the seasonal flu, humans have no natural immunity to avian flu. A flu strain that can be transmitted from birds to humans could quickly kill millions. Without an antiviral medication, the real-world impact could be catastrophic.

Our legislation encourages more companies to enter the U.S. market with domestic-based production facilities and to improve the ability of the current manufacturers to remain in the market. Manufacturers currently do not have the capacity to simultaneously produce enough flu vaccine for seasonal flu and an avian flu vaccine in the event of an outbreak. We must assist our manufacturers in increasing production capacity.

Aside from vaccines, our legislation also requires the government to purchase and store additional antiviral medications, such as Tamiflu, to protect against an influenza epidemic.

Finally, our legislation provides a framework to identify public health professionals that can provide services during a public health emergency through the use of a medical personnel registry linked at the Federal, State and local levels.

This is why experts believe the effects of avian flu in the U.S. and around the world could be devastating. Some have predicted the loss of life could reach as high as 10 percent. A pandemic could infect a third of the U.S. population and cost more than $100 billion alone in medical treatments. A pandemic of this sort could also have catastrophic economic or social effects.

It is for these reasons I am pleased our legislation addresses some of the underlying public health infrastructure concerns that can help us effectively respond to pandemic flu. Our vaccine industry here in the U.S. is extremely fragile and our manufacturers need the necessary tools to effectively produce and deliver vaccines in the event of either seasonal or pandemic flu. First and foremost, our legislation ensures vaccine manufacturers and health care providers are not held liable in the event of a public health emergency involving pandemic influenza. Without this necessary liability protection, the ability to develop or deliver a vaccine during an outbreak could be significantly hampered.

Our legislation also encourages improved technologies for influenza vaccine development by providing additional funding for NIH research into alternative methods of vaccine development, such as cell-based cultures and a modified flu vaccine.

Our legislation requires the Department of Health and Human Services to purchase for the U.S. vaccine market, to stockpile up to 10 percent of the vaccine each year in the event of a shortage, and to create a vaccine buyback program to provide market guarantees for our vaccine manufacturers. The legislation also provides a much-needed framework for public health officials to track vaccines and provides increased education and outreach about getting an annual flu vaccine.

I now want to turn to some of the provisions in this legislation that deal with an issue I believe deserves our utmost attention: pandemic influenza. I think we can agree that we all learned a good lesson from Hurricane Katrina: government at all levels must be prepared to deal with a large-scale public health emergency. Unfortunately, our government is not currently not prepared to deal with pandemic influenza. Our legislation seeks to address this by strengthening the underlying public health infrastructure to heighten our ability to respond to both seasonal and pandemic flu.

As Chairman of the Senate Intelligence Committee and a member of the Senate Health, Education, Labor and Pensions (HELP), I take the threat of an influenza pandemic very seriously. I view it as not only a public health concern, but a national security concern. The timing for a large-scale worldwide influenza pandemic is ripe. Many experts believe the next flu pandemic will come in the form of avian flu.

Unlike the seasonal flu, humans have no natural immunity to avian flu. A flu strain that can be transmitted from birds to humans could quickly kill millions. Without an antiviral medication, the real-world impact could be catastrophic.

Our legislation encourages more companies to enter the U.S. market with domestic-based production facilities and to improve the ability of the current manufacturers to remain in the market. Manufacturers currently do not have the capacity to simultaneously produce enough flu vaccine for seasonal flu and an avian flu vaccine in the event of an outbreak. We must assist our manufacturers in increasing production capacity.

Aside from vaccines, our legislation also requires the government to purchase and store additional antiviral medications, such as Tamiflu, to protect against an influenza epidemic.

Finally, our legislation provides a framework to identify public health professionals that can provide services during a public health emergency through the use of a medical personnel registry linked at the Federal, State and local levels.
I am pleased to introduce the Influenza Vaccine Security Act with Senator Clinton today. We need to fix our seasonal flu vaccine production and distribution problems not only to prevent future shortages, but also to strengthen our national public health infrastructure in case of pandemic. As Senator Clinton knows, the HELP Committee will soon be considering legislation to develop counter-measures to protect the U.S. from debilitating and natural public health threats. This legislation, known as BioShield II, will present a great opportunity to build on the first steps we take in this legislation to protect against pandemic flu. I look forward to working with Senator Clinton and my other colleagues on the committee to deliver a comprehensive package to ensure we are prepared and can respond to all types of public health threats.

By Mr. DOMENICI (for himself and Mr. BINGAMAN) (by request):

S. 1829. A bill to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself, Mr. Bingaman, and Mr. Akaka) (by request):

S. 1830. A bill to amend the Compact of Free Association Amendments Act of 2003, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. Domenici. Mr. President, today I join my colleague, the Ranking member of the Committee on Energy and Natural Resources, Senator Bingaman, in introducing three bills, by request, to make necessary changes to law relating to the U.S.-affiliated islands. Briefly, the bills include: First, legislation requested by the Attorney General of the Commonwealth of the Northern Mariana Islands (CNMI). This bill accomplishes two objectives—to provide a new mechanism for the Governor of the CNMI to raise issues with the Federal Government than the procedures under section 902 of the Covenant that established the Commonwealth in political union with the United States. The legislation also provides a general authorization for the Commonwealth to raise issues arising under provisions of the Covenant with the Secretary and for the Secretary to resolve those issues with assistance from other agencies as appropriate. This would provide a less formal approach than the more elaborate procedures for issue resolution set forth under section 902 of the Covenant which require, among other items, the formal appointment of negotiators. Section 902 is unique to the Commonwealth and legislative approval of a less formal approach may serve to improve Federal-commonwealth relations and the ability of both sides to reach agreements. As with section 902, further legislation may be required, but such legislation will likely be easier to achieve if both sides are not either tied up in the processes of 902 or at opposite sides in court.

The second bill, requested by the House Delegate from the United States Virgin Islands, Representative Donna M. Christensen, came as a result of Federal court rulings which invalidated many of the Real Property tax provisions of the Virgin Islands Code. The bill would repeal sections 1401-1401e of Title 48, of the United States Code to provide the Government of the United States Virgin Islands the ability to fully regulate real property tax matters in the territory.

Finally, the last bill would make several changes to the Compact of Free Association Amendments Act (CFAAA) of 2003 P.L. 108-188, which was enacted in December, 2003. Because of the 2003 deadline, the bill makes several technical changes to P.L. 108-188, the Administration has transmitted language to Congress that would provide authority for the RMI and FSM to obtain disaster assistance from FEMA. Since the passage of P.L. 108-188, the Administration has transmitted language to Congress that would provide authority for the RMI and FSM to obtain disaster assistance. In addition to this new authority, the bill makes several technical changes to P.L. 108-188.

I ask unanimous consent that the text of the bills, be printed in the RECORD. There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1829
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. REPEAL OF CERTAIN LAWS PERTAINING TO THE VIRGIN ISLANDS.

(a) REPEAL.—Sections 1 through 6 of the Act of May 26, 1936 (48 U.S.C. 1401 et seq.), are repealed.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on July 22, 1984.

S. 1830
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 "Compacts of Free Association Amendments Act of 2005".

SEC. 2. APPROVAL OF AGREEMENTS.

Section 101 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1923) is amended—

(1) in the first sentence of subsection (a), by inserting before the period at the end the following: "in the following: ";

(b) In the first sentence of subsection (b), by inserting before the period at the end the following: "in the following:

(2) CONFORMING AMENDMENT.

Section 105(f)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)) is amended by striking subparagrap(1)(A) and inserting the following:

"(1) in the first sentence of subsection (a), by inserting before the period at the end the following: "in the following: ";

"(2) In the first sentence of subsection (b), by inserting before the period at the end the following: "in the following:

(3) CLARIFICATIONS REGARDING PALAU.


(1) in clause (ii), by striking "and its territories" and inserting "; its territories; and the Republic of Palau;"

(2) in clause (iii), by striking "the Republic of the Marshall Islands" and inserting "the Republic of the Marshall Islands, and the Republic of Palau;" and

(3) in clause (iv) by striking "the Republic of the Marshal Islands" and inserting "the Republic of the Marshall Islands, and the Republic of Palau;"

SEC. 3. AVAILABILITY OF LEGAL SERVICES.

Section 105(f)(1)(C) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(C)) is amended by inserting "in accordance with the 2 Agreements to Amend Article X of the Federal Programs and Services Agreement between the Government of the United States and the Republic of the Marshall Islands, as amended under the Agreement to Amend Article X that was signed by those 2 Governments on June 18, 2001, which shall serve as the authority to implement the provisions thereof."

SEC. 4. TECHNICAL AMENDMENTS.

(a) TITLE I.—

(1) SECTION 177 AGREEMENT.—Section 163(c)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(c)(1)) is amended by striking "section 177" and inserting "Section 177."
(a) in subsection (b)(1), by inserting “the” before “U.S.-RMI Compact’’;
(b) in subsection (e)—
(i) in the matter preceding subparagraph (A) of paragraph (8), by striking “to include” and inserting “and include”;
(ii) in paragraph (9)(A), by inserting a comma after “may”;
and
(iii) in paragraph (11), by striking “related to service” and inserting “related to such services”;
and
(C) in the first sentence of subsection (j), by inserting “before” after “Interior”.

(3) SUPPLEMENTAL PROVISIONS.—Section 103(b)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1126(b)(1)) is amended by striking “Trust Fund” and inserting “Trust Funds”.

(4) TITLE II.—

(1) U.S.-FSM COMPACT.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia (as provided in section 201(a)(2) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2797)) is amended—

(A) in section 174—
(i) in subsection (a), by striking “courts” and inserting “court”;
and
(ii) in subsection (b)(2), by striking “the” before “November”;

(B) in section 177(a), by striking “or Palau” and inserting “or Palau”;

(C) in section 179(b), strike “amended Compact” and inserting “Compact, as amended”;

(D) in section 211—
(i) in the fifth sentence of subsection (b), by striking “Trust Fund Agreement,” and inserting “Trust Fund Agreement’’;
(ii) in subsection (b)—
(I) in the first sentence, by striking “Government of the United States of America” and inserting “Government of the United States and the Government of the Republic of the Marshall Islands” (as provided in section 201(b) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2797)) is amended—

(A) in section 174(a), by striking “court” and inserting “courts”;
(B) in section 177(a), by striking the comma before “(or Palau)”;
(C) in section 177(b), by striking “amended Compact,” and inserting “Compact, as amended”;

(E) in section 211—
(ii) in the last sentence of subsection (e), by inserting before the period at the end the following: “and the Federal Programs and Services Agreement referred to in section 231’’;

(E) in section 221(a)—
(i) in the matter preceding paragraph (1), by striking “Section 231” and inserting “section 231”;
and
(ii) in paragraph (5), by inserting “(Federal Emergency Management Agency)” after “Homeland Security”;

(F) in the second sentence of section 232, by striking “1978” and all that follows through “(or Palau)” and inserting “1998”;

(G) in section 233, by striking “800” and inserting “323”;

(H) in section 234, by striking “1970” and inserting “1999”;

(I) in section 235, by striking “1960” and inserting “1998”;

(J) in section 236, by striking “1970” and inserting “1999”; and

(K) in the matter preceding paragraph (1) of section 241—

(i) by striking “1978” and inserting “1998”;
and
(ii) by striking “Telecommunications” and inserting “Telecommunication’’;

(L) in section 243(b), by striking “Article” and inserting “Articles’’.

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

SECTION 1. CONVEYANCE OF CERTAIN SUBMERGED LAND TO THE COMMONWEALTH OF THE NORTHERN MARSHALL ISLANDS.

The first section of Public Law 93-435 (48 U.S.C. 1705) is amended—

(1) in the second sentence of subsection (b), by inserting “Commonwealth of the Northern Marshall Islands” and “and”;

(2) by adding at the end the following:

‘‘(e)(1) Subject to valid existing rights, all right, title, and interest of the United States in land periodically or periodically covered by tidal water up to but not above the line of mean high tide and seaward to a line 3 geographical miles distant from the coastline of the territory may be conveyed to the Commonwealth of the Northern Marshall Islands (as modified before, on, or after the date of enactment of this subsection by accretion, erosion, or recl aimation, or in artifical waterway or reclaimed land that was formerly permanently or periodically covered by tidal water) are conveyed to the Government of the Commonwealth of the Northern Marshall Islands to be administered in trust for the benefit of the people of the Commonwealth. “(2) The conveyance referred to in subsection (c) shall be subject to clauses (ii), (iv), (v), (vii), (viii), and (ix) of subsection (b) and subsection (c), except that each reference to the ‘date of enactment of this Act’ in those clauses shall (for the purposes of this subsection) be considered to be a reference to the date of enactment of this subsection.’’

SEC. 2. AUTHORITY OF SECRETARY TO RESOLVE CERTAIN CLAIMS OF THE COMMONWEALTH OF THE NORTHERN MARSHALL ISLANDS

(a) IN GENERAL.—On the request of the Governor of the Commonwealth of the Northern Mar stall Islands, the Secretary of the Interior may settle and discharge any claim described in subsection (a).

(b) PROVISION.—On request, the head of the Federal agency shall provide the assistance.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary sums as are necessary to carry out subsection (a).

(2) OTHER FUNDS.—The Secretary may also use to carry out subsection (a) any other sums that are appropriated for the purpose of a provision of the Covenant that is subject to a claim by the Commonwealth.

Mr. BINGAMAN. Mr. President, today I join my colleague and the Chairman of the Committee on Energy and Natural Resources, Senator DOMENICI, in introducing three bills, by request, to make necessary changes to law regarding the U.S.-affiliated islands. As chairwoman and ranking minority member of this committee, Senator DOMENICI and I have a special responsibility for matters relating to our fellow U.S. citizens who live in the territories of the United States. While the people
of the territories are U.S. citizen or nationals, they lack full voting representation in the U.S. Congress. Their problems and concerns are just as deserving of attention as are those of U.S. citizens who live in the 50 States, and it is the obligation of the Committee on Energy and Natural Resources which has the responsibility for considering island issues that are brought to our attention, and for making recommendations, as appropriate, to the full Senate.

The CNMI is also responsible for authorization and oversight of U.S. financial assistance to the freely associated states of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands—three sovereign nations that were formerly administered by the U.S. as districts of the United Nations Trust Territory of the Pacific Islands. While not under U.S. sovereignty, these nations enjoy a unique relationship with the U.S., which developed following the Pacific battles of World War II and which continues to be based on our mutual interest in security, democracy, and economic development.

The first bill being introduced, the Compacts of Free Association Amendments Act of 2005, would make several changes to the Compact of Free Association Amendments Act, CFAAA of 2003, (Public Law 108-188) which was enacted in December 2003. That law continued a relationship that were established in 1986 between the U.S. and the Federated States of Micronesia, FSM, and between the U.S. and the Republic of the Marshall Islands, RMI by revising and extending U.S. financial and program assistance until 2023. Final consensus was not reached in 2003, however, on continuation of U.S. disaster assistance programs and services to the FSM and RMI. Instead, section 106(f)(1)(A) of the CFAAA directed the Secretary of State “in consultation with FEMA, to negotiate disaster assistance agreements with the FSM and RMI, report to Congress on the outcome of the negotiations, and make recommendations to Congress on any necessary changes to law.

On August 19, 2004, the State Department transmitted new agreements regarding disaster assistance to Congress along with the legislative language needed to bring them into effect. Generally, amendments provided that FEMA and USAID will jointly consult on disaster damage assessments and on disaster declaration recommendations; FEMA will provide all disaster recovery funding consistent with past policy and practice and transfer those funds to USAID which will then administer all disaster response and recovery activities. In addition to approving these new disaster assistance agreements, this bill would make several other conforming, clarifying, and technical amendments to CFAAA of 2003. The second bill being introduced today would convey submerged lands, out to 3 miles, to the Commonwealth of the Northern Mariana Islands, CNMI, and hopefully resolve a long standing dispute between the U.S. and the CNMI over the extent of the CNMI’s territorial limit.

The CNMI became a U.S. territory in 1976 pursuant to the covenant between the U.S. and CNMI, as approved by Public Law 94–241. However, interpretation of the covenant regarding the CNMI’s territorial limit came into dispute, and then became the subject of discussions between the federal government-to-government consultation procedures of the covenant. The U.S. executive branch took the position that the CNMI had the same territorial limit as the other territories—that is 3 miles—while the CNMI claimed a 200-mile exclusive economic zone. After discussions deadlocked, the CNMI pursued their claim in Federal court. Earlier this year, the Federal Appeals court upheld, in Northern Mariana Islands v. United States, 399 F. 3d 1057, United States, 399 F. 3d 1057, the district court decision that the CNMI not only did not have 200-mile jurisdiction but did not have a 3-mile limit either. Establishing Federal ownership up to the mean high-water mark has compromised local authority to manage activities in the areas, such as shoreline permitting activities that are normally handled by State and local authorities. The District Court is allowing the local government to continue the near-shore jurisdiction temporarily.

On June 6, 2005, the attorney general of the CNMI wrote to Chairman DOMENICI and myself requesting that legislation be enacted to establish a 3-mile territorial limit for the CNMI—the same distance granted the other territories. This bill would grant the CNMI’s request without prejudice to their right to further appeal their claim, and would allow the local government to continue management of near-shore activities in the CNMI.

A second provision in this bill, also requested by the attorney general of the CNMI, would support an alternative process for the resolution of disputes between the U.S. and the CNMI. As mentioned above, there is an existing, but very formal, consultation process established under the covenant which requires the President and the Governor to designate official representatives to hold formal meetings. These meetings have generally been ineffective because their formality makes compromise difficult, particularly for those representing the CNMI. This proposed provision would offer a less formal alternative by indicating that Congress expects the Secretary of the Interior to take initial responsibility for seeking to resolve disputes. It would encourage the Secretary, in consultation with the other agencies involved, to settle any claim arising under the covenant, and it authorizes the Secretary to use other funds that may have been appropriated under the covenant for the settlement of a dispute, if agreed to by the CNMI. For example, article VII of the covenant provides annual direct spending for capital construction projects. Disputes that may arise and be addressed under this new less-formal process could include issues relating to leases of land for defense purposes, construction of infrastructure, eligibility for Federal programs, or payments due the CNMI.

The third bill being introduced today is requested by the delegate from the United States Virgin Islands, USVI, Dr. Darnelle R. Christensen, on behalf of herself and the Governor of the USVI. This bill would repeal sections of the United States Code that were enacted in 1936 to determine how real property taxes would be assessed in the USVI. These sections as more or less thought to have been effectively repealed in 1954 with enactment of the Virgin Islands Organic Act—a law that substantially expanded the scope of local self-government.

Last year, however, the Third Circuit Court of Appeals ruled that the 1936 law remains in effect. The court ruling has, therefore, effectively overturned 50 years of local tax law. The simple solution to this situation, which this bill proposes, is to repeal the 1936 provisions as soon as possible. This approach is consistent with the intent of the 1954 law, and it is consistent with our general federal territorial policy of delegating local real property tax policy to the local government.

Consideration of these bills is important to meeting our Nation’s responsibilities to the governments and residents of the islands. I look forward to working with Chairman DOMENICI, the representatives of the island governments, the administration, and the other members of the committee in considering these bills and reporting our recommendations to the Senate.

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1832. A bill to authorize the Secretary of the Interior to lease oil and gas resources underlying Fort Reno, Oklahoma, to establish the Fort Reno Management Fund, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. INHOFE. Mr. President, today I proudly rise to introduce the “Fort Reno Mineral Leasing Act”.

Fort Reno was established as a frontier cavalry post in 1874, and it played a key role in the settlement of the Western United States. It is a historic site of National significance and it is listed on the National Register of Historic Places. Over 9,000 visitors view the fort each year.

In 1948 the U.S. Army turned its lands and buildings, at Fort Reno, over to the U.S. Department of Agriculture. Today, the original site remains intact as a complete frontier post. Consist of buildings constructed by the military, as early as the 1880’s, still stand around the Historic District.
The Agricultural Research Service administers the Fort site which includes the Grazinglands Research Facility, the Fort Reno Historic District, and the Fort Reno Science Park.

Many of the historic buildings are in desperate need of restoration. A small agency like the Agricultural Research Service is not financially able to keep up with the continued costs of maintenance of so much aged infrastructure. Independent studies show that over $18 million is now needed to restore the most important of the many old officers’ quarters and other key buildings. I have been an active supporter of Fort Reno and its facilities. For instance, several years ago I helped secure a Save America’s Treasures Grant of $300,000 to assist a local historical organization with the costs of stabilization of exteriors on those deteriorating buildings that are most in need of renovation. In fiscal year 2004, I arranged for an appropriation of $2.1 million for construction of two greenhouses for use in research on forage grasses that is conducted by the Agricultural Research Service at the Fort Reno site.

The legislation I am introducing today will provide a revenue-neutral, non-appropriated source of funding which will be adequate to restore the historical buildings of Fort Reno, so that they will be here for future generations.

In addition, this bill authorizes the development of the oil and gas that lies beneath Fort Reno’s 6,737 acres and places those funds in a special account in the U.S. Treasury that will be utilized for restoration and maintenance of those facilities. These funds will also be used to assist with handling visitors to the fort, historic interpretation and related activities. The remaining funds will be used to pay down the national debt.

The Fort Reno Mineral Leasing Act is fully supported by State legislators, local municipalities, the Chamber of Commerce, farm groups, the USDA, and the ARS Administrator at Fort Reno.

I look forward to seeing this Oklahoma-specific legislation enacted and am proud to have Senator Coburn as my original co-sponsor.

I ask unanimous consent that letters of support be printed in the RECORD.

Those in objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF EL RENO, Okla., September 29, 2005.
Hon. JIM INHOFE, U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR: As you know, the citizens of the City of El Reno and others from across Oklahoma have long maintained a strong interest in restoring the military buildings and other historic features at Fort Reno. Fort Reno serves as a focal point for many of this community’s cultural and historical events, and it is visited by thousands of tourists each year.

As vital as Fort Reno is to our community and the State of Oklahoma, it has much more potential as a national historic site. That potential cannot be realized until the historic buildings are restored. Cost to restore this site will be considerable. Not restoring this site will cause Americans to lose a significant piece of our nation’s history. When you consider the importance of saving this site for generations to come, the cost is insignificant by comparison.

The citizens of El Reno are thankful that you have graciously agreed to consider drafting legislation that will provide financial support for restoration and maintenance of Fort Reno’s aged buildings. You are to be commended for acknowledging it is our responsibility to preserve our past for future generations. I sincerely appreciate your respect for our past and vision for our future.

Sincerely,

DEBBIE HARRISON, Vice Mayor, City of El Reno.

Hon. JIM INHOFE, Russell Building, Washington, DC.

DEAR SENATOR: The purpose of this letter is to express my appreciation for your efforts on behalf of the citizens of the City of El Reno, particularly as relates to restoration of historic buildings at Fort Reno. We are grateful that you, along with the Save America’s Treasures Grant that recently allowed work to begin on restoration of one of the Fort’s officers’ quarters, built before 1890. Fort Reno is one of our city’s most important resources, and we have long looked forward to seeing it restored to its former glory.

We understand that you intend to introduce legislation that could allow more progress to be made toward complete restoration and future maintenance of Fort Reno’s buildings and other historical assets. I urge you to do so. The benefits will be considerable, not only for the people of this city, but for the state of Oklahoma and the Nation.

Sincerely,

DOUGLAS D. HENLEY, City Manager.

OKLAHOMA STATE SENATE, Oklahoma City, OK, September 29, 2005.
Hon. JAMES INHOFE, Russell Building, Washington, DC.

DEAR SENATOR INHOFE: We appreciate your ongoing support for the Ft. Reno Agricultural Research Service Station. As you know, one time the Ft. Reno ARS facility had suffered from neglect and the reorganization of ARS. Now the physical facility is much improved, and the research staff are doing great work. It is truly an operation in which many of us take great pride.

I appreciate that you have an interest in helping the citizens of Oklahoma to preserve the historical buildings of Fort Reno. Funding is badly needed to restore and maintain these buildings, many of which were built as early as the late 1800s. I urge you to introduce legislation that will ensure that these historic buildings are not lost, but are preserved and maintained and made available for viewing and use by future generations of Oklahomans.

I understand the historic area of the Fort has a lot of local support from the community, and that you support a revenue-neutral approach to financing the restoration of Fort Reno without increasing our tax burden. Our much missed state board member, Henry Jo Vaugn, was an adamant proponent of using a revenue-neutral approach to funding the restoration of the Fort.

Your willingness to carry legislation to implement this approach is greatly appreciated. The success of the legislation will mean a great deal to Oklahomans and Americans, as well as the thousands of people who visit Fort Reno each year.

Thank you for your consideration in this matter.

Sincerely,

STEVE KOUPLEN, President.

OKLAHOMA FARMERS UNION, Oklahoma City, OK, September 30, 2005.
Hon. JAMES INHOFE, U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR INHOFE: On behalf of the members and Board of Directors of the El Reno Chamber of Commerce, I wish to express our gratitude to you for assisting the citizens of this city and the State of Oklahoma to restore one of our most cherished historical assets, the buildings of Fort Reno. New sources of funding to restore and maintain the Fort’s buildings are of critical importance to us. Fort Reno is the principle historic site in our area and it attracts almost 10,000 visitors to our city annually; however, it is badly in need of repair and maintenance.

As you know, the costs required to complete a restoration project of this magnitude far exceeds the capabilities of any state, local organization or entity. We appreciate your willingness to assist us with legislation that will insure that Fort Reno’s historic buildings are preserved and maintained, and made available for the benefit of both Oklahomans and our out-of-state visitors.

Please let us know if there is anything we can do to help with this effort by calling (405) 262-1188.

Sincerely,

KAREN NIX, Executive Director.
By Mr. JEFFORDS (for himself, Mr. SARBANES and Mr. DAYTON):
S. 1836. A bill to provide for reconstruction, replacement, and improvement of infrastructure in the Gulf Coast Region; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, I rise today to introduce the Gulf Coast Infrastructure Redevelopment and Recovery Act of 2005 on behalf of the minority side of the EPW Committee. We have introduced three bi-partisan bills to date in our committee’s jurisdiction. One of them even passed the Senate last week. Those bills, which I would characterize as tweaks to existing authorities, were good first steps and are included in the package we introduce today.

But, we feel that the breadth and the magnitude of the damage after Hurricane Katrina, demands a more significant response. As I look at the pictures of the damage in the areas hit hardest by Hurricane Katrina, I think of the visitors from Terrebonne Parish that visited me in my office to seek support for flood control projects in Louisiana. At the time, I was struck by the vulnerability of this community to the effects of nature. Today, we are seeing those effects firsthand. I have thought...
often in the past month of the strong spirit shown by those who visited my office, and I know, that while it is almost unimaginable today, in a few years, there will be thriving communities in Louisiana, Mississippi, and Alabama once again.

The bill I am introducing today is not intended to address every need of every person in the Katrina-affected area. It is a bill that seeks to take action for those agencies within the jurisdiction of the EPW Committee to ensure that we have the authority and the direction they need. I am a big believer in a single coordinated Federal disaster response process through the Stafford Act. Our bill complements the single, coordinated approach, yet recognizes the unique conditions in this case.

FEMA has shown itself to be ineffective, in my opinion, largely due to the bureaucracy of the Department of Homeland Security and FEMA’s lack of independence. At the time of the creation of DHS, I said: I cannot understand why, after years of frustration and failure, we would jeopardize the Federal government’s effective response to natural disasters by dissolving it into this monolithic Homeland Security Department. I fear that FEMA will no longer be able to adequately respond to hurricanes, fires, floods, and earthquakes, begging the question, who will? (November 20, 2002)

Today, unfortunately, we know the answer—no one.

The Federal aid provided for Katrina must be coordinated in a wise, targeted manner. To perform this task, our bill creates a Federal infrastructure Task Force to make spending decisions and establish Federal investment standards.

There have been large storms before—in 1965 Hurricane Betsy hit almost this same area. There will be large storms again. This bill recognizes that and establishes National Preparedness Grants and several readiness studies to update emergency response plans, resolve inadequacies, and identify infrastructure vulnerabilities.

To speed economic recovery, the bill provides 200M to both the Economic Development Administration and the Delta Regional Authority.

Part of the long-term recovery of the region will be the clean-up of the environmental damage. Our bill provides direction to EPA to ensure that adequate sampling is performed, that the public knows the results, that drinking water and wastewater services are restored, and that cleanups are prioritized.

The Army Corps of Engineers has a lot of explaining to do after the levee failure in New Orleans. The Corps also has a lot of clean up to do and a lot of rebuilding to do. The flood control system in place today was built after the wake of the damage caused by Hurricane Betsy in 1965. I believe it is critical that we fully evaluate the entire Corps process to determine what changes should be made. This bill takes only a first step to be sure that we don’t simply rebuild what was already in New Orleans without thinking. The bill requires the Corps to assess all projects in the area and repair or modify them with one comprehensive approach.

We establish a National Levee Safety Program in this bill, similar to the Dam Safety Program to be sure our nation’s levees can be counted on.

Finally, our bill allows communities that previously be the use of public transportation or ridesharing after a disaster to seek Federal reimbursement.

What doesn’t our bill do? Our bill does not waive environmental statutes. Since the Stafford Act was passed in 1974, there have been thousands of declared disasters. Never before have we faced a proposal to haphazardly waive environmental statutes across the Nation in the name of economic recovery in one devastated area. In the last few weeks several proposals have been introduced to give the President or EPA broad waiver authority in the wake of Hurricane Katrina. These proposals put human health and the environment at risk from the sound of permanent waivers to environmental or other laws, anywhere in the Nation, to be granted with few or no criteria, and no public involvement.

The consequences of such an action could be significant. For example, refineries or power generating facilities could be built while exempt from the Clean Air Act, causing long-term air quality impacts. Congressional offshore drilling bans could be waived to alleviate a fuel shortage. Safe Drinking Water Act regulations could be changed to waive limits on pollutant levels in an effort to speed reoccupancy of hurricane-affected areas, putting public health at risk. Protections for minorities or low-income people such as OSHA safety regulations or the minimum wage could be waived.

I want to help the people of Louisiana, Mississippi, and Alabama. The people of my home State of Vermont are appalled at the state of affairs there and want to help. But, I cannot accept a proposal this broad which will put human health and the environment throughout the Nation at the mercy of one President or appointed official without time limits, no consideration in human health or the environment, no public participation, and no guidance. Such as effort will only hurt the people of an already devastated region.

I'm pleased to introduce the Rhode Island Fishermen’s Fairness Act of 2005. This legislation would address a serious flaw in our Nation’s regional fisheries management system by adding Rhode Island to the Mid-Atlantic Fishery Management Council (MAFMC), which currently consists of representatives from New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina.

The MAFMC manages the following 13 species, all of which are landed in Rhode Island: Illex squid, loligo squid, Atlantic mackerel, black sea bass, bluefish, butterfish, monkfish, scup, spiny dogfish, summer flounder, surfclam, ocean quahog, and tilefish.

In 2003, the most recent year for which final data are available, Rhode Island fishermen brought in 30 percent of MAFMC landings by weight—more than any of the MAFMC member States except New Jersey, which is responsible for about 60 percent of total MAFMC landings.

If Rhode Island fishermen are responsible for a large percentage of overall MAFMC landings, these species make up an even larger proportion of landings within Rhode Island every year. Between 1995 and 2003, MAFMC species represented between 2 percent and 56 percent of all finfish landed in Rhode Island annually, for an average of 44 percent of total landings by weight. In eight of the years between 1990 and 2003, squid, Illex and loligo, was the number one marine species landed in Rhode Island, with a value of between $13 million and $20.1 million annually.

Yet Rhode Island has no voice in the management of those fisheries.

Following council tradition and Federal fisheries law, the Rhode Island Fishermen’s Fairness Act would create two seats on the MAFMC for Rhode Island: one seat nominated by the Governor of Rhode Island and appointed by the Secretary of Commerce, and a second seat filled by Rhode Island’s principal State official with marine fishery management responsibility. The MAFMC would increase in size from 21 voting members to 23.

There is a precedent for this proposed legislation. In 1996, North Carolina’s representatives in Congress succeeded in persuading the MAFMC through an amendment to the Sustainable Fisheries Act. Like Rhode Island, a significant proportion of North Carolina’s landed fish species were managed by the MAFMC, yet the State had no vote on the council. Today, Rhode Island’s share of total landings for species managed by the MAFMC is more than six times greater than that of North Carolina.
I look forward to working with my colleagues to reduce the measure of equity to the fisheries management process by passing the Rhode Island Fishermen’s Fairness Act. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

SEC. 1. SHORT TITLE.
This Act may be cited as the "Rhode Island Fishery Conservation and Management Council.

SEC. 2. ADDITION OF RHODE ISLAND TO THE ENSURING THE FAIRNESS OF FISHERMEN'S RIGHTS.

SECTION 1. SHORT TITLE.
This Act may be cited as the "Federal and District of Columbia Government Real Property Act of 2005.”

TITLE I—REAL PROPERTY CONVEYANCES BETWEEN THE GENERAL SERVICES ADMINISTRATION AND THE DISTRICT OF COLUMBIA

SEC. 101. EXCHANGE OF TITLE OVER RESERVATION 13 AND CERTAIN OTHER PROPERTIES.

(a) CONVEYANCE OF PROPERTIES.—

(1) In general.—On the date on which the District of Columbia conveys to the Administrator, in the general public interest, title, and interest of the District of Columbia in the property described in subsection (c), the Administrator shall convey to the District of Columbia all right, title, and interest of the United States in—

(A) U.S. Reservation 13, subject to the conditions described in subsection (b); and

(B) Old Naval Hospital.

(2) Properties defined.—In this section—

(A) the term "U.S. Reservation 13" means that parcel of land in the District of Columbia consisting of the approximately 66 acres which is bounded on the north by Independence Avenue Southeast, on the west by 19th Street Southeast, on the south by G Street Southeast, and on the east by United States Reservation 343, and being the same land described in the Federal transfer letter of October 25, 2002, from the United States to the District of Columbia, subject to existing matters of record; and

(B) the term "Old Naval Hospital" means the property in the District of Columbia consisting of the approximately 66 acres of which the buildings and improvements, on the property located at the terminus of Massachusetts Avenue, at the junctions of Wisconsin Avenue and Connecticut Avenue, and 15th Street, N.W., on the District of Columbia side of the interchange described in the Federal transfer letter of October 25, 2002, from the United States to the District of Columbia, to which the District of Columbia owns title.

(b) CONDITIONS FOR CONVEYANCE OF RESERVATION 13.—As a condition for the conveyance of U.S. Reservation 13 to the District of Columbia under this section, the District of Columbia shall agree—

(1) not to sell, lease, or otherwise convey or transfer the property for which title is conveyed to the Administrator, including the administrative jurisdiction and ownership of the property, but the provisions of the Act shall not preclude the Administrator from permitting the property to be transferred to the District of Columbia, or of the United States, or any other entity that the Administrator may determine to be appropriate; and

(2) to agree to bear all costs of performing, any service described in section 4(f) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225(g); sec. 44–908(b); D.C. Official Code), including the cost of performing such service as shall be required of the United States for the failure to perform, or to reimburse the United States for the cost of performing, any service described in such section which shall be paid by the United States to the District of Columbia.

(c) DISTRICT OF COLUMBIA PROPERTY TO BE CONVEYED TO THE ADMINISTRATOR.—The property described in this subsection is the real property consisting of Building Nos. 36, 37, 38, 39, 118, 119, 118–A, and 119–A, together with the real property underlying those buildings and improvements, on the West Campus of Saint Elizabeths Hospital, as described in the Federal transfer letter of September 30, 1987, by and between the United States and the District of Columbia, and recorded in the Office of the Recorder of Deeds of the District of Columbia on October 7, 1987.

(d) LIMITATION ON ENVIRONMENTAL LIABILITY.—Notwithstanding any other provision of law,

(1) the District of Columbia shall not be responsible for any environmental liability, response action, remediation, corrective action, damages, costs, or expenses associated with the property for which title is conveyed to the Administrator under this Act; and

(2) all environmental liability, responsibility, remediation, damages, costs, and expenses required by applicable Federal, State, and local law, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (as amended by the Clean Water Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Rivers and Harbors Act (33 U.S.C. 540 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Oil Pollution Act (31 U.S.C. 2701 et seq.) for such property shall be borne by the United States, which shall not be responsible for environmental activity with respect to such properties, and bear any and all costs and expenses of any such activity.

SEC. 102. TERMINATION OF CLAIMS.
General.—Notwithstanding any other provision of law, the United States is not required to perform, or to reimburse the District of Columbia for the cost of performing, any of the following services:

(1) Repairs or renovations pursuant to section 4(f) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225(f); sec. 44–908(b); D.C. Official Code).

(2) Preservation, maintenance, or repairs pursuant to a use permit executed on September 30, 1987, under the United States (acting through the Secretary of Health and Human Services) granted permission to the District of Columbia to use and occupy portions of the Saint Elizabeths Hospital property known as the “West Campus”.

(3) Mental health diagnostic and treatment services for referrals as described in section 4(f) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225(g); sec. 44–908(b); D.C. Official Code), but only with respect to services provided on or before the date of the enactment of this Act.

(e) EFFECT ON PENDING CLAIMS.—Any claim of the District of Columbia against the United States for the failure to perform, or to reimburse the District of Columbia for the cost of performing, any service described in subsection (c) which is pending as of the date of the enactment of this Act shall be extinguished and terminated.

TITLE II—STREAMLINING MANAGEMENT OF PROPERTIES LOCATED IN THE DISTRICT OF COLUMBIA

SEC. 201. TRANSFER OF ADMINISTRATIVE JURISDICTION OVER CERTAIN PROPERTIES.

(a) TRANSFER OF ADMINISTRATIVE JURISDICTION FROM DISTRICT OF COLUMBIA TO UNITED STATES.

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(1) In general.—Administrative jurisdiction over each of the following properties (owned by the United States and as depicted on the Map) is hereby transferred, subject to the terms and conditions of this Act, from the District of Columbia to the Secretary of the Interior for administration by the Director:

(A) An unimproved portion of Audubon Terrace Northwest, located east of Linnean Avenue Northwest, that is within U.S. Reservation 402 (National Park Service property).

(B) An unimproved portion of Barnaby Street Northwest, north of Aberdeen Place Northwest, that abuts U.S. Reservation 546 (National Park Service property).

(C) A portion of Canal Street Southwest, and a portion of V Street Southwest, each of which abuts U.S. Reservation 467 (National Park Service property).

(D) Unimproved streets and alleys at Fort Circle Park located within the boundaries of U.S. Reservation 497 (National Park Service property).

(E) An unimproved portion of Western Avenue Northwest, north of Oregon Avenue Northwest, that abuts U.S. Reservation 339 (National Park Service property).

(F) An unimproved portion of 17th Street Northwest, south of Shepherd Street Northwest, that abuts U.S. Reservation 339 (National Park Service property).

(G) An unimproved portion of 30th Street Northwest, north of Broad Branch Road Northwest, that is within the boundaries of U.S. Reservation 515 (National Park Service property).

(H) Subject to paragraph (2), lands over 1–385 at Washington Avenue Southwest.

(1) Former Convention Center Site located on U.S. Reservation 357 at Whitehaven Parkway Northwest, previously transferred to the District of Columbia in conjunction with the former proposal for a residence for the Mayor of the District of Columbia.

(2) Use of certain property for memorial.—In the case of the property for which administrative jurisdiction is transferred under paragraph (1)(H), the property shall be used as the site for the establishment of a memorial to honor disabled veterans of the United States Armed Forces authorized to be established by the Disabled Veterans’ LIFE Memorial Foundation by Public Law 106–348 (114 Stat. 3358; 40 U.S.C. 6903 note), except that the District of Columbia shall retain administrative jurisdiction over the subsurface area beneath the site for the tunnel, walls, footings, and related facilities.

(3) Administrative jurisdiction from United States to District of Columbia.—Administrative jurisdiction over the following property owned by the United States and depicted on the Map is hereby transferred from the Secretary to the District of Columbia for administration by the District of Columbia:

(a) A portion of U.S. Reservation 451.

(b) A portion of U.S. Reservation 494.

(c) U.S. Reservations 44, 45, 46, 47, 48, and 49.

(d) U.S. Reservation 251.

(e) U.S. Reservation 8.

(f) U.S. Reservations 271A and 277C.

(g) Portions of U.S. Reservation 479.

(h) Effective date.—The transfers of administrative jurisdiction under this section shall take effect on the date of the enactment of this Act.

SEC. 292. EXCHANGE OF TITLE OVER CERTAIN PROPERTIES.

(a) Convention Center Site.

(1) In general.—On the date on which the District of Columbia conveys to the Secretary all right, title, and interest of the District of Columbia in each of the properties described in subsection (b) for use as described in such subsection, the Secretary shall convey to the District of Columbia all right, title, and interest of the United States in each of the properties described in subsection (c).

(2) Administration by National Park Service.—The properties conveyed by the District of Columbia to the Secretary under this section shall be administered by the Director of the National Park Service.

(b) Properties to be conveyed to the Secretary.—The properties described in this subsection and their uses are as follows (as depicted on the Map):

(1) Lovers Lane Northwest, abutting U.S. Reservation 324, for the closure of a one-block long roadway adjacent to Montrose Park.

(2) Needwood, Niagara, and Pitt Streets Northwest, within the Chesapeake and Ohio Canal National Historical Park, for the closing of the rights-of-way now occupied by the Chesapeake and Ohio Canal.

(c) Properties to be conveyed to the District of Columbia.—The properties described in this subsection are as follows (as depicted on the Map):

(1) U.S. Reservation 17A.

(2) U.S. Reservations 343D and 343E.


SEC. 302. REQUIREMENTS FOR Poplar Point LAND-USE PLAN.

(a) Conveyance.—Upon certification by the Secretary of the Interior (through the Director) that the District of Columbia has adopted a land-use plan for Poplar Point which meets the requirements of section 302, the Secretary shall convey to the District of Columbia all right, title, and interest of the United States in Poplar Point, in accordance with this title.

(b) WITHHOLDING OF EXISTING FACILITIES AND PROPERTIES OF NATIONAL PARK SERVICE FROM INITIAL CONVEYANCE.—The Director shall withhold from the conveyance made by the United States in Poplar Point of the property described in paragraph (a) (and related property (including necessary easements and utilities related thereto) which are occupied or otherwise used by the National Park Service) any portion of the land-use plan referred to in subsection (a), as identified in such land-use plan in accordance with section 302(c).

(c) REQUIREMENTS FOR POPULAR POINT LAND-USE PLAN.

(1) In general.—The land-use plan for Poplar Point meets the requirements of this section if the plan includes each of the following elements:

(a) The plan provides for the reservation of a portion of Poplar Point for park purposes, in accordance with subsection (b).

(b) The plan provides for the identification of existing facilities and related properties of the National Park Service, and the relocation of the National Park Service to replacement facilities and related properties, in accordance with subsection (c).

(c) Under the plan, at least two sites within the areas designated for park purposes are set aside for the placement of potential commemorative works to be established pursuant to chapter 89 of title 40, United States Code, and the plan includes a commitment by the District of Columbia to convey back those sites to the National Park Service at the appropriate time, as determined by the Secretary.

(d) To the greatest extent practicable, the plan is consistent with the Anacostia Waterfront Framework Plan referred to in section 165 of the Anacostia Waterfront Corporation Act of 2006 (sec. 2–1203, D.C. Official Code).

(e) Reservation of areas for park purposes.—The plan shall identify a portion of Poplar Point consisting of not fewer than 70 acres as land reserved for park purposes and shall require such portion to be reserved for such purposes...
in perpetuity, and shall provide that any person (including an individual or a public entity) shall have standing to enforce the requirement.

(c) IDENTIFICATION OF EXISTING FACILITIES AND PROPERTIES FOR NATIONAL PARK SERVICE.—

(1) IDENTIFICATION OF EXISTING FACILITIES.—The plan shall identify the facilities and related property (including necessary easements and utilities related thereto) which are occupied or otherwise used by the National Park Service in Poplar Point prior to the adoption of the plan.

(2) RELOCATION TO REPLACEMENT FACILITIES.—

(A) IN GENERAL.—To the extent that the District of Columbia and the Director determine jointly that it is no longer appropriate for the National Park Service to occupy or otherwise use any of the facilities and related property identified under paragraph (1), the plan shall—

(i) identify other suitable facilities and related property (including necessary easements and utilities related thereto) in the District of Columbia which to the National Park Service may be relocated;

(ii) provide that the District of Columbia shall take such actions as may be required to carry out the relocation, including preparing the needed plans, surveys, and studies necessary for the transfer of such fixtures and equipment as the Director may require; and

(iii) set forth a timetable for the relocation of the National Park Service to the new facilities.

(B) RESTRICTION ON USE OF PROPERTY RELATIVE TO REPLACEMENT FACILITIES.—The plan shall specify with respect to Poplar Point until the Director makes the certification referred to in subsection (a), that the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied by the National Park Service.

SEC. 304. POPULAR POINT DEFINED.

In this title, “Popular Point” means the parcel of land of the District of Columbia which is owned by the United States and which is under the administrative jurisdiction of the District of Columbia or the Director on the day before the enactment of this Act, and which is bounded on the north by the Anacostia River, on the north-east by and inclusive of the southeast approaches to Suitland Parkway, on the southeast by and inclusive of Route 296, and on the northwest by and inclusive of the Frederick Douglass Memorial Bridge approaches to Suitland Parkway, as depicted on the Map.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term “Administrator” means the Administrator of General Services.

(2) The term “Director” means the Director of the National Park Service.

(3) The term “Map” means the map entitled “Transfer and Conveyance of Properties in the District of Columbia”, numbered 869/80460, and dated July 2005, which shall be kept on file in the appropriate office of the National Park Service.

(4) The term “Secretary” means the Secretary of the Interior.

SEC. 402. LIMITATION ON ENVIRONMENTAL LIABILITY.

Notwithstanding any other provision of law—

(1) the United States shall not be responsible for any environmental liability, response action, remediation, corrective action, damages, costs, or expenses associated with any property conveyed to the District of Columbia under this Act or any amendment made by this Act; and

(2) all environmental liability, responsibility, remediation, damages, costs, and expenses as required by applicable Federal, state and local law, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (known as Clean Water Act) (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Rivers and Harbors Act (33 U.S.C. 540 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), the Solid Waste Disposal Act (33 U.S.C. 2701 et seq.) for any such property shall be borne by the District of Columbia, which shall conduct all environmental activity with respect to such properties, and bear all costs and expenses of any such activity.

SEC. 403. LIMITATION ON COSTS.

The United States shall not be responsible for paying any costs and expenses incurred by the District of Columbia or any other parties at any time in connection with effecting the provisions of this Act or any amendment made by this Act, including costs and expenses associated with surveys, zoning, land-use processes, transfer taxes, recording taxes, recording fees, as well as the costs associated with the relocation of the National Park Service to replacement facilities required under the land-use plan for Poplar Point described in section 302(c)(2).

SEC. 404. DEADLINE FOR PROVISION OF DEEDS.

With respect to each property conveyed under this Act or any amendment made by this Act, the Mayor of the District of Columbia, the Administrator, or the Secretary (as the case may be) shall execute and deliver a quitclaim deed or prepare and record a transfer plat, as appropriate, not later than 6 months after the property is conveyed.

Mr. THUNE (for himself and Mr. Bingaman): October 6, 2005

S. 1840. A bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals; to the Committee on Finance.
system. They provide emergency outpatient and limited inpatient care to individuals in remote rural areas. Out of the 61 hospitals in my state of South Dakota, 37 qualify as critical access hospitals.

Our Medicare care in critical access hospitals is reimbursed by Medicare at 101 percent of reasonable costs. Allowing critical access hospitals to participate in the 340B program will lower the cost of drugs in the outpatient setting and ultimately lower the cost of care provided by these hospitals. Decreasing the cost of care in critical access hospitals lowers the amount the Medicare Program expends on reimbursement.

The Safety Net Inpatient Drug Affordability Act is commonsense legislation that reduces the cost of drugs for health care providers serving society’s most vulnerable citizens. Lowering the cost of care in these settings means lowering the cost of health care for all American taxpayers. I look forward to working with my colleagues on both sides of the aisle in getting this bipartisan legislation passed and signed into law.

By Mr. NELSON of Florida (for himself, Ms. STABENOW, and Mr. HARKIN):

S. 1841. A bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleagues and cosponsors Senators STABENOW and HARKIN as we introduce the Medicare Informed Choice Act of 2006. This bill provides additional essential protections for Medicare beneficiaries during the first year of implementation of the new Medicare prescription drug benefit.

Medicare beneficiaries are understandably concerned and confused about the new benefit. They face a number of private plan options and sorting through these plans will be complicated. Medicare beneficiaries will have to make many difficult decisions about what is the best course of action for them.

Choosing the right plan will be a challenge for all beneficiaries, but it will be most difficult for those who are frail and living with problems like dementia. The task will be virtually impossible for Hurricane Katrina victims who do not have permanent addresses and, therefore, won’t even be able to obtain Part D materials. Yet, beneficiaries who do not act by the May 15, 2006 deadline and who enroll at a later date will face a substantial financial penalty.

In response, we are introducing this legislation that will provide the protections for beneficiaries during the first year of the new program. By delaying late enrollment penalties and giving every beneficiary a chance to change plans once during the first year, we can make sure that our constituents are not forced to make hasty decisions they may later regret.

The Medicare Informed Choice Act of 2005 contains three important protections:

1. Delays late enrollment penalties: The bill expands the existing six-month open enrollment period to the entire year of 2006. This will give people added time to do the research and make the best decisions they can for themselves.

2. Protections against bad choices: The bill gives every Medicare beneficiary the opportunity to make a one-time change in plan enrollment at any point in 2006. Given the importance of the decision they make, it is appropriate to give beneficiaries a one-time chance to correct an initial mistake made during the first year of implementation.

3. Protections for employer-provided retiree benefits: This provision would protect employees from being dropped by their former employer’s plan during the first year of implementation, so that beneficiaries have time to correct enrollment mistakes.

The Medicare Informed Choice Act is a small, time-limited step that would help ease the pressure of the first year of this new drug program. It is also critical for all those beneficiaries who face hurdles in obtaining Medicare Part D materials or are unaware that they will be penalized by failure to act. We urge all of our colleagues to join us in this effort to help protect Medicare beneficiaries during the benefit’s implementation period.

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. 1841

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 “The Medicare Informed Choice Act of 2005.”

SEC. 2. EXTENDED PERIOD OF OPEN ENROLLMENT DURING ALL OF 2006 WITHOUT LATE ENROLLMENT PENALTY.

Section 1855(b)(1) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in the heading, by striking “‘first 6 months of 2006’ and inserting “2006’; and

(2) by striking “the first 6 months during 2006” and inserting “2006”.

SEC. 3. ONE-TIME CHANGE OF PLAN ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING ALL OF 2006.

(a) APPLICABILITY TO MA–PD PLANS.—Section 1855(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(B)—

(A) in the heading, by striking “FOR FIRST 6 MONTHS”; and

(B) in clause (1)—

(i) by striking “the first 6 months of 2006’ and inserting 2006’; and

(ii) by striking “the first 6 months during 2006” and inserting “2006”.

(b) IN CLAUSE (II).—Section 1861(b)(4) of such Act (42 U.S.C. 1395w–21(b)(4)) is amended by striking “‘other than during 2006’” after “paragraph (3)” and inserting “‘2006’” each place it appears.

(c) CONFORMING AMENDMENT TO PART D.—Section 1861(d)(1)(B)(iii) of such Act (42 U.S.C. 1395w–21(d)(1)(B)(iii)) is amended by striking “subparagraphs (B) and (C) of paragraph (2)” and inserting “paragraph (2)(C)’’.

SEC. 4. PROTECTION FROM LOSS OF EMPLOYMENT-BASED COVERAGE UPON ENROLLMENT FOR MEDICARE PRESCRIPTION DRUG BENEFIT DURING 2006.

Section 1860D–22(a)(2) (42 U.S.C. 1320j–32(a)(2)) is amended by adding at the end the following new subparagraph:

“(D) PROTECTION FROM LOSS OF EMPLOYMENT-BASED COVERAGE.—The sponsor of the plan may not involuntarily discontinue coverage of an individual under a group health plan before January 1, 2007, based upon the individual’s decision to enroll in a prescription drug plan or an MA–PD plan under this part.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173).

By Mr. ENSIGN (for himself, Ms. MURKOWSKI, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, Mr. KYL, Mr. SMITH, and Mr. STEVENSON):

S. 1845. A bill to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes; to the Committee on the Judiciary.

Mr. ENSIGN. 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. 1845

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 “The Circuit Court of Appeals Restructuring and Modernization Act of 2005.”

SEC. 2. DEFINITIONS.

In this Act:

(1) FORMER NINTH CIRCUIT.—The term “former Ninth circuit” means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act.

(2) NEW NINTH CIRCUIT.—The term “new Ninth circuit” means the ninth judicial circuit of the United States established by the amendment made by section 3(2)(A).

(3) TWELFTH CIRCUIT.—The term “twelfth circuit” means the twelfth judicial circuit of the United States established by the amendment made by section 3(2)(B).

SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking “thirteen” and inserting “fourteen”: and
SEC. 4. JUDGESHIPS.
(a) New Judgeships.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the new Ninth Circuit court of appeals, whose official duty station shall be in California.

(b) Temporary Judgeships.—(1) Appointment of Judges.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the former ninth circuit court of appeals, whose official duty stations shall be in California.

(2) Effect of Vacancies.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judgeships created by this subsection shall not be filled.

(c) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 5. NUMBER OF CIRCUIT JUDGES.
The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth ................................. 20";

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth ................................. 14".

SEC. 6. PLACES OF CIRCUIT COURT.
The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth ................................. Honolulu, Pasadena, San Francisco.";

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth ................................. Las Vegas, Missoula, Phoenix, Portland, Seattle.".

SEC. 7. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.
The offices of the Circuit Executive of the Twelfth Circuit and the Clerk of the Court of the Twelfth Circuit shall be located in Phoenix, Arizona.

SEC. 8. ASSIGNMENT OF CIRCUIT JUDGES.
Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this Act shall be in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

(2) in Alaska, Arizona, Idaho, Montana, Nevada, Oregon, or Washington shall be a circuit judge of the twelfth circuit as of such effective date.

SEC. 9. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.
Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall give the Director of the Administrative Office of the United States Courts of such election.

SEC. 10. SENIORITY OF JUDGES.
The seniority of each judge—

(1) who is assigned under section 8, or

(2) who elects to be assigned under section 9, shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 11. APPLICATION TO CASES.
The following apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) Except as provided in paragraph (3), if the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the same shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) If a petition for rehearing en banc is pending on or after the effective date of this Act, the petition shall be considered by the court of appeals to which it would have been submitted had this Act been in full force and effect at the time the appeal or other proceeding was filed with the court of appeals.

SEC. 12. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.
Section 291 of title 28, United States Code, is amended by adding at the end the following:

"(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit.

"(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit.

SEC. 13. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.
Section 292 of title 28, United States Code, is amended by adding at the end the following:

"(d) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

"(1) upon request by the chief judge of the Twelfth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit, with the consent of Appeals of the Twelfth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit.

"(e) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

"(1) upon request by the chief judge of the Ninth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit.

"(b) Any designations or assignments under subsection (f) or (g) shall be in accordance with the rules of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.".

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated such sums as may be necessary to carry out this Act, including funds for additional court facilities.

SEC. 16. EFFECTIVE DATE.
Except as provided in section 4(c), this Act and the amendments made by this Act shall take effect 12 months after the date of enactment of this Act.

By Mr. SALAZAR (for himself and Mr. ALLARD):
S. 1848. A bill to promote remediation of mining and abandoned mines, and for other purposes; to the Committee on Environment and Public Works.

Mr. SALAZAR. Mr. President, I rise to make a statement regarding an important bill I am introducing today. It is a bill that is meant to provide a straightforward and commonsense fix to a nettlesome problem that plagues communities throughout the west: pollution from abandoned mines.

The bill simply says that we should make life easier for Good Samaritans. Surprisingly, that is not currently the case.

The Western United States is pockmarked with old mines and mining residues, and many of these sites continuously pollute the water, the lands, and the air. Our rivers and streams suffer particularly from this type of pollution.

In many cases, no one alive is legally responsible for cleaning these sites. In other cases, those who are legally responsible lack the money or other resources necessary to clean them up, and the pollution continues.

Fortunately, some people and some companies are willing to clean up mine sites in whole or in part, even though they are not legally responsible. These are Good Samaritans.

They act for many reasons. Some are people who live nearby and suffer directly from the pollution. Others are companies that want to perform a service to the community and to address less fortunate aspects of the history of the mining industry. Still others act for other reasons.

Unfortunately, though, our environmental laws create great risks of broad, long term, and very expensive liabilities for anyone who acts at a mine site, even if they act only as Good Samaritans. This problem understandably dissuades Good Samaritans from cleaning mine sites.

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In many cases, no one alive is legally responsible for cleaning these sites. In other cases, those who are legally responsible lack the money or other resources necessary to clean them up, and the pollution continues.

Fortunately, some people and some companies are willing to clean up mine sites in whole or in part, even though they are not legally responsible. These are Good Samaritans.

They act for many reasons. Some are people who live nearby and suffer directly from the pollution. Others are companies that want to perform a service to the community and to address less fortunate aspects of the history of the mining industry. Still others act for other reasons.

Unfortunately, though, our environmental laws create great risks of broad, long term, and very expensive liabilities for anyone who acts at a mine site, even if they act only as Good Samaritans. This problem understandably dissuades Good Samaritans from cleaning mine sites.
My bill is designed to fix this problem. It is written to encourage meritorious projects to proceed provided they have the full approval of the governments involved and full participation by the public—all to benefit the environment.

This bill intentionally is simple and intentionally straightforward. No Good Samaritan project will proceed unless it creates a true, overall environmental benefit. No project will gain approval unless the U.S. Environmental Protection Agency, the state involved, and local authorities affected agree that it is a good thing. The public will be fully involved in the process from the very beginning.

And, finally, the permit system and the standards in the bill are intentionally uncomplicated, so that permits for simple projects can be issued using simple proceedings.

My idea is to make clear that the work of Good Samaritans is very welcome. Some cleanup of the environment in these circumstances is far better than none at all.

The bill encourages Good Samaritans to clean pollution by freeing them from much of the legal requirements that ordinarily burden anyone who acts to fix the pollution.

The bill applies to the cleanup of non-coal inactive and abandoned mines anywhere in the United States. It wraps all environmental requirements for a Good Samaritan project into a single permit that must be agreed to first by the Federal Government, the affected State, and local communities—is straightforward.

Its inclusion of the states and local communities as well as the affected publics—including by assuring that States and local authorities have a say in the provision of any permit—are based on the best traditions of the west.

And its impact is clear—only projects that benefit the environment will be permitted, and the work done pursuant to that permit will be afforded clear legal protection.

I am proud of this bill. It is the result of a series of meetings I held around my state earlier this year. And it is endorsed by the National Mining Association, the Colorado Mining Association, and the Great State of Colorado.

It is the right thing to do, and I look forward to working with my colleagues to ensure its enactment.

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

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

S. 199

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 “Cleanup of Inactive and Abandoned Mines Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Federal Government and State governments encouraged hard rock mining in the United States through a wide variety of laws, policies, and actions;

(2) the mining activities that took place disturbed public and private land, and those disturbances led to considerable environmental pollution;

(3) many areas in which hard rock mining took place in the United States are now inactive and abandoned mine sites;

(4) many inactive and abandoned mine sites pollute the environment today and will continue to do so indefinitely unless remediated;

(5) adits and other tunnels will continue to drain pollutants to surface and groundwater through gravity flow;

(6) surface runoff will continue to pick up pollutants as the runoff moves over disturbed ground and transports pollutants to surface waters; and

(7) tailings and other materials left exposed to the elements will continue to blow in the wind and pollute the atmosphere and soils;

(8) many of the individuals and corporate owners and operators of those mines, who caused this pollution, are no longer alive or in existence;

(9) some of the remaining owners and operators who remediation do not have resources that are adequate to conduct remediation properly under applicable environmental laws, for all practical purposes leaving no one responsible for the cleanup of pollution from those sites;

(10) inactive and abandoned mine sites are located in areas of known economic mineralization;

(11) modern mining activities often take place on or in the vicinity of the area in which historic hard rock mining activities took place;

(12) from time to time, individuals and companies are willing to remediate historic mine sites for the public good as Good Samaritans, despite the fact that these individuals and companies are not legally required to remediate the mine sites;

(13) Good Samaritan remediation activities may—

(A) vary in size and complexity;

(B) reflect the myriad ways that mine residue may be managed;

(C) include, among other activities—

(i) the relocation or management of tailings or other waste piles;

(ii) passive or active water treatment;

(iii) runoff or run-on controls; and

(iv) the use or reprocessing of, or removal of materials from, mine residue;

(D) is not liable under any Federal, State, or local law for the remediation of the historic mine residue;

(E) is authorized under Federal or State law, or local ordinance, to participate in issuing a permit under this section; and

(F) elects to participate in the process of issuing the permit.

(3) ENVIRONMENTAL LAW.—The term “environmental law” includes—

(A) the Safe Drinking Water Act (42 U.S.C. 2601 et seq.);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(C) the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(E) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(F) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.);

(G) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(H) applicable environmental laws of a State; and

(I) applicable environmental ordinances of a political subdivision of a State.

(4) GOOD SAMARITAN.—The term “Good Samaritan” means a person that—

(A) is unrelated, by operation or ownership (except solely through succession to title), to the historic mine residue to be remediated under this section;

(B) had no role in the creation of the historic mine residue;

(C) had no significant role in the environmental pollution caused by the historic mine residue; and

(D) is not liable under any Federal, State, or local law for the remediation of the historic mine residue.

(b) PURPOSES.—The purposes of this Act are—

(1) to encourage partial or complete remediation of inactive and abandoned mine sites for the public good by persons who are not otherwise legally responsible for the remediation;

(2) to provide appropriate protections for Good Samaritans under applicable environmental laws;
(B) INCLUSIONS.—The term "historic mine residue" may include, among other materials—
(i) creosote;
(ii) fly ash;
(iii) equipment (or materials in equipment);
(iv) wastes from extractions, beneficiation, or other historic mining activities;
(v) acidic or otherwise polluted flows in surface or ground water.

(6) INACTIVE OR ABANDONED MINE SITE; MINE SITE IN THE REASONABLY FORESEEABLE FUTURE.—
(A) the term "inactive or abandoned mine site" and "mine site" mean the site of a mine and associated facilities that—
(i) were used for the production of a mineral commodity;
(ii) have historic mine residue; and
(iii) are abandoned or inactive as of the date on which an application is submitted for a permit under this section;

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) PERSON.—The term "person" includes—
(A) an individual;
(B) a firm;
(C) a corporation;
(D) an association;
(E) a partnership;
(F) a consortium;
(G) a joint venture;
(H) a commercial entity;
(I) a nonprofit organization;
(J) the Federal Government;
(K) a State;
(L) a political subdivision of a State;
(M) an interstate entity; and
(N) a commission.

(9) STATE.—The term "State" means—
(A) a State; and
(B) an Indian tribe.

(10) PERMITS.—The Administrator may issue a permit for a Good Samaritan to carry out a project to remediate all or part of an inactive or abandoned mine site under this section.

(a) ELIGIBILITY FOR PERMITS.—
(1) IN GENERAL.—To be eligible for a permit to carry out a project to remediate an inactive or abandoned mine site under this section, the applicant—
(A) shall be a Good Samaritan; and
(B) may be authorized under other applicable laws, including environmental laws.

(b) REMEDIAL ACTIVITY.—
(1) Before a permit may be issued to carry out a project in a State under this section, the State shall have in effect a State remediation program that meets the requirements of this subsection.

(c) REQUIREMENTS.—To meet the requirements of this subsection, under the State remediation program the State shall—
(A) agree to participate, as a signatory, in each project for which a permit for remediation in the State is issued under this section;
(B) agree that a permittee shall comply with the terms and conditions of the permit in lieu of compliance with applicable environmental laws specifically described in the permit in accordance with subsection (h)(1)(B);
(C) authorize State agencies and political subdivisions of the State to participate in the permit process under this section, as appropriate, and assist in providing the resources to enable that participation; and
(D) designate a lead State agency that is responsible to carry out permitting responsibilities of the State under this section.

(d) APPLICATION.—To obtain a permit to carry out a project to remediate an inactive or abandoned mine site under this section, an applicant shall submit to the Administrator an application, signed by the applicant, that provides—
(1) a description of the mine site (including the boundaries of the mine site);
(2) an identification of—
(A) any current owner or operator of the mine site; and
(B) any person with a legal right to exclude other persons from the mine site or affect activities on the mine site, with a description of those legal rights;
(3) evidence satisfactory to the Administrator that the applicant has or will acquire all legal rights necessary to enter the mine site and to perform the remediation described in the application;
(4) a description, based on the conduct of an inquiry that is reasonable under the circumstances, of—
(A) all persons that may be legally responsible for the remediation of the mine site; and
(B) any relationship between those persons and the applicant;
(5) a certification that the applicant knows of no other person that (as of the date of submission of the application)—
(A) is potentially legally responsible for the remediation of the mine site; and
(B) has sufficient resources to complete the remediation;
(6) a detailed description of the historic mine residue to be remediated;
(7) a description of the baseline conditions (as of the date of submission of the application) of the historic mine residue to be remediated;
(8) a description of—
(A) the nature and scope of the proposed remediation; and
(B) detailed engineering plans for the project;

(9) DESCRIPTION OF THE MANNER IN WHICH REMEDIATION WILL BE ASSISTED.—The Administrator shall assist the mine site in meeting, to the maximum extent reasonable and practicable under the circumstances, the following requirements:
(i) the application that, except for the remediation project, the applicant is preparing or has prepared;
(ii) any State or political subdivision of the State under this section; and
(iii) any State or political subdivision of the State under this section to which the Administrator may provide assistance.

(10) Procurement of the Services of the Administrator or Any Other Person.—
(A) The Administrator shall issue or deny a permit for the remediation of a mine site not later than—
(i) the date that is 180 days after the date of receipt by the Administrator of an application for the permit that, as determined by the Administrator, is complete; or
(ii) the date that is 60 days after the date that the Administrator has determined that, as determined by the Administrator with the agreement of the applicant.

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(2) ADMINISTRATION.—When selecting the type and frequency of the monitoring requirements to be included in a permit, if any, the Administrator shall—

(1) ensure the need for monitored information against the cost of the monitoring, based on the circumstances relating to the remediation; and

(2) take into account the scope of the project.

(3) MULTIPARTY MONITORING.—The Administrator may approve in a permit the conduct of monitoring by multiple parties if, as determined by the Administrator, the multiparty monitoring will effectively accomplish the goals of this section.

(b) Environmental laws required—

(1) CIVIL PENALTY.—Any person who violates a permit issued under this section shall be subject to a civil penalty of up to $10,000 for each day of the violation.

(2) INJUNCTIONS.—

(A) IN GENERAL.—A court may issue an injunction—

(i) mandating that a person comply with a permit or take action to abate a permit violation; or

(ii) prohibiting a person from violating a permit.

(B) MINIMUM REQUIREMENT.—In the event of a permit violation, and absent extraordinary circumstances, the court shall, at a minimum, require—

(i) the permittee to repair the damage to any part of the environment that is caused by an action of the permittee in violation of the permit; and

(ii) the environment to be restored to the condition of the environment prior to the action of the permittee in violation of the permit.

(3) AGENCIES.—Any government agency that signs a permit issued under this section may enforce the permit through appropriate administrative or judicial proceedings.

(b) JUDICIAL REVIEW.—A court may set aside or modify an action of the Administrator in issuing a permit under this section, or an action of a State or political subdivision of a State in signing a permit, only on clear and convincing evidence of an abuse of discretion.

(c) SAVINGS PROVISIONS.—

(1) EMERGENCY AUTHORITY.—Nothing in this section affects the authority of a Federal, State, or local agency to carry out any emergency authority, including an emergency authority provided under any environmental law listed in a permit.

(2) LIABILITY.—Except to the extent that a permit provides protection under an environmental law specified in a permit in accordance with subsection (g)(1)(C), nothing in this section or a permit issued under this section limits the liability of any person (including a permittee) under any other provision of law.

(d) REGULATIONS.—

(1) IN GENERAL.—The Administrator may promulgate such regulations as are necessary to carry out this section.

(2) EFFECTIVENESS.—This section shall be effective regardless of whether regulations are promulgated by the Administrator under paragraph (1).

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 1. SHORT TITLE.

This Act may be cited as the "Rapid Efficiency Credit Act of 2005".

SEC. 2. ACCELERATION OF CERTAIN ENERGY INCOME TAX CREDITS.

Sections 333(c), 10135(c), 1336(e), 1397(d), 1911(c), and 1912(c) of the Energy Policy Act of 2005 (Public Law 109–58) are amended by striking September 30, 2005 and inserting "the date of the enactment of the Rapid Efficiency Credit Act of 2005".

SEC. 3. CREDIT FOR ENERGY STAR COMPLIANT COMPACT FLUORESCENT LIGHT BULBS.

(a) ALLOWANCE OF CREDIT.—Subsection (a) of section 25D(a) of the Internal Revenue Code of 1986 (relating to residential energy efficiency) is amended—

(1) by striking "and" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting "and", and

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

"(4) 30 percent of the qualified compact fluorescent light expenditures made by the taxpayer during such year.

(b) MAXIMUM CREDIT.—Subsection (b)(1) of section 25D of such Code is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "and", and

(3) by adding at the end the following new subparagraph:

"(D) $50 with respect to any qualified compact fluorescent light expenditure.".

(c) DEFINITION.—Subsection 25D(d) of such Code is amended by inserting "other than paragraph (4) thereof" after "subsection (d)":

(d) LABOR COSTS NOT INCLUDED.—Section 25D(e)(1) of such Code is amended by inserting "other than paragraph (4) thereof" after "subsection (d)":

(e) 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.

S. 1501

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

SECTION 1. FUEL ECONOMY STANDARDS.

(a) IN GENERAL.—Section 30123 of title 49, United States Code, is amended by adding at the end the following:

"(d) FUEL ECONOMY.—(1) Replacement tires for passenger motor vehicles (as defined in section 32101 of this title) shall meet the standards required for tires on new vehicles under part 571 of title 49, Code of Federal Regulations, including standards affecting fuel economy.

(2) Nothing in this section shall apply to—

(A) a tire, or a group of tires with the same SKU number, plant, and year, for which the volume of tires produced or imported is less than 15,000 units;

(B) a deep tread, winter-type, snow tire, space saver tire, or temporary use spare tire;

(C) a tire with a normal rim measuring not more than 12 inches in diameter;

(D) a motorcycle tire;

(E) a tire manufactured specifically for use in an off-road motorized recreational vehicle.

(b) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule regarding policies and procedures for testing and labeling tires for fuel economy that—

(1) secures the maximum technically feasible and cost-effective fuel savings;

(2) does not adversely affect tire safety;

(3) does not adversely affect average tire life; and

(4) establishes minimum fuel economy standards for tires.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the expiration of the date that is 180 days after the date of enactment of this Act.

S. 1652

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 "Reducing the Incentives to Guzzle Gas Act".

SEC. 2. INCLUSION OF HEAVY VEHICLES IN LIMITATION ON DEPRECIATION OF CERTAIN LUXURY AUTOMOBILES.

(a) IN GENERAL.—Section 280F(d)(5)(A) of the Internal Revenue Code of 1986 (defining passenger automobile) is amended—

(1) by striking clause (ii) and inserting the following new clause:

"(ii)(I) which is rated at 6,000 pounds unloaded gross vehicle weight or less, or

"(II) which is rated at more than 6,000 pounds but not more than 14,000 pounds gross vehicle weight.

(2) by striking "clause (ii)" in the second sentence of subsection (d) and inserting the following:

"(ii) the average wage index for 2005.

(b) EXCEPTION FOR VEHICLES USED IN FARMING BUSINESS.—Section 280F(d)(5)(B) of such Code (relating to exception for certain vehicles) is amended by striking "and" at the end of clause (ii)(I), (ii)(II), (iii), and (iv), and by inserting after clause (ii)(I) the following new clause:

"(iii) any vehicle used in a farming business (as defined in section 263A(e)(4)), and.

(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.

SEC. 3. UPDATED DEPRECIATION DEDUCTION LIMITS.

(a) IN GENERAL.—Subparagraph (A) of section 280F(a)(1) of the Internal Revenue Code of 1986 (relating to limitation on amount of depreciation for luxury automobiles) is amended to read as follows:

"(A) LIMITATION.—The amount of the depreciation deduction for any taxable year shall not exceed for any passenger automobile—

(1) for the 1st taxable year in the recovery period—

"(i) described in subsection (d)(5)(A)(i)(I), $4,000,

"(ii) described in the second sentence of subsection (d)(5)(A), $5,000, and

"(III) described in subsection (d)(5)(A)(ii)(II), $3,475.

(2) for the 2nd taxable year in the recovery period—

"(i) described in subsection (d)(5)(A)(ii)(I), $6,000,

"(ii) described in the second sentence of subsection (d)(5)(A), $8,000, and

"(III) described in subsection (d)(5)(A)(ii)(II), $3,475,

(3) for the 3rd taxable year in the recovery period—

"(i) described in subsection (d)(5)(A)(ii)(I), $8,000,

"(ii) described in the second sentence of subsection (d)(5)(A), $10,000, and

"(III) described in subsection (d)(5)(A)(ii)(II), $3,475.

(b) Y EARS AFTER RECOVERY PERIOD.—Section 280F(a)(1)(B)(ii) of such Code is amended to read as follows:

"(B) AUTOMOBILE PRICE INFLATION ADJUSTMENT FOR PURPOSES OF SUBSECTION (A).—(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

"(II) the average wage index for the preceding calendar year, exceeds the percentage (if any) by which—

"(III) described in subsection (d)(5)(A)(i)(I), $2,900, and

"(III) described in subsection (d)(5)(A)(ii)(II), $3,475.

(c) INFLATION ADJUSTMENT.—Section 280F(d)(7) of such Code (relating to automobile price inflation adjustment) is amended—

(1) by striking "after 2006" in subparagraph (A) and inserting "after 2008", and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of subsection (A),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 4. EXPENSING LIMITATION FOR FARM VEHICLES.

(a) IN GENERAL.—Paragraph (6) of section 179(b) of the Internal Revenue Code of 1986 (relating to limitations) is amended to read as follows:

"(6) LIMITATION ON COST TAKEN INTO ACCOUNT FOR FARM VEHICLES.—The cost of any vehicle described in section 280F(d)(5)(B)(II) for any taxable year which may be taken into account under this section shall not exceed $30,000.

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

S. 1503

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 "Reduce Government Fuel Consumption Act of 2005".

SEC. 2. REDUCTION OF EMPLOYEE VEHICLE FUEL CONSUMPTION BY FEDERAL AGENCIES.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) (as amended by section 103 of the Energy Policy Act of 2005 (Public Law 109–58)) is amended by adding at the end the following:

"(1) IN GENERAL.—Each agency shall take such actions as are necessary to reduce the level of fuel consumed by vehicles of employees of the agency (other than fuel used for military purposes), in connection with the employment of the employees, by (to the maximum extent practicable) at least 10 percent during the 1-year period beginning on the date of enactment of this subsection.
“(2) Methods.—An agency may use such methods as the agency determines are appropriate to achieve the target established by paragraph (1), including—
   (A) identification; 
   (B) bicycling; 
   (C) fuel-efficient trip planning; and 
   (D) targeting travel days for vehicle travel outside the office. 

“(3) MEASUREMENT.—An agency may use such measures as the agency determines are appropriate to determine whether the agency has achieved the target established by paragraph (1), including—
   (A) a reduction in travel vehicle travel miles reimbursed by the agency; and 
   (B) certification of the methods described in paragraph (2).”

S. 1854

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress as-
sembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Treat Emer-
gency Victims Fairly Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following:

(1) Price gouging in emergencies, including
    natural disasters and other emergencies, is
    reprehensible commercial activity.

(2) Price gouging can take place prior to,
    during, and following natural disasters and
    other emergencies.

(3) Price gouging in commercial and con-
    sumer settings affects interstate commerce.

(4) Price gouging—
    (A) distorts markets without regard to
        State lines;
    (B) disrupts and interferes with the flow of
        commodities and services across State lines; and
    (C) creates or exacerbates shortages and
        interruptions of supplies of materials across
        State lines.

(5) Price gouging can take place prior to,
    during, and following natural disasters and
    other emergencies.

(6) Price gouging in commercial and con-
    sumer settings affects interstate commerce.

(7) Price gouging—
   (A) distorts markets without regard to
   State lines; 
   (B) disturbs and interferes with the flow of
   commodities and services across State lines; and 
   (C) creates or exacerbates shortages and
   interruptions of supplies of materials across
   State lines.

(8) It is in the interest of the United States
    to prohibit and deter price gouging.

SEC. 3. DEFINITIONS.

(1) EMERGENCY.—The term “emergency”
    means a natural disaster or other cir-
    cumstance or event that is formally declared to
    be an emergency by Federal or State au-
    thorities. An emergency may be associated
    with a designated area.

(2) PERSON.—The term “person” means a
    natural person, corporation, governmental
    body, or other entity.

(3) PRICE GOUGING.—The term “price gouging”
    means charging an unreasonable and uncon-
    scionable price for a good or service imme-
    diately prior to, during, or following an emer-
    gency.

(4) PRESUMPTION.—
   (A) AFFIRMATIVE.—A price for a good or
   service is presumed to be unreasonable and uncon-
   scionable if it reflects a price increase at least 10 per-
   cent greater than the average price for the good
   or service charged by the seller in the designated
   area during the 30 days prior to the formal declaration
   of the emergency; and 
   (B) certification of the methods described
   in paragraph (2).

(5) PRICE GOUGING.—A price for a good or
    service is presumed to be unreasonable and uncon-
    scionable if the price is affected by the emer-
    gency and if the price reflects a price in-
    crease at least 10 percent greater than the
    average price for the good or service charged
    by the seller in the area of the sale during
    the 30 days prior to the formal declaration
    of an emergency.

(6) PENALTY.—Failure to comply with an
    order to cease and desist, or a subpoena issued
    under this section, or a refusal to provide or
    allow access to records or documents, shall
    subject the person to a civil penalty of up to
    $10,000.

(7) Price gouging—
    (A) a reduction in travel vehicle travel
    miles reimbursed by the agency; and
    (B) certification of the methods described
    in paragraph (2).

SEC. 4. CAUSE OF ACTION.

(a) IN GENERAL.—It shall be unlawful for
    any seller of goods or services to engage in
    price gouging.

(b) LITIGATION.—A cause of action under
    this section may be brought—
    (1) in Federal court; and
    (2) by the Federal Government, through
        the Attorney General, or a State Govern-
        ment acting through its attorney general.

(c) VENUE AND PROCEDURE.—
    (1) FEDERAL COURT.—An action in Federal
        court under this section may be brought
        in the geographic area in which price
        gouging is alleged to have occurred; or
        (B) the State which is a plaintiff in the ac-

    (2) STATE COURT.—An action in State court
        under this section shall conform to State
        rules of procedure.

(d) EXPEDITED FEDERAL CONSIDERATION.—
    An action under this section in Federal court
    shall receive expedited review.

(e) INVESTIGATIONS.—

   (1) IN GENERAL.—During the course of an
       investigation under this section by the At-
       torney General of the United States or a
       State attorney general, whether prior to
       filing an action or during such an action, the
       investigating attorney general may—
       (A) order any person to file a statement,
           report in writing, or answer questions in
           writing, under oath or otherwise, concerning
           facts or circumstances reasonably related to
           alleged price gouging;
       (B) order any person to provide data or
           information the attorney general reasons-
           dently deems to be necessary to an investiga-
           tion; and
       (C) issue subpoenas to require the attend-
           ance of witnesses or the production of rel-
           evant documents, administer oaths, and con-
           duct hearings in aid of the investigation.

    (2) ENFORCEMENT.—A subpoena issued
        under this subsection may be enforced in
        Federal or State court.

(f) PENALTY.—Failure to comply with an
    order or subpoena under this subsection is
    subject to a civil penalty of up to $10,000.

(g) FILING.—An action under this sec-
    tion may be brought—

(h) IN GENERAL.—It shall be unlawful for
    any seller of goods or services to engage in
    price gouging.

(i) AFFIRMATIVE.—A price for a good or
    service is presumed to be unreasonable and uncon-
    scionable if it reflects a price increase at least 10 per-
    cent greater than the average price for the good
    or service charged by the seller in the designated
    area during the 30 days prior to the formal declaration
    of the emergency; and 
    (B) certification of the methods described
    in paragraph (2).

SEC. 5. DAMAGES AND PENALTIES.

(a) IN GENERAL.—A prevailing plaintiff
    shall be entitled to—
    (1) a refund of all prices paid by the
        plaintiff in excess of conscionable and rea-
        sonable prices; 
    (2) injunctive relief prohibiting the defend-
        ant from price gouging or mandating action; and 
    (3) attorneys fees and costs incurred by the
        plaintiff.

SEC. 6. ATTORNEY GENERAL AUTHORITIES.

The Attorney General of the United States shall—

(1) provide assistance to and cooperate
    with the States in State investigations of
    price gouging and in State litigation brought
    under this Act;

(2) create and disseminate guidelines de-
    signed to assist the public to recognize and
    report price gouging and establish a system
    to gather and disseminate information about
    instances of reported price gouging; and

(3) provide grants to offices of the State at-
    torneys general of not greater than $50,000 in
    order to support the price gouging investiga-
    tions and other activities.

SEC. 7. SAVINGS PROVISION.

This Act shall not preempt or otherwise af-
fect any State or local law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 268—EX-
PRESSING THESENSE OF THE
SENATE THAT A COMMEMORA-
TIVE POSTAGE STAMP SHOULD
BE ISSUED TO HONOR SCULPTOR
KORCZAK ZIOLKOWSKI

Mr. JOHNSON (for himself, Mr. THUNE, and Mr. LEVIN) submitted the
following resolution; which was re-
ferred to the Committee on Homeland Security and Governmental Affairs:

S. Res. 268

Whereas Korczak Ziolkowski was born in
Boston, Massachusetts on September 6, 1908, the
31st anniversary of the death of Lakota leader
Crazy Horse;

Whereas, although never trained in art or
sculpture, Korczak Ziolkowski began a suc-
cessful studio career in New England as a
commissioned sculptor at age 24;

Whereas, in his invitation letter to Korczak
Ziolkowski, Chief Henry Standing Bear wrote: “My fellow chiefs and I would like the
white man to know that the red man has
wrote: “My fellow chiefs and I would like the
red man has

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Whereas Korczak Ziolkowski’s marble
sculpture of composer and Polish leader
Ignace Jan Paderewski won first prize at the
1913 New York World’s Fair, which prompted
Lakota Indian Chiefs to invite Ziolkowski to
carve a memorial for Native Americans;

Whereas his invitation letter to Korczak
Ziolkowski, Chief Henry Standing Bear wrote: “My fellow chiefs and I would like the
white man to know that the red man has
great heroes, also.”;

Whereas in 1919, Korczak Ziolkowski
assisted Guton Borglim for a brief time in
carving Mount Rushmore;