(Mr. DAYTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1888, a bill to provide for 2 programs to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes.

S. 1948

At the request of Mrs. CLINTON, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 2025

At the request of Mr. BAYH, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2140

At the request of Mr. HATCH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2140, a bill to enhance protection of children from sexual exploitation by strengthening section 2257 of title 18, United States Code, requiring producers of sexually explicit material to keep and permit inspection of records regarding the age of performers, and for other purposes.

S. 2201

At the request of Mr. OBAMA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2201, a bill to amend title 49, United States Code, to modify the mediation and implementation requirements of section 40122 regarding changes in the Federal Aviation Administration personnel management system, and for other purposes.

S. 2235

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2235, a bill to posthumously award a congressional gold medal to Constance Baker Motley.

S. 2253

At the request of Mr. DOMENICI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2253, a bill to require the Secretary of the Interior to offer the 181 Area of the Gulf of Mexico for oil and gas leasing.

S. 2370

At the request of Mr. MCCONNELL, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2370, a bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

S. 2424

At the request of Mr. ALLEN, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 2424, a bill to amend the Internal Revenue Code of 1986 to increase the contribution limits for health savings accounts, and for other purposes.

S. 2429

At the request of Mr. LUGAR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2429, a bill to authorize the President to waive the application of certain requirements under the Atomic Energy Act of 1954 with respect to India.

S. 2446

At the request of Mr. OBAMA, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2446, a bill to promote the national security and stability of the economy of the United States by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2482

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2482, a bill to authorize funding for State-administered bridge loan programs, to increase the access of small businesses to export assistance center services in areas in which the President declared a major disaster as a result of Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005, to authorize additional disaster loans, to require reporting regarding the administration of the disaster loan programs, and for other purposes.

S. 2554

At the request of Mr. ENSIGN, the names of the Senator from Tennessee (Mr. FRIST) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 2554, a bill to amend the Internal Revenue Code of 1986 to expand the permissible use of health savings accounts to include premiums for non-group high deductible health plan coverage.

S. CON. RES. 46

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Con. Res. 46, a concurrent resolution expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards.

S. RES. 236

At the request of Mr. COLEMAN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

AMENDMENT NO. 3214

At the request of Mr. SANTORUM, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3214 proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3223

At the request of Mr. DORGAN, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Montana (Mr. BAUCUS) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of amendment No. 3223 proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

AMENDMENT NO. 3295

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 3295 intended to be proposed to S. 2454, a bill to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. KOHL, Mr. DEWINE, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. DURBIN):

S. 2557. A bill to improve competition in the oil and gas industry, to strengthen antitrust enforcement with regard to industry mergers, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Madam President, I am sending to the desk today legislation captioned as the ''Oil and Gas Industry Antitrust Act of 2006,'' legislation on behalf of myself and Senator DEWINE, Senator KOHL, Senator LEAHY, Senator FEINSTEIN and Senator DURBIN. The Judiciary Committee has held hearings on the escalating price of gasoline, which has risen some 25 percent in the past year, from $1.85 per gallon nationally in January of 2005 to $2.38 a gallon early this year.

We have seen rapid consolidation in the oil and gas industry, with many mergers which are specified in the written statement I will have included in the RECORD and enormous profits characterized by the profits reported by ExxonMobil, which earned over $36 billion in 2005, the largest corporate profit in U.S. history.

The legislation we are introducing will do a number of things. First, it will eliminate the judge-made doctrines that prevent OPEC's members from being sued for violating the antitrust laws. There is no doubt that they take joint action when deciding how much oil to sell, actions would normally constitute unlawful price fixing.

This legislation would make them subject to our antitrust laws.

With fewer players in the industry, anticompetitive acts, including the withholding of supply and information sharing, become easier. The bill would prohibit oil and gas companies from diverting, exporting, or refusing to sell existing supplies with the specific intention of raising prices.

The bill also requires the FTC and the Attorney General to consider whether future oil and gas mergers should receive closer scrutiny. It requires the GAO to evaluate whether the divestitures required by the antitrust agencies for past mergers were adequate to preserve competition. There is significant evidence that the concentration in the industry has been a contributing factor to increasing gasoline and oil prices. There are other factors, but it is not explained simply by the increase in the cost of crude oil. This bill takes a firm stand to protect the American consumer from enormous increases in gasoline prices and in oil prices—something very serious when we have insufficient funds in LIHEAP to take care of people who are unable to pay for the increasing costs of heating oil.

I ask unanimous consent that the full text of my prepared statement be printed in the RECORD.

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

CONSOLIDATION IN THE OIL AND GAS INDUSTRY: RAISING PRICES?

Mr. President, I have sought recognition to introduce new legislation, the Oil and Gas Industry Antitrust Act of 2005.

Average gasoline prices nationwide have risen by 25 percent in the past year alone, from $1.85 per gallon in January 2005 to $2.38 per gallon at the beginning of this year.

Prices for heating oil, other petroleum products and natural gas—products that are important to the lives of American consumers—have risen to similar heights.

While Americans are paying more for the products they use to get to work and heat their homes, the mammoth integrated oil companies that dominate the industry have earned record profits. ExxonMobil reported that it earned over $36 billion in 2,005, the largest corporate profit in U.S. history.

Although rising crude oil prices are one factor influencing gasoline prices, it is not the only factor. Increased prices simply cannot be entirely explained by higher crude oil prices.

In a hearing last month and another one next week, the Judiciary Committee is I exploring a likely cause for higher prices—the consolidation that has occurred in the industry over the past decade, and that continues today.

Over 2,600 mergers have occurred in the U.S. petroleum industry since the 1990s, including transactions involving the largest oil and gas companies in the nation.

Last summer, the FTC approved Chevron's acquisition of Unocal.

In 2002, Valero acquired Ultramar Diamond Shamrock and Phillips merged with Conoco.

The year 2000 saw the merger of British Petroleum and ARCO.

The largest transaction occurred in 1999 when Exxon merged with Mobil.

Other transactions included British Petroleum's acquisition of Amoco, Marathon's joint venture with Ashland Petroleum and another joint venture that combined the refining assets of Shell and Texaco.

Last month the Department of Justice just approved Conoco-Phillips' acquisition of Burlington Resources, a merger that creates the nation's largest natural gas company and the third largest integrated oil company.

These transactions have resulted in significantly increased concentration in the oil and gas industry, particularly in the downstream refining and wholesale gasoline markets.

Fewer competitors in a market conveys market power on remaining players, and with it, the opportunity to increase prices. As we have learned in Committee, there is some evidence that consolidation in the industry has increased wholesale gasoline prices.

Fewer competitors in a market also makes collusion easier. Recent events suggest that increased concentration may be creating a ''collusive environment'' in the industry.

A number of experts have pointed to limited refinery capacity as a cause for price spikes in recent years. No new refineries have been built in the U.S. for–30 years. While some existing refineries have expanded in recent years, other refineries have closed. From 1998 through 2004, total refinery capacity nationwide grew by less than one percent. Today, U.S. refineries routinely operate at over 90 percent of capacity. Critics have alleged that tacit collusion among industry players has restrained the growth of refinery capacity.

ExxonMobil and British Petroleum were recently sued by the Alaska Gasoline Port Authority for allegedly conspiring to withhold natural gas from customers who wished to transport the gas via pipeline to an Alaskan port. An agreement between Exxon and British Petroleum not to sell their natural gas to the Alaskan project would violate the antitrust laws.

The Judiciary Committee has held two hearings this year to consider the effects of concentration in the industry. The most recent hearing in March considered whether concentration had resulted, in increased prices for gasoline, other petroleum-based fuels and natural gas.

The witnesses at that hearing—two experienced and respected antitrust lawyers, the attorney general of Iowa, an economist from the University of California at Berkeley and the Senior Assistant Attorney General from California—all agreed that there were problems with market power in the industry.

Most of these witnesses testified that there was a serious problem with tacit coordination and information sharing in the industry made possible by having fewer players in the oil and gas industry. Such conduct unquestionably leads to higher prices.

Based on the testimony the Committee heard, it is pretty clear that increased concentration in the industry has led to higher prices. In part, the antitrust agencies need to adjust their enforcement posture to reflect existing conditions in the industry, but I believe there is a need for legislation. The Oil and Gas Industry Antitrust Act of 2006, which I am introducing today, would require the antitrust enforcement agencies, as well as the GAO, to take a close look at their past merger enforcement and whether the standard for reviewing mergers should be changed. The original draft of this legislation would have increased the standard of review for mergers in the industry, but we would like to give GAO and the enforcement agencies a chance to look at how the standard should be changed. The legislation:

Amends the Clayton Act by prohibiting oil and gas companies from diverting, exporting or refusing to sell existing supplies with the specific intention of raising prices or creating a shortage.

Requires the FTC and the Attorney General to consider whether the standard of review for mergers contained in Section 7 of the Clayton Act needs to be modified for mergers in the oil and gas industry to take into account the concentration that has already occurred in this industry.

Requires the Government Accountability Office to evaluate whether . divestitures required by the antitrust agencies in oil and gas industry mergers have been effective in restoring competition. Once the study is complete, the antitrust agencies must consider whether any additional steps are necessary to restore competition, including further divestitures or possibly unraveling some mergers.

Requires the antitrust agencies to establish a joint federal-state task force to examine information sharing and other anticompetitive results of consolidation in the oil and gas industry. Economic studies show that sharing price and production information in a concentrated market will result in increased prices. Oil companies frequently supply each other with gasoline in areas where they have no source of supply through so-called ''exchange agreements.'' Refiners also frequently share terminals and pipelines, which facilitates the exchange of information. These practices alone do not violate the antitrust laws, but parallel conduct in combination with information sharing could be enough to establish a violation of the antitrust laws.

Eliminates the judge-made doctrines that prevent OPEC members from being sued for violating the antitrust laws by conspiring to fix the price of crude oil.

It is my hope that this legislation will help reverse the trend toward less competition and higher prices. The cosponsors of this legislation—Senator KOHL, SENATOR DEWINE, Senator DURBIN, Senator LEAHY, Senator FEINSTEIN—deserve enormous credit for having the courage to take on this issue and for helping to develop this important legislation. I urge other members that are concerned about consolidation in the industry—and about the prices that consumers are paying to drive to work and heat their homes—to support this important legislation.

Mr. LEAHY. Mr. President, I am proud to join with Senators SPECTER, KOHL, DEWINE and others on a new bill, the Oil and Gas Industry Antitrust Act of 2006, which includes, as its centerpiece, our NOPEC legislation, which many of us have worked together on for years.

This measure—The No Oil Producing And Exporting Cartels Act, NOPEC—would make OPEC accountable for its anticompetitive behavior and allow the Justice Department to crack down on illegal price manipulation by oil cartels. It will allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and other anticompetitive activities. The tools this bill would provide to law enforcement agencies are necessary to immediately counter OPEC's anticompetitive practices, and these tools would help reduce gasoline prices now.

The Congress should pass this measure immediately instead of waiting until the price of gasoline at the pump is $4 a gallon. OPEC has America over a barrel, and we should fight back. If OPEC were simply a foreign business engaged in this type of behavior, it

would already be subject to American antitrust law. It is wrong to let OPEC producers off the hook just because their anticompetitive practices come with the seal of approval of this cartel's member nations.

It is time for the President to join the bipartisan majority in the Senate which already said ''NO'' to OPEC by passing NOPEC and by sending it to the other body, where it was killed.

The Senate has already passed this bill, which would make OPEC subject to our antitrust laws. In fact, the Judiciary Committee has approved the NOPEC bill three times. Regrettably, even though President Bush promised in 2000 that he would ''jawbone OPEC,'' the Bush administration and its friends in the House have scuttled the NOPEC bill and the direct and daily relief it would bring to millions of Americans.

In addition, this bill makes it unlawful to divert petroleum or natural gas products from their local market to a distant market with the primary intention of increasing prices or creating a shortage in a market. This solves a real problem where products are being shipped for sale in that market but are later diverted and sold for less in another market.

We have an obligation to address these and other issues caused by oil cartels and by greedy companies who have money—that they have extracted from the American people—to burn. That is why I am also pleased that the bill includes provisions to conduct several studies that address serious competition, information sharing, and other antitrust problem areas related to the oil and natural gas industries. The American people deserve answers, and this bill also provides a path to getting those answers.

Authorizing tough legal action against illegal oil price fixing, and taking that action without delay, is one thing we can do without additional obstruction or delay.

The artificial pricing scheme enforced by OPEC affects all of us, not the least of whom are hardworking Vermont farmers. The overall increase in fuel costs for an average Vermont farmer last year was 43 percent, meaning that each farmer is estimated to pay an additional $700 in fuel surcharges in 2006 alone. Vermonters know what the terrible consequences of these high prices can be: forcing many farmers to make unfair choices between running their farms or heating their homes. No one should be forced to make these choices, certainly not our hard-working farmers.

In summary, this bill will provide law enforcement with the tools necessary to fight OPEC's anticompetitive practices immediately, and help reduce gasoline prices now. I urge my colleagues to support this bill, and to say ''NO'' to OPEC as we have done in the past.

Mr. KOHL. Mr. President, I rise today with Senator SPECTER to introduce the Oil and Gas Industry Antitrust Act of 2006. This legislation will make several important and overdue reforms to our antitrust laws to give our Federal Government more of the tools it needs to take action to combat anti-competitive conduct in the oil and gas industry. It will also direct that our antitrust enforcement agencies undertake several actions to ensure that they are enforcing our current antitrust laws properly.

We have all seen the suffering felt by consumers and our national economy resulting from rising energy prices. Gasoline prices are once again on the rise, with the national average price increasing more than thirty cents in the last month alone. Many industry experts fear, if current trends continue, that last summer's record levels of more than three dollars per gallon will be exceeded this coming summer. And prices for other crucial energy products—such as natural gas and home heating oil—have undergone similar sharp increases. These price increases are a silent tax that steals hard earned money away from American consumers every time they visit the gas pump and every time they raise their thermostat to keep their family warm.

There is much debate about the causes of these gas prices. The role of increasing worldwide demand and supply limitations obviously play a role. But our investigation in the Judiciary Committee—including two hearings in the last several months—have made plain the facts that make many of us suspect that oil and gas markets are not behaving in a truly competitive fashion. The GAO has found that there were over 2600 mergers and acquisitions in the oil industry since 1990, and that these mergers have caused the price of gasoline to increase from one to seven cents per gallon. Despite a substantial growth in demand, no new refineries have been opened in the United States in 25 years. Instead, more than half have been closed, so that overall national refining capacity declined by more than 9 percent from 1981 to 2004 while demand for gasoline rose 37 percent. Many argue that limiting refining capacity is actually in the oil companies' interest, as it enables them to gain market power over supply to raise price.

And the oil industry has unquestionably enriched itself during this period of high prices. Oil industry profits reached record high levels last year, led by Exxon Mobil's record high profits of over $36 billion. An independent study by the consumers group Public Citizen found that U.S. oil refiners increased their profits on each gallon of gasoline they refined by 79 percent in the five-year period ending in 2004. While it is true that the world price of crude oil has substantially increased, the fact that the oil companies can so easily pass along all of these price increases to consumers of gasoline and other refined products—and compound their profits along the way—demonstrates to many of us that that there is a failure of competition in our oil and gas markets.

Indeed, at our hearing last month, the chief executives of our Nation's largest oil companies admitted they had no difficulty in passing along crude oil price increases to consumers. Rex Tillerson of ExxonMobil forthrightly testified that ''[t]he high price of crude oil has been passed ultimately along to the consumer of whatever the finished product may be . . . .'' David O'Reilly of Chevron agreed.

It also seems clear that there has been a failure of our antitrust enforcement agencies to take action to restore competition to this vital industry. Vigorous antitrust enforcement is essential to restore competition to these markets, and it is now time to strengthen our antitrust laws to ensure that they are up to the job. This bill that Senator SPECTER and I are introducing today will significantly enhance our antitrust laws to ensure that the government has the necessary tools to take action to restore competition in this industry, and also direct that the government examine its enforcement policy to determine if additional changes are needed.

Our bill has five elements, each essential to strengthening antitrust enforcement in the petroleum industry. It contains two important changes to existing antitrust law. First, it will amend the Clayton Act to prohibit withholding supplies of petroleum, gasoline or any other fuel for the primary purpose of increasing prices or creating a shortage. This provision will prevent the ability of oil producers and refiners to limit supply to manipulate price. Second, it incorporates our NOPEC bill—legislation I have introduced each Congress since 2000—to make the actions of the OPEC oil cartel subject to U.S. antitrust law. This provision will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law. This provision will authorize the Attorney General to file suit under the antitrust laws for redress, and will remove the protections of sovereign immunity and the act of state doctrine from nations that participate in the oil cartel. Our NOPEC provision passed the Senate last year as an amendment to the energy bill, but was subsequently dropped by the House-Senate Conference Committee without explanation. It is past time to pass this much needed anti-cartel measure finally into law.

Our bill also will direct that the antitrust enforcement agencies undertake several important actions to promote competition. The first two of these measures will address the government's response to the huge wave of consolidation in the oil industry. First, the bill will direct that the Justice Department and Federal Trade Commission conduct a study and report their

findings to us in nine months, as to whether the Clayton Act needs to be amended to ensure that mergers which truly lessen competition in the petroleum industry are prohibited. Second, the bill directs a study by the GAO to be completed within six months to examine whether the consent decrees and divestitures obtained by the Justice Department or FTC in the oil industry have been effective in protecting competition. The Attorney General and FTC are directed to consider additional action be required to restore competition upon completion of this report. Finally, the bill directs that the Attorney General and FTC Chairman establish a joint Federal-State task force to investigate information sharing among companies producing, refining, or marketing petroleum, gasoline or any other refined product.

As Ranking Member on the Senate Antitrust Subcommittee, I believe that this bill is an important step to reforming our antitrust laws and restoring competition to the oil and gas industry. All of us can agree that anticompetitive conduct leading to higher prices for gasoline and other energy products simply cannot be tolerated. It is essential that we give our government the necessary tools to do the job, and I am certain our bill is a long overdue measure to do just that.

I urge my colleagues to support the Oil and Gas Industry Antitrust Act of 2006.

Mr. DEWINE. Mr. President, I am proud to join as a co-sponsor of Senator SPECTER's Oil and Gas Industry Antitrust Act. This bill should help us curb the skyrocketing energy prices that have been an increasing burden on our Nation's consumers and businesses. It also should help us figure out how we can address these problems in the future.

High fuel costs are affecting every family, whether they are driving across town or heating their homes, and we must continue our efforts to do something about it. This bill would take immediate steps to help decrease possible price manipulation by oil companies and allow government enforcement agencies to take action to prevent price-fixing by oil producing nations.

I have been working on this problem for a long time. In fact, Senator KOHL and I have worked hard in our Subcommittee on Antitrust, Competition Policy and Consumer Rights to encourage FTC monitoring of gas prices and their careful investigation of oil industry behavior. I believe that those efforts have helped limit the fuel price increases; unfortunately, we still face enormous problems in this area, and we are all paying higher and higher prices for gas and heating oil. So, we need to continue our efforts and try some different approaches, and this legislation does just that.

Specifically, this bill calls for the Government Accountability Office to undertake a thorough study of the past enforcement actions taken by the Federal Trade Commission and the Department of Justice in prior oil industry merger investigations. This study will provide much-needed information on how effective the antitrust agencies' actions have been in preventing harm to consumers from mergers within the petroleum industry. Even more important, this bill also will call on the FTC and DOJ to use the findings from that study to examine those specific mergers and determine if they need to take further enforcement action regarding those deals. In addition, the antitrust agencies will utilize this information to take a close look at the petroleum industry and to determine whether they require special antitrust rules—applicable specifically to the oil industry—to give the agencies the tools they need to promote competition in the oil industry. This would be a very significant step, of course, but it is something they will consider.

Another important provision of this legislation creates a Joint Federal and State Task Force to investigate information sharing in the oil industry that may lead to artificially high prices for gasoline, electricity, and heating oil. The Federal Government and the various States have worked very effectively in the past to look into price spikes, supply disruptions, and a host of commercial arrangements that can harm consumers, and this bill provides a valuable framework for continuing and increasing this very effective cooperation.

Moreover, this bill will put an end to certain types of activities that oil companies may use to drive up prices or create shortages for all types of fuels. Specifically, this bill makes sure that oil companies cannot manipulate prices by refusing to sell their products in particular markets or diverting oil products away from American shores to artificially create a shortage and pad their profits. I am particularly pleased that the bill includes a provision that Senator KOHL and I have pursued since 2000—a provision that would make it clear that the Antitrust Division can prosecute OPEC for its price-fixing.

I believe that some of the provisions of this bill will help right away, like limiting the ability of the oil companies to refuse to sell petroleum in markets that need it and putting OPEC on notice that they can be prosecuted if they violate our laws. These provisions should help in the short-term. And, the other provisions, which require studies and review of past enforcement actions and analysis of possible changes in the antitrust laws, may help us address this problem in the long-run.

This bill will make a difference and help consumers. I strongly encourage my colleagues to join in support of its passage.

By Mr. LEAHY:

S. 2559. A bill to make it illegal for anyone to defraud and deprive the American people of the right to the honest services of a Member of Congress and to instill greater public confidence in the United States Congress; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the ''Honest Services Act of 2006,''—a bill to provide new tools for Federal prosecutors to combat public corruption in our government. The purpose of this bill is to strengthen the tools available to Federal prosecutors to combat public corruption. This bill articulates more clearly for lobbyists, members of Congress, and Congressional staff the line that cannot be crossed regarding links between gifts or special favors and official acts, without incurring criminal liability.

Just recently, the Senate passed the Legislative Transparency and Accountability Act of 2006, S. 2349—the first lobbying reform bill in Congress in over a decade. I voted for the lobbying reform bill and I believe that this legislation takes an important step toward restoring the public's confidence in Congress.

I was disappointed, however, that I did not have an opportunity to offer the bill that I now propose as an amendment to the lobbying reform bill because cloture was invoked very early in the floor debate. My amendment would have offered an important and needed new dimension to the lobbying reform bill by strengthening our criminal public corruption laws.

Although it is certainly important to have high ethical standards within Congress and more transparency in the lobbying process, vigorous enforcement of our Federal public corruption laws is also an important component of this effort to restore public confidence in government. Indeed, it was only with the indictments of Jack Abramoff, Michael Scanlon, and Randy ''Duke'' Cunningham that Congress took note of the serious ethics scandals that have grown over the last years. If we are serious about restoring public confidence in Congress, we need to do more than just reform the lobbying disclosure laws and ethics rules. Congress must send a signal that it will not tolerate this type of public corruption by providing better tools Federal prosecutors to combat it.

This bill will do exactly that. The bill creates a better legal framework for combating public corruption than currently exists under our criminal laws. It specifies the crime of Honest Services Fraud Involving Members of Congress and prohibits defrauding or depriving the American people of the honest services of their elected representatives.

Under this bill, lobbyists who improperly seek to influence legislation and other official matters by giving expensive gifts, lavish entertainment and travel, and inside advice on investments to Members of Congress and their staff would be held criminally liable for their actions. The law also prohibits Members of Congress and their

staff from accepting these types of gifts and favors, or holding hidden financial interests, in return for being influenced in carrying out their official duties. Violators are subject to a criminal fine and up to 20 years imprisonment, or both.

This legislation strengthens the tools available to Federal prosecutors to combat public corruption, by removing some of the legal hurdles to public corruption prosecutions. Under current law, Federal prosecutors often have great difficulty bringing public corruption cases because it is difficult to prove a specific quid pro quo under the Federal bribery statute. In addition, the current honest services fraud statute—18 U.S.C. 1346—requires that prosecutors must also show that misconduct occurred via the mail or wire, even when there is clear evidence of an improper link between gifts and an official act. My bill makes it possible for Federal prosecutors to bring public corruption cases without having to first overcome these hurdles.

The bill also provides lobbyists, Members of Congress, and other individuals with much-needed notice and clarification as to what kind of conduct triggers this criminal offense. For much of the 20th Century, honest services fraud was a common law offense which courts read into the federal mail and wire fraud statutes. In 1987, the Supreme Court invalidated this common law concept in the case of McNally v. United States. In response to the McNally case, Congress subsequently added an honest services mail and wire fraud statute—18 U.S.C. 1346—to the Federal criminal code. Section 1346 has been regularly relied upon by prosecutors in public corruption cases ever since. However, that provision is often criticized for being too vague or for failing to give public officials sufficient notice about what type of conduct is covered by the statute. Courts have also disagreed about exactly what this statute means. My bill will help to resolve the confusion about honest services fraud in the legislative context, by setting out a well-defined honest services fraud offense for violations involving Members of Congress. In addition, the bill's intent requirements ensure that corrupt conduct can be appropriately prosecuted, but that innocuous actions will not be inappropriately targeted.

Lastly, my bill authorizes $25 million in additional federal funds over each of the next four years to give federal prosecutors needed resources to investigate public corruption. According to the FBI's 2004–2009 Strategic Plan, reducing public corruption in our country's Federal, State, and local governments is one of the FBI's top investigative priorities—behind only terrorism, espionage, and cyber crimes. However, an August 2005 report by the Department of Justice's Inspector General, found that, since 2000, there has been an overall reduction in the number of public corruption matters investigated by the FBI. That report noted that, in 2004, the FBI referred 63 fewer public corruption cases to the United States Attorney's offices across the Nation than it referred in 2000. My bill will give the FBI and the Public Integrity Section within the Department of Justice new resources to hire additional public corruption investigators and public corruption prosecutors.

If we are serious about addressing the egregious misconduct that we have recently witnessed, Congress must enact meaningful legislation to strengthen our public corruption laws and give investigators and prosecutors the resources they need to enforce these laws.

The unfolding public corruption investigations involving lobbyist Jack Abramoff and former Representative Randy ''Duke'' Cunningham demonstrate that unethical conduct by public officials has broad ranging impact. Just last month, the Washington Post reported that, as an outgrowth of the Cunningham investigation, federal investigators and the Pentagon are now looking into contracts awarded by the Pentagon's new intelligence agency—the Counterintelligence Field Activity—to MZM, Inc., a company run by Mitchell J. Wade, who recently pleaded guilty to conspiring to bribe Mr. Cunningham. The Cunningham case demonstrates that our democracy and national security depend upon a healthy, efficient, and ethical government.

The American people expect—and deserve—to be confident that their representatives in Congress perform their legislative duties in a manner that is beyond reproach and that is in the public interest.

Because I strongly believe that Congress must do more to restore the public's trust in their Congress, I urge all Senators to support this bill.

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

S. 2559

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 ''Honest Services Act of 2006''.

SEC. 2. HONEST SERVICES FRAUD INVOLVING MEMBERS OF CONGRESS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''§ 1351. Honest services fraud involving members of Congress

''(a) IN GENERAL.—Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud and deprive the United States, the Congress, or the constituents of a Member of Congress, of the right to the honest services of a Member of Congress by—

''(1) offering and providing to a Member of Congress, or an employee of a Member of Congress, anything of value or a series of things of value, with the intent to influence the performance an official act or series of official acts; or

''(2) being a Member of Congress, or an employee of a Member of Congress, accepting anything of value or a series of things of value or holding an undisclosed financial interest, with the intent to be influenced in performing an official act or series of official acts;

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) DEFINITIONS.—In this section:

''(1) HONEST SERVICES.—The term 'honest services' includes the right to conscientious, loyal, faithful, disinterested, and unbiased service, to be performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud, and corruption.

''(2) OFFICIAL ACT.—The term 'official act'—

''(A) has the meaning given that term in section 201(a)(3) of this title; and

''(B) includes supporting and passing legislation, placing a statement in the Congressional Record, participating in a meeting, conducting hearings, or advancing or advocating for an application to obtain a contract with the United States Government.

''(3) UNDISCLOSED FINANCIAL INTEREST.—The term 'undisclosed financial interest' includes any financial interest not disclosed as required by statute or by the Standing Rules of the Senate.

''(c) NO INFERENCE AND SCOPE.—Nothing in this section shall be construed to—

''(1) create any inference with respect to whether the conduct described in section 1351 of this title was already a criminal or civil offense prior to the enactment of this section; or

''(2) limit the scope of any existing criminal or civil offense.''.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 63 of title 18, United States Code is amended by adding at the end, the following:

''1351. Honest services fraud involving Members of Congress.''.

SEC. 3. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE HONEST SERVICES FRAUD, BRIBERY, GRAFT, AND CONFLICTS OF INTEREST OFFENSES.

There are authorized to be appropriated to the Department of Justice, including the Public Integrity Section of the Criminal Division, and the Federal Bureau of Investigations, $25,000,000 for each of the fiscal years 2007, 2008, 2009, and 2010, to increase the number of personnel to investigate and prosecute violations of section 1351 and sections 201, 203 through 209, 1001, 1341, 1343, and 1346 of title 18, United States Code, as amended by this Act.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. HATCH, Mr. GRASSLEY, and Mr. LEVIN):

S. 2560. A bill to reauthorize the Office of National Drug Control Policy; to the Committee on the Judiciary.

Mr. SPECTER. Madam President, I further introduce the reauthorization for the Office of National Drug Control Policy Act of 2006. Senators HATCH, BIDEN, and GRASSLEY have worked with me on this issue. This is the office to establish our drug policy. Since 2001, according to the ONDCP—the Office of National Drug Control Policy—the combined use of illicit drugs by 8th, 10th, and 12th graders has decreased by some 19 percent. We have seen a serious problem with methamphetamine. This agency is very important to carry out the administration's policy to try to reduce drug usage.

I ask unanimous consent that the full text of my prepared statement be printed in the RECORD.

INTRODUCTORY STATEMENT—''OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 2006''

Mr. President, to reiterate I seek recognition today to introduce the ''Office of National Drug Control Policy Reauthorization Act of 2006'' and ask for the support of my colleagues for this important legislation concerning the war on illegal drugs.

This bill re-authorizes the Office of National Drug Control Policy—(''ONDCP'')—the Administration's office responsible for establishing policy and objectives to reduce illicit drug use, manufacturing, and trafficking, drug-related crime and violence, and drug-related health consequences. Senators BIDEN, HATCH and GRASSLEY have worked diligently with me in crafting this bill to provide authorization for ONDCP and its programs, and maintain a high level of Congressional oversight. I appreciate their consistent leadership.

Since 2001, according to ONDCP, the combined use of illicit drugs by 8th, 10th, and 12th graders has decreased 19 percent. This amounts to roughly 700,000 students who are not using drugs. ONDCP has prepared a National Drug Control Strategy that seeks to build on this progress and attain the President's goal of a 25 percent reduction in 5 years. I want to see the President's 25 percent reduction goal become a reality, and this bill will assist the Administration meet this objective.

Drug use and abuse—particularly among our youth—has a profoundly negative impact that spreads among our society like ripples made in water. Drug use leads to increased crime and violence, lowers educational standards, and has a destructive impact on the family unit. We need to take affirmative steps to provide the Executive Branch with the tools it needs to confront the problem of drugs and the negative consequences that follow from their abuse. This bill seeks to do just that.

We have seen over the last few years an epidemic involving the abuse of methamphetamine—a highly addictive drug that has been particularly damaging to our youth. This is a drug that can be cooked in low-tech labs with ingredients that can be purchased at most convenience stores. As a result, we included in the USA Patriot Act—which was recently signed into law—provisions that: (1) restrict the sale and distribution of chemical ingredients that make methamphetamine; (2) provides critical resources to state and local law enforcement; and (3) enhances international law enforcement of methamphetamine trafficking. Congress affirmatively responded to this problem and acted by passing the Combat Meth Act. We seek to continue these efforts with this legislation.

Once again, the President's 2007 budget seeks to shift funding of High Intensity Drug Trafficking Areas (HIDTA's) from ONDCP to the Department of Justice as a separate entity within the Organized Crime Drug Enforcement Task Force—(OCDETF). The HIDTA program was created by Congress to exist within ONDCP, and has successfully grown from 5 HIDTA's in 1990 to 28 HIDTA's that currently exist across the United States. HIDTA's enhance and coordinate drug control efforts among local, state, and federal law enforcement agencies, and provides agencies with equipment, technology, and additional resources to combat drug trafficking and their harmful consequences in critical regions of the United States. This bill keeps the HIDTA program within ONDCP where Congress intended it to remain.

I am hopeful the provisions in this bill meet the goals set by the President and reduce the overall use and abuse of illegal drugs in our country.

By Mr. DOMENICI:

S. 2561. A bill to authorize the Secretary of the Interior to make available cost-shared grants and enter into cooperative agreements to further the goals of the Water 2025 Program by improving water conservation, efficiency, and management in the Reclamation States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, an excerpt from John Steinbeck's classic The Grapes of Wrath recounting the conditions preceding the great Dust Bowl is eerily similar to the conditions currently faced by the Southwestern United States. ''The sky grew pale and the clouds that had hung in high puffs for so long in the spring were dissipated. The sun flared down on the growing corn each day until a line of brown spread along the edge of each green bayonet. The clouds appeared, and went away, and in a while they did not try any more. The weeds grew darker green to protect themselves, and they did not spread any more. The surface of the earth crusted, a thin hard crust, and as the sky became pale, so the earth became pale, pink in the red country and white in the gray country . . . Every moving thing lifted the dust into the air. . . . The dust was long in settling back again.''

As of April 5, 2006, statistics provided by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture indicate that my home State of New Mexico is facing one of the worst droughts in the past 100 years. Historic snow pack data indicates the 2005–2006 snow season is the worst in more than 50 years. Several river basins in New Mexico, including the Rio Hondo and Mimbres river basins currently have no snow pack. This fact is particularly troubling when one considers that we rely on spring run-off for our surface water. Moreover, lack of snow pack indicates that our reservoirs, already depleted after years of drought, will remain at alarmingly low levels. According to the NRCS, ''Record low snow packs in several of the major basins have water managers scratching their heads, wondering how best to manage the water resource, with no real hopes of realizing any significant runoff to refill the reservoirs.'' These facts, taken together, are particularly ominous.

Unseasonably warm temperatures in New Mexico have resulted in the start of the runoff season in early March, something that usually starts in middle to late April. The early beginning of the run-off season will be particularly damaging to the agriculture industry which relies on spring run-off for irrigation during the early growing season. The lack of precipitation will also be devastating to our ranchers and dairymen. Because drought has hindered local production of hay, it has to be hauled from great distances. As a result, hay is approximately twice as expensive as usual, placing a great economic strain on the ranching and dairy industries. I fully anticipate that the drought will interrupt municipal water service. Although early in the year, the Village of Ruidoso, New Mexico has contacted my office seeking emergency Federal assistance to address looming water shortages. In addition, numerous New Mexico communities are under severe water restrictions.

The current drought illustrates how perilously close we are coming to having serious and widespread water shortages and the need to make more efficient use of the water we do have. The competing demands of agriculture, industry, municipalities and environmental needs have placed an enormous strain on available supplies of water. This is particularly true with respect to our interstate rivers that are governed by compacts. These interstate agreements require that a certain amount of water be delivered to downstream States. Meanwhile, enormous amounts of water are lost because of antiquated water infrastructure. In many instances, relatively cheap water infrastructure upgrades can minimize water losses. For example, by lining dirt canals, large amount of water can be saved that otherwise would have been lost to seepage. For the past 3 years, Congress has made available efficiency and conservation grants through the Administration's Water 2025 program. The goal of this program is to make more water available in water-short river systems through infrastructure conservation and efficiency upgrades. The bill I introduce today would authorize the Water 2025 program. While not a panacea to our water woes, I believe that this legislation will help us maximize the water available to us during times of drought.

I would like to thank Representative HEATHER WILSON, our Congresswoman from the First Congressional District of New Mexico for introducing the House companion to this measure. She fully appreciates the breadth of this problem and I look forward to working with her on this critically important issue.

Ensuring adequate water supplies for the Southwestern United States is as important a matter as any I can contemplate. As Chairman of the Energy and Natural Resources Committee, which has jurisdiction over this legislation, I assure it will receive prompt Committee consideration.

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

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

S. 2561

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 ''Bureau of Reclamation Water Conservation, Efficiency, and Management Improvement Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means a State, Indian tribe, irrigation district, water district, or any other organization with water delivery authority.

(2) RECLAMATION STATE.—The term ''Reclamation State'' means each of the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 3. AUTHORIZATION OF GRANTS AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—The Secretary may, in accordance with the criteria published under subsection (b), provide grants to, and enter into cooperative agreements with non-Federal entities to pay the Federal share of the cost of a project to plan, design, construct, or otherwise implement improvements to conserve water, increase water use efficiency, facilitate water markets, enhance water management, or implement other actions to prevent water-related crises or conflicts in watersheds that have a nexus to Federal water projects within the Reclamation States.

(b) ELIGIBILITY CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this Act, publish in the Federal Register criteria developed by the Secretary for—

(A) determining the eligibility of a non-Federal entity for assistance under subsection (a); and

(B) prioritizing requests for assistance under subsection (a).

(2) FACTORS.—The criteria developed under paragraph (1) shall take into account such factors as—

(A) the extent to which a project under subsection (a) would reduce conflict over water;

(B) the extent to which a project under subsection (a) would—

(i) increase water use efficiency; or

(ii) enhance water management;

(C) the extent to which unallocated water is available in the area in which a project under subsection (a) is proposed to be conducted;

(D) the extent to which a project under subsection (a) involves water marketing;

(E) the likelihood that the benefit of a project under subsection (a) would be attained;

(F) whether the non-Federal entity has demonstrated the ability of the non-Federal entity to pay the non-Federal share;

(G) the extent to which the assistance provided under subsection (a) is reasonable for the work proposed under the project;

(H) the involvement of the non-Federal entity and stakeholders in a project under subsection (a);

(I) whether a project under subsection (a) is related to a Bureau of Reclamation project or facility; and

(J) the extent to which a project under subsection (a) would conserve water.

(c) FEDERAL FACILITIES.—If a grant or cooperative agreement under subsection (a) provides for improvements to a Federal facility—

(1) the Federal funds provided under the grant or cooperative agreement may be—

(A) provided on a nonreimbursable basis to an entity operating affected transferred works; or

(B) determined to be nonreimbursable for non-transferred works; and

(2) title to the improvements to the Federal facility shall be held by the United States.

(d) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project assisted under subsection (a) shall be not more than 50 percent.

(2) NON-FEDERAL SHARE.—In calculating the non-Federal share of the cost of carrying out a project under subsection (a), the Secretary—

(A) may include any in-kind contributions that the Secretary determines would materially contribute to the completion of proposed project; and

(B) shall exclude any funds received from other Federal agencies.

(e) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the cost of operating and maintaining improvements assisted under subsection (a) shall be 100 percent.

(f) MUTUAL BENEFIT.—Grants or cooperative agreements made under this section or section 4 may be for the mutual benefit of the United States and the entity that is provided the grant or enters into the cooperative agreement.

(g) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the United States shall not be liable under Federal or State law for monetary damages of any kind arising out of any act, omission, or occurrence relating to any non-Federal facility constructed or improved under this Act.

(2) EXCEPTION.—Notwithstanding paragraph (1), the United States may be held liable for damages to non-Federal facilities caused by acts of negligence committed by the United States or by an employee or agent of the United States.

(3) NO ADDITIONAL LIABILITY.—Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Torts Claim Act'').

SEC. 4. RESEARCH AGREEMENTS.

The Secretary may enter into cooperative agreements with institutions of higher education, nonprofit research institutions, or organizations with water or power delivery authority to fund research to conserve water, increase water use efficiency, or enhance water management under such terms and conditions as the Secretary determines to be appropriate.

SEC. 5. EFFECT.

Nothing in this Act—

(1) affects any existing project-specific funding authority; or

(2) invalidates, preempts, or creates any exception to State water law, State water rights, or any interstate compact governing water.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $25,000,000 for each of fiscal years 2007 through 2016.

By Mr. CRAIG (for himself and Mr. AKAKA):

S. 2562. A bill to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, today I join Senator AKAKA in introducing legislation that would provide a cost-of-living adjustment to the rates of disability compensation provided to our Nation's disabled veterans and to the compensation provided to survivors of veterans and servicemembers who died, or who will die, as a result of military service. Every year since 1976 Congress has enacted an annual COLA adjustment for veterans with disabilities and survivors. The regularity of Congress's action on COLA legislation underscores its importance. Without it, inflation would erode the purchasing power of millions of beneficiaries.

According to its fiscal year 2007 budget, VA estimates that it will provide disability compensation to 2,867,013 veterans with service-connected disabilities in the upcoming fiscal year. Among the veterans estimated to receive such compensation are 5 World War I veterans; 335,180 World War II veterans; 160,889 Korean-conflict veterans; 992,360 Vietnam-era veterans; and 762,230 veterans of the Persian Gulf war era. The COLA legislation will also benefit an estimated 348,479 survivors.

The Congressional Budget Office, CBO, estimates that inflation, at the close of this fiscal year, will be at 2.2 percent as measured by the consumer price index published by the Department of Labor's Bureau of Labor Statistics. Once the actual inflation level is known, this legislation would adjust payment rates in effect on November 30, 2006, and be applied to payments made to veterans and survivors effective December 1, 2006. CBO also estimates that the legislation will increase direct spending by $530 million in fiscal year 2007. Again, because of the importance accorded to annual COLA legislation, all of this spending is assumed in the budget baseline and, thus, requires no offset.

In summary, this legislation is critical to the lives of over 3 million beneficiaries who have served our country well and faithfully. I ask my colleagues for their continued support for our nation's veterans. And I ask for their support of the Veterans' Compensation Cost-of-Living Adjustment Act of 2006.

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

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

S. 2562

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 ''Veterans' Compensation Cost-of-Living Adjustment Act of 2006''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—Effective on December 1, 2006, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on

November 30, 2006, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2006, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2007.

By Mr. COCHRAN (for himself, Mr. ENZI, and Mr. TALENT):

S. 2563. A bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part; to the Committee on Finance.

Mr. COCHRAN. Mr. President, The Medicare prescription drug plan is a tremendous success with more than 27 million Medicare beneficiaries now enrolled in the program. Seniors are realizing significant decreases in the cost of their prescription drugs and the savings are even greater than expected. The Centers for Medicare and Medicaid Services (CMS) and health care providers worked together to plan and implement this program. In particular, community pharmacists played an important role in making this benefit successful. Prior to the January 1 start of the program, pharmacists assisted their Medicare patients in the selection and enrollment process. This process was new and challenging, but pharmacists were diligent in serving their patients and providing much-needed medications while the program became functional.

We are introducing a bill today to assist pharmacists as they continue to serve their patients and as they help to continue the success of the Medicare drug benefit. This bill will allow pharmacists to achieve efficiencies in reimbursement for the products they have provided to new beneficiaries. This is especially needed by small, rural independent pharmacies. This legislation will also provide incentives for pharmacists and other providers to help beneficiaries better utilize their medications, adhere to their drug regimens, and utilize cost saving medication therapy management programs.

I am pleased to offer this legislation that will help continue the success of the Medicare prescription drug benefit.

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

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

S. 2563

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 ''Pharmacist Access and Recognition in Medicare (PhARM) Act of 2006''.

SEC. 2. PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER PART D.

(a) PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

''(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

''(A) PROMPT PAYMENT.—

''(i) IN GENERAL.—Each contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted under this part within the applicable number of calendar days after the date on which the claim is received.

''(ii) CLEAN CLAIM DEFINED.—In this paragraph, the term 'clean claim' means a claim that has no apparent defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this part.

''(B) APPLICABLE NUMBER OF CALENDAR DAYS DEFINED.—In this paragraph, the term 'applicable number of calendar days' means—

''(i) with respect to claims submitted electronically, 14 days; and

''(ii) with respect to claims submitted otherwise, 30 days.

''(C) INTEREST PAYMENT.—If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in subparagraph (B)) after a clean claim is received, interest shall be paid at a rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments), for the period beginning on the day after the required payment date and ending on the date on which payment is made.

''(D) PROCEDURES INVOLVING CLAIMS.—

''(i) IN GENERAL.—A contract entered into with a PDP sponsor under this section with respect to a prescription drug plan offered by such sponsor shall provide that, not later than 10 days after the date on which a clean claim is submitted, the PDP sponsor shall provide the claimant with a notice that acknowledges receipt of the claim by such sponsor. Such notice shall be considered to have been provided on the date on which the notice is mailed or electronically transferred.

''(ii) CLAIM DEEMED TO BE CLEAN.—A claim is deemed to be a clean claim if the PDP sponsor involved does not provide notice to the claimant of any deficiency in the claim within 10 days of the date on which the claim is submitted.

''(iii) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

''(I) IN GENERAL.—If a PDP sponsor determines that a submitted claim is not a clean claim, the PDP sponsor shall, not later than the end of the period described in clause (ii), notify the claimant of such determination. Such notification shall specify all defects or improprieties in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(II) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the PDP sponsor involved does not provide notice to the claimant of any defect or impropriety in the claim within 10 days of the date on which additional information is received under subclause (I).

''(III) PAYMENT OF CLEAN PORTION OF A CLAIM.—A PDP sponsor shall pay any portion of a claim that would be a clean claim but for a defect or impropriety in a separate portion of the claim in accordance with subparagraph (A).

''(iv) OBLIGATION TO PAY.—A claim submitted to a PDP sponsor that is not paid or contested by the provider within the applicable number of days (as defined in subparagraph (B)) shall be deemed to be a clean claim and shall be paid by the PDP sponsor in accordance with subparagraph (A).

''(v) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under such subparagraph is considered to have been made on the date on which full payment is received by the provider.

''(E) ELECTRONIC TRANSFER OF FUNDS.—A PDP sponsor shall pay all clean claims submitted electronically by electronic transfer of funds.''.

(b) PROMPT PAYMENT BY MA-PD PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27(f)) is amended by adding at the end the following new paragraph:

''(3) INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.—The provisions of section 1860D–12(b)(4) shall apply to contracts with a Medicare Advantage organization in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into or renewed on or after the date that is 90 days after the date of the enactment of this Act.

SEC. 3. RESTRICTION ON PHARMACY CO-BRANDING ON MEDICARE PRESCRIPTION DRUG CARDS ISSUED BY PRESCRIPTION DRUG PLANS AND MA–PD PLANS.

(a) IN GENERAL.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended—

(1) in subsection (b)(2)(A), by striking ''The PDP sponsor'' and inserting ''Subject to subsection (l), the PDP sponsor''; and

(2) by adding at the end the following new subsection:

''(l) CO-BRANDING PROHIBITED.—A card that is issued under subsection (b)(2)(A) for use under a prescription drug plan offered by a PDP sponsor shall not display the name, brand, or trademark of any pharmacy.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to cards distributed on or after the date that is 90 days after the date of enactment of this Act.

SEC. 4. PROVISION OF MEDICATION THERAPY MANAGEMENT SERVICES UNDER PART D.

(a) PROVISION OF MEDICATION THERAPY MANAGEMENT SERVICES UNDER PART D.—

(1) IN GENERAL.—Section 1860D–4(c)(2) of the Social Security Act (42 U.S.C.1395w–104(c)(2)) is amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ''or other health care provider with advanced training in medication management'' after ''furnished by a pharmacist''; and

(II) by striking ''targeted beneficiaries described in clause (ii)'' and inserting ''targeted beneficiaries specified under clause (ii)''

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

''(ii) TARGETED BENEFICIARIES.—The Secretary shall specify the population of part D eligible individuals appropriate for services under a medication therapy management program based on the following characteristics:

''(I) Having a disease state in which evidence-based medicine has demonstrated the benefit of medication therapy management intervention based on objective outcome measures.

''(II) Taking multiple covered part D drugs or having a disease state in which a complex combination medication regimen is utilized.

''(III) Being identified as likely to incur annual costs for covered part D drugs that exceed a level specified by the Secretary or where acute or chronic decompensation of disease would likely increase expenditures under the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund under sections 1817 and 1841, respectively, such as through the requirement of emergency care or acute hospitalization.'';

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

''(B) ELEMENTS.—

''(i) MINIMUM DEFINED PACKAGE OF SERVICES.—The Secretary shall specify a minimum defined package of medication therapy management services that shall be provided to each enrollee. Such package shall be based on the following considerations:

''(I) Performing necessary assessments of the health status of each enrollee.

''(II) Providing medication therapy review to identify, resolve, and prevent medication-related problems, including adverse events.

''(III) Increasing enrollee understanding to promote the appropriate use of medications by enrollees and to reduce the risk of potential adverse events associated with medications, through beneficiary and family education, counseling, and other appropriate means.

''(IV) Increasing enrollee adherence with prescription medication regimens through medication refill reminders, special packaging, and other compliance programs and other appropriate means.

''(V) Promoting detection of adverse drug events and patterns of overuse and underuse of prescription drugs.

''(VI) Developing a medication action plan which may alter the medication regimen, when permitted by the State licensing authority. This information should be provided to, or accessible by, the primary health care provider of the enrollee.

''(VII) Monitoring and evaluating the response to therapy and evaluating the safety and effectiveness of the therapy, which may include laboratory assessment.

''(VIII) Providing disease-specific medication therapy management services when appropriate.

''(IX) Coordinating and integrating medication therapy management services within the broader scope of health care management services being provided to each enrollee.

''(ii) DELIVERY OF SERVICES.—

''(I) PERSONAL DELIVERY.—To the extent feasible, face-to-face interaction shall be the preferred method of delivery of medication therapy management services.

''(II) INDIVIDUALIZED.—Such services shall be patient-specific and individualized and shall be provided directly to the patient by a pharmacist or other health care provider with advanced training in medication management.

''(III) DISTINCT FROM OTHER ACTIVITIES.—Such services shall be distinct from any activities related to formulary development and use, generalized patient education and information activities, and any population-focused quality assurance measures for medication use.

''(iii) OPPORTUNITY TO IDENTIFY PATIENTS IN NEED OF MEDICATION THERAPY MANAGEMENT SERVICES.—The program shall provide opportunities for health care providers to identify patients who should receive medication therapy management services.'';

(C) by striking subparagraph (E) and inserting the following:

''(E) PHARMACY FEES.—

''(i) IN GENERAL.—The PDP sponsor of a prescription drug plan shall pay pharmacists and others providing services under the medication therapy management program under this paragraph based on the time and intensity of services provided to enrollees.

''(ii) SUBMISSION ALONG WITH PLAN INFORMATION.—Each such sponsor shall disclose to the Secretary upon request the amount of any such payments and shall submit a description of how such payments are calculated along with the information submitted under section 1860D–11(b). Such description shall be submitted at the same time and in a similar manner to the manner in which the information described in paragraph (2) of such section is submitted.''; and

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

''(F) PHARMACY ACCESS REQUIREMENTS.—The PDP sponsor of a prescription drug plan shall secure the participation in its network of a sufficient number of retail pharmacies to assure that enrollees have the option of obtaining services under the medication therapy management program under this paragraph directly from community-based retail pharmacies.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to medication therapy management services provided on or after January 1, 2008.

(b) MEDICATION THERAPY MANAGEMENT DEMONSTRATION PROGRAM.—Section 1860D–4(c) of the Social Security Act (42 U.S.C.1395w–104(c)) is amended by adding at the end the following new paragraph:

''(3) COMMUNITY-BASED MEDICATION THERAPY MANAGEMENT DEMONSTRATION PROGRAM.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—By not later than January 1, 2008, the Secretary shall establish a 2-year demonstration program, based on the recommendations of the Best Practices Commission established under subparagraph (B), with both PDP sponsors of prescription drug plans and Medicare Advantage Organizations offering MA–PD plans, to examine the impact of medication therapy management furnished by a pharmacist in a community-based or ambulatory-based setting on quality of care, spending under this part, and patient health.

''(ii) SITES.—

''(I) IN GENERAL.—Subject to subclause (II), the Secretary shall designate not less than 10 PDP sponsors of prescription drug plans or Medicare Advantage Organizations offering MA–PD plans, none of which provide prescription drug coverage under such plans in the same PDP or MA region, respectively, to conduct the demonstration program under this paragraph.

''(II) DESIGNATION CONSISTENT WITH RECOMMENDATIONS OF BEST PRACTICES COMMISSION.—The Secretary shall ensure that the designation of sites under subclause (I) is consistent with the recommendations of the Best Practices Commission under subparagraph (B)(ii).

''(B) BEST PRACTICES COMMISSION.—

''(i) ESTABLISHMENT.—The Secretary shall establish a Best Practices Commission composed of representatives from pharmacy organizations, health care organizations, beneficiary advocates, chronic disease groups, and other stakeholders (as determined appropriate by the Secretary) for the purpose of developing a best practices model for medication therapy management.

''(ii) RECOMMENDATIONS.—The Commission shall submit to the Secretary recommendations on the following:

''(I) The minimum number of enrollees that should be included in the demonstration program, and at each demonstration program site, to determine the impact of medication therapy management furnished by a pharmacist in a community-based setting on quality of care, spending under this part, and patient health.

''(II) The number of urban and rural sites that should be included in the demonstration program to ensure that prescription drug plans and MA–PD plans offered in urban and rural areas are adequately represented.

''(III) A best practices model for medication therapy management to be implemented under the demonstration program under this paragraph.

''(C) REPORTS.—

''(i) INTERIM REPORT.—Not later than 1 year after the commencement of the demonstration program, the Secretary shall submit to Congress an interim report on such program.

''(ii) FINAL REPORT.—Not later than 6 months after the completion of the demonstration program, the Secretary shall submit to Congress a final report on such program, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

''(D) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII as may be necessary for the purpose of carrying out the demonstration program under this paragraph.''.

Mr. ENZI. Mr. President, I rise to introduce the Pharmacist Access and Recognition in Medicare Act. I have enjoyed working closely with Chairman COCHRAN and Senator TALENT on

this bill that will help protect the valuable role that pharmacists play in our communities.

I have spent a lot of time over the past few months traveling around my home State of Wyoming talking to seniors about the new Medicare prescription drug benefit. This new voluntary benefit represents the most significant improvement to Medicare since its inception in 1965. Because of this new benefit, more seniors have prescription drug coverage and are able to purchase the medicines they need. Since the benefit took effect on January 1, 2006, 17,700 beneficiaries in Wyoming have signed up for prescription drug coverage and 27 million beneficiaries nationwide have drug coverage. I encourage all beneficiaries to enroll in a prescription drug plan before May 15, 2006.

I strongly support our community pharmacists. The changeover to Medicare Part D hasn't been easy and has produced several obstacles they have had to deal with as they have worked to serve Medicare beneficiaries. In traveling around my State over the past few months, I have talked to a few pharmacists who mentioned a few key problems they are facing with this new Medicare program that I believe we should address.

The first is an issue of cash flow management. As the only accountant in the United States Senate, I understand this problem. Most pharmacists have to pay their wholesalers like clockwork two times a month, but they are not receiving their reimbursement from the prescription drug plans in a similar timely fashion. This bill changes that. The bill states that plans have to reimburse all ''clean claims'' every 14 days. The bill also facilitates a quicker reimbursement by specifying that claims submitted electronically shall be paid by electronic transfer of funds. This is a small change in the law that I believe will play a large role in helping ease the transition to the new program for our local and community pharmacists.

The second issue I have heard about is called co-branding. Some of the prescription drug plans have partnered with some of the larger pharmacies and the plans are putting pharmacy logos on the benefit cards the beneficiaries use to get their prescriptions filled. Some people have told me that this is very confusing, because beneficiaries think that they must go to the pharmacy listed on the card. My bill says that co-branding is no longer allowed and all newly issued cards will not have pharmacy logos on them.

The final thing this bill does is expand upon what was in the Medicare bill that passed in 2003 regarding medication therapy management programs. I am pleased to say that Wyoming is ahead of the curve in this area. A few years ago, the Wyoming Department of Health partnered with the University of Wyoming to provide a service called Wyoming PharmAssist, which directly connects patients with registered pharmacists to review their medications for possible drug interactions and duplications. I was pleased to learn that this service is more advanced than systems in other States, providing patients with ways to reduce their monthly medication costs while improving safety. The Wyoming PharmAssist program can save clients $152 per month and $1,844 a year. Wyoming Pharm-Assist pays registered pharmacists for these unique services and is a model for the Nation. My bill tries to make the Federal program more like the very successful program in Wyoming.

I commend all the pharmacists across the country who are working so hard to make this new Medicare program work. They are getting life saving drugs to seniors who may not have been able to afford them before. I am proud to say I voted for this program back in 2003 and I am pleased with all the progress we are making.

I believe the Senate operates under what I call the 80/20 rule. 80 percent of the things that get done around here are non-contentious issues with support from both parties. The other 20 percent are the contentious issues that we seem to spend all our time talking about. I think this bill falls into the 80 percent category. This is a small bill that will do a lot of good for our pharmacists. It has wide support and I look forward to working with Chairman GRASSLEY to help move this bill through his Committee.

I invite my colleagues to join me and Senators COCHRAN and TALENT as sponsors of this bill to allow pharmacists to continue to provide the best quality care for seniors and the disabled who rely on them for their medications.

I ask that the text of the bill following my statement be placed in the RECORD.

By Mr. BURR (for himself, Mr. FRIST, Mr. ENZI, Mr. GREGG, Mr. ALEXANDER, and Mrs. DOLE):

S. 2564. A bill to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURR. 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. 2564

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 ''Biodefense and Pandemic Vaccine and Drug Development Act of 2006''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

SEC. 3. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY; NATIONAL BIODEFENSE SCIENCE BOARD.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 319K the following:

''SEC. 319L. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.

''(a) DEFINITIONS.—In this section:

''(1) BARDA.—The term 'BARDA' means the Biomedical Advanced Research and Development Authority.

''(2) FUND.—The term 'Fund' means the Biodefense Medical Countermeasure Development Fund established under subsection (d).

''(3) OTHER TRANSACTIONS.—The term 'other transactions' means transactions, other than procurement contracts, grants, and cooperative agreements, such as the Secretary of Defense may enter into under section 2371 of title 10, United States Code.

''(4) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' has the meaning given such term in section 319F–1.

''(5) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—The term 'qualified pandemic or epidemic product' has the meaning given the term in section 319F–3.

''(6) ADVANCED RESEARCH AND DEVELOPMENT.—

''(A) IN GENERAL.—The term 'advanced research and development' means, with respect to a product that is or may become a qualified countermeasure or a qualified pandemic or epidemic product, activities that predominantly—

''(i) are conducted after basic research and preclinical development of the product; and

''(ii) are related to manufacturing the product on a commercial scale and in a form that satisfies the regulatory requirements under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act.

''(B) ACTIVITIES INCLUDED.—The term under subparagraph (A) includes—

''(i) testing of the product to determine whether the product may be approved, cleared, or licensed under the Federal Food, Drug, and Cosmetic Act or under section 351 of this Act for a use that is or may be the basis for such product becoming a qualified countermeasure or qualified pandemic or epidemic product, or to help obtain such approval, clearance, or license;

''(ii) design and development of tests or models, including animal models, for such testing;

''(iii) activities to facilitate manufacture of the product on a commercial scale with consistently high quality, as well as to improve and make available new technologies to increase manufacturing surge capacity;

''(iv) activities to improve the shelf-life of the product or technologies for administering the product; and

''(v) such other activities as are part of the advanced stages of testing, refinement, improvement, or preparation of the product for such use and as are specified by the Secretary.

''(7) SECURITY COUNTERMEASURE.—The term 'security countermeasure' has the meaning given such term in section 319F–2.

''(8) RESEARCH TOOL.—The term 'research tool' means a device, technology, biological material (including a cell line or an antibody), reagent, animal model, computer system, computer software, or analytical technique that is developed to assist in the discovery, development, or manufacture of qualified countermeasures or qualified pandemic or epidemic products.

''(9) PROGRAM MANAGER.—The term 'program manager' means an individual appointed to carry out functions under this section and authorized to provide project oversight and management of strategic initiatives.

''(10) PERSON.—The term 'person' includes an individual, partnership, corporation, association, entity, or public or private corporation, and a Federal, State, or local government agency or department.

''(b) STRATEGIC PLAN FOR COUNTERMEASURE RESEARCH, DEVELOPMENT, AND PROCUREMENT.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006, the Secretary shall develop and make public a strategic plan to integrate biodefense and emerging infectious disease requirements with the advanced research and development, strategic initiatives for innovation, and the procurement of qualified countermeasures and qualified pandemic or epidemic products.

''(2) CONTENT.—The strategic plan under paragraph (1) shall guide—

''(A) research and development, conducted or supported by the Department of Health and Human Services, of qualified countermeasures and qualified pandemic or epidemic products against possible biological, chemical, radiological, and nuclear agents and to emerging infectious diseases;

''(B) innovation in technologies that may assist advanced research and development of qualified countermeasures and qualified pandemic or epidemic products (such research and development referred to in this section as 'countermeasure and product advanced research and development'); and

''(C) procurement of such qualified countermeasures and qualified pandemic or epidemic products by such Department.

''(c) BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.—

''(1) ESTABLISHMENT.—There is established within the Department of Health and Human Services the Biomedical Advanced Research and Development Authority.

''(2) IN GENERAL.—Based upon the strategic plan described in subsection (b), the Secretary shall coordinate and oversee the acceleration of countermeasure and product advanced research and development by—

''(A) facilitating collaboration among the Department of Health and Human Services, other Federal agencies, relevant industries, academia, and other persons, with respect to such advanced research and development;

''(B) promoting countermeasure and product advanced research and development;

''(C) facilitating contacts between interested persons and the offices or employees authorized by the Secretary to advise such persons regarding requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act; and

''(D) promoting innovation to reduce the time and cost of countermeasure and product advanced research and development.

''(3) DIRECTOR.—The BARDA shall be headed by a Director (referred to in this section as the 'Director') who shall be appointed by the Secretary and to whom the Secretary shall delegate such functions and authorities as necessary to implement this section.

''(4) DUTIES.—

''(A) COLLABORATION.—To carry out the purpose described in paragraph (2)(A), the Secretary shall—

''(i) facilitate and increase the expeditious and direct communication between the Department of Health and Human Services and relevant persons with respect to countermeasure and product advanced research and development, including by—

''(I) facilitating such communication regarding the processes for procuring such advanced research and development with respect to qualified countermeasures and qualified pandemic or epidemic products of interest; and

''(II) soliciting information about and data from research on potential qualified countermeasures and qualified pandemic or epidemic products and related technologies;

''(ii) at least annually—

''(I) convene meetings with representatives from relevant industries, academia, other Federal agencies, international agencies as appropriate, and other interested persons;

''(II) sponsor opportunities to demonstrate the operation and effectiveness of relevant biodefense countermeasure technologies; and

''(III) convene such working groups on countermeasure and product advanced research and development as the Secretary may determine are necessary to carry out this section; and

''(iii) carry out the activities described in section 7 of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

''(B) SUPPORT ADVANCED RESEARCH AND DEVELOPMENT.—To carry out the purpose described in paragraph (2)(B), the Secretary shall—

''(i) conduct ongoing searches for, and support calls for, potential qualified countermeasures and qualified pandemic or epidemic products;

''(ii) direct and coordinate the countermeasure and product advanced research and development activities of the Department of Health and Human Services;

''(iii) establish strategic initiatives to accelerate countermeasure and product advanced research and development and innovation in such areas as the Secretary may identify as priority unmet need areas; and

''(iv) award contracts, grants, cooperative agreements, and enter into other transactions, for countermeasure and product advanced research and development.

''(C) FACILITATING ADVICE.—To carry out the purpose described in paragraph (2)(C) the Secretary shall—

''(i) connect interested persons with the offices or employees authorized by the Secretary to advise such persons regarding the regulatory requirements under the Federal Food, Drug, and Cosmetic Act and under section 351 of this Act related to the approval, clearance, or licensure of qualified countermeasures or qualified pandemic or epidemic products; and

''(ii) ensure that, with respect to persons performing countermeasure and product advanced research and development funded under this section, such offices or employees provide such advice in a manner that is ongoing and that is otherwise designated to facilitate expeditious development of qualified countermeasures and qualified pandemic or epidemic products that may achieve such approval, clearance, or licensure.

''(D) SUPPORTING INNOVATION.—To carry out the purpose described in paragraph (2)(D), the Secretary may award contracts, grants, and cooperative agreements, or enter into other transactions, such as prize payments, to promote—

''(i) innovation in technologies that may assist countermeasure and product advanced research and development;

''(ii) research on and development of research tools and other devices and technologies; and

''(iii) research to promote strategic initiatives, such as rapid diagnostics, broad spectrum antimicrobials, and vaccine manufacturing technologies.

''(5) TRANSACTION AUTHORITIES.—

''(A) OTHER TRANSACTIONS.—In carrying out the functions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have authority to enter into other transactions for countermeasure and product advanced research and development.

''(B) EXPEDITED AUTHORITIES.—

''(i) IN GENERAL.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions under subparagraph (B) or (D) of paragraph (4), the Secretary shall have the expedited procurement authorities, the authority to expedite peer review, and the authority for personal services contracts, supplied by subsections (b), (c), and (d) of section 319F-1.

''(ii) APPLICATION OF PROVISIONS.—Provisions in such section 319F-1 that apply to such authorities and that require institution of internal controls, limit review, provide for Federal Tort Claims Act coverage of personal services contractors, and commit decisions to the discretion of the Secretary shall apply to the authorities as exercised pursuant to this paragraph.

''(iii) AUTHORITY TO LIMIT COMPETITION.—For purposes of applying section 319F–1(b)(1)(D) to this paragraph, the phrase 'BioShield Program under the Project BioShield Act of 2004' shall be deemed to mean the countermeasure and product advanced research and development program under this section.

''(iv) AVAILABILITY OF DATA.—The Secretary shall require that, as a condition of being awarded a contract, grant, cooperative agreement, or other transaction under subparagraph (B) or (D) of paragraph (4), a person make available to the Secretary on an ongoing basis, and submit upon request to the Secretary, all data related to or resulting from countermeasure and product advanced research and development carried out pursuant to this section.

''(C) ADVANCE PAYMENTS; ADVERTISING.—The authority of the Secretary to enter into contracts under this section shall not be limited by section 3324(a) of title 31, United States Code, or by section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

''(D) MILESTONE-BASED PAYMENTS ALLOWED.—In awarding contracts, grants, and cooperative agreements, and in entering into other transactions, under this section, the Secretary may use milestone-based awards and payments.

''(E) FOREIGN NATIONALS ELIGIBLE.—The Secretary may under this section award contracts, grants, and cooperative agreements to, and may enter into other transactions with, highly qualified foreign national persons outside the United States, alone or in collaboration with American participants, when such transactions may inure to the benefit of the American people.

''(F) ESTABLISHMENT OF RESEARCH CENTERS.—The Secretary may establish one or more federally-funded research and development centers, or university-affiliated research centers in accordance with section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(3)).

''(6) VULNERABLE POPULATIONS.—In carrying out the functions under this section, the Secretary may give priority to the advanced research and development of qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to children,

pregnant women, and other vulnerable populations.

''(7) PERSONNEL AUTHORITIES.—

''(A) SPECIALLY QUALIFIED SCIENTIFIC AND PROFESSIONAL PERSONNEL.—In addition to any other personnel authorities, the Secretary may—

''(i) without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, appoint highly qualified individuals to scientific or professional positions in BARDA, such as program managers, to carry out this section; and

''(ii) compensate them in the same manner in which individuals appointed under section 9903 of such title are compensated, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

''(B) SPECIAL CONSULTANTS.—In carrying out this section, the Secretary may—

''(i) appoint special consultants pursuant to section 207(f); and

''(ii) accept voluntary and uncompensated services.

''(d) FUND.—

''(1) ESTABLISHMENT.—There is established the Biodefense Medical Countermeasure Development Fund, which shall be available to carry out this section.

''(2) FUNDS.—

''(A) FIRST FISCAL YEAR.—

''(i) AUTHORIZATION AND APPROPRIATION.—There are authorized to be appropriated and there are appropriated to the Fund $340,000,000 to carry out this section for fiscal year 2007. Such funds shall remain available until expended.

''(ii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to the amounts appropriated under clause (i), $160,000,000 to carry out this section for fiscal year 2007. Such funds shall remain available until expended.

''(B) SUBSEQUENT FISCAL YEARS.—

''(i) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(I) $500,000,000 for fiscal year 2008; and

''(II) such sums as may be necessary for fiscal years 2009 through 2012.

''(ii) AVAILABILITY OF FUNDS.—Such sums authorized under clause (i) shall remain available until expended.

''(e) INAPPLICABILITY OF CERTAIN PROVISIONS.—

''(1) DISCLOSURE.—

''(A) IN GENERAL.—The Secretary shall withhold from disclosure under section 552 of title 5, United States Code, specific technical data or scientific information that is created or obtained during the countermeasure and product advanced research and development funded by the Secretary that reveal vulnerabilities of existing medical or public health defenses against biological, chemical, nuclear, or radiological threats. Such information shall be deemed to be information described in section 552(b)(3) of title 5, United States Code.

''(B) OVERSIGHT.—Information subject to nondisclosure under subparagraph (A) shall be reviewed by the Secretary every 5 years to determine the relevance or necessity of continued nondisclosure.

''(2) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a working group of BARDA or to the National Biodefense Science Board under section 319M.

''SEC. 319M. NATIONAL BIODEFENSE SCIENCE BOARD AND WORKING GROUPS.

''(a) IN GENERAL.—

''(1) ESTABLISHMENT AND FUNCTION.—The Secretary shall establish the National Biodefense Science Board (referred to in this section as the 'Board') to provide expert advice and guidance to the Secretary on scientific, technical and other matters of special interest to the Department of Health and Human Services regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate.

''(2) MEMBERSHIP.—The membership of the Board shall be comprised of individuals who represent the Nation's preeminent scientific, public health, and medical experts, as follows—

''(A) such Federal officials as the Secretary may determine are necessary to support the functions of the Board;

''(B) four individuals representing the pharmaceutical, biotechnology, and device industries;

''(C) four individuals representing academia; and

''(D) five other members as determined appropriate by the Secretary.

''(3) TERM OF APPOINTMENT.—A member of the Board described in subparagraph (B), (C), or (D) of paragraph (2) shall serve for a term of 3 years, except that the Secretary may adjust the terms of the initial Board appointees in order to provide for a staggered term of appointment for all members.

''(4) CONSECUTIVE APPOINTMENTS; MAXIMUM TERMS.—A member may be appointed to serve not more than 3 terms on the Board and may serve not more than 2 consecutive terms.

''(5) DUTIES.—The Board shall—

''(A) advise the Secretary on current and future trends, challenges, and opportunities presented by advances in biological and life sciences, biotechnology, and genetic engineering with respect to threats posed by naturally occurring infectious diseases and chemical, biological, radiological, and nuclear agents;

''(B) at the request of the Secretary, review and consider any information and findings received from the working groups established under subsection (b); and

''(C) at the request of the Secretary, provide recommendations and findings for expanded, intensified, and coordinated biodefense research and development activities.

''(6) MEETINGS.—

''(A) INITIAL MEETING.—Not later than one year after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006, the Secretary shall hold the first meeting of the Board.

''(B) SUBSEQUENT MEETINGS.—The Board shall meet at the call of the Secretary, but in no case less than twice annually.

''(7) VACANCIES.—Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(8) CHAIRPERSON.—The Secretary shall appoint a chairperson from among the members of the Board.

''(9) POWERS.—

''(A) HEARINGS.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers advisable to carry out this subsection.

''(B) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(10) PERSONNEL.—

''(A) EMPLOYEES OF THE FEDERAL GOVERNMENT.—A member of the Board that is an employee of the Federal Government may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

''(B) OTHER MEMBERS.—A member of the Board that is not an employee of the Federal Government may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board.

''(C) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

''(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Board with the approval for the contributing agency without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(b) OTHER WORKING GROUPS.—The Secretary may establish a working group of experts, or may use an existing working group or advisory committee, to—

''(1) identify innovative research with the potential to be developed as a qualified countermeasure or a qualified pandemic or epidemic product;

''(2) identify accepted animal models for particular diseases and conditions associated with any biological, chemical, radiological, or nuclear agent, any toxin, or any potential pandemic infectious disease, and identify strategies to accelerate animal model and research tool development and validation; and

''(3) obtain advice regarding supporting and facilitating advanced research and development related to qualified countermeasures and qualified pandemic or epidemic products that are likely to be safe and effective with respect to children, pregnant women, and other vulnerable populations, and other issues regarding activities under this section that affect such populations.

''(c) DEFINITIONS.—Any term that is defined in section 319L and that is used in this section shall have the same meaning in this section as such term is given in section 319L.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this section for fiscal year 2007 and each fiscal year thereafter.''.

(b) OFFSET OF FUNDING.—The amount appropriated under the subheading ''Biodefense Countermeasures'' under the heading ''Emergency Preparedness and Response'' in title III of the Department of Homeland Security Appropriations Act, 2004 (Public Law 108-90) shall be decreased by $340,000,000.

SEC. 4. CLARIFICATION OF COUNTERMEASURES COVERED BY PROJECT BIOSHIELD.

(a) QUALIFIED COUNTERMEASURE.—Section 319F–1(a) of the Public Health Service Act (42 U.S.C. 247d–6a(a)) is amended by striking paragraph (2) and inserting the following:

''(2) DEFINITIONS.—In this section:

''(A) QUALIFIED COUNTERMEASURE.—The term 'qualified countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), that the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to—

''(i) diagnose, mitigate, prevent, or treat harm from any biological agent (including organisms that cause an infectious disease) or toxin, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

''(ii) diagnose, mitigate, prevent, or treat harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in this subparagraph.

''(B) INFECTIOUS DISEASE.—The term 'infectious disease' means a disease potentially caused by a pathogenic organism (including a bacteria, virus, fungus, or parasite) that is acquired by a person and that reproduces in that person.''.

(b) SECURITY COUNTERMEASURE.—Section 319F–2(c)(1)(B) is amended by striking ''treat, identify, or prevent'' each place it appears and inserting ''diagnose, mitigate, prevent, or treat''.

(c) LIMITATION ON USE OF FUNDS.—Section 510(a) of the Homeland Security Act of 2002 (6 U.S.C. 320(a)) is amended by adding at the end the following: ''None of the funds made available under this subsection shall be used to procure countermeasures to diagnose, mitigate, prevent, or treat harm resulting from any naturally occurring infectious disease.''.

SEC. 5. ORPHAN DRUG MARKET EXCLUSIVITY FOR COUNTERMEASURE PRODUCTS.

(a) IN GENERAL.—Section 527 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended by adding at the end the following:

''(c) MARKET EXCLUSIVITIES FOR COUNTERMEASURES, ANTIBIOTICS, AND ANTIINFECTIVES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), with respect to a drug that is designated under section 526 for a rare disease or condition, the period referred to in this section is deemed to be 10 years in lieu of 7 years if—

''(A) such rare disease or condition is directly caused by a—

''(i)(I) biological agent (including an organism that causes infectious disease);

''(II) toxin; or

''(III) chemical, radiological, or nuclear agent; and

''(ii) such biological agent (including an organism that causes an infectious disease), toxin, or chemical, radiological or nuclear agent, is identified as a material threat under subsection (c)(2)(A)(ii) of section 319F-2 of the Public Health Service Act;

''(B) such drug is determined by the Secretary to be a security countermeasure under subsection (c)(1)(B) of such section 319F-2 with respect to such agent or toxin;

''(C) no active ingredient (including a salt or ester of the active ingredient) of the drug has been approved under an application under section 505(b) prior to the submission of the request for designation of the new drug under section 526; and

''(D) notice respecting the designation of a drug under section 526 has been made available to the public.

''(2) APPLICATION OF PROVISION.—Paragraph (1) shall apply with respect to an antibiotic drug or antiinfective drug designated under section 526 only if—

''(A) no active ingredient (including a salt or ester of the active ingredient) of such drug has been approved as a feed or water additive for an animal in the absence of any clinical sign of disease in the animal for growth promotion, feed efficiency, weight gain, routine disease prevention, or other routine purpose;

''(B) no active ingredient (including a salt or ester of the active ingredient) of such drug has been approved for use in humans under section 505 or approved for human use under section 507 (as in effect prior to November 21, 1997) prior to the submission of the request for designation of the new drug under section 526;

''(C) the Secretary has made a determination that—

''(i) such drug is not a member of a class of antibiotics that is particularly prone to creating antibiotic resistance;

''(ii) sufficient antibiotics do not already exist in the same class;

''(iii) such drug represents a significant clinical improvement over other antibiotic drugs;

''(iv) such drug is for a serious or life-threatening disease or conditions; and

''(v) such drug is for a countermeasure use; and

''(D) notice respecting the designation of a drug under section 526 has been made available to the public.

''(3) RULE OF CONSTRUCTION.—With respect to a drug to which this subsection applies, and which is also approved for additional uses to which this subsection does not apply, nothing in section 505(b)(2) or 505(j) shall prohibit the Secretary from approving a drug under section 505(b)(2) or 505(j) with different or additional labeling for the drug as the Secretary deems necessary to ensure that the drug is safe and effective for the uses to which this subsection does not apply.

''(4) STUDY AND REPORT.—Not later than January 1, 2011, the Comptroller General of the United States shall conduct a study and submit to Congress a report concerning the effect of and activities under this subsection. Such study and report shall examine all relevant issues including—

''(A) the effectiveness of this subsection in improving the availability of novel countermeasures for procurement under section 319F-2 of the Public Health Service Act;

''(B) the effectiveness of this subsection in improving the availability of drugs that treat serious or life threatening diseases or conditions and offer significant clinical improvements;

''(C) the continued need for additional incentives to create more antibiotics and antiinfectives;

''(D) the economic impact of the section on taxpayers and consumers, including—

''(i) the economic value of additional drugs provided for under this subsection, including the impact of improved health care and hospitalization times associated with treatment of nosocomial infections; and

''(ii) the economic cost of any delay in the availability of lower cost generic drugs on patients, the insured, and Federal and private health plans;

''(E) the adequacy of limits under subparagraphs (A) and (B) of paragraph (2) to maximize the useful period during which antibiotic drugs or antiinfective drugs remain therapeutically useful treatments; and

''(F) any recommendations for modifications to this subsection that the Comptroller determines to be appropriate.

''(5) EFFECTIVE DATE.—This subsection shall apply only to products for which an applicant has applied for designation under section 526 after the date of enactment of the Biodefense and Pandemic Vaccine and Drug Development Act of 2006.

''(6) SUNSET.—This subsection shall not apply with respect to any designation of a drug under section 526 made by the Secretary on or after October 1, 2011.''.

SEC. 6. TECHNICAL ASSISTANCE.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

''SEC. 565. TECHNICAL ASSISTANCE.

''The Secretary, in consultation with the Commissioner of Food and Drugs, shall establish within the Food and Drug Administration a team of experts on manufacturing and regulatory activities (including compliance with current Good Manufacturing Practice) to provide both off-site and on-site technical assistance to the manufacturers of qualified countermeasures (as defined in section 319F–1 of the Public Health Service Act), security countermeasures (as defined in section 319F–2 of such Act), or vaccines, at the request of such a manufacturer and at the discretion of the Secretary, if the Secretary determines that a shortage or potential shortage may occur in the United States in the supply of such vaccines or countermeasures and that the provision of such assistance would be beneficial in helping alleviate or avert such shortage.''.

SEC. 7. COLLABORATION AND COORDINATION.

(a) LIMITED ANTITRUST EXEMPTION.—

(1) MEETINGS AND CONSULTATIONS TO DISCUSS SECURITY COUNTERMEASURES, QUALIFIED COUNTERMEASURES, OR QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT DEVELOPMENT.—

(A) AUTHORITY TO CONDUCT MEETINGS AND CONSULTATIONS.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary''), in coordination with the Attorney General and the Secretary of Homeland Security, may conduct meetings and consultations with persons engaged in the development of a security countermeasure (as defined in section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b)) (as amended by this Act), a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act (42 U.S.C. 247d–6a))) (as amended by this Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of the Public Health Service Act (42 U.S.C. 247d–6d)) for the purpose of the development, manufacture, distribution, purchase, or storage of a countermeasure or product. The Secretary may convene such meeting or consultation at the request of the Secretary of Homeland Security, the Attorney General, the Chairman of the Federal Trade Commission (referred to in this section as the ''Chairman''), or any interested person, or upon initiation by the Secretary. The Secretary shall give prior notice of any such meeting or consultation, and the topics to be discussed, to the Attorney General, the Chairman, and the Secretary of Homeland Security.

(B) MEETING AND CONSULTATION CONDITIONS.—A meeting or consultation conducted under subparagraph (A) shall—

(i) be chaired or, in the case of a consultation, facilitated by the Secretary;

(ii) be open to persons involved in the development, manufacture, distribution, purchase, or storage of a countermeasure or product, as determined by the Secretary;

(iii) be open to the Attorney General, the Secretary of Homeland Security, and the Chairman;

(iv) be limited to discussions involving covered activities; and

(v) be conducted in such manner as to ensure that no national security, confidential commercial, or proprietary information is disclosed outside the meeting or consultation.

(C) LIMITATION.—The Secretary may not require participants to disclose confidential commercial or proprietary information.

(D) TRANSCRIPT.—The Secretary shall maintain a complete verbatim transcript of each meeting or consultation conducted under this subsection, which shall not be disclosed under section 552 of title 5, United States Code, unless such Secretary, in consultation with the Attorney General and the Secretary of Homeland Security, determines that disclosure would pose no threat to national security. The determination regarding possible threats to national security shall not be subject to judicial review.

(E) EXEMPTION.—

(i) IN GENERAL.—Subject to clause (ii), it shall not be a violation of the antitrust laws for any person to participate in a meeting or consultation conducted in accordance with this paragraph.

(ii) LIMITATION.—Clause (i) shall not apply to any agreement or conduct that results from a meeting or consultation and that is not covered by an exemption granted under paragraph (4).

(2) SUBMISSION OF WRITTEN AGREEMENTS.—The Secretary shall submit each written agreement regarding covered activities that is made pursuant to meetings or consultations conducted under paragraph (1) to the Attorney General and the Chairman for consideration. In addition to the proposed agreement itself, any submission shall include—

(A) an explanation of the intended purpose of the agreement;

(B) a specific statement of the substance of the agreement;

(C) a description of the methods that will be utilized to achieve the objectives of the agreement;

(D) an explanation of the necessity for a cooperative effort among the particular participating persons to achieve the objectives of the agreement; and

(E) any other relevant information determined necessary by the Attorney General, in consultation with the Chairman and the Secretary.

(3) EXEMPTION FOR CONDUCT UNDER APPROVED AGREEMENT.—It shall not be a violation of the antitrust laws for a person to engage in conduct in accordance with a written agreement to the extent that such agreement has been granted an exemption under paragraph (4), during the period for which the exemption is in effect.

(4) ACTION ON WRITTEN AGREEMENTS.—

(A) IN GENERAL.—The Attorney General, in consultation with the Chairman, shall grant, deny, grant in part and deny in part, or propose modifications to an exemption request regarding a written agreement submitted under paragraph (2), in a written statement to the Secretary, within 15 business days of the receipt of such request. An exemption granted under this paragraph shall take effect immediately.

(B) EXTENSION.—The Attorney General may extend the 15-day period referred to in subparagraph (A) for an additional period of not to exceed 10 business days.

(C) DETERMINATION.—An exemption shall be granted regarding a written agreement submitted in accordance with paragraph (2) only to the extent that the Attorney General, in consultation with the Chairman and the Secretary, finds that the conduct that will be exempted will not have any substantial anticompetitive effect that is not reasonably necessary for ensuring the availability of the countermeasure or product involved.

(5) LIMITATION ON AND RENEWAL OF EXEMPTIONS.—An exemption granted under paragraph (4) shall be limited to covered activities, and such exemption shall be renewed (with modifications, as appropriate, consistent with the finding described in paragraph (4)(C)), on the date that is 3 years after the date on which the exemption is granted unless the Attorney General in consultation with the Chairman determines that the exemption should not be renewed (with modifications, as appropriate) considering the factors described in paragraph (4).

(6) AUTHORITY TO OBTAIN INFORMATION.—Consideration by the Attorney General for granting or renewing an exemption submitted under this section shall be considered an antitrust investigation for purposes of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.).

(7) LIMITATION ON PARTIES.—The use of any information acquired under an agreement for which an exemption has been granted under paragraph (4), for any purpose other than specified in the exemption, shall be subject to the antitrust laws and any other applicable laws.

(8) REPORT.—Not later than one year after the date of enactment of this Act and biannually thereafter, the Attorney General and the Chairman shall report to Congress on the use of the exemption from the antitrust laws provided by this subsection.

(b) SUNSET.—The applicability of this section shall expire at the end of the 6-year period that begins on the date of enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) ANTITRUST LAWS.—The term ''antitrust laws''—

(A) has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) COUNTERMEASURE OR PRODUCT.—The term ''countermeasure or product'' refers to a security countermeasure, qualified countermeasure, or qualified pandemic or epidemic product (as those terms are defined in subsection (a)(1)).

(3) COVERED ACTIVITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''covered activities'' includes any activity relating to the development, manufacture, distribution, purchase, or storage of a countermeasure or product.

(B) EXCEPTION.—The term ''covered activities'' shall not include, with respect to a meeting or consultation conducted under subsection (a)(1) or an agreement for which an exemption has been granted under subsection (a)(4), the following activities involving 2 or more persons:

(i) Exchanging information among competitors relating to costs, profitability, or distribution of any product, process, or service if such information is not reasonably necessary to carry out covered activities—

(I) with respect to a countermeasure or product regarding which such meeting or consultation is being conducted; or

(II) that are described in the agreement as exempted.

(ii) Entering into any agreement or engaging in any other conduct—

(I) to restrict or require the sale, licensing, or sharing of inventions, developments, products, processes, or services not developed through, produced by, or distributed or sold through such covered activities; or

(II) to restrict or require participation, by any person participating in such covered activities, in other research and development activities, except as reasonably necessary to prevent the misappropriation of proprietary information contributed by any person participating in such covered activities or of the results of such covered activities.

(iii) Entering into any agreement or engaging in any other conduct allocating a market with a competitor that is not expressly exempted from the antitrust laws under subsection (a)(4).

(iv) Exchanging information among competitors relating to production (other than production by such covered activities) of a product, process, or service if such information is not reasonably necessary to carry out such covered activities.

(v) Entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production of a product, process, or service that is not expressly exempted from the antitrust laws under subsection (a)(4).

(vi) Except as otherwise provided in this subsection, entering into any agreement or engaging in any other conduct to restrict or require participation by any person participating in such covered activities, in any unilateral or joint activity that is not reasonably necessary to carry out such covered activities.

(vii) Entering into any agreement or engaging in any other conduct restricting or setting the price at which a countermeasure or product is offered for sale, whether by bid or otherwise.

SEC. 8. PROCUREMENT.

Section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) is amended—

(1) in the section heading, by inserting ''**AND SECURITY COUNTERMEASURE PROCUREMENTS**'' before the period; and

(2) in subsection (c)—

(A) in the subsection heading, by striking ''BIOMEDICAL'';

(B) in paragraph (5)(B)(i), by striking ''to meet the needs of the stockpile'' and inserting ''to meet the stockpile needs'';

(C) in paragraph (7)(B)—

(i) by striking the subparagraph heading and all that follows through ''Homeland Security Secretary'' and inserting the following: ''INTERAGENCY AGREEMENT; COST.—The Homeland Security Secretary''; and

(ii) by striking clause (ii);

(D) in paragraph (7)(C)(ii)—

(i) by amending clause (I) to read as follows:

''(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment, partial payment for significant milestones, or payment to increase manufacturing capacity is necessary to ensure success of a project, the Secretary shall pay an amount, not to exceed 10 percent of the contract amount, in advance of delivery. The Secretary shall, to the extent practicable, make the determination of advance payment at the same time as the issuance of a solicitation. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. The contract may also provide for additional advance payments of 5 percent each for meeting the milestones specified in such contract. Provided that the specified milestones are reached, these advanced payments of 5 percent shall not be required to be repaid. Nothing in this subclause shall be construed as affecting the rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to the termination of contracts for the convenience of the Government.''; and

(ii) by adding at the end the following:

''(VII) SALES EXCLUSIVITY.—The contract may provide that the vendor is the exclusive supplier of the product to the Federal Government for a specified period of time, not to exceed the term of the contract, on the condition that the vendor is able to satisfy the needs of the Government. During the agreed period of sales exclusivity, the vendor shall not assign its rights of sales exclusivity to another entity or entities without approval by the Secretary. Such a sales exclusivity provision in such a contract shall constitute a valid basis for a sole source procurement under section 303(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)).

''(VIII) SURGE CAPACITY.—The contract may provide that the vendor establish domestic manufacturing capacity of the product to ensure that additional production of the product is available in the event that the Secretary determines that there is a need to quickly purchase additional quantities of the product. Such contract may provide a fee to the vendor for establishing and maintaining such capacity in excess of the initial requirement for the purchase of the product. Additionally, the cost of maintaining the domestic manufacturing capacity shall be an allowable and allocable direct cost of the contract.

''(IX) CONTRACT TERMS.—The Secretary, in any contract for procurement under this section, may specify—

''(aa) the dosing and administration requirements for countermeasures to be developed and procured;

''(bb) the amount of funding that will be dedicated by the Secretary for development and acquisition of the countermeasure; and

''(cc) the specifications the countermeasure must meet to qualify for procurement under a contract under this section.''; and

(E) in paragraph (8)(A), by adding at the end the following: ''Such agreements may allow other executive agencies to order qualified and security countermeasures under procurement contracts or other agreements established by the Secretary. Such ordering process (including transfers of appropriated funds between an agency and the Department of Health and Human Services as reimbursements for such orders for countermeasures) may be conducted under the authority of section 1535 of title 31, United States Code, except that all such orders shall be processed under the terms established under this section for the procurement of countermeasures.''.

SEC. 9. RULE OF CONSTRUCTION.

Nothing in this Act, or any amendment made by this Act, shall be construed to affect any law that applies to the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.), including such laws regarding—

(1) whether claims may be filed or compensation may be paid for a vaccine-related injury or death under such Program;

(2) claims pending under such Program; and

(3) any petitions, cases, or other proceedings before the United States Court of Federal Claims pursuant to such title.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2565. A bill to designate certain National Forest System land in the State of Vermont for inclusion in the National Wilderness Preservation system and designate a National Recreation Area; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JEFFORDS. Mr. President, I rise today to join my colleague from Vermont, Mr. LEAHY, in introducing the Vermont Wilderness Act of 2006. This legislation designates 48,051 acres within the Green Mountain National Forest for management under the 1964 Wilderness Act.

The Green Mountain National Forest constitutes more than 400,000 acres of woodlands in central and southern Vermont. The Forest hosts up to 3.4 million visitors each year and is capable of supporting a variety of uses, from timber production to snowmobiling to hiking, which contribute to Vermont's economy. The forest is also an important wildlife habitat and source of clean, fresh water. If well managed, the Green Mountain National Forest will remain one of Vermont's most precious environmental treasures, while continuing to support our state's economic and recreational needs for generations to come.

The National Forest Service is responsible for most aspects of national forest management but Congress reserved the authority to set aside undisturbed wilderness lands. Good stewardship of the forest requires leadership, and now is the time for us to accept this responsibility to designate additional wilderness areas.

Twenty-two years ago, as a member of the U.S. House of Representatives, I joined my Senate colleagues, Mr. Stafford and Mr. LEAHY, to introduce the Vermont Wilderness Act of 1984. That act designated 41,260 acres as wilderness. Since that time the Green Mountain National Forest has acquired over 110,000 additional acres, while the populations of the State and the region have increased. These changing demands, and the changing landscape, provide the opportunity and drive the need to designate additional land as wilderness.

The Vermont Wilderness Act of 1984 directed Congress to consider additional wilderness designations in the Green Mountain National Forest only after 15 years had elapsed and the management plan for the Forest had been thoroughly reviewed. With last month's adoption of a completely revised Land Resource Management Plan for the Green Mountain National Forest, these conditions have been met and it is time to act.

I have worked for the past 6 years with the other members of Vermont's Congressional delegation, the National Forest Service, and State leaders. I have reviewed comments from thousands of constituents, visited the forest on the ground and viewed it from the air, and spent countless hours studying maps. These new designations are the result of thorough analysis and thought, and we do not make them lightly.

Many Vermonters disagree with the need for any wilderness designations, much less additional lands to be set aside at this time. I understand their concerns, but I also recognize the intent of the Wilderness Act of 1964, and I believe deeply in the benefits of managing some areas so that forces of nature hold sway.

The Vermont Wilderness Act of 2006 designates two significant new wilderness areas: the 28,491-acre Glastenbury wilderness in southern Vermont, and the 12,437-acre Battell wilderness in central Vermont. These are pristine, remote forest lands, and would remain undisturbed for future generations.

The recently completed Land and Resource Management Plan for the Green Mountain National Forest is a credit to everyone who worked on it, and reflects the hard work of the U.S. National Forest Service. This plan calls for additions to several existing wilderness areas including Peru Peak, Big Branch, Breadloaf and Lye Brook. These recommended additions are included in this legislation, with some modification.

This legislation also calls for 16,890 acres of the Moosalamoo Recreation Area in Central Vermont to be designated a national recreation area. Moosalamoo exists today as a world-class destination for widely diverse outdoor recreation activities on both public and private land. Moosalamoo is managed cooperatively by a group of owners and it attracts visitors from far and wide for hiking, camping, Nordic and alpine skiing and other activities. From the Robert Frost interpretive trails to the blueberry management areas and oak clad escarpments, Moosalamoo is uniquely deserving of national recreation area designation.

The Green Mountain National Forest is an important source of wood products and the timber industry is critically important to Vermont's economy. These wilderness and national recreation area designations are not meant to interfere with a robust timber management program within the forest, and I will work to support that program at every opportunity.

As we introduce this legislation it is important to acknowledge the fine work of Supervisor Paul Brewster and the staff of the Green Mountain National Forest. They applied great skill and technical expertise in developing the new management plan for the forest. The same professionalism will certainly be applied to implement the plan. Our wilderness designations differ somewhat from those proposed by the Forest Service, which is the reason this authority is reserved for Congress, but the new management plan has helped to inform and guide our work.

It is with great pride that I join my colleagues to introduce the Vermont Wilderness Act of 2006. Our great state has been blessed with a beautiful natural landscape, which Vermonters have worked hard to preserve. This bill will continue in that tradition by helping to secure areas of the unspoiled wilderness that Vermont is known and admired for.

Mr. LEAHY. Mr. President, I join with Senator JEFFORDS today to introduce the Vermont Wilderness Act of 2006, to designate two new wilderness areas and to make a number of additions to existing wilderness areas in Vermont's Green Mountain National Forest. This legislation will also designate a new National Recreation Area (NRA) in the Green Mountain National Forest in the area commonly known as Moosalamoo.

The U.S. Forest Service has recently released its Record of Decision (ROD) and Final Environmental Impact Statement (FEIS) for the revision of

the Green Mountain National Forest Land and Resource Management Plan. This has been an effort encompassing several years, a lengthy process including significant public involvement, and a great deal of difficult and detailed work on the part of the Forest Service staff in Vermont and our region.

I want to extend my appreciation and thanks to the staff of the Green Mountain National Forest for their perseverance and professionalism throughout the plan revision process. This has been by no means an easy task, with Vermonters and other interested citizens who care deeply about the National Forest weighing in with sincere and often conflicting views on land, resource and forest management decisions.

While there is much of interest in such a comprehensive plan, the primary role of the Congress lies with wilderness and other related special designations, such as National Recreation Areas. The Vermont Congressional Delegation has taken this responsibility seriously as we have sought a compromise between those who would prefer significant additions in wilderness areas and those who would prefer none. If this recommendation were enacted, about a quarter of the current Green Mountain National Forest would be designated as wilderness.

Just as the recently released Land and Resource Management Plan for the Green Mountain National Forest has elicited abundant feedback across the spectrum of interested citizens and organizations, we expect our proposal to do the same. We offer this legislation as a good-faith effort to find a middle ground, and once this proposal is referred to the Senate Committee on Agriculture, Nutrition, and Forestry—of which I am a member—we will welcome constructive comments and criticisms to improve the bill. Since the Vermont Congressional Delegation has long been on the public record in favor of additional wilderness designations within the Green Mountain National Forest, comments that are as specific as possible will be especially helpful in helping to refine our proposal.

In specific terms, this legislation proposes a new wilderness area in the Glastenbury Mountain area of approximately 28,500 acres. In the Romance, Monastery and Worth Mountain areas the bill proposes adding approximately 12,500 acres, which together would become the Battell Wilderness in honor of Joseph Battell, who once owned some 9,000 acres in this area and bequeathed thousands of acres to Middlebury College, which eventually became the core of the north half of the Green Mountain National Forest.

The bill also proposes designating approximately 4,200 acres for addition to the existing Breadloaf Wilderness, 2,200 acres to the Lye Brook Wilderness, 800 acres to the Peru Peak Wilderness, and 40 acres to the Big Branch Wilderness. The proposed Moosalamoo National Recreation Area covers approximately 17,000 acres.

This legislation does not include additional acreage for the George D. Aiken Wilderness Area or the Bristol Cliffs Wilderness Area. It does not propose a wilderness designation for the area known as Lamb Brook, and it does not propose a new National Recreation Area in the Somerset region.

Our legislation builds on the recommendations of the Forest Service. In many areas the Delegation bill closely tracks the Forest Service plan—Breadloaf, Big Branch and Peru Peak areas are nearly identical. In the Glastenbury area, the Forest Service added more than 8,000 acres to their original plan, and we have further increased the acreage of a proposed Glastenbury Wilderness Area. In addition, this legislation adds about 2,000 acres to the Lye Brook Wilderness, above the Forest Service recommendation. Finally, we are proposing the new Battell Wilderness Area, which encompasses lands the Forest Service included in a Remote Backcountry management category, which is essentially managed as a wilderness area.

In the Moosalamoo area, this legislation codifies the Moosalamoo National Recreation Area, which has the strong support of the various communities and local partners in the area. We believe this designation best represents the actual goals of the various stakeholders and merits this national designation. Furthermore, we have included the Forest Service's Escarpment management category in the designated area and have also included previously agreed upon management guidelines in the bill.

I would offer the following thoughts which we have returned to on those numerous occasions over recent years whenever this subject has been brought up for discussion in our State.

In sponsoring this legislation today, the Vermont Congressional Delegation is demonstrating our commitment to additional wilderness designations on the Green Mountain National Forest. The Green Mountain National Forest is the largest contiguous public land area in Vermont and within a days drive for over 70 million people. We are committed to protecting some National Forest lands for future generations under the National Wilderness Preservation System.

Our proposals have not been driven by acreage quotas, but rather by data supplied by the Forest Service and by interested Vermonters. Therefore, what is too much for some will be too little for others.

The timing of this introduction was conditioned so as to allow the Forest Service process to reach its conclusion and, at the same time, to enable Vermonters and other interested parties to review both the Forest Service and the Delegation recommendations. Throughout our deliberations, we have appreciated the help of the Forest Service staff and have recognized their commitment to their planning regulations, guidelines and timetable. We invite all Vermonters to join us in thanking the Forest Service staff for all the hard work in their planning effort.

While this legislation proposes to add significant wilderness to the Green Mountain National Forest, it bears noting that most of the lands designated in this bill are not suitable for timber harvesting. This legislation would retain many thousands of acres available for timber harvesting which will have to be managed in a fair, open and professional manner. We are committed to the development of such a process and we know the Forest Service shares this commitment. We invite all interested parties to join in this effort. It is our hope that given the superior manner in which the Forest Service conducted the Forest Plan Revision process, unnecessary appeals and litigation of the plan and future management activities can be avoided.

The Green Mountain National Forest has expanded since the last wilderness designations were made. As Senator Stafford, then Congressman JEFFORDS and I remember, during the consideration of the last Vermont Wilderness bill in 1984 there were many perspectives on the use of our National Forest. We assume there will be again this time. As we were 1984, we remain committed to carrying on the strong conservation legacy that generations of Vermonters, like Senator Robert Stafford, have fostered over the decades.

We urge anyone who is interested in the Green Mountain National Forest to review the whole Plan, as the Forest Service has recommended, and to look beyond their own primary areas of concern so that we can all do what we can to help implement the Plan.

In closing, I would note that the Delegation knows that you cannot undertake every possible use on every acre of National Forest land, and we believe most Vermonters support our approach to this issue. In recognition of this fact, we are introducing this legislation as a vision for the Green Mountain Forest for this and future generations.

By Mr. LUGAR (for himself and Mr. OBAMA):

S. 2566. A bill to provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the Cooperative Proliferation Detection, Interdiction Assistance, and Conventional Threat Reduction Act of 2006. This bill is based upon the legislation that Senator OBAMA and I introduced last year by the same name. Over the last six months we have worked closely with the Administration and the Department of State on legislation to improve U.S. programs focused on conventional weapons dismantlement and counter-proliferation assistance more effective and efficient.

The Lugar-Obama bill launches two major weapons dismantlement and

counterproliferation initiatives. Modeled after the Nunn-Lugar program, which dismantles weapons of mass destruction in the former Soviet Union and beyond, our legislation seeks to build cooperative relationships with willing countries to secure vulnerable stockpiles of conventional weapons and strengthen barriers against WMD falling into terrorist's hands.

The first part of our legislation energizes U.S. programs to dismantle MANPADS and large stockpiles of other conventional weapons, including tactical missile systems. There may be as many as 750,000 MANPADS in arsenals worldwide. The State Department estimates that more than 40 civilian aircraft have been hit by such weapons since the 1970's. In addition loose stocks of small arms and other weapons help fuel civil wars and provide ammunition for those who attack peacekeepers and aid workers seeking to help war-torn societies. Our bill would enhance U.S. capability to safely destroy munitions like those used in the improvised roadside bombs that have proved so deadly to U.S. forces in Iraq.

In August Senator OBAMA and I traveled to Ukraine and saw stacks of thousands of mortars and other weapons, left over from the Soviet era. The scene there is similar to situations in other states of the former Soviet Union, Africa, Latin America, and Asia. In many cases, the security around these weapons is minimal. Every stockpile represents a theft opportunity for terrorists and a temptation for security personnel who might seek to profit by selling weapons on the black market. The more stockpiles that can be safeguarded or eliminated, the safer we will be. We do not want the question posed the day after an attack on an American military base, embassy compound, or commercial plane why we didn't do more to address these threats.

Some foreign governments have already sought U.S. help in eliminating their stocks of lightweight antiaircraft missiles and excess weapons and ammunition. But low budgets and insufficient attention have hampered destruction efforts. Our legislation would require the Administration to develop a response commensurate with the threat, by requiring better coordination and a three-fold increase in spending in this area, to $25 million—a relatively modest sum that would offer large benefits to U.S. security.

The other part of the Lugar-Obama legislation would strengthen the ability of America's friends and allies to detect and intercept illegal shipments of weapons and materials of mass destruction. Stopping these weapons and materials of mass destruction in transit is an important complement to the Nunn-Lugar program, which aims to eliminate weapons of mass destruction at their source.

We cannot do this alone. We need the vigilance of like-minded nations. The Proliferation Security Initiative has been successful in enlisting the help of other countries, but many of our partners lack the capability to detect and interdict hidden weapons. Lugar-Obama seeks to address this gap by providing $50 million to establish a coordinated effort to improve the capabilities of foreign partners by providing equipment, logistics, training and other support. Examples of such assistance may include maritime surveillance and boarding equipment, aerial detection and interdiction capabilities, enhanced port security, and the provision of hand-held detection equipment and passive WMD sensors.

On February 9 the Committee on Foreign Relations held a hearing to examine the State Department's efforts in these important areas. In response to a question on how important conventional weapons elimination and counter-proliferation is to U.S. security Under Secretary Joseph stated that ''other than stopping weapons of mass destruction (at their source), I personally do not think that there is . . . a higher priority.'' The Under Secretary also pointed out that with more resources he was confident additional progress could be achieved faster.

We have worked closely with Secretary Rice and her staff to improve this legislation. The bill has been modified in a number of ways to improve its effectiveness and to provide the Department with the authority necessary to carry out important nonproliferation and counter-proliferation missions. At the Department's request, we provide authorization for the entire Nonproliferation, Antiterrorism, Demining, and Related Programs account. We also authorize international ship-boarding agreements under the Proliferation Security Initiative, the use of the Nonproliferation and Disarmament Fund outside the former Soviet Union, and the use of funds for administrative purposes. In addition, we provide the Secretary with the authority to make a reprogramming request to use the funds required under this legislation for other nonproliferation and counter-proliferation activities in an emergency.

Earlier this week, Secretary Rice appeared before the Committee on Foreign Relations. I took the opportunity to ask her opinion of Lugar-Obama. She stated her personal support and that of the Department and the Administration. I am pleased that efforts to craft this important effort not only have bipartisan Congressional support but the support of the Administration as well.

The U.S. response to conventional weapons threats and the lack of focus on WMD detection and interdiction assistance must be rectified if we are to provide a full and complete defense for the American people. Senator OBAMA and I understand that the United States cannot meet every conceivable security threat everywhere in the world. But filling the security gaps that we have described and that Secretary Rice and Under Secretary Joseph have confirmed, should be near the top of our list of priorities. We do not believe these problems have received adequate resources and look forward to working with our colleagues in the Senate to rectify the situation.

Mr. OBAMA. Mr. President, Senator LUGAR has already outlined the legislation that we are reintroducing here today and the process that has led us to this point, so I will be brief.

I don't want my brevity to be confused with indifference towards this legislation. I want to underscore the importance of this bill in establishing a broad framework to more effectively combat the proliferation of weapons of mass destruction and heavy conventional weapons. As I have said before, these are two critical issues that directly impact the security of the United States.

In some ways, the bill has already had its desired impact. There was a reorganization of the State Department that will improve the Department's ability to deal with the proliferation of weapons of mass destruction and heavy conventional weapons. Moreover, the legislation has focused additional high-level attention—the scarcest commodity in Washington—on these Issues.

However, there is more that needs to be done. I believe the Senate can and should move this bill in an expeditious fashion. We have already held a hearing on the bill, worked with the State Department to update and improve the legislation, and have received endorsements from an array of non-governmental organizations that follow these issues.

I will defer to the Chairman on the procedural issues, but my hope is that we can report this bill out of the Foreign Relations Committee as soon as possible and work for Senate passage shortly thereafter.

In closing, I want to thank Senator LUGAR for his steadfast commitment to these critical issues and look forward to collaborating with him in the coming months on this legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2567. A bill to maintain the rural heritage of the Eastern Sierra and enhance the region's tourism economy by designating certain public lands as wilderness and certain rivers as wild and scenic rivers in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, today I am introducing ''the Eastern Sierra Rural Heritage and Economic Enhancement Act,'' a bill that will provide protection for thousands of some of the most pristine, wild, and beautiful acres in California. I am glad to be joined in this effort by my colleague, Senator FEINSTEIN. Representative MCKEON, whose congressional districts contains these special lands, introduced companion legislation today in the House of Representatives.

My bill will protect three very special California treasures in the Eastern Sierra. It makes considerable additions to existing Hoover Wilderness areas, which border on Yosemite National Park. These additions will protect the stunning High Sierra landscape of 11,000 foot snow-capped peaks and valleys, lush meadows and deep forests that people around the world associate with the Eastern Sierra.

These areas are also home to an abundance of wildlife, including black bear, mountain lion, mule deer, waterfowl, and bald eagles.

This land provides more than just visual beauty, however—it is also a recreational paradise. Year after year, hikers enjoy the approximately nine miles of the Pacific Crest National Scenic Trail that runs through this wilderness, and anglers enjoy the clear lakes and streams that support a number of species of wild trout. The bill will also protect areas adjacent to the Emigrant Wilderness area, including another two miles of the Pacific Crest Trail.

My legislation will also designate about 24 miles of the Amargosa River as a Wild and Scenic River. As the only river flowing into Death Valley, the Amargosa is an ecologically-important river in a dry desert area. Birds—and birdwatchers—abound in this area, both coming from far and wide to enjoy the river area.

In short, these areas are not just California's natural treasures—they are America's natural treasures. And that is why they deserve the highest level of protection possible. That is what this bill does.

I was proud to include most of these lands in my California Wild Heritage Act that I reintroduced last month. And I look forward to working with Senator FEINSTEIN and Representative MCKEON, and all my colleagues, to protect these special places forever.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, Ms. MIKULSKI, Mr. BIDEN, and Mr. CARPER):

S. 2568. A bill to amend the National Trails System Act to designate the Captain John Smith Chesapeake National Historic Trail; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, today I am introducing legislation, together with Senators WARNER, ALLEN, MIKULSKI, BIDEN and CARPER to designate the route of Captain John Smith's exploration of the Chesapeake Bay and its tributaries as a National Historic Trail. The proposed Trail is of great historical importance to all Americans in that it represents the beginning of our Nation's story.

Next year our Nation will commemorate the 400th anniversary of the founding of Jamestown and the beginning of John Smith's momentous explorations of the Chesapeake Bay. In April 1607, three ships, the *Susan Constant*, the *Godspeed*, and the *Discovery*, arrived at the mouth of the Chesapeake Bay after a four-month voyage from England carrying the colonists who would establish the first permanent English settlement in North America and plant the seeds of our nation and our democracy. Under the leadership of Captain John Smith, the fledgling colony not only survived, but helped ignite a new era of discovery in the New World sparked by reports of Smith's voyages around the Chesapeake Bay.

John Smith's explorations in the small, 30 foot shallop totaled some three thousand miles, reaching from present-day Jamestown, Virginia, to Smiths Falls on the Pennsylvania border with Maryland and from Broad Creek, in Delaware to the Potomac River and Washington, DC. His journeys brought the English into contact with many Native American tribes for the first time, and his observations of the region's people and its natural wonders are still relied upon by anthropologists, historians, and ecologists to this day.

Chief Justice John Marshall wrote of the significance of Smith's explorations. ''When we contemplate the dangers, and the hardships he encountered, and the fortitude, courage and patience with which he met them; when we reflect on the useful and important additions which he made to the stock of knowledge respecting America, then possessed by his countrymen; we shall not hesitate to say that few voyages of discovery, undertaken at any time, reflect more honour on those engaged in them, than this does on Captain Smith.''

What better way to commemorate this important part of our Nation's history and honor John Smith's courageous voyages than by designating the Captain John Smith Chesapeake National Historic Trail? The Congress established the National Trails System ''to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation.'' National Historic Trails such as the Lewis and Clark Trail, the Pony Express Trail, the Trail of Tears, and the Selma to Montgomery Trail were authorized as part of this System to identify and protect historic routes for public use and enjoyment and to commemorate major events which shaped American history. In my judgment, the proposed Captain John Smith Chesapeake National Historic Trail is a fitting addition to the 13 National Historic Trails administered by the National Park Service.

Pursuant to legislation we enacted as part of the Fiscal 2006 Interior Appropriations Act authorizing the National Park Service to study the feasibility of so designating this trail, on March 21, 2006 the National Park System Advisory Board concluded that the proposed trail is ''nationally significant'' as a milestone for the English exploration of North America, contact between the English and the Native American tribes of the region, and in commerce and trade in North America. This finding is one of the principal criteria for qualifying as a National Historic Trail. Well documented by the remarkably accurate maps and charts that Smith made of his voyages, the trail also offers tremendous opportunities for public recreation and historic interpretation and appreciation. Similar in historic importance to the Lewis and Clark National Trail, this new historic water trail will inspire generations of Americans and visitors to follow Smith's journeys, to learn about the roots of our Nation and to better understand the contributions of the Native Americans who lived within the Bay region. It would also help highlight the Chesapeake Bay's remarkable maritime history, the diversity of its peoples, its historical settlements and our current efforts to restore and sustain the world's most productive estuary.

As Jamestown's 400th anniversary quickly approaches, designating the Captain John Smith Chesapeake National Historic Trail will bring history to life. It would serve to educate visitors about the new colony at Jamestown, John Smith's journeys, the history of 17th century Chesapeake region, and the vital importance of the Native Americans that inhabited the Bay area. It would provide new opportunities for recreation and heritage tourism not only for more than 16 millions Americans living in the Chesapeake Bay's watershed, but for visitors to this area throughout the country and abroad.

This legislation enjoys strong bipartisan support in the Congress and in the States through which the trail passes. The trail proposal has been endorsed by the Governors of Virginia, Pennsylvania, Delaware and Maryland and numerous local governments throughout the Chesapeake Bay region. The measure is also strongly supported by the National Geographic Society, The Conservation Fund, The Garden Club of America, the Izaak Walton League of America, the Chesapeake Bay Foundation and the Chesapeake Bay Commission as well as scores of businesses, tourism leaders, private groups, and intergovernmental bodies.

The Captain John Smith Chesapeake National Historic Trail Act comes at a very timely juncture to educate Americans about historical events that occurred 400 years ago right here in Chesapeake Bay, which were so crucial to the formation of this great country and our democracy. I urge my colleagues to support this measure.

By Mr. HATCH:

S. 2569. A bill to authorize Western States to make selections of public land within their borders in lieu of receiving five per centum of the proceeds of the sale of public land lying within

said States as provided by their respective Enabling Acts; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, I rise today to introduce a bill that would restore balance to a system that disadvantages education funding in the West. The Action Plan for Public Land and Education Act of 2006 would authorize the Secretary of the Interior and the Secretary of Agriculture to grant Federal land to western States where large proportions of public land hamper the States ability to raise funding for public education. This is a product of the hard work and creativity of Representative ROB BISHOP, and I am working with him on this important effort.

Many of my colleagues may not know this, but 10 of the top 12 States with the largest student-teacher ratios are in the West. These States also have the lowest growth in per-pupil expenditures, and their enrollment growth is projected to increase dramatically.

The West's education funding deficit is not due to lack of commitment or effort by the States. The fact is that Western States allocate as great a percentage of their budgets to public education as the rest of the Nation. Moreover, Western States pay on average 11.1 percent of their personal incomes to State and local taxes, whereas citizens of the remaining States pay 10.9 percent of their incomes to these same State and local taxes.

The funding discrepancy for education in the West is due in large part to the lack of a sales tax base, which can only be generated on private land. On average, the Federal Government owns 52 percent of the land located in the 13 Western States, while the remaining States average just 4 percent Federal land. Sales tax is not collected on Federal land, and as we know, public education is funded largely through sales taxes.

We all know, the school trust lands that are available to these States are not sufficient to make up the education shortfall in the West. This legislation would remedy that by granting public land States 5 percent of federally-owned land within the State boundaries. The land would be held in trust to be sold or leased, and the proceeds used strictly for the support of public education.

Again, I thank Representative BISHOP for his excellent work on this bill. My colleagues and I know of the need to address the West's education funding problem. The Action Plan for Public Land and Education Act of 2006 is a solution to this problem, and I urge my colleagues to lend their support for this important proposal.

By Mr. DEWINE (for himself, Mr. DOMENICI, Mr. KYL, and Mr. MCCAIN):

S. 2570. A bill to authorize funds for the United States Marshals Service's Fugitive Safe Surrender Program; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, today I join Senators DOMENICI, KYL, and MCCAIN to introduce a bill to support the Fugitive Safe Surrender Program, which encourages those with outstanding arrest warrants to turn themselves in peacefully. This program—conducted under the auspices of the U.S. Marshal Service, with the cooperation of public, private, nonprofit and faith-based partners—involves using a local church or community center as a temporary courthouse, where fugitives can turn themselves in and have their cases adjudicated.

This is not an amnesty program. Those who surrender are still held accountable for the original charges. However, by moving the prosecutors, public defenders, and judges to the new location, non-violent cases can be resolved promptly on-site, in a setting where fugitives feel they can safely turn themselves in.

In a pilot program implemented last August in Cleveland, over 800 people turned themselves in during a four day period, including 324 who had outstanding felony warrants. Almost all the cases were adjudicated on the day of the surrender. As means of comparison, the Fugitive Task Force conducted a more traditional sweep for three days following the implementation of the Fugitive Safe Surrender program, resulting in the capture of 65 people with outstanding warrants. Clearly, the Fugitive Safe Surrender program was a tremendous success, and I'd like to offer my personal congratulations to Pete Elliott, the U.S. Marshal for the Northern District of Ohio, and Dr. C. Jay Matthews, the Senior Pastor of the Mt. Sinai Baptist Church in Cleveland, for their efforts in heading up this successful endeavor. This type of innovation and creative thinking is exactly what we need in the law enforcement community, and it has obviously paid off in Cleveland.

The Fugitive Safe Surrender program has exceeded expectations and demonstrated its value to the community. The logical next step is for the U.S. Marshals to expand their initiative nationwide. They already have been working with law enforcement, community, and church groups in eight cities that have volunteered to be sites for Fugitive Safe Surrender in 2006: Albuquerque, NM; Phoenix, AZ; Washington, DC; Louisville, KY; Camden, NJ; Indianapolis, IN; Richmond, VA; and Akron, OH. They are hoping to expand to even more cities in 2007 and 2008. This expansion is worthy of federal support, and that is why I have joined Senators DOMENICI, KYL, and MCCAIN in sponsoring the Fugitive Safe Surrender Act of 2006, which authorizes $3 million for fiscal year 07, $5 million for fiscal year 08, and $8 million for fiscal year 09. These funds will allow the U.S. Marshals Service to coordinate with the Fugitive Safe Surrender sites around the country, also providing for the cost of establishing secure courtrooms inside of a local church or community center.

This is a good bill, and I encourage my colleagues to support it.

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

S. 2570

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) Fugitive Safe Surrender is a program of the United States Marshals Service, in partnership with public, private, and faith-based organizations, which temporarily transforms a church into a courthouse, so fugitives can turn themselves in, in an atmosphere where they feel more comfortable to do so, and have nonviolent cases adjudicated immediately.

(2) In the 4-day pilot program in Cleveland, Ohio, over 800 fugitives turned themselves in. By contrast, a successful Fugitive Task Force sweep, conducted for 3 days after Fugitive Safe Surrender, resulted in the arrest of 65 individuals.

(3) Fugitive Safe Surrender is safer for defendants, law enforcement, and innocent bystanders than needing to conduct a sweep.

(4) Based upon the success of the pilot program, Fugitive Safe Surrender should be expanded to other cities throughout the United States.

SEC. 2. AUTHORIZATION.

(a) IN GENERAL.—The United States Marshals Service shall establish, direct, and coordinate a program (to be known as the ''Fugitive Safe Surrender Program''), under which the United States Marshals Service shall apprehend Federal, State, and local fugitives in a safe, secure, and peaceful manner to be coordinated with law enforcement and community leaders in designated cities throughout the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Marshals Service to carry out this section—

(1) $3,000,000 for fiscal year 2007;

(2) $5,000,000 for fiscal year 2008; and

(3) $8,000,000 for fiscal year 2009.

(c) OTHER EXISTING APPLICABLE LAW.—Nothing in this section shall be construed to limit any existing authority under any other provision of Federal or State law for law enforcement agencies to locate or apprehend fugitives through task forces or any other means.

By Mr. CONRAD:

S. 2571. A bill to promote energy production and conservation, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, I rise today to introduce a comprehensive energy bill, one that I call Breaking Our Long-Term Dependency, or the BOLD Energy Act.

As President Bush has stated, our Nation is addicted to oil. Our economy requires over 20 million barrels of oil a day to fuel our cars, our trucks, heat our homes, and bring goods to market all across the country. Sixty percent of our consumption—60 percent—is from imports. Many of these imports are coming from the most volatile parts of the world, the most unstable parts of the world, and we have to take serious steps now to reduce our growing dependency. That is what this bill is all about.

This legislation, which is comprehensive in nature and which we have worked on for over 6 months, I believe is a serious contribution to the discussion. Let me make clear: These are not tepid steps. This legislation is bold because that is what the situation requires if we are to seriously reduce our dependence.

This legislation invests approximately $40 billion over the next 5 years to meaningfully reduce our dependence on foreign energy. Much of our imported oil comes from unstable parts of the world. Forty-five percent of our oil comes from Saudi Arabia, Venezuela, Nigeria, and Iraq. A major disruption to oil supplies in any of those areas could send oil over $100 a barrel. Threats to oil supplies and surging demand have contributed to a 95-percent increase in oil prices over the past 2 years.

Imported oil now accounts for $266 billion of our trade deficit. That is more than a third of our total trade imbalance.

Our Nation faces other challenges on the energy front as well. Fluctuating natural gas prices threaten the livelihood of our Nation's farmers and manufacturers. Electricity sales are projected to increase by 50 percent over the next 25 years. Transmission capacity constraints prevent development of power production in many parts of the country, including North Dakota.

Fortunately, the United States has the domestic resources and the ingenuity to reduce our dependence on foreign oil and meet our energy challenges. It is time, I believe, to look to the Midwest rather than turning to the Middle East for our energy resources. We can turn to our farm fields to produce more ethanol and biodiesel.

Brazil shows what can be done. Thirty years ago Brazil was 80 percent dependent on foreign energy. They have reduced that dependence to less than 10 percent. At the same time, our country has gone from 35-percent dependence to now 60-percent dependence. We have been going the wrong way. Brazil has demonstrated what can be done to dramatically reduce one's energy dependence. How did they do it? They did it by aggressive promotion of biodiesel, by aggressive promotion of ethanol, and by creating a fleet of flexible fuel vehicles.

We could do that here. Brazilian officials are now predicting they will be completely energy independent this year—this year. We can use our abundant domestic reserve of coal to produce clean, clear fuel as part of a plan to reduce our dependence, in addition to the use of those renewables.

Coal-to-liquid fuel technology has tremendous potential. Converting America's 273 billion tons of coal into transportation fuel would result in the equivalent of over 500 billion barrels of oil. That compares to Saudi Arabia's reserves of 262 billion barrels.

Why are we continuing to be dependent and vulnerable to foreign sources of energy? It makes no sense. It is time to do more than talk about the threat; it is time to act. That is why I am introducing the BOLD Energy Act today.

My legislation would accomplish the following: It would increase production of renewable energy and alternative fuels. It would reward conservation and energy efficiency. It would provide more research and development funding for new energy technologies. It would promote responsible development of domestic fossil fuel resources, and it would facilitate upgrades to our Nation's electricity grid.

First, the BOLD Act takes aggressive steps to increase alternative fuel production and use. It extends the biodiesel and ethanol tax credit. It requires ethanol use in the United States to increase from 4.7 billion gallons in 2007 to 30 billion gallons in 2025. It creates a new biodiesel standard. It promotes alternative fueling stations, and it establishes a $500 million grant program for the expensive front-end engineering and design of coal-to-liquid fuel plants. These steps will allow us to substitute home-grown fuels for foreign oil, dramatically reducing our dependence on imported oil.

Second, the experts tell us the single most important thing we can do to reduce our reliance on foreign oil is to improve the efficiency of our cars and trucks. My legislation provides a new rebate program for cars and trucks that achieve above-average fuel economy. The most fuel-efficient vehicles would qualify for rebates of up to $2,500. This will encourage consumers to buy, and manufacturers to produce, more fuel-efficient cars. We don't do this with the command-and-control structure of CAFE standards; we do it with incentives for the marketplace.

My bill also requires that all vehicles sold in the United States by 2017 must include alternative fuel technologies, such as hybrid electric or flex-fuel systems. Auto makers will be eligible for a 35-percent tax credit or retiree health care cost relief to make this transition. We have had extensive discussions with the automobile industry on how to design these incentives so they would be effective.

North Dakota E85 fueling systems will allow drivers to dramatically reduce gasoline usage. And in urban areas such as Washington, D.C. where most drivers commute fewer than 20 miles a day, new plug-in hybrids will allow most trips to be fueled by electricity rather than gasoline.

Third, the BOLD Energy Act promotes environmentally responsible energy development here at home. It increases the existing enhanced oil recovery tax credit to 20 percent for any new or expanded domestic drilling project that uses carbon dioxide to recover oil from aging wells. Again, we have consulted broadly with industry on what would be the most effective incentives to seriously increase domestic energy production.

It also includes language authorizing energy development in the Lease Sale 181 area in the Gulf of Mexico that prohibits this development from occurring within 100 miles of the Florida coast or interfering with military activities in the gulf.

These steps will allow us to substitute American oil and natural gas for imports, creating jobs here at home and improving our energy security.

Fourth, my BOLD Energy Act promotes new technologies to improve energy efficiency and develop renewable energy, such as wind and solar. It extends the renewable energy tax credit for 5 years and establishes a national 10-percent renewable electricity standard.

My energy bill also creates a clean coal energy bonds program to allow electric cooperatives, tribal governments, and other public power systems to finance new, advanced clean coal powerplants.

Finally, my legislation will improve the electricity grid in the United States by making it easier for State governments to finance the construction of transmission lines through the issuance of tax exempt bonds. Again, we have consulted broadly with industry over an extended period to find the things that would make the greatest difference to dramatically reducing our energy dependence. That is what this legislation is about. That is why I call it the BOLD Energy Act. It is seriously designed to break our long-term dependency. That is why we called it the BOLD Energy Act.

A few weeks ago I met with the President and a bipartisan group of Senators at the White House to talk about energy policy. I told the President he was right to identify our addiction to oil as one of our challenges. I also told him it is time to be bold. No more tepid plans, no more plans that fundamentally do not make a difference. It is time for the United States to stand up to this challenge of seriously reducing our dependence on foreign energy.

Make no mistake, this is a bold plan. This plan calls for the investment of approximately $40 billion over the next 5 years. That is what it is going to take. If we are going to be serious about reducing our dependence, it is going to take more than half steps. It is time to put politics aside and assemble our best collective ideas into a new, comprehensive energy policy. I ask my colleagues and I urge them to look at this bill, to examine it. I urge them and hope that they could cosponsor it. If not, I welcome their constructive criticism about what could be done to make it better.

I don't think we have any time to waste. There is no time to lose. We need bold action. We need this BOLD Energy Act.

I send the bill to the desk for its assignment to the appropriate committee.

The PRESIDING OFFICER. The bill will be received and assigned to the appropriate committee.

Mr. CONRAD. Mr. President, I thank very much the dozens of organizations that have contributed to writing this legislation. As I have indicated, we have spent 6 months in preparing this legislation. We have consulted with literally dozens and dozens of organizations across this country. We have consulted with Members in both the House and the Senate. We have consulted with Governors. We have consulted with every relevant energy group in the State of North Dakota and in the Midwest. I am delighted that so many of them have already endorsed this legislation.

It is time for us to get serious about reducing our dependence on foreign oil. I am delighted today to be presenting this BOLD Energy Act. I believe it is the direction we should take. I again ask my colleagues to give it their close consideration.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I compliment the Senator from North Dakota for thinking boldly and focusing on an urgent need for our country. I look forward to studying his proposal and working with him, especially in the areas of conservation and efficiency. There is a consensus within the Energy and Natural Resources Committee that we can do more in conservation and efficiency. There is a consensus in the Senate, I believe, that we could do more in research and development. There is a consensus that we could do more in renewable fuels. So I look forward to looking at what he has to say.

I think our goal should be within a generation to end our dependence on foreign oil. That wouldn't mean we wouldn't buy oil from Mexico or from Canada or from anyone, really, but it would mean that no other country could hold the United States of America hostage to the oil supply.

That is a very constructive suggestion. There is one yellow flag I would wave a little bit, and we can talk about it as it makes its way through the process. The Senator mentioned wind power. In terms of the transportation sector, unless we begin to put these large, giant wind machines on the cars—which I fully expect someone to propose before very long, with a large subsidy—I think we ought to examine carefully just how much money we are already spending on giant windmills because it is a massive tax ripoff to the taxpayers of the United States.

The last figures I saw showed that we were now, over the next 5 years, about to spend $3 billion supporting these giant wind machines, which are twice as tall as the football stadium at the University of Tennessee and extend from 10-yard line to 10-yard line and only work when the wind is blowing. They deface the landscape of America.

The Senator has suggested a comprehensive policy that sounds very attractive to me, but I would like us to examine carefully, as we go through this, whether it is wise, for example, to extend the renewable tax credit another 2 years because that is just code words for more billions of dollars to the wind industry. They have a very good lobby. They are very effective. But there are other forms of alternative energy, especially regarding fuels, which is what we are talking about when we are trying to reduce our dependence on foreign oil. That is where we use most of our oil, in the transportation sector. I hope we will spend our available money on research and development, as the Senator has suggested, on conservation and efficiency, as the Senator suggested, and on other kinds of fuels—biodiesel, as the Senator suggested—and be very cautious about adding to the wind subsidy before we clearly understand what we are doing.

Perhaps the figures aren't right, but the last figures I saw from the Department of Treasury is that the Congress has now authorized $3 billion for giant wind machines. We don't need a national windmill policy; we need a national energy policy.

Mr. CONRAD. Mr. President, might I get the attention of the Senator for just a moment? I say to him, first of all, I appreciate very much his thoughtful remarks, as always. When you have a chance to look at this, this is a comprehensive bill. We have spent months talking to everyone we thought had a good idea. We have talked to people who sponsored legislation in the House and the Senate, trying to cull those legislative offerings for the best ideas. We have talked to the people who were sponsored by Hewlett-Packard to do a review of national energy policy in America.

As you know, they spent several years in a serious effort to come to grips with what we could do that would dramatically reduce our energy dependence. The Senator is quite right. That is why so much of this legislation is focused on fuels; that is where a significant part of our imported energy is going—to fuel the fleets of our country.

Let me say with respect to wind energy, I truly believe that is a component of a comprehensive bill. Let me put it in perspective. In terms of our legislation, it is a very small part because I think that is the appropriate level of commitment to make in terms of comprehensive energy policy. There are many other things that have much more prominence in terms of where the investment is being made. I would say to my colleague, in North Dakota we have extraordinary wind energy capacity. We have the ability to relieve our dependence on coal-fired plants and our dependence on plants that are fueled by natural gas, and we have extreme problems, long term, with natural gas in this country. That is why natural gas prices have had such a runup.

Wind energy is a great part of an overall plan to reduce peaking load. Obviously, you cannot count on the wind blowing—although in North Dakota you almost always can. So you have to marry it with other energy-generating sources. That is what we have done with this legislation. I very much welcome my colleague's kind comments, and I look forward to his consideration of what we have tried to do.

Let me just say, I gave my staff an assignment 6 months ago. I told them I wanted an energy bill that anybody could look at and objectively say: If this were enacted, it would make a serious contribution to reducing our energy dependence. I have supported the past energy bills that have come through here. I was pleased to do so. But I think we all know none of them make a dramatic change in our long-term dependence. That is what this bill is designed to do, I say to my colleague: make a dramatic reduction in our dependence.

Mr. ALEXANDER. Mr. President, I appreciate the spirit of the Senator's remarks. He has presented this the same way he dealt with the budget issues. He and Senator GREGG did a very good job with that and helped the Senate through a difficult area. The last energy bill, the one in July, was a very good bill because it began to shift our policy toward producing large amounts of low-carbon and no-carbon energy. It takes a while to do that. It is like turning a big ship around. But we are already beginning to see the results.

There was more conservation and efficiency in that than we had before, which avoids building new natural gas plants, for example. But we could do much more.

There was significant support for nuclear power, which we should do more of. All those who want to solve global warming in a generation should be helping to support nuclear power because 70 percent of our carbon-free energy in the United States today comes from nuclear power. Seventy percent of the carbon-free electricity that we produce comes from nuclear power. There is a growing consensus that we should begin to proceed with that in the United States, and even help India and China avoid dirty coal plants that pollute the area. If we want clean air and low-cost power that is reliable, the approach toward nuclear power is important. That was in the bill.

I encourage steps towards clean coal, which would be coal gasification, which would limit the amount of nitrogen and sulphur and mercury that would come from the use of coal—we have a lot of coal in the United States—and research for carbon sequestration. If we could recapture the carbon, we could then use coal for large amounts of clean power.

Then we had significant support for renewable energy, for ethanol. The President has now suggested that we extend that to different kinds of ethanol. I am sure there are appropriate places for wind power, but it doesn't

amount to much. It is not very reliable. And there is no excuse for spending $3 billion over the next 5 years on gigantic windmills that give big subsidies to investors and scar the landscape when we could be spending it on conservation and efficiency. Of course, what I hope, finally, and in pursuit of Senator CONRAD's goal, is that we redouble our interest in the hydrogen fuel cell economy. Major manufacturers are telling me they are investing hundreds of millions of dollars each year in hydrogen fuel cells which will have no emissions except water, and one major manufacturer said to me that his company, one of the largest in the world, would have a commercially available car on the market within 10 years, and that was last year. That seems soon to me. But the sooner that happens—the sooner that happens, the better.

To reduce our dependence on foreign oil so that we are not held hostage, and to make sure that we have clean air and to make sure that we do our part not to add to global warming, we should do all these things. We do not need a national windmill policy. We need a comprehensive energy policy.

I see the Senator from Massachusetts.

We would have to put enough giant windmills to cover 70 percent of Massachusetts to equal the amount of energy in the oil we would get from ANWR.

My main purpose is to say to Senator CONRAD that I welcome his proposal. It is a serious, thoughtful effort, as is characteristic of his efforts.

I wish to ask that we carefully consider where the tax subsidies go before we spend more billions of dollars on a source that is already oversubsidized, that scars the landscape, that only works when the wind blows, that requires large new power lines to be built and that can fend for its own in marketplaces where it is appropriate to be.

I thank the Chair. I yield the floor.

By Mr. BURNS (for himself and Mr. ROCKEFELLER):

S. 2572. A bill to amend the Aviation and Transportation Security Act to extend the suspended service ticket honor requirement; to the Committee on Commerce, Science, and Transportation.

Mr. BURNS. Mr. President, I come to the floor today to introduce the Aviation Consumer Protection Extension Act. The bill is a 1-year extension of section 145 of the Aviation and Transportation Security Act, which passed in 2001. The current extension expires in November of this year.

Currently, the aviation industry is going through a difficult time with numerous airline bankruptcies and overall uncertainty. In this environment, airline consumers deserve protection in the circumstance that their air service provider suspends service because of a bankruptcy.

This extension provides that airline passengers holding tickets from a bankrupt carrier are entitled to a seat on a standby basis on any airline serving that route if arrangements are made within 60 days after the bankrupt airline suspends operations.

Under the provision, the maximum fee that an airline can charge for providing standby transportation would not exceed $50 each way. The extension does not apply to charter flights but does cover frequent flyer tickets.

Like all Members of this body, my State of Montana has a number of traveling families. In the unfortunate circumstance that an air carrier discontinues service, those families should not have to foot an outrageous bill to get back home.

In these times of unease and uncertainty in the airline industry, we need to make sure hard-earned family vacations don't turn into unnecessarily costly expenditures. I look forward to working with my colleagues on a timely passage of this important extension.

By Mr. DURBIN:

S. 2573. A bill to amend the Higher Education Act of 1965 to provide interest rate reductions, to authorize and appropriate amounts for the Federal Pell Grant program, to allow for in-school consolidation, to provide the administrative account for the Federal Direct Loan Program as a mandatory program, to strike the single holder rule, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 2573

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 ''Reverse the Raid on Student Aid Act of 2006''.

SEC. 2. INTEREST RATE REDUCTIONS.

(a) FFEL INTEREST RATES.—Section 427A(*l*) (20 U.S.C. 1077a(*l*)) is amended—

(1) in paragraph (1)—

(A) by striking ''6.8 percent'' and inserting ''3.4 percent''; and

(B) by inserting before the period at the end the following: '', except that for any loan made pursuant to section 428H for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan''; and

(2) in paragraph (2), by striking ''8.5 percent'' and inserting ''4.25 percent''.

(b) DIRECT LOANS.—Section 455(b)(7) (20 U.S.C. 1087e(b)(7)) is amended—

(1) in subparagraph (A)—

(A) by striking ''and Federal Direct Unsubsidized Stafford Loans'';

(B) by striking ''6.8 percent'' and inserting ''3.4 percent''; and

(C) by inserting before the period at the end the following: '', and for any Federal Direct Unsubsidized Stafford Loan made for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan''; and

(2) in subparagraph (B), by striking ''7.9 percent'' and inserting ''4.25 percent''.

SEC. 3. FEDERAL PELL GRANT AWARDS.

Section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(A), by striking clauses (i) through (v) and inserting the following:

''(i) $4,500 for academic year 2007–2008;

''(ii) $4,800 for academic year 2008–2009;

''(iii) $5,200 for academic year 2009–2010;

''(iv) $5,600 for academic year 2010–2011; and

''(v) $6,000 for academic year 2011–2012,'';

(B) in paragraph (3)(A), by striking ''an appropriation Act'' and inserting ''this section''; and

(C) in paragraph (7), by striking ''the appropriate Appropriation Act for this subpart'' and inserting ''this section'';

(2) by striking subsection (g);

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

(4) by adding at the end the following:

''(j) AUTHORIZATION AND APPROPRIATION OF FUNDS.—There are authorized to be appropriated, and there are appropriated, to carry out this section—

''(1) for academic year 2007–2008, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $4,500;

''(2) for academic year 2008–2009, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $4,800;

''(3) for academic year 2009–2010, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $5,200;

''(4) for academic year 2010–2011, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $5,600;

''(5) for academic year 2011–2012, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such academic year not more than $6,000; and

''(6) for each subsequent academic year, such sums as may be necessary to award each student eligible for a Federal Pell Grant for such subsequent academic year not more than the amount that is equal to the maximum award amount for the previous academic year increased by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between such previous academic year and such subsequent academic year.''.

SEC. 4. IN-SCHOOL CONSOLIDATION.

Section 428(b)(7)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(7)(A)) is amended by striking ''shall begin'' and all that follows through the period and inserting ''shall begin—

''(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

''(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.''.

SEC. 5. ADMINISTRATIVE ACCOUNT FOR DIRECT LOAN PROGRAM.

Section 458 of the Higher Education Act of 1965 (20 U.S.C. 1087h) is amended to read as follows:

''SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

''(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

''(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsection (b),

not to exceed (from such funds not otherwise appropriated) $904,000,000 in fiscal year 2007, $943,000,000 in fiscal year 2008, $983,000,000 in fiscal year 2009, $1,023,000,000 in fiscal year 2010, $1,064,000,000 in fiscal year 2011, and $1,106,000,000 in fiscal year 2012.

''(2) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (1)(B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

''(3) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.

''(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under subsection (a)(1)(B) shall not exceed the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.

''(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.''.

SEC. 6. SINGLE HOLDER RULE.

Subparagraph (A) of section 428C(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is amended by striking ''and (i)'' and all that follows through ''so selected for consolidation)''.

By Mr. SALAZAR:

S. 2584. A bill to amend the Healthy Forests Restoration Act of 2003 to help reduce the increased risk of severe wildfires to communities in forested areas affected by infestations of bark beetles and other insects, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SALAZAR. Mr. President, I rise today to speak about S. 2584, ''The Rocky Mountain Forest Insects Response Enhancement and Support Act,'' or ''Rocky Mountain FIRES Act,'' which I introduced earlier today.

I am introducing this bill because we are facing an extremely dangerous wildfire situation in the West, including my home State of Colorado, maybe worse than we have ever faced.

Below-average snowfalls, protracted drought, and a massive bark beetle infestation have created fuel loads that threaten forest health, property, and human life. I fear that we are facing a perfect storm of conditions for devastating fires this summer in Colorado.

The southern half of Colorado, and much of the Southwest, has been hit by yet another year of below-average precipitation. With the exception of a few areas in Colorado's northern mountains, precipitation levels this winter were 25–50 percent of average. Colorado is now in its 7th consecutive year of drought.

This drought has been so severe and so long that even the healthiest trees have become fuel for disease, fire, and insect infestations.

Mr. President, the bark beetle, a pest that normally kills only a few weak trees in a stand, has fed off entire forests of drought-weakened trees. It is a plague that is sweeping through the Rockies.

The bark beetle problem in Colorado is of unprecedented magnitude. The infestation is killing trees over hundreds of thousands of acres, leaving huge, dry fuel loads in its wake.

Across the State, but particularly in the Arapaho National Forest in northern Colorado, bark beetles are turning entire forests into brown, dead stands. In 2004, bark beetles killed an estimated 7 million trees over 1.5 million acres in Colorado.

When you see pictures that show the stands that have been hit by the bark beetle, you can see why people who live nearby are so concerned. You can imagine what a fire would look like if it got into a stand of beetle-infested timber—it would jump from crown to crown, racing up ridges and through the forest faster than we could respond.

Beetle-kill stands are everywhere in Grand County and Larimer County, Summit and Eagle, Saguache and San Miguel. They are increasingly visible in pockets along the Front Range, among houses and communities in the wildland-urban interface.

The areas with smaller outbreaks, like those in the Pike National Forest and the Gunnison National Forest, are just as worrisome as the massive outbreaks in northern Colorado. When we see even a handful of beetle-kill trees, it usually means that the insects are already attacking the surrounding trees.

Private land owners and local governments are doing all they can to combat this problem—they are using their chainsaws to protect their homes, they are spraying trees, and they are devising protection plans. They wonder, though, if they aren't alone in this fight. They wonder if the Federal Government is asleep at the wheel in the face of potential disaster.

The people who see the browned-out, dead forests from their kitchen windows wonder why Washington isn't moving faster to curb this onslaught on our public lands—why is the government not clearing out the dead trees, creating buffers to prevent the beetle from spreading, or providing more resources and expertise to help local communities protect themselves?

I have pressed Secretary Johanns to find funds to deal with this emergency in Colorado and across the West. At the current budget levels, we are simply not able to curb the bark beetle problem and prepare for the upcoming fire season. We could be treating 2 or 3 times as many acres this year if we only had adequate funds.

We must also give local communities and land managers the tools they need to combat the bark beetle infestation. That is what S2584, the ''Rocky Mountain Fires Act,'' will do.

My bill will facilitate a swifter response by the Forest Service and BLM to widespread insect infestations in our forests; provide additional money to communities that are preparing or revising their wildfire protection plans; make grant funding available for enterprises that use woody biomass for energy production and other commercial purposes, so that we can put beetle-kill trees and wood from hazard fuels-reduction projects to good use; and allow the Forest Service and the BLM to award stewardship contracts to nearby landowners, so that residents can do hazard fuels reduction on federal lands to protect their homes.

Coloradans are anxious for Congress to take action on the bark beetle issue because they know the dangers they face. They remember the fire storms of 2002, when the Hayman Fire burned 138,000 acres on the Front Range, the Missonary Ridge Fire burned 70,000 acres near Durango, and scores of other fires across the State chewed up resources and claimed property and lives.

This year could be as bad, or worse, if we don't take action right now.

We must find funds or provide emergency funding so that we can gear up for the fire season. We must also pass bark beetle legislation that gives communities and land managers the tools they need to protect property and lives.

We must take action right now. As I am reminded by the reports of fires in Colorado just this past week: this summer's fire season is already upon us.

By Mr. SMITH (for himself and Mr. KERRY):

S. 2585. A bill to amend the Internal Revenue Code of 1986 to permit military death gratuities to be contributed to certain tax-favored accounts; to the Committee on Finance.

Mr. SMITH. America's service men and women continue to make the ultimate sacrifices for our Nation. In the tragic cases where brave soldiers, marines, airmen, and sailors lose their lives in support of Operation Enduring Freedom or Operation Iraqi Freedom, we must honor their service by ensuring that their families are not forced to shoulder undue financial strain. Therefore, I am honored to introduce the Fallen Heroes Family Savings Act.

This legislation will increase the flexibility given to families while managing the death gratuity payment to the survivors of fallen service men and women. This bill will provide these families expanded financial options to invest the $100,000 death gratuity payment in health, education, and retirement savings accounts. Allowing families to transfer these funds will help them save money for a college education, medical expenses, or to finance a future retirement.

Allowing military families increased financial flexibility is the least we can do to honor the legacy our troops have worked so hard to create. It is my hope that this legislation will assist the

families of fallen service men and women in their time of grief and allow them to plan for their future.

I ask for unanimous consent to have printed in the RECORD the following letter from the Military Officers Association of America in support of this legislation.

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

MILITARY OFFICERS ASSOCIATION OF AMERICA,
Alexandria, VA, April 6, 2006.

Hon. GORDON SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: I am writing on behalf of the 360,000 members of the Military Officers Association of America (MOAA) in support of your planned legislation, the Fallen Heroes Family Savings Act. This important bill would help military survivors manage the increased death gratuity amounts permanently authorized in the FY2006 National Defense Authorization Act.

The new $100,000 death gratuity provides greatly improved compensation for military survivors and their families but also presents a challenge as to where to safely invest such sizeable sums to provide for future financial security. Your bill would allow survivors to invest death gratuity lump sums in Roth IRA's and other savings accounts, above the contribution limits now allowed. This makes perfect sense and is a logical extension of efforts to increase benefits to widows.

MOAA is grateful for your leadership on this and other issues important to our servicemembers. We pledge our support in seeking enactment of this important legislation.

Sincerely,

NORB RYAN, Jr.,
President.

Mr. KERRY. Mr. President, today Senator SMITH and I are introducing ''The Fallen Heroes Family Savings Act'' that will help military families that have suffered a tragic loss. In recent years, the Congress has generously raised the amount of the military death gratuity to $100,000 and expanded eligibility to all in uniform.

Our current tax laws do not allow the recipients of this payment to use it to make contributions to tax-preferred accounts that help with saving for retirement, health care, or the cost of education. Our legislation would allow families who already have given so much to contribute the death gratuity to certain tax-preferred accounts. These contributions would be treated as qualified rollovers. The contribution limits of these accounts will not be applied to these contributions.

This legislation will not ease the pain of military families that suffer the loss of a loved one, but it can help families put their lives back together. It will enable military families to save more for retirement, education, and health care by being able to put the death gratuity payment in an account in which the earnings will accumulate tax-free.

These changes to our tax laws will help military families with some of their financial burdens. It can not repay the sacrifices that they have made for us, but it hopefully demonstrates the gratitude of a Nation that will not forget the families of the fallen.

By Mr. KERRY:

S. 2586. A bill to establish a 2-year pilot program to develop a curriculum at historically Black colleges and universities, Tribal Colleges, and Hispanic serving institutions to foster entrepreneurship and business development in underserved minority communities; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I rise today to introduce the Minority Entrepreneurship and Innovation Pilot Program, legislation aimed at addressing this Nation's growing economic disparities through entrepreneurship and business development. It is the spirit of entrepreneurship that has made America's economy the best in the world. And it is through the energy and vitality of the small business sector that we will help all sectors of American society benefit from our robust economy.

Exactly one year ago, the National Urban League released a report on the State of Black America, which discussed the growing economic gap between African Americans and their white counterparts. The report states that the median net worth of an African American family is $6,100 compared with $67,000 for a white family. The report makes clear that closing the racial wealth gap needs to be at the forefront of the civil rights agenda moving into the twenty-first century.

Disproportionate unemployment figures for minorities versus their white counterparts have also been a persistent problem. Even as the administration has been touting the current low nationwide unemployment rate, the African American unemployment rate was 9.5 percent, the Hispanic unemployment rate was 6 percent, while the unemployment rate for whites averaged 4.1 percent.

As the Ranking Member on the Senate Committee on Small Business and Entrepreneurship, I have received firsthand testimony and countless reports documenting the positive economic impact that occurs when we foster entrepreneurship in underserved communities. There are signs of significant economic returns when minority businesses are created and are able to grow in size and capacity. Between 1987 and 1997, revenue from minority owned firms rose by 22.5 percent, an increase equivalent to an annual growth rate of 10 percent and employment opportunities within minority owned firms increased by 23 percent during that same period. There is a clear correlation between the growth of minority owned firms and the economic viability of the minority community.

We have come a long way, but we still have a long way to go if this country is going to keep the promise made to all its citizens of the American dream. In 2005, African Americans accounted for 12.3 percent of the population and only 4 percent of all U.S. businesses. Hispanics Americans represent 12.5 percent of the U.S. population and approximately 6 percent of all U.S. businesses. Native Americans account for approximately 1 percent of the population and .9 percent of all U.S. businesses. We can, and should do something to address what is essentially an inequality of opportunity.

I have long argued that there is a compelling interest for the Federal Government to create opportunities for business and economic development in all communities—throughout this Nation. It is appropriate for the Federal Government to lead the efforts and find innovative solutions to the racial disparities that exist in this country, whether they are in healthcare, education, or economics.

Economic disparities in this country are a very complex issue, particularly when racial demographics are involved. I am well aware that there is no one-size-fits-all solution and there is no single piece of legislation that will level the playing field. However, I strongly believe that education and entrepreneurship can help to close the gap in business ownership and the wealth gap that exists in this country. Many minorities are already turning to entrepreneurship as a means of realizing the American dream. According to U.S. Census data, Hispanics are opening businesses 3 times faster than the national average. Business development and entrepreneurship have played a significant role in the expansion of the black middle class in this country for over a century.

The Minority Entrepreneurship and Innovation Pilot Program offers a competitive grant to Historically Black Colleges and Universities, Tribal Colleges, and HispanicServing Institutions to create an entrepreneurship curriculum at these institutions and to open Small Business Development Centers on campus to serve local businesses. The colleges and universities that participate in this program will foster entrepreneurship among their students, the best and brightest of the minority community, and develop a pool of talented entrepreneurs that are essential to innovation, job creation, and closing the wealth gap. The bill would make 24 grants, for $1 million each, available to institutions that include entrepreneurship and innovation as a part of their organizational mission and open a business-counseling center for those graduates that start their own businesses as well as the surrounding community of existing business owners.

The goal of this program is to target students who have skills in highly skilled fields such as engineering, manufacturing, science and technology, and guide them towards entrepreneurship as a career option. Minority-owned businesses already participate in a wide variety of industries, but are

disproportionately represented in traditionally lowgrowth and low-opportunity service sectors. Promoting entrepreneurial education to undergraduate students at colleges and universities expands the pool of potential business owners to technology, financial services, legal services, and other non-traditional areas in which the overall development of minority firms has been slow. Growing the size and capacity of existing minority firms and promoting entrepreneurship among minority students already committed to higher education will have a direct relationship on the employment rate, income levels and wealth creation of minorities throughout the nation.

The funds are also to be used to open a Small Business Development Center (SBDC) on the campus of the institution to assist in capacity building, innovation and market niche development, and to offer traditional business counseling, similar to other SBDCs. The one-to-one counseling offered by the business specialists at these centers has proven to be the most effective model available for making entrepreneurs run more effective, more efficient, and more successful businesses. By placing the centers on campus, the institutions will be able to leverage the $1 million grant for greater returns and coordinate efforts with the school's academic departments to maximize the efficacy of the program.

While the funding in this bill is modest relative to the multi-billion dollar budgets we discuss on a daily basis, these funds can go a long way and be leveraged to create economic growth in the most needed areas of this country. With this legislation, we will help foster long-term innovation and competitiveness in the small business sector. Mr. President, this bill is a small investment in the future of this country that I am sure will do much to foster economic growth in our minority communities and beyond. I urge my colleagues to join me as cosponsors of this important piece of legislation.

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

S. 2589. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to ensure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I am pleased to rise today, on behalf of myself and Senator INHOFE, to introduce, at the request of the administration, legislation to further the development at Yucca Mountain of the national repository for nuclear spent fuel and defense nuclear waste. This bill is a good start on the road to enactment of legislation that will resolve issues critical to the construction, licensing and operation of the facility.

I hope to begin hearings on this issue in the Energy and Natural Resources Committee shortly after the conclusion of the upcoming recess. I look forward to working with the administration, Senator INHOFE, and other interested Senators to facilitate the construction and operation of the repository, a project so important to the continued development of safe, clean, and efficient nuclear power in this country.

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

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

S. 2589

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 ''Nuclear Fuel Management and Disposal Act''.

SEC. 2. DEFINITIONS.

(a) DEFINITIONS FROM NUCLEAR WASTE POLICY ACT OF 1982 .—In this Act, the terms ''Commission'', ''disposal'', ''Federal agency'', ''high-level radioactive waste'', ''repository'', ''Secretary'', ''State'', ''spent nuclear fuel'', and ''Yucca Mountain site'' have the meaning given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) OTHER DEFINITIONS.—In this Act:

(1) PROJECT.—The term ''Project'' means the Yucca Mountain Project.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the Secretary of the Air Force or the Secretary of the Interior, or both, as appropriate.

(3) WITHDRAWAL.—The term ''Withdrawal'' means the withdrawal under section 3(a)(1) of the geographic area consisting of the land described in section 3(c).

SEC. 3. LAND WITHDRAWAL AND RESERVATION.

(a) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.—Subject to valid existing rights and except as provided otherwise in this Act, the land described in subsection (c) is withdrawn permanently from all forms of entry, appropriation, and disposal under the public land laws, including, without limitation, the mineral leasing laws, geothermal leasing laws, and mining laws.

(2) JURISDICTION.—

(A) IN GENERAL.—Except as otherwise provided in this Act, the Secretary shall have jurisdiction over the Withdrawal.

(B) TRANSFER.—There is transferred to the Secretary the land covered by the Withdrawal that is under the jurisdiction of the Secretary concerned on the date of enactment of this Act.

(3) RESERVATION.—The land covered by the Withdrawal is reserved for use by the Secretary for the development, preconstruction testing and performance confirmation, licensing, construction, management and operation, monitoring, closure, post-closure, and other activities associated with the disposal of high-level radioactive waste and spent nuclear fuel under the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(b) REVOCATION AND MODIFICATION OF PUBLIC LAND ORDERS AND RIGHTS-OF-WAY.—

(1) PUBLIC LAND ORDER REVOCATION.—Public Land Order 6802 of September 25, 1990, as extended by Public Land Order 7534, and any conditions or memoranda of understanding accompanying those land orders, are revoked.

(2) RIGHT OF WAY RESERVATIONS.—Project right-of-way reservations N–48602 and N–47748 of January 5, 2001, are revoked.

(c) LAND DESCRIPTION.—

(1) BOUNDARIES.—The land and interests in land covered by the Withdrawal and reserved by this Act comprise the approximately 147,000 acres of land in Nye County, Nevada, as generally depicted on the Yucca Mountain Project Map, YMP–03–024.2, entitled ''Proposed Land Withdrawal'' and dated July 21, 2005.

(2) LEGAL DESCRIPTION AND MAP.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(A) publish in the Federal Register a notice containing a legal description of the land covered by the Withdrawal; and

(B) file copies of the maps described in paragraph (1) and the legal description of the land covered by the Withdrawal with Congress, the Governor of the State of Nevada, and the Archivist of the United States.

(3) TECHNICAL CORRECTIONS.—The maps and legal description referred to in this subsection have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the maps and legal description.

(d) RELATIONSHIP TO OTHER RESERVATIONS.—

(1) IN GENERAL.—Subtitle A of title XXX of the Military Lands Withdrawal Act of 1999 (Public Law 106–65; 113 Stat. 885) and Public Land Order 2568 do not apply to the land covered by the Withdrawal and reserved by subsection (a).

(2) OTHER WITHDRAWN LAND.—This Act does not apply to any other land withdrawn for use by the Department of Defense under subtitle A of title XXX of the Military Lands Withdrawal Act of 1999.

(e) MANAGEMENT RESPONSIBILITIES.—

(1) GENERAL AUTHORITY.—The Secretary, in consultation with the Secretary concerned, as applicable, shall manage the land covered by the Withdrawal in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law.

(2) MANAGEMENT PLAN.—

(A) DEVELOPMENT.—Not later than 3 years after the date of enactment of this Act, the Secretary, after consultation with the Secretary concerned, shall develop and submit to Congress and the State of Nevada a management plan for the use of the land covered by the Withdrawal.

(B) PRIORITY OF YUCCA MOUNTAIN PROJECT–RELATED ISSUES.—Subject to subparagraphs (C), (D), and (E), any use of the land covered by the Withdrawal for activities not associated with the Project is subject to such conditions and restrictions as the Secretary considers to be necessary or desirable to permit the conduct of Project-related activities.

(C) DEPARTMENT OF THE AIR FORCE USES.—The management plan may provide for the continued use by the Department of the Air Force of the portion of the land covered by the Withdrawal within the Nellis Air Force Base Test and Training Range under terms and conditions on which the Secretary and the Secretary of the Air Force agree with respect to Air Force activities.

(D) NEVADA TEST SITE USES.—The Secretary may—

(i) permit the National Nuclear Security Administration to continue to use the portion of the land covered by the Withdrawal on the Nevada Test Site; and

(ii) impose any conditions on that use that the Secretary considers to be necessary to minimize any effect on Project or Administration activities.

(E) OTHER NON–YUCCA MOUNTAIN PROJECT USES.—

(i) IN GENERAL.—The management plan shall provide for the maintenance of wildlife habitat and the permitting by the Secretary

of non-Project-related uses that the Secretary considers to be appropriate, including domestic livestock grazing and hunting and trapping in accordance with clauses (ii) and (iii).

(ii) GRAZING.—Subject to regulations, policies, and practices that the Secretary, after consultation with the Secretary of the Interior, determines to be necessary or appropriate, the Secretary may permit grazing on land covered by the Withdrawal to continue on areas on which grazing was established before the date of enactment of this Act, in accordance with applicable grazing laws and policies, including—

(I) the Act of June 28, 1934 (commonly known as the ''Taylor Grazing Act'') (43 U.S.C. 315 et seq.);

(II) title IV of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1751 et seq.); and

(III) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(iii) HUNTING AND TRAPPING.—The Secretary may permit hunting and trapping on land covered by the Withdrawal on areas in which hunting and trapping were permitted on the day before the date of enactment of this Act, except that the Secretary, after consultation with the Secretary of the Interior and the State of Nevada, may designate zones in which, and establish periods during which, no hunting or trapping is permitted for reasons of public safety, national security, administration, or public use and enjoyment.

(F) MINING.—

(i) IN GENERAL.—Except as provided in subparagraph (B), surface or subsurface mining or oil or gas production, including slant drilling from outside the boundaries of the land covered by the Withdrawal, is not permitted at any time on or under the land covered by the Withdrawal.

(ii) VALIDITY OF CLAIMS.—The Secretary of the Interior shall evaluate and adjudicate the validity of all mining claims on the portion of land covered by the Withdrawal that, on the date of enactment of this Act, was under the control of the Bureau of Land Management.

(iii) COMPENSATION.—The Secretary shall provide just compensation for the acquisition of any valid property right.

(iv) CIND-R-LITE MINE.—

(I) IN GENERAL.—Patented Mining Claim No. 27–83–0002, covering the Cind-R-Lite mine, shall not be affected by establishment of the Withdrawal, unless the Secretary, after consultation with the Secretary of the Interior, determines that the acquisition of the mine is required in furtherance of the reserved use of the land covered by the Withdrawal described in subsection (a)(3).

(II) COMPENSATION.—If the Secretary determines that the acquisition of the mine described in subclause (I) is required, the Secretary shall provide just compensation for acquisition of the mine.

(G) LIMITED PUBLIC ACCESS.—The management plan may provide for limited public access to and use of the portion of the land covered by the Withdrawal that is under the jurisdiction of the Bureau of Land Management on the date of enactment of this Act, including for—

(i) continuation of the Nye County Early Warning Drilling Program;

(ii) utility corridors; and

(iii) such other uses as the Secretary, after consultation with the Secretary of the Interior, considers to be consistent with the purposes of the Withdrawal.

(H) CLOSURE.—If the Secretary, after consultation with the Secretary concerned, determines that the health or safety of the public or the common defense or security requires the closure of a road, trail, or other portion of land covered by the Withdrawal, or the airspace above land covered by the Withdrawal, the Secretary—

(i) may close the portion of land or the airspace; and

(ii) shall provide public notice of the closure.

(3) IMPLEMENTATION.—The Secretary and the Secretary concerned shall implement the management plan developed under paragraph (2) in accordance with terms and conditions on which the Secretary and the Secretary concerned jointly agree.

(f) IMMUNITY.—The United States (including each department and agency of the Federal Government) shall be held harmless, and shall not be liable, for damages to a person or property suffered in the course of any mining, mineral leasing, or geothermal leasing activity conducted on the land covered by the Withdrawal.

(g) LAND ACQUISITION.—

(1) IN GENERAL.—The Secretary may acquire land, and interests in land within the land, covered by the Withdrawal.

(2) METHOD OF ACQUISITION.—Land and interests in land described in paragraph (1) may be acquired by donation, purchase, lease, exchange, easement, right-of-way, or other appropriate methods using donated or appropriated funds.

(3) EXCHANGE OF LAND.—The Secretary of the Interior shall conduct any exchange of land covered by the Withdrawal for Federal land not covered by the Withdrawal.

SEC. 4. APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.

(a) APPLICATION.—Section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amended—

(1) by striking ''If the President'' and inserting the following:

''(1) IN GENERAL.—If the President''; and

(2) by adding at the end the following

''(2) REQUIRED INFORMATION.—An application for construction authorization shall not be required to contain information any surface facility other than surface facilities necessary for initial operation of the repository.''.

(b) APPLICATION PROCEDURES AND INFRASTRUCTURE ACTIVITIES.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended—

(1) in the first sentence, by striking ''The Commission shall consider'' and inserting the following:

''(1) IN GENERAL.—The Commission shall consider'';

(2) by striking the last 2 sentences; and

(3) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

''(2) AMENDMENTS TO APPLICATION FOR CONSTRUCTION AUTHORIZATION.—

''(A) IN GENERAL.—If the Commission approves an application for construction authorization and the Secretary submits an application to amend the authorization to obtain permission to receive and possess spent nuclear fuel and high-level radioactive waste, or to undertake any other action concerning the repository, the Commission shall consider the application using expedited, informal procedures, including discovery procedures that minimize the burden on the parties to produce documents that the Commission does not need to render a decision on an action under this section.

''(B) FINAL DECISION.—The Commission shall issue a final decision on whether to grant permission to receive and possess spent nuclear fuel and high-level radioactive waste, or on any other application, by the date that is 1 year after the date of submission of the application, except that the Commission may extend that deadline by not more than 180 days if, not less than 30 days before the deadline, the Commission complies with the reporting requirements under subsection (e)(2).

''(3) INFRASTRUCTURE ACTIVITIES.—

''(A) IN GENERAL.—At any time before or after the Commission issues a final decision on an application from the Secretary for construction authorization under this subsection, the Secretary may undertake infrastructure activities that the Secretary determines to be necessary or appropriate to support construction or operation of a repository at the Yucca Mountain site or transportation to the Yucca Mountain site of spent nuclear fuel and high level radioactive waste, including infrastructure activities such as—

''(i) safety upgrades;

''(ii) site preparation;

''(iii) the construction of a rail line to connect the Yucca Mountain site with the national rail network, including any facilities to facilitate rail operations; and

''(iv) construction, upgrade, acquisition, or operation of electrical grids or facilities, other utilities, communication facilities, access roads, rail lines, and non-nuclear support facilities.

''(B) COMPLIANCE.—

''(i) IN GENERAL.—The Secretary shall comply with all applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to an infrastructure activity undertaken under this paragraph.

''(ii) EIS.—If the Secretary determines that an environmental impact statement or similar analysis under the National Environmental Policy Act of 1969 is required in connection with an infrastructure activity undertaken under this paragraph, the Secretary shall not be required to consider the need for the action, alternative actions, or a no-action alternative.

''(iii) OTHER AGENCIES.—

''(I) IN GENERAL.—To the extent that a Federal agency is required to consider the potential environmental impact of an infrastructure activity undertaken under this paragraph, the Federal agency shall adopt, to the maximum extent practicable, an environmental impact statement or similar analysis prepared under this paragraph without further action.

''(II) EFFECT OF ADOPTION OF STATEMENT.—Adoption of an environmental impact statement or similar analysis described in subclause (I) shall be considered to satisfy the responsibilities of the adopting agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and no further action for the activity covered by the statement or analysis shall be required by the agency.

''(C) DENIALS OF AUTHORIZATION.—The Commission may not deny construction authorization, permission to receive and possess spent nuclear fuel or high-level radioactive waste, or any other action concerning the repository on the ground that the Secretary undertook an infrastructure activity under this paragraph.''.

(c) CONNECTED ACTIONS.—Section 114(f)(6) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)(6)) is amended—

(1) by striking ''or''; and

(2) by inserting before the period at the end the following: '', or an action connected or otherwise relating to the repository, to the extent the action is undertaken outside the geologic repository operations area and does not require a license from the Commission''.

(d) EXPEDITED AUTHORIZATIONS.—Section 120 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10140) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by inserting '', or the conduct of an infrastructure activity,'' after ''repository'';

(B) by inserting '', State, local, or tribal'' after ''Federal'' each place it appears; and

(C) in the second sentence, by striking ''repositories'' and inserting ''a repository or infrastructure activity'';

(2) in subsection (b), by striking '', and may include terms and conditions permitted by law''; and

(3) by adding at the end the following:

''(c) FAILURE TO GRANT AUTHORIZATION.—An agency or officer that fails to grant authorization by the date that is 1 year after the date of receipt of an application or request from the Secretary subject to subsection (a) shall submit to Congress a written report that explains the reason for not meeting that deadline or rejecting the application or request.

''(d) TREATMENT OF ACTIONS.—For the purpose of applying any Federal, State, local, or tribal law or requirement, the taking of an action relating to a repository or an infrastructure activity shall be considered to be—

''(1) beneficial, and not detrimental, to the public interest and interstate commerce; and

''(2) consistent with the public convenience and necessity.''.

SEC. 5. NUCLEAR WASTE FUND.

(a) CREDITING FEES.—Beginning on October 1, 2007, and continuing through the end of the fiscal year during which construction is completed for the Nevada rail line and surface facilities for the fully operational repository described in the license application, fees collected by the Secretary and deposited in the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) shall be credited to the Nuclear Waste Fund as discretionary offsetting collections each year in amounts not to exceed the amounts appropriated from the Nuclear Waste Fund for that year.

(b) FUND USES.—Section 302(d)(4) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)(4)) is amended by inserting after ''with'' the following: ''infrastructure activities that the Secretary determines to be necessary or appropriate to support construction or operation of a repository at the Yucca Mountain site or transportation to the Yucca Mountain site of spent nuclear fuel and high-level radioactive waste, and''.

SEC. 6. REGULATORY REQUIREMENTS.

(a) MATERIAL REQUIREMENTS.—Notwithstanding any other provision of law, no Federal, State, interstate, or local requirement, either substantive or procedural, that is referred to in section 6001(a) of the Solid Waste Disposal Act (42 U.S.C. 6961(a)), applies to—

(1) any material owned by the Secretary, if the material is transported or stored in a package, cask, or other container that the Commission has certified for transportation or storage of that type of material; or

(2) any material located at the Yucca Mountain site for disposal, if the management and disposal of the material is subject to a license issued by the Commission.

(b) PERMITS.—

(1) IN GENERAL.—The Environmental Protection Agency shall be the permitting agency for purposes of issuing, administering, or enforcing any new or existing air quality permit or requirement applicable to a Federal facility or activity relating to the Withdrawal that is subject to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

(2) STATE AND LOCAL ACTIVITY.—A State or unit of local government shall not issue, administer, or enforce a new or existing air quality permit or requirement affecting a Federal facility or activity that is—

(A) located on the land covered by the Withdrawal; and

(B) subject to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.).

SEC. 7. TRANSPORTATION.

The Nuclear Waste Policy Act of 1982 is amended by inserting after section 180 (42 U.S.C. 10175) the following:

''SEC. 181. TRANSPORTATION.

''(a) IN GENERAL.—The Secretary may determine the extent to which any transportation required to carry out the duties of the Secretary under this Act that is regulated under the Hazardous Materials Transportation Authorization Act of 1994 (title I of Public Law 103–311; 108 Stat. 1673) and amendments made by that Act shall instead be regulated exclusively under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

''(b) DETERMINATION OF PREEMPTION.—On request by the Secretary, the Secretary of Transportation may determine, pursuant to section 5125 of title 49, United States Code, that any requirement of a State, political subdivision of a State, or Indian tribe regarding transportation carried out by or on behalf of the Secretary in carrying out this Act is preempted, regardless of whether the transportation otherwise is or would be subject to regulation under the Hazardous Materials Transportation Authorization Act of 1994 (title I of Public Law 103–311; 108 Stat. 1673).''.

SEC. 8. CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS.

Section 124 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10144) is amended—

(1) by striking the section heading and all that follows through ''The Secretary'' and inserting the following:

''SEC. 124. CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS.

''(a) WATER RIGHTS ACQUISITION EFFECT.—The Secretary''; and

(2) by adding at the end the following:

''(b) BENEFICIAL USE OF WATER.—

''(1) IN GENERAL.—Notwithstanding any other Federal, State, or local law, the use of water from any source in quantities sufficient to accomplish the purposes of this Act and to carry out functions of the Department under this Act shall be considered to be a use that—

''(A) is beneficial to interstate commerce; and

''(B) does not threaten to prove detrimental to the public interest.

''(2) CONFLICTING STATE LAWS.—A State shall not enact or apply a law that discriminates against a use described in paragraph (1).

''(3) ACQUISITION OF WATER RIGHTS.—The Secretary, through purchase or other means, may obtain water rights necessary to carry out functions of the Department under this Act.''.

SEC. 9. CONFIDENCE IN AVAILABILITY OF WASTE DISPOSAL.

Notwithstanding any other provision of law, in deciding whether to permit the construction or operation of a nuclear reactor or any related facilities, the Commission shall deem, without further consideration, that sufficient capacity will be available in a timely manner to dispose of the spent nuclear fuel and high-level radioactive waste resulting from the operation of the reactor and related facilities.

By Mr. COBURN (for himself, Mr. OBAMA, Mr. CARPER, and Mr. MCCAIN):

S. 2590. A bill to require full disclosure of all entities and organizations receiving Federal funds; to the Committee on Homeland Security and Governmental Affairs.

Mr. COBURN. Mr. President, today, along with Senators BARACK OBAMA, THOMAS CARPER, and JOHN MCCAIN, I introduced legislation to create an online public database that itemizes Federal funding.

The bill ensures that the taxpayers will now know how their money is being spent. Every citizen in this country, after all, should have the right to know what organizations and activities are being funded with their hard-earned tax dollars.

The Federal Government awards roughly $300 billion in grants annually to 30,000 different organizations across the United States, according to the General Services Administration.

This bill would require the Office of Management and Budget, OMB, to establish and maintain a single public Web site that lists all entities receiving Federal funds, including the name of each entity, the amount of Federal funds the entity has received annually by program, and the location of the entity. All Federal assistance must be posted within 30 days of such funding being awarded to an organization.

This would be an important tool to make Federal funding more accountable and transparent. It would also help to reduce fraud, abuse, and misallocation of Federal funds by requiring greater accounting of Federal expenditures. According to OMB, Federal agencies reported $37.3 billion in improper payments for fiscal year 2005 alone. Better tracking of Federal funds would ensure that agencies and taxpayers know where resources are being spent and likely reduce the number of improper payments by Federal agencies.

Over the past year, the Senate Federal Financial Management Subcommittee, which I chair along with ranking member CARPER, has uncovered tens of billions of dollars in fraud, abuse and wasteful spending, ranging from expensive leasing schemes to corporate welfare to bloated bureaucracy. This database would ensure that such spending is better tracked and the public can hold policymakers and Government agencies accountable for questionable spending decisions.

The Web site required by this bill would not be difficult to develop. In fact, one such site already exists for some Federal funds provided by agencies within the Department of Health and Human Services, HHS. The CRISP, Computer Retrieval of Information on Scientific Projects, is a searchable database of federally funded biomedical research projects conducted at universities, hospitals, and other research institutions. The database, maintained by the Office of Extramural Research at the National Institutes of Health, includes projects funded by the National Institutes of Health, Substance Abuse and Mental Health Services, Health Resources and Services Administration, Food and Drug Administration, Centers for Disease Control and Prevention, CDC, Agency for Health Care Research and Quality, and Office of Assistant Secretary of Health. The CRISP database contains current and

historical awards dating from 1972 to the present.

This type of information should be available for all Federal contracts, grants, loans, and assistance provided by all Federal agencies and departments.

It often takes agencies months to verify or to determine an organization's funding when requested by Congress. There are numerous examples of Federal agencies or entities receiving Federal funds actually trying to camouflage how Federal dollars are being spent or distributing public funds in violation of Federal laws.

In October 2005, the House Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy and Human Resources questioned the U.S. Agency for International Development, USAID, assistant administrator to determine if the agency was funding a proprostitution nongovernmental organization called Sampada Grameen Mahila Sanstha, SANGRAM, in apparent violation of Public Law 108–25. This law prohibits funds from being used ''to promote or advocate the legalization or practice of prostitution or sex trafficking,'' and organizations seeking Federal funding for HIV/AIDS work must have a policy ''explicitly opposing prostitution and sex trafficking.''

According to an unclassified State Department memorandum, Restore International, an antitrafficking organization working in India, was ''confronted by a USAID-funded NGO, SANGRAM while the former attempted to rescue and provide long-term care for child victims of sex trafficking. The confrontation led to the release of 17 minor girls—victims of trafficking—into the hands of traffickers and trafficking accomplices.'' According to this memorandum, SANGRAM ''allowed a brothel keeper into a shelter to pressure the girls not to cooperate with counselors. The girls are now back in the brothels, being subjected to rape for profit.''

On November 16, 2005, a USAID briefer asserted to subcommittee staff that USAID had ''nothing to do with'' the grant to the proprostitution SANGRAM and that the subcommittee's inquiries were ''destructive.'' Nonetheless, congressional investigators continued to pursue this matter and eventually proved that USAID money financed the proprostitution SANGRAM through a second organization named Avert, which was established with the assistance of four USAID employees as a passthrough entity. USAID has held the ex-officio vice chairmanship of Avert since inception. According to documents obtained by the subcommittee, the USAID board member of Avert voted twice to award funding to SANGRAM—July 27, 2002 and again on December 3, 2004—the last time being some 18 months after the provisions of Public Law 108–25 prohibited taxpayer funding of proprostitution groups like SANGRAM.

Last August, HHS sponsored a conference in Utah entitled the ''First National Conference on Methamphetamine, HIV and Hepatitis'' that promoted illegal drug abuse and dangerous sexual behavior. Conference sessions included: ''We Don't Need a 'War' on Methamphetamine''; ''You Don't Have to Be Clean & Sober. Or Even Want to Be!''; ''Tweaking Tips for Party Boys''; ''Barebacking: A Harm Reduction Approach''; and ''Without condoms: Harm Reduction, Unprotected Sex, Gay Men and Barebacking.'' ''Tweaking'' is a street term for the most dangerous stage of meth abuse. A ''tweaker'' is a term for a meth addict who probably has not slept in days, or weeks, and is irritable and paranoid. Likewise, ''party boy'' is slang for an individual who abuses drugs, or ''parties.'' ''Barebacking'' is a slang term for sexual intercourse without the use of a condom.

While HHS initially denied sponsoring the conference, it was later learned that thousands of dollars of a CDC grant were used to, in fact, sponsor this conference and CDC sent six employees to participate. In a letter dated October 28, 2005, CDC Director Dr. Julie Gerberding admitted that ''Although CDC was not listed as a sponsor, a portion of CDC's cooperative agreement with Utah, $13,500, was used to support the conference. While Utah informed a CDC project officer that Utah and the Harm Reduction Coalition were sponsoring the conference and shared a draft agenda with the project officer, Utah did not inform the project officer about the particular source of the funding for the conference.''

Previously, the CDC was questioned about its financial support for a number of dubious HIV prevention workshops, including ''flirting classes'' and ''Booty Call,'' orchestrated by the Stop AIDS Foundation of San Francisco. While CDC repeatedly denied to both Congress and the public that taxpayer funds were used to finance these programs, a Stop AIDS Project official eventually admitted in August 2001 to using Federal funds for the programs. An HHS Office of Inspector General, OIG, investigation also concluded in November 2001 that Federal funds were used to finance the programs and that the programs themselves contained content that may violate Federal laws and Federal guidelines were not followed. The OIG found that the activity under review ''did not fully comply with the cooperative agreement and other CDC guidance,'' that the CDC requirement for review of materials by a local review panel was not followed, and characterized some of the project activities as ''inappropriate.'' Finally, the OIG concluded that ''CDC funding was used to support all [Stop AIDS] Project activities.'' The Stop AIDS Project received approximately $700,000 a year from the CDC but no longer receives Federal funding.

These are just a few recent examples from only a couple agencies uncovered due to aggressive congressional oversight. While the public, whose taxes finance these groups and programs, watchdog organizations, and the media can file Freedom of Information Act, FOIA, requests for this same information, such requests can take months to receive answers and often go completely ignored.

If enacted, this legislation will finally ensure true accountability and transparency in how the Government spends our money, which will hopefully lead to more fiscal responsibility by the Federal Government.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. DURBIN, Mr. CHAFEE, and Mrs. CLINTON):

S. 2592. A bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, our Nation faces a public health crisis of the first order. Poor diet and physical inactivity are contributing to growing rates of chronic disease in the U.S. These problems do not just affect adults, but increasingly affect the health of our children as well. Research suggests that one-third of American children born today will develop type II diabetes at some point. For some minority children, the numbers are even more shocking, as high as 50 percent. At the same time, rates of overweight among children are skyrocketing: tripling among children ages 6–11, and doubling among children ages 2 to 5 and ages 12–19 over the past three decades. Indeed, just this week the Journal of the American Medical Association released a new study that found that, in just the past 5 years, rates of childhood overweight and obesity rose very significantly.

There are many reasons for this public health crisis, and accordingly, addressing the crisis will require multiple solutions as well. One place where we can start is with our schools, which have been inundated with foods and drinks having little or no positive nutritional value. A recent study from the Government Accountability office found that 99 percent of high schools, 97 percent of middle schools, and 83 percent of elementary schools sell foods from vending machines, school stores, or a-la-carte lines in the cafeteria. And it is not fresh fruits and vegetables and other healthy foods that are being sold. No, the vast majority of the foods being sold in our schools outside of Federal meal programs are foods that contribute nothing to the health and development of our children and are actually detrimental to them.

Not only does the over consumption of these foods take a toll on the health

of our children, but they also have a negative impact of the investment of taxpayer dollars in the health of our kids. Every year the Federal Government spends nearly $10 billion to reimburse schools for the provision of meals through the National School Lunch Program and School Breakfast Program. In order to receive reimbursement, these meals must meet nutrition standards based upon the Dietary Guidelines for All Americans, the official dietary advice of the U.S. government. However, sales of food elsewhere in our schools do not fall under these guidelines. Therefore, as children consume more and more of the foods typically sold through school vending machines and snack bars, it undermines the nearly $10 billion in Federal reimbursements that we spend on nutritionally balanced school meals.

Finally, the heavy selling of candy, soft drinks and other junk food in our schools undermines the guidance, and even the instruction and authority of parents who want to help their children consume sound and balanced diets. The American public agrees. A Robert Wood Johnson Foundation poll from several years ago found that 90 percent of parents would like to see schools remove the typical junk food from vending machines and replace it with healthier alternatives. My bill seeks to restore the role and authority of parents by ensuring that schools provide the healthy, balanced nutrition that contributes to health and development.

What really hurts children and undermines parents is the junk food free-for-all that currently exists in so many of our schools. How does it help kids if the school sells them a 20-ounce soda and a candy bar for lunch when their parents have sent them to school with the expectation that they will have balanced meals from the school lunch program?

Today, for the first time ever, bipartisan legislation is being introduced in both Chambers of Congress to address this problem—and to do what is right for the health of our kids. This bill is supported by key health and education groups, and I would like to thank the National PTA, the American Medical Association, the Center for Science in the Public Interest, the American Heart Association, the American Dietetic Association, the American Diabetes Association, and others for their strong support.

The Child Nutrition Promotion and School Lunch Protection Act of 2006 does two very simple but important things:

First, it requires the Secretary of Agriculture to initiate a rulemaking process to update nutritional standards for foods sold in schools. Currently, USDA relies upon a very narrow nutritional standard that is nearly 30 years old. Since that definition was formulated, children's diets and dietary risk have changed dramatically. In that time, we have also learned a great deal about the relationship between poor diet and chronic disease. It is time for public policy to catch up with the science.

Second, the bill requires the Secretary of Agriculture to apply the updated definition everywhere on school grounds and throughout the school day. Currently, the Secretary can only issue rules limiting a very narrow class of foods, and then only stop their sales in the actual school cafeteria during the meal period. As a result, a child only needs to walk into the hall outside the cafeteria to buy a ''lunch'' consisting of soda, a bag of chips and a candy bar. This is a loophole that is big enough to drive a soft drink delivery truck through—literally. It is time to close it.

The bill is supported in the Senate by a bipartisan group of Senators. Joining me in introducing the bill are Senator SPECTER of Pennsylvania, Senator BINGAMAN of New Mexico, Senator MURKOWSKI of Alaska, Senator DURBIN of Illinois, and Senator CHAFEE of Rhode Island. The diverse group of supporters of this bill cuts all lines and shows that when the health of our children is at stake, we can put aside our differences in the interest of our children.

This bill, by itself, will not solve the problem of poor diet and rising rates of chronic disease among our children and adults. But it is a start. Scientists predict that—because of obesity and preventable chronic diseases—the current generation of children could very well be the first in American history to live shorter lives than their parents. If this isn't a wakeup call, I don't know what is.

Our children are at risk. The time to act is now. And that's why I am pleased to introduce the Child Nutrition Promotion and School Lunch Protection Act of 2006.

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

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

S. 2592

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 ''Child Nutrition Promotion and School Lunch Protection Act of 2006''.

SEC. 2. FINDINGS.

Congress finds that—

(1) for a school food service program to receive Federal reimbursements under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), school meals served by that program must meet science-based nutritional standards established by Congress and the Secretary of Agriculture;

(2) foods sold individually outside the school meal programs (including foods sold in vending machines, a la carte or snack lines, school stores, and snack bars) are not required to meet comparable nutritional standards;

(3) in order to promote child nutrition and health, Congress—

(A) has authorized the Secretary to establish nutritional standards in the school lunchroom during meal time; and

(B) since 1979, has prohibited the sale of food of minimal nutritional value, as defined by the Secretary, in areas where school meals are sold or eaten;

(4) Federally-reimbursed school meals and child nutrition and health are undermined by the uneven authority of the Secretary to set nutritional standards throughout the school campus and over the course of the school day;

(5) since 1979, when the Secretary defined the term ''food of minimal nutritional value'' and promulgated regulations for the sale of those foods during meal times, nutrition science has evolved and expanded;

(6) the current definition of ''food of minimal nutritional value'' is inconsistent with current knowledge about nutrition and health;

(7) because some children purchase foods other than balanced meals provided through the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the efforts of parents to ensure that their children consume healthful diets are undermined;

(8) experts in nutrition science have found that—

(A) since 1980, rates of obesity have doubled in children and tripled in adolescents;

(B) only 2 percent of children eat a healthy diet that is consistent with Federal nutrition recommendations;

(C) 3 out of 4 high school students do not eat the minimum recommended number of servings of fruits and vegetables each day; and

(D) type 2 diabetes, which is primarily due to poor diet and physical inactivity, is rising rapidly in children;

(9) in 1996, children aged 2 to 18 years consumed an average of 118 more calories per day than similar children did in 1978, which is the equivalent of 12 pounds of weight gain annually, if not compensated for through increased physical activity; and

(10) according to the Surgeon General, the direct and indirect costs of obesity in the United States are $117,000,000,000 per year.

SEC. 3. FOOD OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by striking the section heading and all that follows through ''(a) The Secretary'' and inserting the following:

''SEC. 10. REGULATIONS.

''(a) IN GENERAL.—The Secretary''; and

(2) by striking subsections (b) and (c) and inserting the following:

''(b) FOOD OF MINIMAL NUTRITIONAL VALUE.—

''(1) PROPOSED REGULATIONS.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate proposed regulations to revise the definition of 'food of minimal nutritional value' that is used to carry out this Act and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(B) APPLICATION.—The revised definition of 'food of minimal nutritional value' shall apply to all foods sold—

''(i) outside the school meal programs;

''(ii) on the school campus; and

''(iii) at any time during the school day.

''(C) REQUIREMENTS.—In revising the definition, the Secretary shall consider—

''(i) both the positive and negative contributions of nutrients, ingredients, and

foods (including calories, portion size, saturated fat, trans fat, sodium, and added sugars) to the diets of children;

''(ii) evidence concerning the relationship between consumption of certain nutrients, ingredients, and foods to both preventing and promoting the development of overweight, obesity, and other chronic illnesses;

''(iii) recommendations made by authoritative scientific organizations concerning appropriate nutritional standards for foods sold outside of the reimbursable meal programs in schools; and

''(iv) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school.

''(2) IMPLEMENTATION.—

''(A) EFFECTIVE DATE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the proposed regulations shall take effect at the beginning of the school year following the date on which the regulations are finalized.

''(ii) EXCEPTION.—If the regulations are finalized on a date that is not more than 60 days before the beginning of the school year, the proposed regulations shall take effect at the beginning of the following school year.

''(B) FAILURE TO PROMULGATE.—If, on the date that is 1 year after the date of enactment of this paragraph, the Secretary has not promulgated final regulations, the proposed regulations shall be considered to be final regulations.''.

By Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. MIKULSKI, Mr. LAUTENBERG, Ms. STABENOW, and Ms. CANTWELL):

S. 2593. A bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes; to the Committee on the Judiciary.

Mrs. BOXER. Mr. President, today I am introducing the Freedom of Choice Act. When the Supreme Court issued its landmark Roe v. Wade decision in 1973, it made clear that our Constitutional right to privacy grants women the freedom to choose whether to begin, prevent, or continue a pregnancy.

The purpose of this bill is very simple: It ensures that the guarantees of Roe v. Wade will be there for every generation of women.

We know what Roe has meant for women these past 33 years. It has allowed them to make their most personal and difficult reproductive decisions in consultation with loved ones and health care providers. It has given them the dignity to plan their own families and the ability to participate fully in the economic and social life of our country. And, most important, it has preserved health and saved lives.

Many of us are old enough to remember what it was like in the days before Roe. More than a million women a year were forced to seek illegal abortions, pushed into the back alleys where they risked infection, hemorrhage, disfiguration, and death. Some estimate that thousands of women died every year because of illegal abortions before Roe.

When the Senate debated the Supreme Court nomination of Judge Alito, women wrote to me with their own heart-breaking stories. For one woman, the year was 1956. She was only four when her mother died of an illegal abortion performed with a coat hanger. Too scared to ask for help, her mother bled to death at work.

Another woman wrote to me about how hard her mother and father struggled during the depression, how they worked day and night to make ends meet and support their two children. When her mother found out she was pregnant again, she had health problems, and she knew she couldn't take care of another child. She made the very difficult decision to get an illegal abortion. The procedure left her bleeding for weeks, and she almost died.

Mr. President, the American people do not want us to go back to those dark days. In a recent CNN poll, 66 percent said they do not want Roe overturned. Yet there is a dangerous movement afoot to overrule Roe and, in the meantime, to severely undermine its promises.

Make no mistake: The threat to Roe is real and immediate. President Bush has already put two anti-choice justices on the Supreme Court, where reproductive freedom now hangs by a thread. More than 450 anti-choice measures have been enacted by the states since 1995.

Recently, South Dakota enacted a ban on abortion in nearly all circumstances, even when a woman's health is at stake, even when she is the victim of rape and incest. And South Dakota is not alone. Several other states are considering similar bans.

The extremists behind these abortion bans make no secret about their goal. They want to use these laws to overturn Roe, and they think that the changes on the Supreme Court give them a chance to do just that.

We must act now. That is why I am introducing legislation today to protect the reproductive freedom of women across America.

The Freedom of Choice Act writes Roe v. Wade into federal law. It says that every woman has the fundamental right to choose to bear a child; to terminate a pregnancy before fetal viability; or, if necessary to protect the health or life of the mother, after viability. It says that we will not turn back the clock on the health and rights of women. And it says that we will take steps—as a Congress and as a country—to safeguard the dignity, privacy, and health of women now and for generations to come.

I thank the cosponsors of this legislation, and I ask all my colleagues who support Roe v. Wade to join us in making sure that it is the law of the land, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2593

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 ''Freedom of Choice Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States was founded on core principles, such as liberty, personal privacy, and equality, which ensure that individuals are free to make their most intimate decisions without governmental interference and discrimination.

(2) One of the most private and difficult decisions an individual makes is whether to begin, prevent, continue, or terminate a pregnancy. Those reproductive health decisions are best made by women, in consultation with their loved ones and health care providers.

(3) In 1965, in Griswold v. Connecticut (381 U.S. 479), and in 1973, in Roe v. Wade (410 U.S. 113) and Doe v. Bolton (410 U.S. 179), the Supreme Court recognized that the right to privacy protected by the Constitution encompasses the right of every woman to weigh the personal, moral, and religious considerations involved in deciding whether to begin, prevent, continue, or terminate a pregnancy.

(4) The Roe v. Wade decision carefully balances the rights of women to make important reproductive decisions with the State's interest in potential life. Under Roe v. Wade and Doe v. Bolton, the right to privacy protects a woman's decision to choose to terminate her pregnancy prior to fetal viability, with the State permitted to ban abortion after fetal viability except when necessary to protect a woman's life or health.

(5) These decisions have protected the health and lives of women in the United States. Prior to the *Roe v. Wade* decision in 1973, an estimated 1,200,000 women each year were forced to resort to illegal abortions, despite the risk of unsanitary conditions, incompetent treatment, infection, hemorrhage, disfiguration, and death. Before Roe, it is estimated that thousands of women died annually in the United States as a result of illegal abortions.

(6) In countries in which abortion remains illegal, the risk of maternal mortality is high. According to the World Health Organization, of the approximately 600,000 pregnancy-related deaths occurring annually around the world, 80,000 are associated with unsafe abortions.

(7) The Roe v. Wade decision also expanded the opportunities for women to participate equally in society. In 1992, in Planned Parenthood v. Casey (505 U.S. 833), the Supreme Court observed that, ''[t]he ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.''.

(8) Even though the *Roe v. Wade* decision has stood for more than 30 years, there are increasing threats to reproductive health and freedom emerging from all branches and levels of government. In 2006, South Dakota became the first State in more than 15 years to enact a ban on abortion in nearly all circumstances. Supporters of this ban have admitted it is an attempt to directly challenge Roe in the courts. Other States are considering similar bans.

(9) Legal and practical barriers to the full range of reproductive services endanger women's health and lives. Incremental restrictions on the right to choose imposed by Congress and State legislatures have made access to abortion care extremely difficult, if not impossible, for many women across the

country. Currently, 87 percent of the counties in the United States have no abortion provider.

(10) While abortion should remain safe and legal, women should also have more meaningful access to family planning services that prevent unintended pregnancies, thereby reducing the need for abortion.

(11) To guarantee the protections of Roe v. Wade, Federal legislation is necessary.

(12) Although Congress may not create constitutional rights without amending the Constitution, Congress may, where authorized by its enumerated powers and not prohibited by the Constitution, enact legislation to create and secure statutory rights in areas of legitimate national concern.

(13) Congress has the affirmative power under section 8 of article I of the Constitution and section 5 of the 14th amendment to the Constitution to enact legislation to facilitate interstate commerce and to prevent State interference with interstate commerce, liberty, or equal protection of the laws.

(14) Federal protection of a woman's right to choose to prevent or terminate a pregnancy falls within this affirmative power of Congress, in part, because—

(A) many women cross State lines to obtain abortions and many more would be forced to do so absent a constitutional right or Federal protection;

(B) reproductive health clinics are commercial actors that regularly purchase medicine, medical equipment, and other necessary supplies from out-of-State suppliers; and

(C) reproductive health clinics employ doctors, nurses, and other personnel who travel across State lines in order to provide reproductive health services to patients.

SEC. 3. DEFINITIONS.

In this Act:

(1) GOVERNMENT.—The term ''government'' includes a branch, department, agency, instrumentality, or official (or other individual acting under color of law) of the United States, a State, or a subdivision of a State.

(2) STATE.—The term ''State'' means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.

(3) VIABILITY.—The term ''viability'' means that stage of pregnancy when, in the best medical judgment of the attending physician based on the particular medical facts of the case before the physician, there is a reasonable likelihood of the sustained survival of the fetus outside of the woman.

SEC. 4. INTERFERENCE WITH REPRODUCTIVE HEALTH PROHIBITED.

(a) STATEMENT OF POLICY.—It is the policy of the United States that every woman has the fundamental right to choose to bear a child, to terminate a pregnancy prior to fetal viability, or to terminate a pregnancy after fetal viability when necessary to protect the life or health of the woman.

(b) PROHIBITION OF INTERFERENCE.—A government may not—

(1) deny or interfere with a woman's right to choose—

(A) to bear a child;

(B) to terminate a pregnancy prior to viability; or

(C) to terminate a pregnancy after viability where termination is necessary to protect the life or health of the woman; or

(2) discriminate against the exercise of the rights set forth in paragraph (1) in the regulation or provision of benefits, facilities, services, or information.

(c) CIVIL ACTION.—An individual aggrieved by a violation of this section may obtain appropriate relief (including relief against a government) in a civil action.

SEC. 5. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which the provision is held to be unconstitutional, shall not be affected thereby.

SEC. 6. RETROACTIVE EFFECT.

This Act applies to every Federal, State, and local statute, ordinance, regulation, administrative order, decision, policy, practice, or other action enacted, adopted, or implemented before, on, or after the date of enactment of this Act.

By Mr. KERRY (for himself, Mr. PRYOR, and Ms. LANDRIEU):

S. 2594. A bill to amend the Small Business Act to reauthorize the loan guarantee program under section 7(a) of that Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, every three years, our Committee reviews the majority of the Small Business Administration's (SBA) programs to see what's working, what's broken, and what can be improved. As ranking member of the Small Business and Entrepreneurship Committee currently, and a member for more than 20 years, I have worked on many reauthorizations. I can tell you that the SBA reauthorization process is a great opportunity to examine programs, to work with the small business groups and SBA's partners—those who use these programs on a day-to-day basis—and the SBA, to ensure that they serve their intended purpose and make the dream of a small business a reality to those who might not be eligible for business loans through conventional lending, don't have an MBA but need some management counseling, or need help cutting through red tape to get government contracts.

Today I am focusing on the SBA's largest small business programs. Specifically, I am introducing legislation to reauthorize the 7(a) Loan Guaranty Program for three years. This bill, the ''7(a) Loan Program Reauthorization Act of 2006,'' authorizes the SBA to back more than a combined $58 billion in 7(a) loans to small businesses, gives borrowers more options when choosing SBA financing, reduces program fees on borrowers and lenders if the government charges excess fees or has excess funding, creates an Office of Minority Small Business Development within SBA to increase the availability of capital to minorities, and creates a National Preferred Lenders program to streamline the application process for exemplary lenders to operate on a national basis and reach more borrowers.

7(a) loans are the most basic and widely used loan of the SBA business loan programs. These loans help qualified, small businesses obtain financing which is guaranteed for working capital, machinery and equipment, furniture and fixtures, land and building (including purchase, renovation and new construction), leasehold improvements, and debt refinancing, under special conditions. The loan maturity is up to 10 years for working capital and generally up to 25 years for fixed assets. A key concept of the 7(a) guaranty loan program is that the loan actually comes from a commercial lender, not the government.

This excellent private/public partnership has made this program one of the agency's most popular, with over 400,000 approved loans in the past six years. Last year alone, almost 96,000 small businesses received $15 billion in 7(a) loans, creating or retaining an estimated 460,000 jobs. To ensure that we continue to have enough authorization levels to manage the increasing demand, my bill reauthorizes the 7(a) Loan Program for three additional years at $18,500,000,000 fiscal year 07, $19,500,000,000 fiscal year 08 and $20,500,000,000 fiscal year 09. These authorization levels ensure that program levels are sufficiently high to enable the SBA to back the maximum amount of loans as possible and avoid credit rationing or shutdowns.

Providing appropriate authorization levels to adequately address the capital needs of small businesses is as important as ensuring that eligible borrowers have access to both fixed asset financing and working capital to address all of their small business needs. Currently, borrowers who need working capital under the 7(a) program and fixed asset financing through the 504 loan program are not able to utilize both SBA loan guaranty programs to their maximum amount and are therefore forced to choose between the two programs. To prevent a situation where a borrower is forced to choose between getting a much-needed facility or getting working capital, my bill specifies that the borrower can have financing under both loan programs at the maximum level, given they qualify for both programs. In previous years, both 7(a) and 504 loans were subsidized by appropriated funds to pay losses. It was therefore appropriate to restrict small businesses to choose between the two programs. However, both of these programs are now self-supporting, and it makes no sense to continue this restriction on borrowers.

One of our jobs on the Committee is to make sure that SBA-backed financing remains affordable to the small business community. As I just referenced, the 7(a) program is now self-funding. The Administration insisted on eliminating all funding for the loans, shifting the cost to borrowers and lenders, by imposing higher fees on them. The administration spins this as a ''savings'' of $100 million to taxpayers while the small business community considers this a ''tax.'' In addition to this ''tax,'' the President's budget shows that borrowers and lenders already pay too much in fees, generating more than $800 million in overpayments since 1992 because the government routinely over-estimates the amount of fees needed to cover the cost

of the program. This is part of the reason that many of us in Congress, on both sides of the aisle, opposed eliminating funding for the program. This legislation seeks to address overpayments by requiring the SBA to lower fees if borrowers and lenders pay more than is necessary to cover the program costs or if the Congress happens to appropriate money for the program and combined with fees there is excess funding to cover the cost of the program. The Senate adopted this provision, offered by me and Senator LANDRIEU last year, to the fiscal year 2006 Commerce Justice State Appropriations bill.

In this reauthorization process, as I mentioned previously, I think it is important to look at specific programs and examine whether or not they are meeting their goals and intended mission. Part of the agency's mission is to fill the financing gap left by the private sector. According to a recent study by the U.S. Chamber of Commerce and Business Loan Express, availability of capital remains a priority for all small businesses, but for Hispanics and African Americans, it is one of their top three concerns. They are still more likely to use credit cards to finance their businesses, and they fear denial from lenders. Knowing of this need, I was deeply disappointed to see that although SBA's loan programs have increased lending overall, the figures surrounding the percentage of small business loans going to African-Americans, Hispanics, Asian Americans and women have not changed much since 2001. The administration will tell you that SBA has been ''highly successful'' in making business loans to minority groups facing competitive opportunity challenges. They claim that in fiscal year 2005, almost 30 percent of 7(a) loans and about 25 percent of 504 loans were made to minority groups. However, according to the SBA's own data, since 2001, while numbers of 7(a) loans have gone up for African Americans, the dollars have remained at 3 percent of all money loaned. In the 504 program, loans to women have decreased from 19 percent in number to 15 percent, and dropped from 16 percent to 14 percent in dollars. In the Microloan program, African Americans received 28 percent of the total number of microloans made in 2001 as compared to only 21 percent of the total number of loans made in 2005. Their microloan dollars have also decreased from $7.1 million to $5.7 million in 2005. Native Americans went from 2 percent of the total number of microloans made in 2001 to less than one percent—a mere .93 percent—in 2005.

These statistics are of great concern and demonstrate that the SBA has not been highly successful in playing an active role in fostering and encouraging robust entrepreneurial activity and small business ownership amongst these minority groups. The stagnant percentage of small business loans in these communities represents a failure of this Administration to provide an alternative means of obtaining capital to our underserved communities where funding has not been available throughout conventional lending methods.

To break this trend and increase the proportion of small business loans to minorities, and the percentage of loans to African Americans, Hispanics, and Asians relative to their share of the population, my bill creates an Office of Minority Small Business Development at the SBA, similar to offices devoted to business development of veterans and women and rural areas. In charge of the office will be the Associate Administrator for Minority Small Business and Capital Ownership Development with expanded authority and an annual budget to carry out its mission.

Currently this position is limited to carrying out the policies and programs of SBA's contracting programs required under sections 7(j) and 8(a) of the Small Business Act. To make sure that minorities are getting a great share of loan dollars, venture capital investments, counseling, and contracting, this bill expands its authority and duties to work with and monitor the outcomes for programs under Capital Access, Entrepreneurial Development, and Government Contracting. It also requires the head of the Office to work with SBA's partners, trade associations, and business groups to identify more effective ways to market to minority business owners, and to work with the head of Field Operations to ensure that district offices have staff and resources to market to minorities. The latter is important because when SBA implemented its extensive workforce transformation plans several years ago, it eliminated lending-related jobs with a partial justification that remaining staff would be trained to do outreach and marketing to the community. However, district offices are not provided with sufficient funds or resources to do the job.

In addition to setting sufficient program levels, giving our borrowers maximum loan options, reaching the underrepresented, and lowering fees to our borrowers, my bill makes great improvements in our lender operations. Lenders are key to providing these loans to small business borrowers throughout our nation. An exceptional lender in the 7(a) program will often become a ''preferred lender,'' with the authority to approve, close, service and liquidate loans without the lender obtaining the prior specific approval of the agency. SBA requires that lenders request preferred lender status in each of the 70 districts it desires to operate. There are many problems with this system, and this bill streamlines and makes uniform the process, an advantage to borrowers, lenders and the SBA.

This preferred lender problem is not a new issue. During our last reauthorization in 2003, lenders complained that applying for lending autonomy in each of the 70 district office and branches is administratively burdensome, both for them and for the Agency staff, and that some district offices have taken advantage of the power to approve or disapprove lenders when they apply for this special lending status. I was very disappointed that this issue was not resolved in our last reauthorization. My bill attempts to alleviate this administrative burden on lenders and SBA staff who must process the application. My bill creates a National Preferred Lenders Program to allow lenders that have already demonstrated proficiency as a preferred lender the authority to operate in any state where it desires to make loans. To ensure that national preferred lenders are proficient and experienced, this bill requires the Administrator, no later than 60 days after enactment, to establish eligibility criteria for national preferred lenders but suggests that the criteria established include several things—consideration of whether the lender has experience as a preferred lender in not fewer than 5 district offices of the Administration for a minimum of 3 years in each territory, uniform written policies on the 7(a) loan program, including centralized loan approval, servicing, and liquidation functions and processes that are satisfactory to the administration.

If a national preferred lender fails to meet the eligibility requirements established by the Administrator, the lender shall be notified of this deficiency and allowed a reasonable time for correction. Failure to correct the deficiency may result in suspension or revocation as a national preferred lender.

Last, my legislation directs the SBA to establish a simple and straightforward alternative size standard for business loan applicants under section 7(a), similar to what is already available for borrowers in the 504 loan program, which utilizes maximum tangible net worth and average net income as an alternative to the use of industry standards. Currently, in order to be eligible for an SBA business loan, the borrower must meet the definition of small businesses. Pursuant to the Small Business Act, SBA has promulgated size standards by industry utilizing the North American Industry Classification System. The SBA table based on this system is over 20 pages, single-spaced, which has made this size standard very complicated for lenders to utilize.

In closing, I want to commend the community of 7(a) lenders for the tens of thousands of borrowers they reach every year, and for working with us to understand how to improve the program to attract more lenders and reach more borrowers. I hope that the Committee will act on this bill and other similar reauthorization bills before the current laws governing the 7(a) loan program expire on September 30, 2006. I ask unanimous consent that my remarks be printed in the RECORD.

By Mr. KERRY (for himself and Mr. PRYOR):

S. 2595. A bill to amend the Small Business Investment Act of 1958 to modernize the treatment of development companies; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, today, as Ranking Democrat on the Committee on Small Business and Entrepreneurship, I am introducing a reauthorization bill for the Small Business Administration's (SBA) 504 Loan Guaranty Program. This legislation goes beyond simply reauthorizing the 504 loan program. Not only does this bill provide adequate authorization levels in the 504 loan program, but it also takes on important oversight and accountability issues pertaining to the operation of Certified Development Companies (CDC). The issues that I will present in detail below are well overdue and failure on Congress's behalf to deal with them before the end of the fiscal year when the program expires will shortchange our borrowers, and ultimately our communities who reap the benefits of the local economic development that the 504 loan program is intended to provide.

For more than 20 years, the 504 loan program has provided long-term financing for growing businesses with long-term (up to 20 years), fixed-rate financing for major fixed assets, such as purchasing land and making improvements, including existing buildings, grading, street improvements, utilities, parking lots and landscaping; construction of new facilities, or modernizing, renovating or converting existing facilities; or purchasing long-term machinery and equipment. The 504 loan is made through a collaboration between the Certified Development Company (which provides 40 percent of the financing), a private sector lender (covering up to 50 percent of the financing) and a contribution of at least 10 percent from the small business being helped. This program is a national leader in federal economic development finance programs and demonstrates it through, creating or retaining over 1.4 million jobs, backing more than $25 billion in loans, and leveraging over $30 billion in private investment.

These incredible returns to our community could not be possible without the solid mission of the program that drives the types of projects and borrowers it serves. This program was not established to simply make loans—it was established to promote local economic development and to create jobs. I cannot think of another federal economic development program that has created over 605,000 jobs, as the 504 program has done. Last year alone, the 504 program created over 145,000 jobs. As the demand for 504 loans continues to grow, it is more important than ever to reaffirm the mission of the 504 program and to ensure that the 504 program is reauthorized at adequate levels to meet this growth.

To address this issue, my bill reauthorizes the 504 Loan Program for three additional years at $8,500,000,000, fiscal year 07, $9,500,000,000 fiscal year 08, and $10,500,000,000, fiscal year 09. These levels are based on the current pace of program growth to ensure that there is more than adequate authorization. The fiscal year 06 504 demand is projected to exceed $7 billion, and the last 3 years have shown growth rates of 28 percent, 26 percent, and 26 percent. A low authorization level would either force the SBA to shut down the program or to ration credit throughout the year to avoid a shut-down.

As I mentioned previously, this bill goes beyond simply reauthorizing the 504 loan program for an additional three years. It makes some much-needed changes to the structure of our CDCs, which are responsible for the delivery of this program and which are essential to the success of the 504 loan program.

Year after year, I have heard about the dangers that structural changes pose to the CDC industry and the 504 loan program in maintaining the mission of economic development. One of the major changes experienced by CDCs includes the centralization of all 504 loan processing, loan servicing and liquidation functions from 70 SBA district offices to one or two centers in the country. This has resulted in a huge backlog, estimated at 900 loans waiting to be liquidated. This backlog results in a loss of revenue through delaying or completely writing off defaulted loans. This has the potential to drive up subsidy costs of the program and therefore fees on borrowers, CDCs and lenders. This bill puts forward a solution to this issue by decentralizing liquidation functions and allowing CDCs, if they choose, to foreclose and liquidate defaulted loans or to contract with a qualified third-party to perform foreclosure and liquidation of defaulted loans in its portfolio. However, CDCs are not required to liquidate until SBA has come up with a program to compensate and reimburse them for all expenses pertaining to foreclosure and liquidation. The expenses would be approved in advance by the Administrator or on an emergency basis.

The biggest structural change that has had a tremendous impact on our not-for-profit CDCs is the ability to expand operations into multiple states. This structural change, in conjunction with the growing demand for 504 loans and CDC operations in providing these loans to small businesses, requires Congress to set a statutory course that preserves the local economic development intent and mission of the program through accountability measures. The 504 program was not created for CDCs to expand operations and simply create revenue from one state to another. CDCs are more than lenders and should not act like for-profit banks. My bill ensures that local communities continue to be the main focus of CDCs by requiring that the 25 members of their board and board of directors be residents of the area of operations. In addition, CDCs will be required to annually submit to the SBA a report on the use of all excess funds and local economic development activities in each state of operation. This ensures that the members engage, invest, and are held accountable to the communities they serve.

In addition to preserving and growing the 504 loan program, I think it is very important to ensure that low-income communities have access to 504 loans. As you may know, in 2000 Congress enacted the New Markets Tax Credit program to facilitate private sector investment in low-income communities.

Theoretically, the program was designed to encourage private investors who may never have considered investing in low-income communities to do so, thereby attracting new sources of private capital for a variety of projects, including retail, childcare and primary healthcare centers, which in turn attracts jobs, services and additional opportunities to areas that have historically had a difficult time sustaining economic development. My bill creates a new public policy goal for the ''expansion of businesses in low-income communities'' and defines low-income areas as those areas which would be eligible for new market tax credits. Under public policy goals, a borrower can get a higher loan than the standard limit of $1.5 million. For example, a borrower could receive a 504 loan of up to $2 million if the proceeds will be directed toward this new public policy goal, or any of the currently established eight public policy goals. It is my hope that this incentive will increase the number of 504 loans in low-income communities and therefore build wealth, economic security, and employment opportunities which benefit the entire surrounding community.

I want to thank Senator PRYOR for his sponsorship of this legislation, and thank the many members of the 504 community for working with us to identify ways to make this program better than ever. I look forward to working with them to enact this legislation before the fiscal year expires on September 30, 2006, and ask unanimous consent that my statement be included in the RECORD.

By Mr. KERRY:

S.J. Res. 33. A joint resolution to provide for a strategy for successfully empowering a new unity government in Iraq; to the Committee on Foreign Relations.

Mr. KERRY. Mr. President, 39 years ago this week Dr. Martin Luther King gave a speech at the Riverside Church in New York about the war in Vietnam. He began with these words:

I come to this magnificent house of worship tonight because my conscience leaves me no other choice.

His message was clear. Despite the difficulty of opposing the government's policy during time of war, he said, ''We must speak with all the humility that is appropriate to our limited vision, but we must speak.''

I am here today to speak about Iraq. There should be humility enough to go around for a Congress that shares responsibility for this war. I believe the time has come again when, as Dr. King said, we must move past indecision to action.

I have many times visited the Vietnam Memorial Wall, as many Vietnam veterans have. When you walk down the path of either side of that wall, east and west of the panels, you walk down to the center of the wall where it comes together in a V. That V represents both the beginning of the war and the end of the war because the names start at that V and go all the way up one end, east, and then they come back from the west.

I remember standing there once after reading ''A Bright Shining Lie,'' by Neil Sheehan, Robert McNamara's memoirs, and many other histories of that war. One cannot help but feel the enormity of the loss, of the immorality that our leaders knew that the strategy was wrong and that almost half the names were added to that wall after the time that people knew our strategy would not work. It was immoral then and it would be immoral now to engage in the same delusion with respect to our policy in Iraq.

Obviously, every single one of us would prefer to see democracy in Iraq. We want democracy in the whole Middle East. The simple reality is, Iraqis must want it as much as we do, and Iraqis must embrace it. If the Iraqi leadership is not ready to make the changes and the compromises that democracy requires, our soldiers, no matter how valiant—and they have been valiant—can't get from a humvee or a helicopter.

The fact is, our soldiers have done a stunning job. I was recently in Iraq with Senator WARNER and Senator STEVENS. I have been there previously. No one can travel there and talk to our soldiers and not be impressed by their commitment to the mission, by their sacrifice, by their desire to have something good come out of this, and by the remarkable contribution they have made to give Iraqis the opportunity to create a democratic future for their country. Our soldiers have done their job. It is time for the newly elected Iraqi leadership to do theirs. It is time for America's political leaders to do theirs.

President Bush says we can't lose our nerve in Iraq. It takes more nerve to respond to mistakes and to adjust a policy that is going wrong than it does to stubbornly continue down the wrong path.

Last week, Secretary Rice acknowledged ''thousands'' of mistakes in Iraq. Amazingly, nobody has been held accountable for those mistakes. But our troops have paid the price, and our troops pay the price every single day. Yet the President continues to insist on a vague and counterproductive strategy that will keep U.S. forces in Iraq indefinitely.

I accept my share of responsibility for the war in Iraq. As I said in 2004, knowing what we know now, I would not have gone to war, and I certainly wouldn't have done it the way the President did. My frustration is that many of us all along the way have offered alternatives to the President. Countless numbers of Senators, Republican and Democrat alike, have publicly offered alternative ways of trying to achieve our goals in Iraq.

I have listened to my colleagues, Senator FEINGOLD, Senator BIDEN, Senator HAGEL, the Presiding Officer, and others all talk about ways in which we could do better. But all of these, almost all of them without exception, have been left by the wayside without any real discussion, without any real dialog, without any real effort to see if we could find a common ground. My frustration is that we keep offering alternatives.

In 2003, in 2004, 2005, 2006, year after year, we put them on the table, but they get ignored and then we get further in the hole, the situation gets worse, and we are left responding, trying to come back to a worse situation than the one we were responding to in the first place. And we keep putting out possibilities, and the possibilities keep being left on the sidelines.

Time after time, this administration has ignored the best advice of the best experts of the country, whether they be our military experts or former civilian leaders of other administrations or our most experienced voices on the Committee on Armed Services and Foreign Relations Committee of the U.S. House and Senate.

The administration is fond of saying that we shouldn't look back, that recrimination only helps our enemies, that we have to deal with the situation on the ground now. Well, we do have to deal with the situation on the ground now, but we have to deal with it in a way that honors the suggestions and ideas of a lot of other people who have concerns about our forces on the ground and our families at home and our budget and our reputation in the world and our need to respond to Afghanistan, North Korea, and Iran.

Frankly, accountability and learning from past mistakes is the only way to improve both policies and institutions. Let me, for the moment, go along with this idea, the administration's idea. Let me focus on the here and now and let's face that reality honestly and let's act accordingly.

You have to live in a fantasy world to believe we are on the brink of domestic peace and a pluralistic democracy in Iraq. One has to be blind to the facts to argue that the prospects for success are so great they outweigh the terrible costs of the President's approach. And you have to be incapable of admitting failure not to be able to face up to the need to change course now. Yes, change course now.

Our soldiers on the ground have learned a lot of terrible lessons in Iraq. All you have to do is talk to some of the soldiers who have returned, as many of us have. It is time those of us responsible for the policies of our country learn those lessons. It is clear the administration's litany of mistakes has reduced what we can reasonably hope to accomplish. Any reasonable, honest observer—and there are many in the Senate who have gone over to Iraq and have come back with these views—knows that the entire definition of this mission has changed and the expectations of what we can get out of this mission have changed.

I, for one, will not sit idly by and watch while American soldiers give their lives for a policy that is not working. Let me say it plainly. Withdrawing U.S. troops from Iraq over the course of the year in a timely schedule is actually necessary to give democracy the best chance to succeed, and it is vital to America's national security interests.

Five months ago, I went to Georgetown University. I gave a speech where I said that we were then entering the make-or-break period, a make-or-break 5-month, 6-month period in Iraq. I said the President must change course and hold Iraqis accountable or Congress should insist on a change in policy. And I set a goal then, back in November, that we should try to reduce American combat forces and withdraw them by the end of this year.

The situation on the ground has now changed for the worse since then. In fact, we are now in the third war in Iraq in as many years. The first war was against Saddam Hussein and his alleged weapons of mass destruction. The second war was against Jihadist terrorists whom the administration said it was better to fight over there than over here. And now we find our troops in the middle of a low-grade civil war that could explode into a full civil war at any time.

While the events in Iraq have changed for the worse, the President has not changed course for the better. It is time for those of us in Congress who share responsibilities constitutionally for our policy to stand up and change that course. We have a constitutional responsibility, and we have a moral responsibility not to sit on the sidelines while young Americans are in harm's way.

That is why today I am introducing legislation that will hold the Iraqis accountable and make the goal of withdrawing the most American forces a reality. I personally believe that most of those forces could be and should be out of Iraq by the end of the year. This war, in the words of our own generals, cannot be won militarily. It can only be won politically.

General Casey said, of our large military presence, it ''feeds the notion of occupation'' and it ''extends the amount of time that it will take for Iraqi security forces to become self-reliant.''

That is General Casey saying that the large force of American presence in

Iraq contributes to the occupation and extends the amount of time. Zbigniew Brzezinski put it:

> The U.S. umbrella, which is in effect designed to stifle these wars but it is so poor that it perpetuates them, in a sense keeps these wars alive . . . and [is] probably unintentionally actually intensifying them.

Richard Nixon's Secretary of Defense, Melvin Laird, breaking a 30-year silence, summed it up simply:

> Our presence is what feeds the insurgency.

The bottom line is that as long as American forces remain in large numbers, enforcing the status quo, Americans will be killed and maimed in a crossfire of vicious conflict that they are powerless to end. We pay for the President's reluctance to face reality in both American dollars and in too many lives. American families pay in the loss of limb and the loss of loved ones.

I don't think we should tolerate what is happening in Iraq today. We can no longer tolerate the political games currently being played by Iraqi politicians in a war-torn Baghdad. No American soldier, not one American soldier, should be sacrificed for the unwillingness of Iraqi politicians to compromise and form a unity government.

We are now almost 5 months since the election. What is happening is the daily game being played by Iraqis who listen to the President say we will be here to the end. There is no sense of urgency, there is no sense of impending need to make a decision. The result is they just go on bickering and they go on playing for advantage while our troops drive by the next IED and the next soldier returns to Walter Reed or to Bethesda without arms and limbs.

Given the recent increase in deadly sectarian strife, Iraq urgently needs a strong unity government to prevent a full-fledged civil war from breaking out and becoming the failed state that all of us have wanted to avoid. I believe the current situation is actually allowing them to go down the road toward that sectarian strife rather than stopping them.

Thus far, step by step, Iraqis have only responded to deadlines. It took a deadline to transfer authority to the provisional government. It took a deadline for the first election to take place. It took a deadline for the referendum on the Constitution. It took a deadline for the most recent election. It is time for another deadline, and that deadline is to say to them that they have to come together and pull together and put together a government or our troops are going to withdraw. And under circumstances over a period of time, we will withdraw in order to put Iraq up on its own two feet.

Iraqi politicians should be told in unmistakable language: You have until May 15 to put together an effective unity government or we will immediately withdraw our military.

I know some colleagues and other people listening will say: Wait a minute. You mean we are going to automatically withdraw our military if they don't pull it together?

The answer is: You bet we ought to do that. Because there isn't one American soldier who ought to be giving up life or limb for the procrastination and unwillingness of Iraqis who have been given an extraordinary opportunity by those soldiers to take hold of democracy and who are ignoring it and playing for advantage. We all know that after the last elections, the momentum was lost by squabbling interim leaders. Everybody sat around and said, coming up to this election, the one thing we can't do is allow the momentum to be lost. Guess what. It has been lost. It has been squandered, again. We are sitting there with occasional visits, occasional speeches but without the kind of sustained diplomacy necessary to provide a resolution. It has gone on for too long, again.

If Iraqis aren't willing to build a unity government in 5 months, then how long does it take and what does it take? If they are not willing to do it, they are not willing to do it. It is that simple. The civil war will only get worse. And if they are not willing to do it, it is because there is such a fundamental intransigence that we haven't broken, that civil war, in fact, becomes inevitable, and our troops will be forced to leave anyway.

The fact is, we have no choice but to get tough and to ratchet up the pressure. We should immediately accelerate the redeployment of American forces to rear guard, garrisoned status for security backup, training, and emergency response. Special operations against al-Qaida in Iraq should be initiated on hard intelligence leads only.

If the Iraqi leaders finally do their job, which I believe you have a better chance of getting them to do if you give them a timetable, then we have to agree on a schedule for leaving, withdrawing American combat forces by the end of the year. The only troops that remain should be those critical to finishing the job of standing up Iraqi security forces.

Such an agreement will have positive benefits in Iraq. It will empower and legitimize the new leadership and the Iraqi people. It will expedite the process of getting the Iraqis to assume a larger role of running their own country. And it will undermine support for the insurgency among the now 80 percent of Iraqis who want U.S. troops to leave. In short, it will give the new Iraqi Government the best chance to succeed in holding the country together while democratic institutions can evolve.

This deadline makes sense when you look at the responsibilities that Iraqis should have assumed by then. Formation of a unity government would constitute a major milestone in the transfer of political responsibility to the Iraqis. Even the President has said that responsibility for security in the majority of the country should be able to be transferred to the Iraqis by this time. If the President believes that it should be able to be transferred to the Iraqis by this time, why not push that eventuality and make it a reality? By the end of the year, our troops will have done as much as they possibly can to give Iraqis the chance to build a democracy. I again remind my colleagues, we are still going to have the ability to have over-the-horizon response for emergency, as well as over-the-horizon response to al-Qaida. And we will have the ability to continue to train those last forces to make sure they are in a position to stand up for Iraq.

The key to this transition is a long overdue engagement in serious and sustained diplomacy. I want to say a word about this. I am not offering this plan in a vacuum. Critical to the achievement of all of our goals in Iraq is real diplomacy. Starting with the leadup to the war, our diplomatic efforts in Iraq have ranged from the indifferent to the indefensible. History shows that effective diplomacy requires persistent hands-on engagement from the highest levels of America's leadership. Top officials in the first Bush administration worked directly and tirelessly to put together a real coalition before the first Gulf War, and President Clinton himself took personal responsibility at Camp David for bringing the Israelis and Palestinians together and leading the comprehensive effort to resolve the conflict in the Middle East. This type of major diplomatic initiative has proven successful in many places in American history.

Most recently, in 1995, there was a brutal civil war in Bosnia involving Serbs, Croats, and Muslims. Faced with a seemingly intractable stalemate in the midst of horrific ethnic cleansing, the Clinton administration took action—direct, personal, engaged action. Led by Richard Holbrooke, they brought leaders of the Bosnian parties together in Dayton, OH, with representatives from the European Union, Russia, and Britain to hammer out a peace agreement. NATO and the United Nations were given a prominent role in implementing what became known as the Dayton Accords.

In contrast, this President Bush has done little more than deliver political speeches, while his cronies in the White House and outside blame the news media for the mess the administration has created in Iraq. We keep hearing: They are not telling the full story. They are not telling the story.

Secretary of State Rice's brief surprise visit to Iraq a few days ago pales in comparison to the real shuttle diplomacy that was practiced by predecessors such as James Baker and Henry Kissinger. Given what is at stake, it is long since time to engage in that. I can remember Henry Kissinger going from one capital to the next capital, back and forth, engaged, pulling people together. Jim Baker did the same thing.

There was a genuine and real effort to leverage the full prestige and full power of the United States behind a goal. That is absent here.

Ambassador Khalilzad is a good man, and he has done a terrific job, almost by himself, left almost to his own devices. That is not the way to succeed. Given what is at stake, it is past time to engage in diplomacy that matches the effort of our soldiers on the ground. We should immediately bring the leaders of the Iraqi factions together at a Dayton-like summit that includes our allies, Iraq's neighbors, members of the Arab League, and the United Nations. The fact is, a true national compact is needed to bring about a political solution to the insurgency. That is how you end the sectarian violence. Our soldiers going on patrol in a striker or a humvee, walking through communities will not end this violence. Our generals have told us, it can only be ended politically. Yet where is the kind of political effort that our Nation has seen in history now, trying to effect what our soldiers have created an opportunity to effect through their sacrifice?

Iraqis have to reach a comprehensive agreement that includes security guarantees, disbanding the militias, and ultimately, though not necessarily at this conference, confronting some of the questions of the Constitution. All of the parties must reach agreement on a process for reviving reconstruction efforts and securing Iraq's borders. Our troops cannot be left hanging out there without that kind of effort to protect them.

At this summit, Shiite religious leaders must agree to rein in their militias and to commit to disbanding them. They also have to work with Iraqi political leaders to ensure that the leadership of the Interior Ministry and the police force under its control is nonsectarian. Shiite and Kurdish leaders must make concessions necessary to address Sunni concerns about federalism and equitable distribution of oil revenues. There is no way the Sunnis are going to suddenly disband or stop the insurgency without some kind of adequate guarantee of their security and their participation in the process. That was obvious months ago. It is even more obvious today. It still remains an open question.

The Sunnis have to accept the reality that they will no longer dominate Iraq. Until a sufficient compromise is hammered out, a Sunni base cannot be created that isolates the hard-core Baathists and jihadists and defuses the insurgency itself. We must work with Iraqis at the summit to convince Iraq's neighbors that they can no longer stand on the sidelines while Iraq teeters on the edge of a civil war that could bring chaos to the entire region. Where they can help the process of forming a government, they need to step up. And for my colleagues who suggest that somehow withdrawing American forces will put that region at greater risk, I say ''no.'' I say that an over-the-horizon deployment, a deployment in Kuwait and elsewhere, diffusing the insurgency, and an adequate effort to diplomatically pull together this kind of summit is the only way to diffuse the insurgency and ultimately strengthen the region.

The administration must also work with Iraqi leaders in seeking a multinational force to help protect Iraq's borders until finally a national army of Iraq has developed the capacity to do that itself. Frankly, such a force, if sanctioned by the United Nations Security Council, could attract participation by Iraq's neighbors, countries such as India and others, that would be a critical step in stemming the tide of insurgents and of encouraging capital to flow into Iraq.

To be credible with the Iraqi people, the new government must deliver goods and services at all levels. It is absolutely stunning—I don't know how many Americans are even aware of the fact—that today, several years later, electricity production is below where it was before the war. It is at 4,000 megawatts compared to the 4,500 before the war. Crude oil production has declined from a prewar level of 2.5 million barrels per day to 1.9 million barrels per day. We were told that oil was going to pay for this war. That has to change. Countries that have promised money for reconstruction, particularly of Sunni areas, haven't paid up yet. The money is not on the table.

We can also do our part on the ground. Our own early reconstruction efforts were—now known to everybody—poorly planned and grossly mismanaged. But as I saw on a recent trip to Iraq, the efforts of our civilian military provisional reconstruction teams, which have the skills and capacity to strengthen governance and institution building around the country, are beginning to take hold. We need to stand up more of those teams as fast as possible. If we do that in the same context as we find the political resolution, then you have a chance.

We must also continue to turn the job of policing the streets and providing security over to Iraqi forces. That means giving our generals the tools they need to finish training an Iraqi police force that is trusted and respected on the street by the end of the year. It also means finishing the training of Iraqi security forces with U.S. troops acting only on the basis of hard intelligence to combat terrorist threats.

The withdrawal of American forces from Iraq is necessary not only to give democracy in Iraq the best chance to succeed, it is also vital to our own national security interests.

We need to pay more attention to our own vital national security interests. We will never be as safe as we ought to be if Iraq continues to distract us from the most important war we need to win—the war on Osama bin Laden, al-Qaida, and the terrorists who are resurfacing even in Afghanistan.

To make it clear, despite everything this administration has said, today, al-Qaida, and the Taliban, even, are more dangerous in northwest Pakistan and northeast Afghanistan than Iraq is to us at this moment in time. There is a greater threat from al-Qaida, which has dispersed cells and through its training and abilities to organize, in Afghanistan than in the place that is consuming most of America's forces and money.

The way to defeat al-Qaida is not by serving as their best recruitment tool. Even Brent Scowcroft, George H. W. Bush's National Security Adviser, has joined the many experts who agree that the war in Iraq actually feeds terrorism and increases the potential for terrorist attacks against the United States. The results speak for themselves: The number of significant terrorist attacks around the world increased from 175 in 2003 to 651 in 2004, and it has continued to increase in 2005.

The President keeps talking about al-Qaida's intent to take over Iraq. I have not met anybody in Iraq—none of the leaders on either side, not Kurds, the Shia, or Sunni—who believes a few thousand, at most—and by many estimates, less than a thousand—foreign jihadists are a genuine threat to forcibly take over a country of 25 million people. And while mistake after mistake by this administration has actually turned Iraq into the breeding ground for al-Qaida that it was not before the war, large numbers of United States troops are not the key to crushing these terrorists.

In fact, Iraqis have begun to make clear their own unwillingness to tolerate foreign jihadists. Every Iraqi I talked to said to me: When we get control and start moving forward, we will deal with the jihadists. They don't want them on Iraqi soil, and they have increasingly turned on these brutal foreign killers who are trying to foment a civil war among Iraqis. This process will only be complete when Iraqis have taken full responsibility for their own future, and resistance to a perceived occupation no longer provides them any common cause with jihadists.

As General Anthony Zinni said on Sunday, building up intelligence-gathering capability from Iraqis is essential to defeating the insurgency. He said:

> We're not fighting the Waffen S.S. here. They can be policed up if the people turn against them. We haven't won the hearts and minds yet.

Once again, I remind my colleagues, the hearts and minds of the Iraqis will be more susceptible to being won when American forces are not there in the way they are now, in a way that can be used as the recruitment tool that it has been, when 80 percent of the Iraqi people suggest that American forces ought to leave.

After the bulk of U.S. forces have been withdrawn, I believe it is essential to keep a rapid reaction force over the horizon. That force can be over the horizon within the desert itself, or it can

be in Kuwait, and that can be used to act against terrorist enclaves. Our air power—the air power we used to police two-thirds of the no-fly zone in Iraq before the war—will always ensure our ability to bring overwhelming force to bear to protect the U.S. interests in the region. The bottom line is that working together with Iraqis from inside and outside Iraq, we can prosecute the war against al-Qaida in Iraq more effectively than we are today.

Withdrawing U.S. troops will also enable us to more effectively combat threats around the world. But winning the war on terror requires more than the killing we have seen from 3 years of combat. The fact is that just taking out terrorists, as our troops have been doing, is not going to end the flow of terrorists who are recruited, for all of the reasons that we understand. The cooperation critical to lasting victory in the region is going to be enhanced when Abu Ghraib, Guantanamo, civil chaos, and mistake after mistake in Iraq no longer deplete America's moral authority within the region.

This is also key to allowing us to repair the damage that flag officers fear has been done to our Armed Forces. I know my colleagues on the other side of the aisle—members of the Armed Services Committee and Intelligence Committee—have heard from flag officers in private about what is happening to the Armed Forces of our country. We know it will take billions of dollars to reset the equipment that has been lost, damaged, or worn out from 3 years of combat. In the National Guard alone, units across the country have only 34 percent of their authorized equipment, including just 14 percent of the chemical decontamination equipment they need. That is a chilling prospect if they are ever asked to respond to a terrorist incident involving weapons of mass destruction.

The fact is the Army is stretched too thin. Soldiers and brigades are being deployed more frequently and longer than the Army believes is best in order to continue to attract the best recruits. Recruiting standards have been changed and recruitment is suffering. The Army fell 6,700 recruits short of their needs in 2005—the largest shortfall since 1979. Recruitment is suffering today. Not only are American troops not getting leadership equal to their sacrifice on the civilian side, but our generals are not getting enough troops to accomplish their mission of keeping the country safe.

The fact is that in the specialties—special forces, translators, intelligence officers, for the Marines, for the Army, for the National Guard—our recruitments are below the levels they ought to be.

Withdrawing from Iraq will also enable us to strengthen our efforts to prevent the proliferation of weapons of mass destruction. Iran, the world's leading state sponsor of terrorism, is absolutely delighted with our presence in Iraq. Why? Because it advances their goals, keeping us otherwise occupied, and it allows them to make mischief in Iraq itself at their choice. Their President is so emboldened that he has openly called for the destruction of Israel, while defying the international community's demands to stop developing its nuclear weapons capability. Could that have happened prior to our being bogged down the way we are?

North Korea has felt at liberty to ignore the six-party talks, while it continues to stockpile more nuclear weapons material.

Any effort to be stronger in dealing with the nuclear threat from Iran and North Korea is incomplete without an exit from Iraq. It will also enable us to more effectively promote democracy in places such as Russia, which is more than content to see us bogged down while President Putin steadily rolls back democratic reforms.

China benefits from us throwing hundreds of billions of dollars into Iraq instead of into economic competition and job creation here at home. Our long-term security requires putting the necessary resources into building our economy and a workforce that can compete and win in the age of globalization. We cannot do as much as we need to—not nearly as much as we need to—while the war in Iraq is draining our treasury.

Finally, we have not provided anywhere near the resources necessary to keep our homeland safe. Katrina showed us in the most graphic way possible that 5 years after 9/11, we are woefully unprepared to handle a natural disaster that we know is coming a week in advance, let alone a catastrophic terrorist attack we have no notice of. Removing the financial strain of Iraq will free up funds for America's homeland defense.

The time has come for the administration to acknowledge the realities that the American people are increasingly coming to understand—the realities in Iraq and the requirements of America's national security. Stop telling us that terrible things will happen if we get tough with the Iraqis, when terrible things happen every single day because we are not tough enough. If we don't change course and hold the Iraqis accountable now, I guarantee you it will get worse.

Ignoring all of the warnings, and ignoring history itself, in a flourish of ideological excess, this administration has managed to make the ancient cradle of civilization look a lot like Vietnam. But there is a path forward if we start making the right decisions.

As Dr. King said so many years ago:

> The choice is ours, and though we might prefer it otherwise, we must choose in this crucial moment of human history.

Now is the moment of choice for Iraq, for America, and for this Congress.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 434—DESIGNATING THE WEEK OF MAY 22, 2006, AS ''NATIONAL CORPORATE COMPLIANCE AND ETHICS WEEK.''

Mr. SANTORUM submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 434

Whereas the United States has experienced corporate scandals in recent years, resulting in serious legislation and regulation dealing with professional responsibility, ethics, and compliance programs;

Whereas the Sarbanes-Oxley Act of 2002 is a compelling example of legislative guidance that recognizes the important role of compliance programs for organizations that desire to maintain ethical and law-abiding workplaces, services, and products;

Whereas the Federal Sentencing Guidelines, including recent amendments to the Federal Sentencing Guidelines, emphasize and reinforce that there are specific consequences for noncompliance;

Whereas many companies in the United States have responded by developing and implementing corporate ethics and compliance programs intended to detect and prevent violations of law, such as establishing a high level official to oversee compliance and integrity in the organization, auditing and monitoring mechanisms to test compliance, reporting mechanisms such as hotlines to ensure open communication, and training programs designed to educate employees on the laws, regulations, and policies that affect their business operation;

Whereas the private sector has organized to provide the necessary resources for ethics and compliance professionals and others who wish to promote quality compliance through organizations such as the Health Care Compliance Association and the Society for Corporate Compliance and Ethics; and

Whereas the establishment of a National Corporate Compliance and Ethics Week would celebrate the creation and maintenance of these ethics and compliance programs, and their resulting impact on the integrity, ethics, and compliance of the organizations that have created them: Now, therefore, be it

Resolved, That the Senate designates the week of May 22, 2006, as ''National Corporate Compliance and Ethics Week''.

SENATE RESOLUTION 435—HONORING THE ENTREPRENEURIAL SPIRIT OF AMERICA'S SMALL BUSINESSES DURING NATIONAL SMALL BUSINESS WEEK, BEGINNING APRIL 9, 2006

Ms. SNOWE (for herself, Mr. KERRY, Mr. ALLEN, Mr. THUNE, Mr. BURNS, Mr. ISAKSON, Mr. BAYH, Mr. FRIST, Mr. COLEMAN, and Mr. LIEBERMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 435

Whereas America's 25,000,000 small businesses have been the driving force behind the Nation's economy, creating more than 75 percent of all new jobs and generating more than 50 percent of the Nation's gross domestic product;

Whereas small businesses are the Nation's innovators, advancing technology and productivity;