Surface Mining Control and Reclamation Act of 1977 and the Mineral Leasing Act to improve surface mining control and reclamation, and for other purposes.

S. 2652

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2652, a bill to amend chapter 27 of title 18, United States code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country.

S. 2725

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2725, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal Minimum wage and to ensure that increases in the Federal minimum wage keep pace with any pay adjustments for Members of Congress.

S. 2819

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2819, a bill to amend part C of title XVIII of the Social Security Act to provide for a minimum payment rate by Medicare Advantage organizations for services furnished by a critical access hospital and a rural health clinic under the Medicare program.

S. 2990

At the request of Mr. VITTER, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2990, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 3274

At the request of Mr. SPECTER, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Ohio (Mr. DEWINE) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 3274, a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 3325

At the request of Mr. BUNNING, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 3325, a bill to promote coal-to-liquid fuel activities.

S. 3571

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3571, a bill to suspend temporarily the duty on certain footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 3572

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3572, a bill to suspend temporarily the duty on certain women's footwear with coated or laminated textile fabrics.

S. 3573

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3573, a bill to suspend temporarily the duty on certain men's footwear with coated or laminated textile fabrics.

S. 3574

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3574, a bill to suspend temporarily the duty on certain men's footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 3575

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3575, a bill to suspend temporarily the duty on certain women's footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 3576

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3576, a bill to suspend temporarily the duty on certain other footwear valued over $20 a pair with coated or laminated textile fabrics.

S. 3577

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3577, a bill to reduce temporarily the duty on certain men's footwear covering the ankle with coated or laminated textile fabrics.

S. 3578

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3578, a bill to reduce temporarily the duty on certain footwear not covering the ankle with coated or laminated textile fabrics.

S. 3579

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3579, a bill to reduce temporarily the duty on certain women's footwear covering the ankle with coated or laminated textile fabrics.

S. 3580

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3580, a bill to reduce temporarily the duty on certain women's footwear not covering the ankle with coated or laminated textile fabrics.

S. 3581

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3581, a bill to reduce temporarily the duty on certain other footwear covering the ankle with coated or laminated textile fabrics.

S. 3587

At the request of Mr. CARPER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 3587, a bill to reduce temporarily the duty on certain footwear with coated or laminated textile fabrics.

S. 3593

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3593, a bill to amend the Higher Education Act of 1965 to provide additional support to students.

S. CON. RES. 92

At the request of Mr. DEMINT, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Con. Res. 92, a concurrent resolution encouraging all 50 States to recognize and accommodate the release of public school pupils from school attendance to attend off-campus religious classes at their churches, synagogues, houses of worship, and faith-based organizations.

S. CON. RES. 96

At the request of Mr. BROWNBACK, the names of the Senator from Florida (Mr. MARTINEZ), the Senator from Alabama (Mr. SESSIONS) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Con. Res. 96, a concurrent resolution to commemorate, celebrate, and reaffirm the national motto of the United States on the 50th anniversary of its formal adoption.

S. RES. 507

At the request of Mr. BIDEN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 507, a resolution designating the week of November 5 through November 11, 2006, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 513

At the request of Mr. GRAHAM, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 513, a resolution expressing the sense of the Senate that the President should designate the week beginning September 10, 2006, as ''National Historically Black Colleges and Universities Week''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 3598. A bill to clarify the effective date of the modification of treatment for retirement annuity purposes of part-time service before April 7, 1986, of certain Department of Veterans Affairs health-care professionals; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, today, I am introducing legislation to correct an unfair decision that hurts

aging, retired VA nurses. This legislation is designed to correct a problem from a bill we passed in 2001, to help VA nurses. That legislation improved nurses' pensions, and Congress intended it to be retroactive. Unfortunately, administrative officials took a very narrow view of that law. Currently VA nurses who retired between 1986 and 2002, do not get the full pension benefits as current retirees do.

In the 1980s, VA aggressively recruited nurses to fill a huge need at VA medical centers by promising full retirement for part-time work. Sadly, the VA and the Office of Personnel Management, OPM, does not want to fulfill that promise. This legislation would explicitly require the Federal Government to honor its commitment to our retired VA nurses. Pension benefits are a vital promise. It is disturbing when we do not fulfill our obligations, and we simply must correct this error.

Nurses play a critical role in our health care system, including the VA. Recruiting and retaining nurses is important, and this pension shortfall does not help. It is time to deliver full pension benefits to the nurses who cared for our veterans.

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

S. 3599. A bill to establish the Prehistoric Trackways National Monument in the State of New Mexico; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased to introduce legislation today to protect a site of worldwide scientific significance in the Robledo Mountains in New Mexico. The bill, which is cosponsored by my colleague from New Mexico, Senator DOMENICI, would create a national monument to preserve and allow for the continuing scientific investigation of a remarkable ''megatracksite'' of 280,000,000 year-old fossils and trackways.

The vast tidal mudflats that made up much of modern New Mexico 60 million years before the first dinosaurs preserved the marks of some of the earliest life on our planet to make its way out of the ocean. The fossil record of this time is scattered throughout New Mexico but, until this discovery, there were few places where the range of life and their interactions with each other could be studied.

Las Cruces resident and paleontologist Jerry MacDonald first brought the find to light in 1988 when he revealed that there was far more to be found in the Robledos than the occasional fossil that local residents had been seeing for years. The trackways he hauled out on his back, some over 20 feet long, showed that there was a great deal of useful information buried in the rock there. The trackways include footprints of numerous amphibians, reptiles, and insects, including previously unknown species. These trackways help complete the puzzle of how these ancient creatures lived in a way that we cannot understand from only studying their fossilized bones.

Senator DOMENICI and Representative Skeen joined me in sponsoring legislation, passed in 1990, to protect the area and study its significance. In 1994, the Bureau of Land Management, along with scientists from the New Mexico Museum of Natural History & Science, the University of Colorado, and the Smithsonian Institution, completed their study and documented the importance of the find. Particularly owing to the quality of the specimens and the wide range of animals that had left their imprint there, the study found that the site was of immense scientific value. The study concluded, in part, ''[t]he diversity, abundance and quality of the tracks in the Robledo Mountains is far greater than at any other known tracksite or aggregation of tracksites.'' The study also described the site as containing ''the most scientifically significant Early Permian tracksites'' in the world. However, despite the recognition of the significance of the site, it has remained essentially unprotected, and many of the trackways and fossils have been lost or damaged. This bill would take the next logical step to follow up from these efforts and set in place permanent protections and allow for scientific investigation of these remarkable resources.

In addition to permanently protecting the fossils, the bill would authorize the continuation of existing uses in the area, such as motorized recreation, as long as the trackway resources aren't harmed. The bill would also help ensure that local residents get the opportunity to see these unique specimens and participate in their curation. This should provide a unique scientific and educational opportunity to Las Cruces and the surrounding community.

I look forward to working with my colleagues to protect these important resources and allow for their continuing contribution to our understanding of life on the ancient Earth.

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. 3599

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 ''Prehistoric Trackways National Monument Establishment Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MONUMENT.—The term ''Monument'' means the Prehistoric Trackways National Monument established by section 4(a).

(2) PUBLIC LAND.—The term ''public land'' has the meaning given the term ''public lands'' in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. FINDINGS.

Congress finds that—

(1) in 1987, a major deposit of Paleozoic Era fossilized footprint megatrackways was discovered in the Robledo Mountains in southern New Mexico;

(2) the trackways contain footprints of numerous amphibians, reptiles, and insects (including previously unknown species), plants, and petrified wood dating back approximately 280,000,000 years, which collectively provide new opportunities to understand animal behaviors and environments from a time predating the dinosaurs;

(3) title III of Public Law 101–578 (104 Stat. 2860)—

(A) provided interim protection for the site at which the trackways were discovered; and

(B) directed the Secretary of the Interior to—

(i) prepare a study assessing the significance of the site; and

(ii) based on the study, provide recommendations for protection of the paleontological resources at the site;

(4) the Bureau of Land Management completed the Paleozoic Trackways Scientific Study Report in 1994, which characterized the site as containing ''the most scientifically significant Early Permian tracksites'' in the world;

(5) despite the conclusion of the study and the recommendations for protection, the site remains unprotected and many irreplaceable trackways specimens have been lost to vandalism or theft; and

(6) designation of the trackways site as a National Monument would protect the unique fossil resources for present and future generations while allowing for public education and continued scientific research opportunities.

SEC. 4. ESTABLISHMENT.

(a) IN GENERAL.—In order to conserve, protect, and enhance the unique and nationally important paleontological, scientific, educational, scenic, and recreational resources and values of the public land described in subsection (b), there is established the Prehistoric Trackways National Monument in the State of New Mexico.

(b) DESCRIPTION OF LAND.—The Monument shall consist of approximately 5,367 acres of public land in Doña Ana County, New Mexico, as generally depicted on the map entitled ''Prehistoric Trackways National Monument'' and dated June 1, 2006.

(c) MAP; LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare and submit to Congress an official map and legal description of the Monument.

(2) CORRECTIONS.—The map and legal description submitted under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct any clerical or typographical errors in the legal description and the map.

(3) CONFLICT BETWEEN MAP AND LEGAL DESCRIPTION.—In the case of a conflict between the map and the legal description, the map shall control.

(4) AVAILABILITY OF MAP AND LEGAL DESCRIPTION.—Copies of the map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) MINOR BOUNDARY ADJUSTMENTS.—If additional paleontological resources are discovered on public land adjacent to the Monument after the date of enactment of this Act, the Secretary may make minor boundary adjustments to the Monument to include the resources in the Monument.

SEC. 5. ADMINISTRATION.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Monument—

(A) in a manner that conserves, protects, and enhances the resources and values of the Monument, including the resources and values described in section 4(a); and

(B) in accordance with—

(i) this Act;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) other applicable laws.

(2) NATIONAL LANDSCAPE CONSERVATION SYSTEM.—The Monument shall be managed as a component of the National Landscape Conservation System.

(3) PROTECTION OF RESOURCES AND VALUES.—The Secretary shall manage public land adjacent to the Monument in a manner that is consistent with the protection of the resources and values of the Monument.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall develop a comprehensive management plan for the long-term protection and management of the Monument.

(2) COMPONENTS.—The management plan under paragraph (1)—

(A) shall—

(i) describe the appropriate uses and management of the Monument, consistent with the provisions of this Act; and

(ii) allow for continued scientific research at the Monument during the development of the management plan; and

(B) may—

(i) incorporate any appropriate decisions contained in any current management or activity plan for the land described in section 4(b); and

(ii) use information developed in studies of any land within or adjacent to the Monument that were conducted before the date of enactment of this Act.

(c) AUTHORIZED USES.—The Secretary shall only allow uses of the Monument that the Secretary determines would further the purposes for which the Monument has been established.

(d) INTERPRETATION, EDUCATION, AND SCIENTIFIC RESEARCH.—

(1) IN GENERAL.—The Secretary shall provide for public interpretation of, and education and scientific research on, the paleontological resources of the Monument, with priority given to exhibiting and curating the resources in Doña Ana County, New Mexico.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate public entities to carry out paragraph (1).

(e) SPECIAL MANAGEMENT AREAS.—

(1) IN GENERAL.—The establishment of the Monument shall not change the management status of any area within the boundary of the Monument that is—

(A) designated as a wilderness study area and managed in accordance with section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); or

(B) managed as an area of critical environment concern.

(2) CONFLICT OF LAWS.—If there is a conflict between the laws applicable to the areas described in paragraph (1) and this Act, the more restrictive provision shall control.

(f) MOTORIZED VEHICLES.—

(1) IN GENERAL.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Monument shall be allowed only on roads and trails designated for use by motorized vehicles under the management plan prepared under subsection (b).

(2) PERMITTED EVENTS.—The Secretary may issue permits for special recreation events involving motorized vehicles within the boundaries of the Monument, including the ''Chile Challenge''—

(A) to the extent the events do not harm paleontological resources; and

(B) subject to any terms and conditions that the Secretary determines to be necessary.

(g) WITHDRAWALS.—Subject to valid existing rights, any Federal land within the Monument and any land or interest in land that is acquired by the United States for inclusion in the Monument after the date of enactment of this Act are withdrawn from—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing laws, geothermal leasing laws, and minerals materials laws.

(h) GRAZING.—The Secretary may allow grazing to continue in any area of the Monument in which grazing is allowed before the date of enactment of this Act, subject to applicable laws (including regulations).

(i) HUNTING.—

(1) IN GENERAL.—Nothing in this Act diminishes the jurisdiction of the State of New Mexico with respect to fish and wildlife management, including regulation of hunting on public land within the Monument.

(2) REGULATIONS.—The Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones in which and establishing periods during which hunting shall not be allowed for reasons of public safety, administration, or public use and enjoyment.

(j) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation by the United States of any water or water rights with respect to the Monument.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. DOMENICI. Mr. President, the fossilized trackways near the Robledo Mountains in Dona Ana County came to my attention in the early 1990s. During the 101st Congress, I cosponsored Senator BINGAMAN's legislation that directed the Bureau of Land Management to study and report on the prehistoric sites.

I understand the very difficult challenge we face in managing our public lands in a responsible and environmentally sensitive manner. I believe our Federal lands are truly National treasures that demand our most thoughtful management. Local leaders, special interest groups, multiple users, New Mexico State University, and the Bureau of Land Management, BLM, have identified numerous land issues in the Las Cruces area that need to be addressed. The trackways are but one of these issues that can and should be addressed in the context of a broader lands bill. I believe that introduction of comprehensive or omnibus legislation is a preferable approach, rather than the introduction of individual bills to deal each separate issue.

I support the intent of this bill, as the trackways are remarkable artifacts that need and deserve protection. While I am very supportive of the overall goal to protect these prehistoric trackway sites, there are several particulars in this bill that I do not fully embrace and on which I want to continue to work with Senator BINGAMAN, such as ensuring that we authorize all uses in the area that are not inconsistent with the purposes of the bill, and reworking the section regarding BLM authority with respect to hunting activities. As we work through the committee process, I look forward to working with Senator BINGAMAN to accomplish the objective of protecting the prehistoric trackway sites, while at the same time addressing some of the broader Federal land issues that need to be addressed in Dona Ana County.

By Mr. HARKIN:

S. 3600. A bill to amend the Internal Revenue Code of 1986 to allow the allocation of the alternative fuel vehicle refueling property credit to patrons of agricultural cooperatives; to the Committee on Finance.

Mr. HARKIN. Mr. President, today I am introducing the Agricultural Cooperative Renewable Fuel Stations Act of 2006. This legislation closes a gap in the existing tax incentive for installing alternative refueling stations. The bill extends the existing alternative fuel vehicle refueling property credit to patrons of agricultural cooperatives.

Our continued dependence on foreign oil is extremely worrisome. Today, about 60 percent of our oil comes from overseas. Last year, Americans imported almost 5 billion barrels of oil. Our Nation's overreliance on oil-derived gasoline poses a threat to National security and places a heavy economic burden on the citizens of our Nation. In addition, this heavy dependence on oil negatively impacts the environment.

That is why Senator LUGAR and I, with strong bipartisan support, have pushed to replace foreign oil with more home-grown biofuels and biobased products. We recently introduced the Biofuels Security Act to aggressively ramp up the production and use of ethanol and biodiesel, ensure greater E–85 availability as well as what are known as flex-fuel cars, those that can run on E–85, a blend of 85 percent ethanol and 15 percent gasoline. Last year I authored critically important biomass research, development and deployment provisions to the energy bill. This new measure complements such efforts.

Cooperatives play an important role in the marketing of agricultural products. According to the USDA, there are over 3,000 agricultural cooperatives in America today representing millions of American farmers and investors. The production and distribution of bioenergy offers a new and lucrative economic opportunity for these organizations.

This year the ethanol industry alone will add more than 5 billion gallons of clean burning, renewable fuel to our energy supply. Between now and 2012 ethanol is expected to contribute $200 billion to the GDP. Not surprisingly, many cooperatives are eager to participate in the budding bioeconomy. One way for them to do this is to offer E–85

to their customers. This is a natural fit for farmer cooperatives, given that they already often produce the feedstocks as well as the ethanol itself that goes into E–85.

Section 30C of the Internal Revenue Code—26 U.S.C. §30C—provides a tax credit of 30 percent of the cost of qualified alternative fuel vehicle refueling properties up to $30,000. This legislation would simply allow agricultural cooperatives to pass the section 30C tax credit through to their members. It parallels pass-through provisions we have enacted previously, such as the small-producer ethanol tax credit and the wind power tax credit of the Energy Policy Act of 2005. The section 30C credit is fostering the creation and expansion of alternative fueling infrastructure and this legislation would bolster its effectiveness.

The benefits of this legislation are clear. By supporting the production, distribution and use of renewable fuels such as E–85 we can help reduce pollution, increase farm income, create jobs, bolster economic growth and promote energy and national security. Farmer owned agricultural cooperatives can and will be leading the way in the months and years ahead.

By Mr. BUNNING:

S. 3602. A bill to provide duty-free treatment for certain parts of motor vehicles; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce a bill to provide for relief from duties on the import of certain parts of motor vehicles. It is my intention that this duty suspension bill will be considered for inclusion in the Miscellaneous Tariff Bill, MTB, that the Senate Finance Committee is expected to consider this year.

As the Members of the Senate are aware, Congress on occasion passes a bill, known as the Miscellaneous Tariff Bill or MTB, as a vehicle for enacting pending noncontroversial duty suspensions. The rules for the inclusion of a duty suspension in the MTB are straight forward. First and foremost, in order to be included in the MTB, a bill must be noncontroversial. A bill will be controversial if it is objected to by a domestic producer of the product for which the duty reduction is being sought. Secondly, the cost for each bill must amount to less than $500,000 of lost revenue per year.

As my colleagues are aware, the MTB provides an opportunity to temporarily eliminate or reduce duties on narrowly defined products that are imported into the United States because there is not available domestic source for the products. These duty suspensions reduce input costs for U.S. businesses and thus ultimately increase the competitiveness of their products.

I have been approached by a number of manufacturers in Kentucky that use imported inputs while making their products. These manufacturers have represented to me that, to their knowledge, there currently exists no American-made source for these inputs.

In an effort to assist these Kentucky manufacturers, I have introduced in the past month a number of these duty suspension bills so that the items they address will be able to be considered for inclusion in the MTB prepared by the Senate Finance Committee.

My intention in introducing these bills is to begin the process of public comment and technical analysis by the International Trade Commission, ITC, on the items addressed by the bills. During this review, the ITC will determine which of these bills are necessary and meet the selection criteria. My support for a duty suspension for the items is contingent on a determination by the ITC analysts that the items in question are proper candidates for inclusion in the noncontroversial MTB.

I look forward to working with Chairman GRASSLEY, Ranking Member BAUCUS and my colleagues on the Senate Finance Committee as the process for assembling a final MTB package continues.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 3605. A bill to enable the Great Lakes Fishery Commission to investigate the effects of migratory birds on sustained productivity of stocks of fish of common concern in the Great Lakes; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I join my colleague, Senator STABENOW, in introducing the Great Lakes Migratory Bird Research and Management Act to learn more about a potential problem regarding double-crested cormorants.

Cormorants are dark-feathered water birds with voracious appetites for alewives, perch and other fish in the Great Lakes. The double-crested cormorants reside throughout North America, but according to the U.S. Fish & Wildlife Service, the largest concentration of double-crested cormorants is in the Great Lakes. The Great Lakes cormorant population migrates south, along the Atlantic coast and Mississippi River drainage to the southeastern States and Gulf of Mexico.

The Great Lakes population of cormorants was once in great jeopardy. By the early 1970s, the population had been severely harmed by chemical exposure and human contact. The U.S. Fish and Wildlife Service reports that around that time the Great Lakes population fell sharply, with few birds remaining or breeding successfully. Since then, however, there has been a huge turnaround due to conservation and pollution reduction efforts. And today the Great Lakes population of double-crested cormorants is at an historically high level.

Double-crested cormorants are very skilled at diving for fish. The increased population have led many people to believe that cormorants are at least partly responsible for declining fish populations near several northern Michigan communities.

To help provide better information on the impact of cormorants on the fish populations in the Great Lakes, we are introducing this legislation, which authorizes the Great Lakes Fishery Commission to develop a coordinated double-crested cormorant research program. As part of that research program, the Commission will recommend measures that will provide maximum sustained productivity of fishery stocks.

Under this legislation, the Great Lakes Fishery Commission would establish a committee that represents the multiple jurisdictions engaged in cormorants management to identify all of the existing control tactics and strategies in the Great Lakes region, determine the effectiveness of those tactics and strategies, and compare the tactics and strategies to the known life history of cormorant populations in the Great Lakes. In determining the effectiveness of existing control practices, the Commission will examine the impact that cormorants have on the Great Lakes fisheries.

Congress has authorized tens of millions of dollars for programs designed to restore and protect fish in the Great Lakes. Those efforts are in jeopardy because of our ignorance about the impact of double-crested cormorants on the Great Lakes fisheries. Having the best possible information about this unique problem is critical for ensuring a healthy balance between the cormorant and the fish populations.

By Mr. BINGAMAN:

S. 3606. A bill to amend title XVIII of the Social Security Act to provide fair payments for care provided in a hospital emergency department; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation entitled the Save Our Safety—SOS—Net Act of 2006. This legislation will help repair the fraying safety net that provides critical health care to patients throughout the United States. This legislation is important to the continued survival of many of our Nation's emergency departments and rural hospitals that provide services to millions of American's on a daily basis. It is these facilities that are there for us in the most remote regions of the country, it is these facilities that are there for us at all times of day and night, and it is these facilities that will be there for us in time of disaster. We need to take the steps to ensure the survival of this safety net.

This week, The Institute of Medicine's—IOM—Committee on the Future of Emergency Care in the United States Health System released a series of reports detailing the problems facing emergency care in the U.S. These reports make it clear that emergency departments—EDs—struggle daily with overcrowding, ambulance diversion, the boarding of admitted patients in the ED, limited staffing, and poor reimbursement. They face all of these challenges while continuing to provide access to safe, high-quality care without regard to ability of the patient to

pay for their care. Similarly, rural hospitals face shortages of staff and specialists, poor reimbursement, and the isolation that sometimes complicates medical care. This system is stressed and is poorly prepared to accept the additional burdens that could occur in a disaster or terrorist attack. These safety net systems and the people who work within them deserve our support and yet the trends are not promising.

The demand for emergency departments has been growing fast. In the recent study conducted by the Institute of Medicine, emergency department visits grew by 26 percent between 1993 and 2003, but due to lack of funding 425 emergency departments have closed resulting in almost 200,000 less hospital beds in the U.S. In my own State of New Mexico, we have seen a decrease from 4.2 to 3.6 beds per 1,000 population from 1990 to 2002. Ambulances are frequently diverted from overcrowded emergency departments an average of once every minute. With the growth of the number of elderly patients and the growth of uninsured patients seeking care in the ED, these statistics will only worsen if nothing is done.

There are approximately 535 sole community hospitals in 46 States. Congress has long recognized the special role of these facilities, because they serve as safety net providers offering hospital services to isolated communities and regions. These hospitals struggle with poor reimbursement and difficulty finding staff. Despite the service they provide, these facilities face the possibility of closing on a yearly basis.

To improve the ability of our safety net facilities to function, this bill proposes several steps. By improving Medicare payments for emergency department services, this bill would provide SOS payments to physicians and hospitals for the care that is provided in the emergency department. It would improve reimbursement to emergency departments by an additional 10 percent for outpatient services delivered to Medicare beneficiaries.

This legislation will also permanently extend outpatient hold harmless payment protections to some of the Nation's most vulnerable institutions, small rural hospitals and sole community hospitals that serve as safety net providers in rural communities.

Finally, to further strengthen the rural hospital safety net, this bill will improve disproportionate share hospital—DSH—payments to these facilities. Congress has historically provided additional payments to health care providers who treat large numbers of indigent patients. Disproportionate share hospital payments are made in addition to the base payments hospitals receive from the Medicare and Medicaid Programs for inpatient services. This bill will eliminate the cap that is present on DSH add-on payments to rural hospitals. This will remove some of the inequities between urban and rural hospitals.

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. 3606

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Save Our Safety Net Act of 2005''.

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

SEC. 2. ENSURING ADEQUATE PHYSICIAN PAYMENT FOR EMERGENCY DEPARTMENT VISITS.

Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

''(v) SAVE OUR SAFETY NET PAYMENTS FOR PHYSICIANS' SERVICES PROVIDED IN AN EMERGENCY DEPARTMENT.—In the case of physicians' services furnished to an individual covered under the insurance program established by this part in an emergency department on or after January 1, 2006, in addition to the amount of payment that would otherwise be made for such services under this part, there also shall be paid to the physician or other person (or to an employer or entity in the cases described in clause (A) of section 1842(b)(6)) from the Federal Supplementary Insurance Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.''.

SEC. 3. ENSURING ADEQUATE HOSPITAL OUTPATIENT FEE SCHEDULE AMOUNTS FOR CLINIC AND EMERGENCY DEPARTMENT VISITS.

(a) IN GENERAL.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended—

(1) in paragraph (3)(C)(ii), by striking ''paragraph (8)(B)'' and inserting ''paragraphs (8)(B), (11)(B), and (13)(A)(i)'';

(2) in paragraph (3)(C)(iii), by inserting ''(but not the conversion factor computed under paragraph (13)(B))'' after ''this subparagraph'';

(3) in paragraph (3)(D)—

(A) in clause (i), by striking ''conversion factor computed under subparagraph (C) for the year'' and inserting ''applicable conversion factor computed under subparagraph (C), paragraph (11)(B), or paragraph (13)(B) for the year''; and

(B) in clause (ii), by inserting '', paragraph (9)(A), or paragraph (13)(C)'' after ''paragraph (2)(C)'';

(4) in paragraph (9), by amending subparagraph (B) to read as follows:

''(B) BUDGET NEUTRALITY ADJUSTMENT.—

''(i) IN GENERAL.—If the Secretary makes revisions under subparagraph (A), then the revisions for a year may not cause the estimated amount of expenditures under this part for the year to increase or decrease from the estimated amount of expenditures under this part (including expenditures attributable to the special rules specified in paragraph (13)) that would have been made if the revisions had not been made.

''(ii) EXEMPTION FROM REDUCTION.—The relative payment weights determined under paragraph (13)(C) and the conversion factor computed under paragraph (13)(B) shall not be reduced by any budget neutrality adjustment made pursuant to this subparagraph.''; and

(5) by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively, and by inserting after paragraph (12) the following new paragraph:

''(13) SPECIAL RULES FOR CALCULATING MEDICARE OPD FEE SCHEDULE AMOUNT FOR CLINIC AND EMERGENCY VISITS.—

''(A) IN GENERAL.—In computing the medicare OPD fee schedule amount under paragraph (3)(D) for covered OPD services that are furnished on or after January 1, 2006, and classified within a group established or revised under paragraph (2)(B) or (9)(A), respectively, for clinic and emergency visits (as described in subparagraph (D)), the Secretary shall—

''(i) substitute for the conversion factor calculated under paragraph (3)(C) the conversion factor calculated under subparagraph (B); and

''(ii) substitute for the relative payment weight established or revised under paragraph (2)(C) or (9)(A), respectively, the relative payment weight determined under subparagraph (C) for such group.

''(B) CALCULATION OF CONVERSION FACTOR.—For purposes of subparagraph (A)(i), the conversion factor calculated under this subparagraph is—

''(i) for services furnished during 2006, an amount equal to the product of—

''(I) the conversion factor specified for such year in the final rule published on November 10, 2005, increased by the percentage by which such conversion factor is reduced for such year pursuant to paragraph (2)(E), and not taking into account any subsequent amendments to such final rule; and

''(II) 1.10; and

''(ii) for services furnished in a year beginning on or after January 1, 2007, the conversion factor computed under this subparagraph for the previous year increased by the OPD fee schedule increase factor specified under paragraph (3)(C)(iv) for the year involved.

''(C) DETERMINATION OF RELATIVE PAYMENT WEIGHTS.—For purposes of subparagraph (A)(ii), the relative payment weight determined under this subparagraph for a covered OPD service that is classified within such a group is—

''(i) for services furnished during 2006, the relative payment weight specified for such group for such period in the final rule published November 10, 2005, and not taking into account any subsequent amendments to such final rule; and

''(ii) for services furnished in a year beginning on or after January 1, 2007—

''(I) for ambulatory patient classification group 0601 (relating to mid-level clinic visits), or a successor to such group, the relative payment weight specified for such group in the final rule referred to in clause (i); and

''(II) for other ambulatory patient classification groups described in subparagraph (D), the relative payment weight established or revised under paragraph (2)(C) or (9)(A), respectively, for such group for such year (but without regard to any budget neutrality adjustment under paragraph (9)(B)).

''(D) GROUPS FOR CLINIC AND EMERGENCY VISITS.—For purposes of this paragraph, the groups established or revised under paragraph (2)(B) or (9)(A), respectively, for clinic and emergency visits are ambulatory patient

classification groups 0600, 0601, 0602, 0610, 0611, 0612, and 0620 as defined for purposes of the final rule referred to in subparagraph (C)(i) (and any successors to such groups).''.

(b) LIMITATION ON SECRETARIAL AUTHORITY.—Notwithstanding section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)), as amended by subsection (a), the Secretary of Health and Human Services may not make any adjustment under—

(1) paragraph (2)(F), (3)(C)(iii), (9)(B), or (9)(C) of section 1833(t) of the Social Security Act (42 U.S.C. 1395 *l*(t)); or

(2) any other provision of such section;

to ensure that the amendments made by subsection (a) do not cause the estimated amount of expenditures under part B of title XVIII of such Act (42 U.S.C. 1395j et seq.) to exceed the estimated amount of expenditures that would have been made under such part but for such amendments.

SEC. 4. PERMANENT EXTENSION OF ADJUSTMENT TO LIMIT DECLINE IN PAYMENTS FOR CERTAIN HOSPITALS UNDER HOSPITAL OUTPATIENT PPS.

(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)), as amended by section 5105 of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended—

(1) in the clause heading—

(A) by striking ''TEMPORARY'' and inserting ''PERMANENT''; and

(B) by striking ''RURAL''

(2) by striking subclause (II);

(3) by striking ''(I) In the case'' and inserting ''In the case'';

(4) by striking ''located in a rural area, for'' and inserting '', for''; and

(5) by striking ''furnished before January 1, 2006''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to covered OPD services furnished on or after January 1, 2006.

SEC. 5. FAIRNESS IN THE MEDICARE DISPROPORTIONATE SHARE HOSPITAL (DSH) ADJUSTMENT FOR RURAL HOSPITALS.

Section 1886(d)(5)(F)(xiv)(II) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended—

(1) by striking ''or, in the case'' and all that follows through ''subparagraph (G)(iv)''; and

(2) by inserting at the end the following new sentence: ''The preceding sentence shall not apply to any hospital with respect to discharges occurring on or after October 1, 2006.''.

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

S. 3607. A bill to amend title IV of the Social Security Act to ensure funding for grants to promote responsible fatherhood and strengthen low-income families, and for other purposes; to the Committee on Finance.

Mr. OBAMA. Mr. President, today, I wish to join my good friend, Senator BAYH, in introducing the Responsible Fatherhood and Healthy Families Act of 2006. This bill addresses a crisis afflicting too many communities and shortchanging the opportunities of too many kids in America: the absence of supportive fathers.

If we are serious about breaking the cycle of poverty in America and raising healthy kids, we have to get serious about the breakdown of families. We can do that without blame or fingerpointing. We can do it an openness to new ideas.

It is the same story all across America. More than a quarter of all families with children have only one parent present, and more than a third live without their father. And 40 percent of children who live without their father have not seen him their father in over a year.

Many single mothers are doing a heroic job raising their kids. They are working two and three jobs, dropping the kids off at school and daycare, and, quite simply, being both a mother and a father to their children. I appreciate the work of single mothers, because my own father was not around during my life, and my mother and grandparents had to step up to the plate to fill my father's role. But most people would agree that children are almost always better off with a father contributing his fair share, and the data shows this. Children are more likely to be poor and to do worse in school without a father in their life. And a healthy relationship between children and their father is important to healthy growth and development.

The Responsible Fatherhood and Healthy Families Act addresses these problems by removing government barriers to healthy relationships and responsible fatherhood. It improves the economic stability of parents who accept their parenting responsibility. Our bill sets a high standard for parents and helps them to reach it with incentives, support, and tougher enforcement of child support obligations.

We can't simply legislate healthy families and expect all parents to get and stay married. We can't legislate good parenting skills or good behavior role models. We can't legislate economic success for all families. But we can eliminate some of the roadblocks that parents face, roadblocks often created by the government. And we can provide some tools to help these parents succeed.

The first way this act removes governmental roadblocks is by eliminating a perverse disincentive to marriage in the Temporary Assistance to Needy Families Program. Congress is now telling States that they may be penalized for serving married couples. That is the wrong message to send. There should be equality for two-parent families receiving TANF, and States should not be required to meet a separate work participation rate for the two-parent families in their caseload.

Second, this act makes important improvements to the child support system which affects noncustodial fathers as much or more than any other government program. We restore funding for child support enforcement and we require States to pass the full amount of child support collected along to the family. A father is more likely to pay child support if he knows that the money is going to his kids. Research from States that have implemented a ''full pass through'' confirm this.

We also require States to review the amount of child support arrears that are owed to the State and we clarify existing State authority to forgive such arrearages. A father who earns only $10,000 per year, and who has $20,000 of child support debt because the State billed him for the Medicaid birthing costs of his child, is probably going to work underground and avoid paying child support altogether. He needs an incentive to get a legitimate job and to begin taking care of his family. It is in everybody's best interest.

States are also providing funding to assess any other barriers to healthy family formation or sustainable employment created by their child support and criminal justice systems. They are encouraged to establish commissions to propose State law changes that would be in the best interest of children.

Another important aspect of this act is fostering economic stability for fathers and their families. This act establishes three employment demonstration programs. One program is supervised by courts or State child support agencies that serve parents who are determined to be in need of employment services in order to pay child support obligations. The court can arrange temporary employment services for the father rather than throwing him in jail for nonpayment of support. The second is a transitional jobs program that combines temporary subsidized employment with activities that help fathers develop skills and remove barriers to employment. The third program establishes public-private partnerships to provide fathers with ''career pathways'' that help them advance from jobs at low skill levels to jobs that require greater skills and provide family-sustaining wages and benefits.

These programs are modeled on successful initiatives in Indiana and Illinois and will be subject to rigorous evaluations to ensure the goals are being achieved.

This bill fixes the earned-income tax credit to increase the incentive for fathers to engage in full-time work and paying child support obligations. The EITC is one of the most successful anti-poverty programs because it rewards work and supplements wages that may be too low to support a family. Our bill ensures that the work incentives under the EITC also apply to noncustodial parents who pay child support. To be eligible for the enhanced credit, a low-income parent must be working and current on all child support obligations. We also accelerate marriage penalty relief for families who receive the earned-income tax credit. Perversely under the U.S. Tax Code, these families have been the last to get such relief.

Finally, this bill improves the Responsible Fatherhood and Marriage Promotion Programs that were funded by the Deficit Reduction Act. Funding is increased and all fatherhood and marriage programs are required to coordinate with domestic violence prevention services to reduce instances of

domestic violence and promote healthy, nonviolent relationships.

This bill takes these steps because Congress needs to get serious about the problem of family breakdown. This is a problem that cuts across all income levels, religions, races and ethnicities, and communities across this country. There is no segment of our population that is immune to these challenges.

But some segments of the population are worse off than others. I would like to speak specifically, for a moment, about family breakdown in the African-American community—and not just because I, myself, am an African American. I am addressing this because I know, as Senator BAYH knows, and as most of my colleagues know, that a problem for one community is a problem for all of America. Hope deferred for one group is hope delayed for us all.

Around 70 percent of Black children are born outside of marriage. Of the 30 percent born to married parents, more than half experience a divorce. That means that about 85 percent of Black children spend some or all of their childhood in a home without their father. Fewer than 6 of every 10 young Black men are employed, and in some of our urban and rural areas the rate of unemployment is over 50 percent. Roughly one-third of young Black men are involved in some way with the criminal justice system. And young Black men have the lowest educational attainment among Black and White men and women.

These factors contribute to low marriage rates among African-American men. But by age 34, nearly half of Black men are fathers. And roughly two-thirds of all Black men leaving prison are fathers. I could quote statistics all day, but the bottom line is, as hard as some of these men try, it is likely that their children will also be denied the advantages of healthy parental relationships and married families. Their children will be more likely to live in poverty and to become young, unmarried parents themselves. Their children's life chances will be limited. The cycle of despair will continue.

But there is reason for hope. At the time of the birth of the child, most fathers are close to both the mother and their child. The challenge is to maintain healthy relationships between parents and to strengthen the early bonds between fathers and their children. The challenge is to improve economic opportunity for all parents so they can support themselves and their families. The challenge is to break the cycle by strengthening America's most vulnerable and fragile families.

That is what this bill does, and it is fully paid for by revenue raised by closing abusive corporate tax loopholes and blocking the exploitation of tax havens. This is a solid first step forward in removing government barriers to healthy family formation, and addressing the crisis of fatherhood among our Nation's low-income populations. I urge you to support the Responsible Fatherhood and Healthy Families Act of 2006.

By Mr. ALLARD:

S. 3608. A bill to modify the boundary of Mesa Verde National Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. ALLARD. Mr. President, I rise today on the 100th anniversary of Mesa Verde National Park to offer legislation that would expand the boundary of this national treasure. Mesa Verde is one of our Nation's most impressive national parks. In addition to its role preserving the home of some of our Nation's earliest inhabitants, it also serves as an impressive educational resource. The park also acts as the preeminent example of heritage tourism in the Nation. Allowing visitors to actively experience the rich historical and cultural history our Nation has to offer. The park is able to draw people with over 4,400 recorded archeological sites, including the impressive cliff dwellings which number more than 600. People travel from all around the world to see what we in Colorado are fortunate to have at our fingertips: one of the most well preserved and exhibited active archeological sites in the world. Mesa Verde also represents an impressive example of collaboration; they work with everyone from local elementary school students to international scholars. Mesa Verde, like its former inhabitants who flourished here for more than 700 years, has displayed an impressive resiliency and mystique over the years. The fire the park experienced a few years ago even revealed to us more of the area's secrets with newly discovered archeological sites.

I am pleased to be able to introduce this legislation today, because this legislation shows how the Government should preserve public lands. This is a good example of finding public support and working with outside groups and private property owners to find mutually beneficial ways to preserve our land. The majority of the land that will be added to the park will come from the Henneman family, who has owned this land for generations. During this time the Henneman family have been great stewards of their land. I commend them for their work as land managers. I would also like to commend the Conservation Fund for their willingess to work with the Henneman's and the park to protect this land. In addition I would like to thank the Mesa Verde Park Foundation for the land that they are generously donating to the park.

Mesa Verde National Park protects some of the best preserved and notable archeological sites in the world and this legislation will not only expand its boundaries but also its ability to preserve an important part of our history.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 3612. A bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise to introduce the Railroad Antitrust Enforcement Act of 2006. This legislation will eliminate obsolete antitrust exemptions that protect freight railroads from competition. The unneeded exemptions stand in stark contrast to the historical basis for antitrust law and once again allow railroads to abuse their dominant market power and raise rates for those who rely on them.

Antitrust law was born out of these same circumstances. Rail barons abused the power they had over shippers—especially farmers. Any American history student can describe the anti-consumer policies that led to the birth of the Sherman Act and later the Clayton Act—the building blocks of today's antitrust law.

The historical ties between the railroads and the birth of antitrust law make the situation we face today remarkable. I have heard from a growing number of shippers in Wisconsin—and I know many of my colleagues have heard from their shippers in their States—about the monopolistic practices in which the freight railroads are currently engaged. Consolidation in the railroad industry, allowed under antitrust exemptions my legislation would repeal, has resulted in only four class I railroads providing over 90 percent of the Nation's rail transportation.

Many industries—known as ''captive shippers''—are served by only one railroad. These captive shippers face constantly rising rail rates. They are the victims of monopolistic practices and price gouging by the single railroad that serves them, price increases which they are forced to pass along into the price of their products and, ultimately, to consumers. And in many cases, the ordinary protections of antitrust law are unavailable to these captive shippers—instead, the railroads are protected by a series of exemptions from the normal rules of antitrust law to which all other industries must abide.

In Wisconsin, victims of a lack of railroad competition abound. In fact, a coalition has formed, consisting of more than thirty affected organizations—Badger CURE. From Dairyland Power Cooperative in La Crosse to Wolf River Lumber in New London, companies in my State are feeling the crunch of years of railroad consolidation. The reliability, efficiency, and affordability of freight rail have all declined, and Wisconsin consumers feel the pinch.

There is no better example than Wisconsin's electric utilities. Dairyland Power serves the electricity needs of more than 575,000 people. As of January of this year, they faced a 93 percent average increase in rail rates. According to Dairyland, it will now cost about $80 million to ship $35 million worth of coal, costs that Wisconsin consumers

will absorb if Congress does not take action soon. And this problem is not unique to Wisconsin—shippers across the Nation suffer from monopolistic practices of the dominant railroads in their regions.

That is why I am introducing the Railroad Antitrust Enforcement Act of 2006. This legislation will force railroads to play by the rules of free competition like all other businesses.

The current antitrust exemptions protect a wide range of railroad industry conduct from scrutiny by governmental antitrust enforcers. Railroad mergers and acquisitions are exempt from antitrust law and are reviewed solely by the Surface Transportation Board. Railroads that engage in collective ratemaking are also exempt from antitrust law. Railroads subject to the regulation of the Surface Transportation Board are also exempt from private antitrust lawsuits seeking the termination of anti-competitive practices via injunctive relief. Our bill will eliminate these exemptions.

No good reason exists for them. While railroad legislation in recent decades including most notably the Staggers Rail Act of 1980—deregulated much railroad rate setting from the oversight of the Surface Transportation Board, these obsolete antitrust exemptions remained in place, insulating a consolidating industry from obeying the rules of fair competition.

Our bill will bring railroad mergers and acquisitions under the purview of the Clayton Act, allowing the Federal Government, state attorneys general, and private parties to file suit to enjoin anti-competitive mergers and acquisitions. It will restore the review of these mergers to the agencies where they belong—the Justice Department's Antitrust Division and the Federal Trade Commission. It will eliminate the exemption that prevents FTC's scrutiny of railroad common carriers. It will eliminate the antitrust exemption for railroad collective ratemaking. It will allow state attorneys general and other private parties to sue railroads for treble damages and injunctive relief for violations of the antitrust laws, including collusion that leads to excessive and unreasonable rates.

In sum, by clearing out this thicket of outmoded antitrust exemptions, railroads will be subject to the same laws as the rest of the economy. Government antitrust enforcers will finally have the tools to prevent anti-competitive transactions and practices by railroads. Likewise, private parties will be able to utilize the antitrust laws to deter anti-competitive conduct and to seek redress for their injuries.

As ranking member on the Antitrust Subcommittee, I have found—in industry after industry—that vigorous application of our Nation's antitrust laws is the best way to eliminate barriers to competition, to end monopolistic behavior, to keep prices low and quality of service high. The railroad industry is no different. All those who rely on railroads to ship their products—whether it is an electric utility for its coal, a farmer to ship grain, or a factory to acquire its raw materials or ship out its finished product—deserve the full application of the antitrust laws to end the anti-competitive abuses all too prevalent in this industry today. I urge my colleagues support the Railroad Antitrust Enforcement 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. 3612

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 ''Railroad Antitrust Enforcement Act of 2006''.

SEC. 2. INJUNCTIONS AGAINST RAILROAD COMMON CARRIERS.

The proviso in section 16 of the Clayton Act (15 U.S.C. 26) ending with ''Code.'' is amended to read as follows: ''*Provided*, That nothing herein contained shall be construed to entitle any person, firm, corporation, or association, except the United States, to bring suit for injunctive relief against any common carrier that is not a railroad subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code.''.

SEC. 3. MERGERS AND ACQUISITIONS OF RAILROADS.

The sixth undesignated paragraph of section 7 of the Clayton Act (15 U.S.C. 18) is amended to read as follows:

''Nothing contained in this section shall apply to transactions duly consummated pursuant to authority given by the Secretary of Transportation, Federal Power Commission, Surface Transportation Board (except for agreements described in section 10706 of title 49, United States Code, and transactions described in section 11321 of that title), the Securities and Exchange Commission in the exercise of its jurisdiction under section 10 (of the Public Utility Holding Company Act of 1935), the United States Maritime Commission, or the Secretary of Agriculture under any statutory provision vesting such power in the Commission, Board, or Secretary.''.

SEC. 4. LIMITATION OF PRIMARY JURISDICTION.

The Clayton Act is amended by adding at the end thereof the following:

''SEC. 29. In any civil action against a common carrier railroad under section 4, 4C, 15, or 16 of this Act, the district court shall not be required to defer to the primary jurisdiction of the Surface Transportation Board.''.

SEC. 5. FEDERAL TRADE COMMISSION ENFORCEMENT.

(a) CLAYTON ACT.—Section 11(a) of the Clayton Act (15 U.S.C. 21(a)) is amended by striking ''subject to jurisdiction'' and all that follows through the first semicolon and inserting ''subject to jurisdiction under subtitle IV of title 49, United States Code (except for agreements described in section 10706 of that title and transactions described in section 11321 of that title);''.

(b) FTC ACT.—Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 44(a)(1)) is amended by striking ''common carriers subject'' and inserting ''common carriers, except for railroads, subject''.

SEC. 6. EXPANSION OF TREBLE DAMAGES TO RAIL COMMON CARRIERS.

Section 4 of the Clayton Act (15 U.S.C. 15) is amended by—

(1) redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) inserting after subsection (a) the following:

''(b) Subsection (a) shall apply to common carriers by rail subject to the jurisdiction of the Surface Transportation Board under subtitle IV of title 49, United States Code, without regard to whether such railroads have filed rates or whether a complaint challenging a rate has been filed.''.

SEC. 7. TERMINATION OF EXEMPTIONS IN TITLE 49.

(a) IN GENERAL.—Section 10706 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A), by striking '', and the Sherman Act (15 U.S.C. 1 et seq.),'' and all that follows through ''or carrying out the agreement'' in the third sentence;

(B) in paragraph (4)—

(i) by striking the second sentence; and

(ii) by striking ''However, the'' in the third sentence and inserting ''The''; and

(C) in paragraph (5)(A), by striking '', and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement''; and

(2) by striking subsection (e) and inserting the following:

''(e) APPLICATION OF ANTITRUST LAWS.—

''(1) IN GENERAL.—Nothing in this section exempts a proposed agreement described in subsection (a) from the application of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 14 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a).

''(2) ANTITRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such proposed agreement for the purpose of any provision of law described in paragraph (1), the Board and any other reviewing agency shall take into account, among any other considerations, the impact of the proposed agreement on shippers, on consumers, and on affected communities.''.

(b) COMBINATIONS.—Section 11321 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''The authority'' in the first sentence and inserting ''Except as provided in sections 4 (15 U.S.C. 15), 4C (15 U.S.C. 15c), section 15 (15 U.S.C. 25), and section 16 (15 U.S.C. 26) of the Clayton Act (15 U.S.C. 21(a)), the authority''; and

(B) by striking ''is exempt from the antitrust laws and from all other law,'' in the third sentence and inserting ''is exempt from all other law (except the antitrust laws referred to in subsection (c)),''; and

(2) by adding at the end the following:

''(c) APPLICATION OF ANTITRUST LAWS.—

''(1) IN GENERAL.—Nothing in this section exempts a transaction described in subsection (a) from the application of the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 14 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), section 73 or 74 of the Wilson Tariff Act (15 U.S.C. 8–9), or the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a).

''(2) ANTITRUST ANALYSIS TO CONSIDER IMPACT.—In reviewing any such transaction for the purpose of any provision of law described in paragraph (1), the Board and any other reviewing agency shall take into account, among any other considerations, the impact of the transaction on shippers and on affected communities.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 10706 of title 49, United States Code, is amended to read as follows: ''**Rate agreements**''.

(2) The item relating to such section in the chapter analysis at the beginning of chapter 107 of such title is amended to read as follows:

''10706. Rate agreements.''.

By Mrs. CLINTON:

S. 3613. A bill to designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the ''Major George Quamo Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mrs. CLINTON. Mr. President, I am proud to introduce legislation which would designate the United States Postal Service located at 2951 New York Highway 43 in Averill Park, NY, as the Major George Quamo Post Office Building.

MAJ. George Quamo was a highly decorated Green Beret who served in the Special Forces Unit of the Army in the Vietnam war. In the years George Quamo served, he established himself as one of the Army's most highly respected field commanders. Quamo commanded three reconnaissance teams, leading a number of covert missions and saving the lives of 14 of his men. During his distinguished career he was awarded 26 medals which included the Distinguished Service Cross, Two Silver Stars, Bronze Star, Legion of Merit and Presidential Unit Citations. While conducting a mission in Vietnam, Major Quamo's helicopter crashed. He was killed at the young age of 27. He was the youngest major ever to have served in the Special Forces Unit.

MAJ. George Quamo was a Class of 1958 graduate of Averill Park High School in upstate New York. A natural leader, he was president of his high school junior class and a quarterback on the football team. After joining the Army he attended Officer Candidate School. While he died at a young age, it is clear that his presence was profound on those around him. ''I still receive phone calls from guys who served under him,'' said his brother James Quamo, now of Spencerport, Monroe County, NY. ''Some of them even cry telling me how they felt about my brother.''

I ask that the Senate come together and honor this brave American hero for his service to our Nation.

By Mr. SPECTER:

S. 3614. A bill to provide comprehensive procedures for the adjudication of cases involving unprivileged combatants; to the Committee on Armed Services.

Mr. SPECTER. Mr. President, I have sought recognition to discuss the case of Hamdan v. Rumsfeld which was decided by the Supreme Court of the United States today and to address the question as to where we go from here. There have already been many inquiries as to what is the import of this Supreme Court decision and what are the next steps in order to establish a framework to deal with the people who are detained at Guantanamo Bay.

Since the opinions were released this morning, my staff and I have been reviewing them: 177 pages, 6 opinions. The essence of the decision of the Supreme Court of the United States on a 5-to-3 vote is that the President did not have the authority to establish the military commissions and that the authority rests with the Congress under the Constitution.

The Court dealt with the issue of the resolution that authorizes the use of military force, a resolution which the administration has sought as authority for amending the Foreign Intelligence Surveillance Act, and when the Court dealt with the resolution authorizing the use of military force, the Court said that it did not give the President the authority to establish the military commissions. The Court did not deal with any issue of inherent authority. But the decision that the President lacked the authority to establish the military commissions makes it obvious that the conclusion of the Supreme Court is that there is no inherent authority, an inference and a proposition which may have some weight as we consider collateral matters, for example, on the electronic surveillance under NSA.

The Constitution of the United States is explicit in article I, section 8, which states, and I am leaving out some of the irrelevant language: Congress has the authority ''to make rules concerning captures on land and water.'' So it is a congressional matter.

In reaching its conclusion, the Supreme Court of the United States found that the military commissions violated the Code of Military Justice and also violated the terms of the Geneva Convention. The Court found that the military commissions violated the Code of Military Justice because they did not provide for very basic due process considerations. The Court said that the military commissions violated the Geneva Convention, which the Court found applicable, reversing the Court of Appeals for the District of Columbia where the Supreme Court said: The Geneva Convention, common article 3, plainly affords some minimal protection to individuals, associated with a signatory or even a nonsignatory, who are involved in a conflict.

The Court dealt with the issue of jurisdiction by saying the Government contention that the Supreme Court had no jurisdiction was wrong. The Supreme Court referred to a provision of the Detainee Treatment Act of 2005, which provides:

> No court shall have jurisdiction to hear or consider an application for habeas corpus filed by an alien detained at Guantanamo Bay. . . .

There was a reference to the statutory provision which gave exclusive jurisdiction, according to the statute, to the District of Columbia court.

The statute provided specifically:

> . . . the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision of a Combatant Status Review Tribunal which determines that an alien is properly detained as an enemy combatant.

I argued as forcefully as I could when that amendment was considered, that it was really atrocious—without any hearings, without any extended floor debate, and I had 2 minutes to speak under the rules governing the amendment—that we would be taking away jurisdiction of the Federal courts except for the District of Columbia. On its face, that language would say that the Supreme Court of the United States had no jurisdiction.

The Supreme Court made short shrift of that point, saying that it did have jurisdiction. When you deal with a constitutional issue, it is hard for this lawyer to understand how you can take away jurisdiction from the Supreme Court of the United States. How can you do that, when we know since Marbury v. Madison in 1803 that the Supreme Court of the United States is final arbiter of the Constitution? But this language, this clumsy language sought to vest exclusive jurisdiction in the Court of Appeals for the District of Columbia. The Supreme Court made short shrift of that.

On a personal note, and relevant to this consideration as well, in Justice Scalia's dissent he cites my floor argument in a footnote saying, at page 12 of his opinion:

> An earlier part of the amendment provides that no court, justice or judge shall have jurisdiction to consider the application for writ of habeas corpus. . . .Under the language of exclusive jurisdiction in the D.C. Circuit, the U.S. Supreme Court would not have jurisdiction to hear the Hamdan case. . . . Id., at [Senate Congressional Record] S12796 (statement of Sen[ator] Specter).

Interesting that Justice Scalia, who doesn't believe in congressional intent or congressional deliberation, would make that citation. But when I made the point that the statute, on its face, took away jurisdiction from the Supreme Court of the United States, I made it plain that I did not think it had any validity. A statute can not do that.

What the statute was trying to do, in part, was to look to a favorable court. The DC Circuit was a favorable court—they engaged in a little court shopping—and there was an effort to take away the jurisdiction of the district court from habeas corpus proceedings.

Under the logic of Hamdan, where you have a statutory provision that the DC Circuit has sole jurisdiction and the Supreme Court interprets that as not taking away jurisdiction of the Supreme Court, inferentially the same conclusion would follow for the district court.

It doesn't say the district court does not have jurisdiction, just like it does not say the Supreme Court does not have jurisdiction. It just says exclusive jurisdiction is in the DC circuit. It is a little hard to see how that would work out if you filed a petition for a writ of habeas corpus in the DC Circuit. That

would be anomalous. Those petitions are filed in the district court.

In any case, the Supreme Court claimed jurisdiction over the case and found that the procedures which the administration has prescribed do not comport with law.

The Judiciary Committee held a hearing on Guantanamo and made a field trip there. A number of us, including myself, went to take a look at Guantanamo, to see it firsthand and to question people there. I had gone there with the expectation of having a field hearing there. I wanted to hear from the officials at Guantanamo. When I got to Guantanamo, after the flight in, I was told there would be no field hearing—which was a disappointment, and really contrary to what I had understood the arrangement to be. But we held a hearing and devoted a considerable amount of work to the issue. Knowing, or thinking that, the administration's military commissions would be struck down because they did so little and had no real relationship to due process, we prepared legislation.

I had it put in final form last week when we considered the Department of Defense authorization bill, and one Senator did talk about legislation. I considered offering it at that time but decided that it was not a good time to do so. But we have it ready to go, ready for introduction.

Senator DURBIN and I introduced a bill to handle the Guantanamo detainees on February 13, 2002. The issue was not picked up again until the Judiciary Committee held hearings last June, and this bill, which I am introducing today, I believe, will satisfy the requirements of the Supreme Court of the United States.

This bill provides for two divisions. One is for the people who are charged with specific offenses. We retain the description of a military commission. We provide that there would be three officers on the commission, one president—a presiding judge from the Judge Advocate General's Office. Also an attorney will be provided for the accused, there will be competent evidence, there will be cross-examination and a unanimous verdict.

In the event of the use of classified information, we prescribe that the provisions of the Confidential Information Protection Act would govern, which is a statute which has been used in our courts for many years, which authorizes the presiding judge to sift through the information and make available to the defense whatever is appropriate and not classified. And if it is classified, then to make it available at the discretion of the judge to the attorney.

The attorney for the accused would be cleared through regular channels to deal with classified information so that we would be protecting the classified information by having it viewed only by someone authorized to take a look at it, so that the defense lawyer would be able to use it in the defense of his client. That is not a perfect situation, but that is the way we have dealt with confidential information under the so-called Confidential Information Protection Act.

In our legislation, we also deal with the enemy combatants. These are the individuals who have been detained at Guantanamo under an arrangement where there is no limit as to the length of their detention. That has caused considerable angst, considerable objection. But it is a very difficult matter. When we are in a war, fighting terrorists—and we should never lose our focus that we are in that war and that there are continuing dangers and we have to protect Americans—until somebody has a better idea, they are going to be detained. Some have been released and some of those released have been found on the battlefields killing Americans, so the detention of enemy combatants is an ongoing issue.

Our legislation provides that there would be a classification tribunal so that there would be a review of their status, to make a determination on a periodic basis that they continue to be a threat to the United States, either on the continent or because they will go back and fight a war. We provide for an attorney, again, an attorney who would be cleared to view classified information.

The issue of evidence is much more difficult because these enemy combatants are frequently taken into custody in a battlefield situation where competent evidence is not present, so we allow for hearsay.

In the Supreme Court opinion, if there is a showing of necessity, there is leeway granted in terms of defining sufficient due process. The Supreme Court found, for example, that the President had demonstrated sufficiently that there could not be trials in the U.S. Federal district courts, so ruling that out was fine. It was acceptable. And leeway, too, for some deviation from all of the generalized rules might be acceptable. The Supreme Court really didn't reach the issue of granting leeway because they didn't have a specific situation, but there would have to be a showing of necessity, a showing that no other system would work.

So in dealing with the enemy combatants, we are still struggling with how to handle the issue of indefinite detention, recognizing that they continue to be a threat.

The legislation which I am introducing today has received considerable thought and considerable analysis. As I say, it picks up on legislation which Senator DURBIN and I introduced on February 13, 2002. But it still requires a great deal more analysis and a great deal more thought, which we will give it in due course on the legislative process. We have altered our schedule in the Judiciary Committee to reserve July 11 for a hearing, the second day we are back—on that Tuesday we really swing into action—we will take up an analysis of Hamdan v. Rumsfeld in greater detail than we could do this afternoon in a short floor statement and with only a few hours to digest the 6 opinions and 177 pages. We will consider this legislation at that time.

I ask unanimous consent that the full text of the bill be printed in the CONGRESSIONAL RECORD at the conclusion of my comments, and a short summary of the bill, which will enable the reader to follow without going through the extended text.

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

S. 3614

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

SECTION 1. SHORT TITLE; AUTHORITY; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Unprivileged Combatant Act of 2006''.

(b) AUTHORITY.—The requirements, conditions, and restrictions established by this Act are made under the authority of Congress under clauses 1, 10, 11, 12, 13, 14, and 18 of article I, section 8 of the Constitution of the United States.

(c) FINDINGS.—Congress finds the following:

(1) Article I, section 8, of the Constitution provides that the Congress has the power to ''constitute Tribunals inferior to the Supreme Court; ... define and punish ... Offenses against the Law of Nations; ... make Rules concerning Captures on Land and Water; ... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof''.

(2) The Supreme Court has repeatedly recognized military tribunals, as stated in Madsen v. Kinsella 343 U.S. 341, 1952, ''[s]ince our nation's earliest days, such tribunals have been constitutionally recognized agencies for meeting many urgent governmental responsibilities related to war....They have taken many forms and borne many names. Neither their procedure nor their jurisdiction has been prescribed by statute. It has been adapted in each instance to the need that called it forth.'' Madsen, citing In re Yamashita, 327 U.S. 1 (1946).

(3) The President has inherent authority to convene military tribunals arising from his role as Commander and Chief of the Armed Forces under article II of the Constitution and from title 10 of the United States Code. Due to the extraordinary circumstances of the ongoing war on terrorism, it is appropriate for Congress to provide additional and explicit authorization of and procedures for military tribunals to adjudicate and punish offenses relating to the war on terrorism.

(4) This Act is in direct response to the United State Supreme Court's ruling in Rasul v. Bush. With the passage of this Act, the 109th Congress will have addressed the concerns of the Supreme Court's Rasul majority, and therefore alien enemy combatants detained or prosecuted under this Act may not challenge their detentions in the Federal courts of the United States via the habeas or any other statute.

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) CLASSIFICATION TRIBUNAL.—The term ''classification tribunal'' means any tribunal conducted under section 9 or any related proceeding.

(2) CLASSIFICATION TRIBUNAL BOARD.—The term ''classification tribunal board'' means a board established pursuant to section 9(d).

(3) CLASSIFIED INFORMATION.—The term ''classified information'' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

(4) COMMISSION.—The term ''commission'' means a military commission established pursuant to section 3.

(5) CRIMINAL PROSECUTION.—The term ''criminal prosecution'' means a prosecution for a violation of any criminal law, including subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or pursuant to the Department of Defenses Military Commission Instruction number two.

(6) DETAINEE.—The term ''detainee'' means a person who is in the custody of the Department of Defense at Guantanamo Bay, Cuba, and who has not been charged with a criminal offense during that period.

(7) INTERNATIONAL TERRORISM.—The term ''international terrorism'' has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(8) JUDGE.—The term ''judge'' means a United States military judge designated by the Secretary of Defense to hear cases under this Act.

(9) PROTECTED INFORMATION.—The term ''protected information'' means information—

(A) that is classified information;

(B) protected by law or rule from unauthorized disclosure;

(C) the disclosure of which may endanger the physical safety of participants in Commission proceedings, including prospective witnesses;

(D) concerning intelligence and law enforcement sources, methods, or activities; or

(E) the disclosure of which would otherwise jeopardize national security interests.

(10) UNITED STATES PERSON.—The term ''United States person'' has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(11) UNPRIVILEGED COMBATANT.—The term ''unprivileged combatant'' means an individual—

(A) who has been designated as an enemy combatant by a Combatant Status Review Tribunal prior to the enactment of this Act; or

(B) who a Field Tribunal conducted by the United States military as provided in this Act determines—

(i) is not entitled to the protections set out in the Convention Relative to the Treatment of Prisoners of War, done at Geneva, August 12, 1948 (6 UST 3516) (referred to in this Act as the ''Geneva Convention''); and

(ii) has—

(I) knowingly assisted, conspired with, or solicited for a group or an individual hostile to the United States;

(II) knowingly attempted to assist others in taking up arms against the United States;

(III) conspired with or solicited others to take up arms against the United States; or

(IV) has taken up arms against, or intentionally assisted combat operations against, the United States.

(12) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means the Committee on the Judiciary and the Committee on Armed Services of the Senate and the Committee on the Judiciary and the Committee on Armed Services of the House of Representatives.

SEC. 3. AUTHORIZING MILITARY COMMISSIONS.

The President is authorized to establish military commissions for the trial of individuals for offenses as provided in this Act.

SEC. 4. JURISDICTION.

(a) UNPRIVILEGED COMBATANTS.—This Act establishes exclusive jurisdiction to hear any matter involving an unprivileged combatant who has been detained by the Department of Defense for not less than 180 consecutive days at Guantanamo Bay, Cuba.

(b) OFFENSES.—

(1) CRIMINAL PROSECUTIONS.—A commission shall have jurisdiction to hear any criminal prosecution involving international terrorism, including any offense under chapter 113B of title 18, United States Code.

(2) OFFENSES AGAINST THE LAWS OF WAR.—A commission shall have exclusive jurisdiction over violations of the laws of war committed by unprivileged combatants.

(3) OTHER OFFENSES.—A commission shall have jurisdiction over other offenses traditionally triable by military commissions or pursuant to the Department of Defense's Military Commission Instruction Number Two.

SEC. 5. APPELLATE JURISDICTION.

(a) FINAL DECISIONS.—The United States Court of Military Appeals shall have exclusive jurisdiction of appeals from all final decisions of a classification tribunal board or commission under this Act.

(b) REVIEW BY SUPREME COURT.—

(1) CERTIORARI.—The decisions of the United States Court of Military Appeals are subject to review by the Supreme Court by writ of certiorari.

(2) EXEMPTION FROM CERTAIN PETITION REQUIREMENTS.—A person who files a petition for a writ of certiorari under paragraph (1) shall not be required to submit—

(A) prepayment of any fees and costs or security therefor; or

(B) the affidavit required by section 1915(a) of title 28, United States Code.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1005 of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note) is amended—

(A) in subsection (e), by striking paragraphs (2) through (4); and

(B) by striking subsection (h) and inserting the following:

''(h) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.''.

(2) HABEAS.—Section 2241(e) of title 28, United States Code, is amended—

(A) in the matter preceding paragraph (1), by striking ''section 1005 of the Detainee Treatment Act of 2005'' and inserting ''the Unprivileged Combatant Act of 2006'';

(B) by striking paragraph (2)(B) and inserting the following:

''(B) has been determined by a classification tribunal to meet the requirements of paragraph (1) or (2) of section 9(a) of the Unprivileged Combatant Act of 2006.''.

SEC. 6. COMMISSION.

(a) COMMISSION PERSONNEL.—

(1) MEMBERS.—

(A) APPOINTMENT.—The Secretary of Defense shall designate no less than 12 United States military judges to serve as members of a commission and to assume other duties assigned in this Act.

(B) NUMBER OF MEMBERS.—Each commission shall consist of at least 3 military officers, at least one of whom shall be a military judge.

(C) ALTERNATE MEMBERS.—For each such commission, there shall also be 1 or 2 alternate members. The alternate member or members shall attend all sessions of the commission. In case of incapacity, resignation, or removal of any member, an alternate member shall take the place of that member.

(D) QUALIFICATIONS.—Each member and alternate member of the commission shall be a military officer.

(E) PRESIDING OFFICER.—

(i) IN GENERAL.—From among the members of the commission, the Secretary of Defense shall designate a presiding officer who is a military judge to preside over the proceedings of that commission.

(ii) DUTIES.—The duties of the presiding officer shall be as follows:

(I) The presiding officer shall admit or exclude evidence at trial in accordance with the rules of this Act. The presiding officer shall have authority to close proceedings or portions of proceedings in accordance with this Act or for any other reason necessary for the conduct of a full and fair trial.

(II) The presiding officer shall ensure that the discipline, dignity, and decorum of the proceedings are maintained, shall exercise control over the proceedings to ensure proper implementation of the President's Military Order and this Act, and shall have authority to act upon any contempt or breach of commission rules and procedures. Any attorney authorized to appear before a commission who is thereafter found not to satisfy the requirements for eligibility or who fails to comply with laws, rules, regulations, or other orders applicable to the commission proceedings or any other individual who violates such laws, rules, regulations, or orders may be disciplined as the presiding officer deems appropriate, including revocation of eligibility to appear before that commission. The Court may further revoke that attorney's or any other person's eligibility to appear before any other commission convened under this Act.

(III) The presiding officer shall ensure the expeditious conduct of the trial. In no circumstance shall accommodation of counsel be allowed to delay proceedings unreasonably.

(IV) The presiding officer may certify interlocutory questions to the Military Commission Review Panel for the Armed Forces as the presiding officer deems appropriate.

(b) POWERS OF A COMMISSION.—A commission shall have the following powers:

(1) To summon witnesses to the trial and to require their attendance and testimony and to put questions to them.

(2) To require the production of documents and other evidentiary material.

(3) To administer oaths to witnesses.

(4) To appoint officers for the carrying out of any task designated by the commission, including the power to have evidence taken.

SEC. 7. PERSONS IN CUSTODY.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall develop—

(1) a complete listing of all persons who—

(A) are being detained by the Department of Defense at Guantanamo Bay, Cuba; and

(B) the Government wishes to continue to detain as an unprivileged combatant; and

(2) a detailed summary of the evidence upon which the determination to keep a person described in paragraph (1) in custody was made.

(b) CONGRESSIONAL OVERSIGHT.—Not later than 10 days after developing the list described in subsection (a), the Secretary of Defense shall submit an unclassified version of that list to the appropriate committees of Congress. A classified, unredacted version of that list shall also be submitted to the appropriate committees of Congress for review.

(c) UPDATED LIST.—

(1) IN GENERAL.—Not less than once every 60 days after the date the list described in subsection (a) is completed, the Secretary of Defense shall update the list of the persons described in subsection (a) and submit to the appropriate committees of Congress a detailed report for each person on such list that includes—

(A) the name and nationality of each such person; and

(B) with respect to each such person—

(i) a detailed statement of why such person has not been charged, repatriated, or released;

(ii) a statement of when the United States intends to charge, repatriate, or release such person;

(iii) a description of the procedures to be employed by the United States to determine whether to charge, repatriate, or release such person and a schedule for the employment of such procedures; and

(iv) if the Secretary of Defense has transferred or has plans to transfer such person from the custody of the Secretary to another agency or department of the United States, a description of such transfer.

(2) FORM OF REPORTS.—Each report required by this subsection shall be submitted in an unclassified form, to the maximum extent practicable, and may include a classified annex, if necessary.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committee on Armed Services, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on the Judiciary, and the Permanent Select Committee on Intelligence of the House of Representatives.

(d) CONGRESSIONAL OVERSIGHT.—Not later than 10 days after updating the list of persons under subsection (c), the Secretary of Defense shall submit that updated list to the appropriate committees of Congress in both unclassified and unredacted, classified form.

SEC. 8. FIELD TRIBUNALS.

(a) IN GENERAL.—Not more than 30 days after a suspected unprivileged combatant has been detained by United States forces, the Department of Defense shall conduct a field tribunal in order to determine whether the detainee is an unprivileged combatant and whether the detainee is entitled to the rights afforded under the Geneva Convention.

(b) PROCEDURES.—The procedures governing a field tribunal shall be promulgated by the Department of Defense

SEC. 9. CLASSIFICATION TRIBUNALS.

(a) IN GENERAL.—A detainee shall be released and repatriated to an appropriate country unless a classification tribunal board finds by a preponderance of the evidence that—

(1) the detainee is a threat to the national security interest of the United States; or

(2) there are reasonable grounds to believe that if released the detainee would take up arms against the United States.

(b) COMPLIANCE WITH GENEVA CONVENTIONS.—If a detainee is found to be a privileged combatant entitled to provisions under the Convention Relative to the Treatment of Prisoners of War, done at Geneva, August 12, 1948 (6 UST 3516), then the detainee must be treated in accordance with that convention.

(c) CITIZEN OF THE UNITED STATES.—If a detainee is found to be a citizen of the United States of America, the detainee shall not be held or tried under this Act.

(d) CLASSIFICATION TRIBUNAL BOARD.—A classification tribunal shall be conducted by a board appointed by the Secretary of Defense and consist solely of line officers, one of whom shall be an attorney.

(e) DETERMINATION.—

(1) IN GENERAL.—If a classification tribunal board finds that a detainee meets the requirements of subsection (a), the classification tribunal board shall order that the detainee shall continue to be detained by the Department of Defense, subject to periodic review under subsection (h).

(2) TIME PERIOD.—The time period for the detention of a detainee under paragraph (1) may not exceed the time period that United States forces are engaged in combat operations as defined by the Department of Defense in the nation or theater where the detainee was captured so long as the detainee is found to be a privileged combatant.

(3) CONCLUSION OF COMBAT.—At the conclusion of combat operations within a given theater or nation—

(A) a privileged combatant that was captured in that area shall be either indicted under this Act or repatriated to the appropriate country; and

(B) an unprivileged combatant may continue to be detained pursuant to subsection (a).

(f) CONSIDERATIONS.—

(1) IN GENERAL.—In making a determination under subsection (a), a classification tribunal board shall consider any information brought to its attention regarding the need for continued detention, including—

(A) the detainee's alleged position or rank in any hostile organization;

(B) the activities of that hostile organization;

(C) any statements made by the detainee in response to interrogation; and

(D) the detainee's history of violence or terrorist activity.

(2) PRIMA FACIE EVIDENCE.—If the Government represents that a detainee was captured during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies, there shall be prima facie evidence that, if released, the detainee would take up arms against the United States.

(g) TIMING.—A detainee shall be afforded a classification tribunal as soon as is reasonably practicable but not later than 180 days after the detainee's capture and not later than 30 days after the detainee is listed under section 7, unless continued.

(h) PERIODIC REVIEW.—

(1) IN GENERAL.—

(A) SEMIANNUAL REVIEW.—The classification tribunal shall conduct a classification hearing for each detainee not less frequently than every 180 days, in accordance with the procedures established under this section and section 10.

(B) ACTION PERIOD.—A detainee apprehended during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies may be detained until the cessation of armed hostilities in the nation or region in which they were captured.

(2) ARGUMENT.—The Government and the detainee may be heard regarding the review under paragraph (1).

SEC. 10. CLASSIFICATION TRIBUNAL PROCEDURES.

(a) DETAINEES.—

(1) IN GENERAL.—A detainee shall not be required to testify or present any evidence at a classification tribunal.

(2) PRESENCE.—A detainee shall be entitled to be present at the classification tribunal, unless the head of the tribunal has decided to admit classified information.

(b) COUNSEL.—

(1) IN GENERAL.—A detainee is entitled to the assistance of counsel admitted to practice under this Act at every stage of the classification tribunal, including the periodic review of orders under subsection (e).

(2) RIGHT TO APPOINTED COUNSEL.—A detainee who is unable to obtain counsel is entitled to have counsel admitted to practice before a commission under this Act.

(3) REFUSAL OF COUNSEL.—A detainee may waive counsel but shall not be entitled to protected information.

(c) DISCOVERY.—

(1) GOVERNMENT'S DISCLOSURE.—Not later than 3 days prior to the classification tribunal, the Government shall make available for inspection by counsel for the detainee any affidavit or affirmation the Government intends to offer in support of continuing to detain the detainee. A classification tribunal board shall maintain a copy of any submissions made by the Government for inspection by the detainee and for transmittal, if necessary, to that tribunal.

(2) DETAINEE'S DISCLOSURE.—If the detainee chooses to submit any evidence, such evidence, including a list of any witnesses the detainee intends to call, shall be made available to the Government for inspection not later than 3 days prior to the classification tribunal.

(d) EVIDENCE.—

(1) IN GENERAL.—The Federal Rules of Evidence shall not apply to a classification tribunal.

(2) ADMISSIBILITY STANDARD.—Evidence shall be admitted if the classification tribunal board determines the evidence would have probative value to a reasonable person.

(3) AFFIDAVIT OR AFFIRMATION.—The Government may proceed by proffer and submit any relevant information by affidavit or affirmation, unless decided unreliable by the members of the classification tribunal board.

(4) CROSS-EXAMINATION.—

(A) GOVERNMENT WITNESSES.—If a Government chooses to call witnesses, the detainee may cross-examine those witnesses on all relevant facts.

(B) DETAINEE WITNESSES.—If a detainee calls any witnesses, they shall be subject to cross examination.

(C) DETAINEE.—If the detainee chooses to testify, the detainee shall be subject to cross-examination.

(e) DEFENSES.—A detainee may challenge whether the detainee satisfies the elements required under subsection (a).

(f) PROCEEDINGS.—

(1) IN GENERAL.—A classification tribunal shall be closed to the public.

(2) SECURITY CLEARANCES.—Each person present at a classification tribunal, other than the detainee, shall possess a security clearance appropriate to the level of any classified information being presented.

(3) PUBLIC INFORMATION REGARDING PROCEEDINGS.—After the classification tribunal board rules in the classification tribunal, the parties shall propose a nonclassified summary to that board. The board shall publicly release a summary, containing any information generated at the tribunal which can be disclosed in a manner consistent with the Classified Information Procedures Act (18 U.S.C. App.) and the national security of the United States.

(g) REINSTITUTING CLASSIFICATION PROCEEDINGS.—

(1) IN GENERAL.—If a matter involving the classification tribunal of a detainee is dismissed without prejudice by the classification tribunal or withdrawn by the Government at, or prior to, the classification tribunal, the Government may reinstitute the matter with the tribunal board that dismissed or permitted the withdrawal of the matter.

(2) TIME LIMIT.—A complaint reinstituting proceedings under paragraph (1) shall be filed not later than 10 days after the dismissal or withdrawal of the matter.

(3) NUMBER.—The Government may reinstitute proceedings under paragraph (1) not more than twice and only if approved by the ranking member on the classification tribunal board.

SEC. 11. CONTINUANCE OF CLASSIFICATION TRIBUNALS.

(a) CONTINUANCES.—

(1) IN GENERAL.—A classification tribunal board may, for cause shown, grant a continuance of a classification tribunal.

(2) CONTINUANCE.—

(A) IN GENERAL.—Upon motion of the Government, the classification tribunal board may grant a continuance for as long as necessary, but no longer than a 6-month period, under paragraph (1) if the classification tribunal board determines that the detainee is a high level individual in the planning or financing of terrorist activities or the individual possess information vital to the safety of the United States or its citizens.

(B) SUBSEQUENT CONTINUANCES.—The Government may obtain subsequent continuances for additional 6-month periods so long as the classification tribunal board finds such continuances are necessary to the informational gathering purposes as it related to the national security of the United States.

(3) EX PARTE APPLICATIONS.—

(A) IN GENERAL.—The Government may move for a continuance under paragraph (1) ex parte.

(B) DETAINEE RIGHTS.—A detainee—

(i) is not entitled to representation by counsel in connection with any such ex parte motion; and

(ii) shall not be given notice of the request for a hearing prior to the ruling of the classification tribunal board on the Government's request for a continuance pursuant to paragraph (2).

(b) GRANT OF CONTINUANCE.—For each continuance granted under subsection (a), the classification tribunal board shall note on the record of the proceedings—

(1) the grounds for granting each such continuance;

(2) the identity of the party requesting the continuance;

(3) the new date and time for the tribunal hearing; and

(4) the reasons that the date under paragraph (3) was chosen.

SEC. 12. CRIMINAL PROSECUTION PROCEDURES GENERALLY.

(a) COUNSEL.—

(1) IN GENERAL.—A defendant in a criminal proceeding under this Act has a right to be represented by counsel admitted to practice before a commission under this Act.

(2) APPOINTED COUNSEL.—

(A) IN GENERAL.—A defendant who is unable to obtain counsel is entitled to have counsel appointed and to be represented by such counsel at every stage of the proceeding subsequent to being indicted.

(B) APPOINTMENT PROCEDURE.—The Secretary of Defense shall determine the rules for appointing counsel to practice before the commission.

(b) DISCOVERY.—

(1) CLASSIFIED DOCUMENTS AND OBJECTS.—The Government shall provide the defense with access to evidence the Government intends to introduce at trial and with access to evidence known to the Government or which should be known to the Government that tends to exculpate the accused. Information disclosed to the defense may not be disclosed to the defendant if it is classified as defined by this Act. The defense may submit classified information for review under section 12(b)(2).

(2) SEPARATE COMMISSION CONCERNING CLASSIFIED INFORMATION.—The Secretary of Defense shall appoint a commission to conduct a thorough review of the classification system for national security information, including the policy, procedures, and practices of the system. The Secretary of Defense shall determine what level of security clearance is necessary to conduct the review under this paragraph. No person shall be appointed as a member of the commission who does not have a security clearance at or above the level of clearance so designated by the Secretary. The commission shall make recommendations to the Secretary of Defense as to the declassification of information relevant to the trial of detainees.

(3) REGULATING DISCOVERY.—

(A) IN GENERAL.—A commission may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief.

(B) EX PARTE REQUEST.—A party may make an ex parte request in writing that a commission deny, restrict, or defer discovery or inspection under subparagraph (A). If the a commission grants a request under this subparagraph, the Commission shall preserve the entire text of the party's request under seal.

(C) FAILURE TO COMPLY.—If a party fails to comply with the rules of discovery applicable to a commission, the commission may—

(i) order that party to permit the discovery or inspection, specify its time, place, and manner, and prescribe other just terms and conditions; or

(ii) grant a continuance.

(c) OPEN PROCEEDINGS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a proceeding before a commission shall be open to the public.

(2) CLASSIFIED INFORMATION.—

(A) IN GENERAL.—Upon motion by the Government, a proceeding before a commission shall be closed to the public if necessary to avoid disclosure of classified information.

(B) NONDISCLOSURE.—A priority under subparagraph (A) shall not disclose any information presented during a closed session to individuals excluded from such proceeding or part thereof including the defendant.

(3) OTHER BASES.—A commission may order that a hearing be held, in whole or in part, in camera, if the commission determines—

(A) it is appropriate for the security of a witness or a Government employee or to protect public safety; or

(B) that an open hearing would deter a witness from testifying freely or prevent the witness from testifying at all.

(4) EXTRAJUDICIAL STATEMENTS.—At the discretion of a commission, the commission may issue an order limiting extrajudicial statements by the parties.

(d) PROTECTED INFORMATION.—

(1) IN GENERAL.—A commission may issue protective orders as necessary to safeguard protected information in a proceeding before that commission.

(2) NOTIFICATION.—As soon as practicable, a party shall notify a commission of any intent to offer evidence including protected information .

(3) TRIAL RECORD.—

(A) IN GENERAL.—All exhibits admitted as evidence but containing protected information shall be sealed and annexed to the record of trial.

(B) PROTECTED INFORMATION NOT ADMITTED.—Any protected information not admitted as evidence, but reviewed by a commission in camera and withheld from the defendant's counsel over objection shall be sealed and annexed to the record of the trial, with any associated motions and responses and any materials submitted in support thereof, as additional exhibits.

(e) RECORD OF TRIAL.—

(1) REQUIREMENT FOR RECORD.—A record of each proceeding by a commission shall be prepared promptly after the conclusion of the trial.

(2) VERBATIM TRANSCRIPT.—The record of trial shall include a verbatim written transcript of all sessions of the trial.

(3) EXHIBITS AND OTHER EVIDENCE.—The record of trial shall also include all exhibits and other real or demonstrative evidence, except that photographs may be substituted for any large written or graphic exhibits and any other real or demonstrative evidence. If a photograph is substituted for an exhibit or other evidence, the Government shall retain the original exhibit or other evidence, respectively, until no further appeal of the results of the trial is authorized.

(4) CLASSIFIED INFORMATION.—In the case of a conviction of a charge on which classified information is admitted as evidence by a commission, the copy of the record of trial submitted to the commission shall include the classified information.

SEC. 13. TRIAL PROCEDURES FOR UNPRIVILEGED COMBATANTS.

(a) SPECIALIZED PROCEDURES.—

(1) STANDARD OF PROOF.—All 3 members of a commission shall agree that the defendant is guilty beyond a reasonable doubt for a defendant to be found guilty.

(2) RULES OF PROCEDURE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Defense shall draft supplementary rules to govern all proceedings under this section.

(B) STANDARD.—Evidence is admissible if the Secretary of Defense determines that the evidence would have probative value to a reasonable person.

(3) FORM OF TRIAL.—Any trial under this subsection shall take place before 2 military officers or attorneys and at least one military judge.

(4) BAD ACTS.—Other bad acts may be considered if they would have fallen within the definition under this Act of either terrorism or terrorist activity and they are deemed to be relevant by a commission including propensity.

(b) CUSTODY.—The Department of Defense shall retain custody of any person determined by a commission to be unprivileged combatants after the person has been either convicted or sentenced in accordance with this Act, unless the Department of Defense deems otherwise. Decisions made by a commission in regards to a detainee's guilt or innocence may be considered by a tribunal when assessing the need to continue the detention of a detainee.

SEC. 14. COMMUNICATION WITH PERSONS IN CUSTODY.

An individual detained, indicted, or convicted under this Act shall only be permitted to communicate with the interpreter assigned to the individual, the counsel representing the individual, prison personnel, and any other individual approved by the Secretary of Defense.

SEC. 15. COMMISSION COUNSEL.

(a) IN GENERAL.—A person shall be admitted to practice before a commission if the person—

(1) is a United States citizen;

(2) has been admitted to the practice of law in a State, district, territory, or possession of the United States, or before a Federal court;

(3) has not been sanctioned or otherwise the subject of disciplinary action by any court, bar, or other competent governmental authority for misconduct;

(4) is eligible for access to information classified at the level of secret as defined by the Department of Defense; and

(5) signs a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings.

(b) CONSULTATION WITH COLLEAGUES.—Any person admitted under subsection (a) shall not confer with any colleague who does not have the appropriate clearance.

(c) SECURITY CLEARANCE.—

(1) EXPEDITED CONSIDERATION.—The Secretary of Defense shall ensure that a person seeking to be admitted under subsection (a) is timely processed for the security clearance required for access to materials necessary for providing a defendant with effective assistance of counsel.

(2) COUNSEL INELIGIBLE FOR CLEARANCE.—If the Secretary of Defense determines a person is not eligible for the necessary security clearance, the person shall not be permitted to represent an individual in any proceeding before the Commission. The determination of the Secretary of Defense shall be final and is not subject to appeal to, or other review by, any court of the United States.

(d) TRAVEL EXPENSES.—The Secretary of Defense shall reimburse any person not employed by the Government who is representing an individual before the Commission for travel away from the home or regular place of business of the person in connection with such representation. The rates for the payment of travel expenses under this subsection shall be those authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code.

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

The Unprivileged Combatants Act of 2006 is a follow-up to the Military Commissions Procedures Act of 2002 (S. 1937, 107th Congress) which you cosponsored with Senator DURBIN in February 2002. The goal of this bill is to balance the need for national security (interrogations and detention of combatants) with the need to afford detainees with sufficient due process so that nations such as Great Britain and Australia will not place undue pressure on the United States to release their citizens from Guantanamo Bay. This bill addresses only those combatants currently held at Guantanamo Bay. The Act clarifies the procedures used in Combatant Status Review Tribunals and establishes procedures for the trial of detainees. These procedures constitute ''a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker.'' (Hamdi v. Rumsfeld, 542 U.S. 507, O'Connor, J.) This bill does not address the issue of unprivileged combatants contesting their detentions through habeas appeals. Although the Graham-Kyl-Levin amendment to the 2005 DoD appropriations bill has addressed this issue, a forthcoming Supreme Court decision (Hamdan v. Rumsfeld, 04–5393) will probably require additional legislation on this matter.

Section 301: Findings: This title is in direct response to the United States Supreme Court's ruling in Rasul v. Bush.

Section 302: Definition Section: Definition section of the bill which defines primary terms such as field tribunal, classification tribunal, military commission, and unprivileged combatant.

Section 303: Authorizing Military Commissions: The President is authorized to establish military commissions for the trial of individuals for offenses as provided in this title.

Section 304: Jurisdiction Over Unprivileged Combatants: This title establishes exclusive jurisdiction to hear any matter involving an unprivileged combatant who has been detained by the Department of Defense at Guantanamo Bay, Cuba. These detainees may be tried via laws of war or pursuant to the Department of Defense's Military Commission Instruction Number Two.

Section 305: Appellate Jurisdiction: The U.S. Courts of Military Appeals shall have exclusive jurisdiction over appeals from all final decisions of a classification tribunal board or military commission under this tide. These decisions are then subject to review by the Supreme Court by writ of certiorari.

Section 306: Military Commission: The Commissions shall consist of three military officers, at least one of whom is a Judge Advocate General. These Commissions shall decide the guilt or innocence of detainees charged under section 304 of this Act. This is basically what happens now.

Section 307: Persons in Custody: Not more than 60 days after the enactment of this Act, the Secretary of Defense is required to develop a list of all persons who are being detained at Guantanamo Bay, Cuba, and whom the government wishes to continue to detain as an unprivileged combatant. The Act requires that the original list and subsequent lists, updated at least once every 60 days, be submitted to the appropriate House and Senate committees.

Section 308: Field Tribunals: Not more than 30 days after a suspected unprivileged combatant has been detained by United States forces, the Department of Defense shall conduct a field tribunal (''FT'') in order to determine whether the detainee is an unprivileged combatant and whether the detainee is entitled to the rights afforded under the Geneva Convention. The procedures governing a field tribunal shall be promulgated by the Department of Defense.

Section 309: Classification Tribunals: A Classification Tribunal (''CT'') is very similar to the current Combatant Status Review Tribunal. The CT shall be composed of three military officers, one of whom shall be an attorney. Pursuant to a hearing before a CT, a designee shall be released and repatriated to an appropriate country unless a CT finds by a preponderance of the evidence that—(1) the detainee is a threat to the national security interest of the United States; or (2) there are reasonable grounds to believe that if released the person would take up arms against the United States. Decisions of the CT shall be repeated every six months. Detainees may be released only when the CT or the Administrative Board determines the detainee is no longer a threat to national security. This section also expressly states that a detainee who is also a United States citizen may not be held or tried under this act.

Section 310: Classification Tribunal Procedures: Procedures for CT's are the same as those of Combatant Status Review Tribunals except detainees shall be represented by counsel and are permitted to view unclassified discovery that the prosecution plans to present before the tribunal.

Section 311: Continuance of Classification Tribunals: Classification tribunals may be continued in order for the government to continue their interrogation of a detainee. Upon a motion from the Government, the classification tribunal board may grant a continuance for up to a 6-month period, if the classification tribunal board determines that: 1) the individual being detained is a high level individual in the planning or financing of terrorist activities, or 2) the individual possesses information vital to the safety of the United States or its citizens. The Government may obtain more than one continuance if it demonstrates that such continuances are necessary for information gathering purposes as it relates to national security. Said applications for Continuances shall be made ex parte and before a detainee is given an attorney. Accordingly, a detainee is only given an attorney once the tribunal is informed that the interrogation efforts have been exhausted.

Section 312 & 313: Criminal Prosecution Procedures: Military Commission procedures will be the same as the current procedures afforded detainees under the current system.

Section 314: Communication with Persons in Custody: Limits communications by any detainee indicted or convicted under this Act to the individual's interpreter, assigned counsel, prison personnel, and any other individual(s) approved by the Secretary of Defense.

Section 315: Commission Counsel: Provides the following criteria for persons to be admitted to practice before a commission: 1) U.S. Citizen, 2) has been admitted to practice law in a State, district, territory or possession of the United States or before Federal Court, 3) has not been disciplined by any court, bar or other competent governmental authority for misconduct, 4) maintains a minimum of ''secret'' clearance and 5) signs a written agreement to comply with all applicable regulations aid instructions for counsel during the course of proceedings. It further provides persons admitted to practice will not confer with any colleague who does not have at least a ''secret'' clearance. This section provides that individuals seeking to practice before a commission will be expedited in consideration for obtaining the necessary security clearance. The decision of the Secretary of Defense regarding the granting or not of the security clearance is final and is not eligible for appeal or review. Finally, this section provides that persons practicing before the commission are eligible to have their travel expenses reimbursed.

By Mr. HARKIN:

S. 3615. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Federal Food, Drug, and Cosmetic Act to provide for improved public health and food safety through enhanced enforcement, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today, I am introducing the Safe and Fair Enforcement and Recall for Meat, Poultry, and Food—SAFER—Act. This legislation will protect consumers from contaminated meat and poultry by giving the Department of Agriculture, USDA, and the Department of Health and Human Service's Food and Drug Administration, FDA, greater authority to remove unsafe products from the market.

If enacted, the bill would give USDA and FDA the following three key tools in keeping food safe for consumers: authority to mandate that a company recall unsafe meat, poultry, and food products if a company fails to voluntarily recall unsafe or unwholesome food; require companies to notify USDA or FDA if they know a product is adulterated or misbranded; and authority to USDA and FDA to levy civil penalties if a company violates federal meat, poultry, or food laws. USDA and FDA are lacking fundamental authorities to maintain a safe and secure food supply. This legislation would change that.

Foodborne illness continues to be a far too common problem in the United States. The Centers for Disease Control and Prevention, CDC, estimate that each year 76 million illnesses, 325,000 hospitalizations, and 1,800 deaths can be attributed to foodborne diseases. USDA's Economic Research Service estimates that the cost of foodborne illness is $6.9 billion a year in medical

costs, productivity losses, and premature deaths. Even in the face of such numbers, companies say USDA and FDA do not need more effective tools to enforce food safety standards. They say the food industry is compliant with voluntary recalls. It is true most companies do comply, but there have been problems and delays in recalls. The problem is, USDA and FDA have no backup authority to order a recall if the company refuses. What happens then? Without this legislation, USDA and FDA have to lose precious time to get unsafe product off the shelves. Another criticism of this legislation is that it would give USDA too much power to mandate recalls, and may even push the Department to go too far. However, the bill has a procedure for due process, so that if a company has evidence that a recall or civil penalties are unjustified, they are appealable before an administrative law judge.

In addition to mandatory recall authority, the authority to levy a financial penalty if a company does not comply with our food safety laws is crucial to enforcing the standards. Civil penalties are an effective deterrent to stop violators and are already used to enforce analogous federal safety standards. Currently, USDA and FDA can only withdraw inspectors and shut down a plant that repeatedly or willfully violates our meat, poultry and food laws, which can often be a lengthy and costly process. Such drastic action is very seldom even taken. The ability to levy civil penalties gives USDA and FDA a much-needed tool for ensuring compliance with our food safety laws.

USDA recently proposed a rule to provide the public with valuable information about meat and poultry that is voluntarily recalled. The rule will disclose the names and locations of stores where such products have been sold. While I believe this is a step in the right direction, it is not enough to protect consumers. This USDA rule does little more than place the burden on consumers to protect their families or themselves from foodborne illnesses. The SAFER Meat, Poultry, and Food Act would act as a complement to this USDA proposal, and would give USDA, as well as FDA, the power to enforce the food safety standards they have set. I urge my colleagues to support this legislation to protect the American consumer.

By Mr. SCHUMER (for himself, Mr. SMITH, Mr. BOND, Mr. REED, Mrs. MURRAY, and Mr. SARBANES):

S. 3616. A bill to amend the Internal Revenue Code of 1986 to provide an incentive to preserve affordable housing in multifamily housing units which are sold or exchanged; to the Committee on Finance.

Mr. SCHUMER. Mr. President, today I rise to introduce mine and Senator GORDON SMITH's bill, The Affordable Housing Preservation Act of 2006. Our bill provides a solution to preserve federally assisted affordable multifamily housing.

I want to thank all of our colleagues— Senators BOND, REED, MURRAY, and SARBANES—for realizing the importance of this issue and agreeing to cosponsor our legislation.

I have often said that few Federal programs have helped mothers and fathers keep their families together more than our low income and public housing programs. And while I always fight to make sure New York and the country at large gets all the money it can from Washington, frankly I am not the kind of elected official who believes that all government programs are equally good. But low income housing programs are some of the best things our government has ever done to help families, mothers, the elderly, and the disabled.

Unfortunately—the current housing climate has reached a crisis point and the good that we are doing just is not enough anymore. Consider that in 2001, 95 million people—a whopping one third of the nation—had housing problems: ranging from high cost burden, to overcrowding, to poor quality, or worse to homelessness.

In the same year, 41 million people, 14.6 percent of the U.S. population, were without health insurance and 12 percent of all people in the U.S.—33.6 million—lacked food security. These are all interrelated. If rent is too high—you go without health insurance. Maybe you trim down spending on groceries.

Sixty-five million Americans with housing problems are low income, and 87 percent of them face high housing cost burdens. In New York, the numbers are even worse. New York State ranks 47th out of the 50 States in renter affordability.

Across the board, housing problems are plaguing low income people who live in both renter and owner households, and by people in all age groups, including children and seniors.

The bottom line is that twice as many people who lack health insurance and three times more people who struggle on a regular basis to put food on their table have housing problems.

But for whatever reason, the housing issue does not attract the same level of public concern and political attention as other programs. And that's why housing programs have been cut back by more than just about any other program over the last decade.

Whenever I speak to New Yorkers—there is a common refrain: from gas prices to milk costs to rent hikes, the cost of living in New York keeps going up and up.

It is a demonstrated pattern and we have worked diligently to try to defend every penny. We have had some successes but it is a yearly battle and I unfortunately have no doubt that we will continue to fight to defend every penny of funding for housing programs.

But scraping our pockets for money is not enough. I served on the Housing Subcommittee for my entire 25 years in Congress and I'm tired of just playing defense and preventing things from happening.

If we want to actually get something done to improve the housing market and prospects for millions of low income families we've got to not just be satisfied with a good defense.

What we need right now is a good offense. As the newest member on the Senate Finance Committee in addition to my current post on the Banking, Housing and Urban Affairs Committee, I intend to use this position to help fight for housing and particularly new funding for housing for New York and America.

Today I am introducing legislation with my fellow Finance Committee member, Senator GORDON SMITH—proposing that we bring this fight to a playing field many more are comfortable on. We should focus on housing tax incentives rather than just relying solely on new spending to expand the number of affordable housing units.

Since its inception the Tax Reform Act of 1986, the low-income housing tax credit, for example, has helped build and convert 1.6 million apartments with rents affordable to low income families, by providing investors in affordable housing developments with a dollar-for-dollar reduction in their Federal tax liability.

We anticipate that the Affordable Housing Preservation Act of 2006 will afford renters and developers similar benefits. Our legislation will work to ensure that we can preserve the current supply of affordable housing by providing tax relief to owners.

At the moment the inadequate present stock of affordable housing might shrink even further—much of it was built in the 60s and 70s and is aging and needs to be rehabilitated.

Under normal circumstances—developers who own this housing and have no interest in rehabilitating it themselves would sell it to another developer who would refinance and rehabilitate it for affordable housing.

But because a so called ''exit tax'' is placed on any developer who plans to sell their subsidized property—more and more are deciding not to sell and to just sit on the property until they die.

Let's say back in the 70s Developer Dan purchased a plot of land in Queens for $200,000 and built $800,000 worth of affordable housing on it—for a total investment of $1 million.

At the time, Developer Dan was able to secure tax benefits as part of the accelerated tax depreciation program and was able to deduct 70 cents on every dollar invested in affordable housing over a 15-year period.

So now in 2004 his accelerated depreciation has expired and Dan is getting on in his years and wants to sell the property—simply to break even and get out of the business.

But he can't do it very easily. If Dan sells the property for $1 million he must then pay an exit tax. The exit tax for Dan will be 25 percent applied to the building that was subsidized. So Dan must pay a $200,000 tax when he sells the building. That is not a very appealing situation for our friend Dan.

So Dan entertains two other options—instead of keeping the units as affordable housing he sells his property into the traditional housing market where he can garner a greater price which includes the amount of the exit tax but removes the units from the affordable housing market.

Or even more likely, Dan holds onto the property and neglects its upkeep at a detriment to his tenants and waits until he dies because then the tax consequence is erased. The property is likely sold in the traditional market and lost to the affordable housing community.

The Local Initiatives Support Coalition estimates that there are 1 million housing units held in this manner because owners are unwilling to sell and take on the new tax burden.

That is 1 million housing units—many of which are rapidly deteriorating and not providing good homes for the people who are living in them and one million units that will eventually be removed from the affordable market if we don't do something to make it easier and more attractive for affordable housing owners to sell their properties to other affordable housing developers.

So today, we are proposing a plan to waive exit taxes for owners who sell their properties to buyers who agree to keep the properties affordable for no less than 30 years. It is a simple fix—and one that could save us 1 million affordable housing units.

While we await a full scoring of our proposal from the CBO, our back of the envelope estimate shows that waiving the exit taxes to preserve this supply of affordable housing represents a $422 million incentive program over a 10-year period.

We hope this bill will move quickly, especially since we have clear support in both the House and the Senate. Congressman JIM RAMSTAD has introduced a similar bill on the House side. In addition, we have widespread support from the housing, real estate and investment community

Before I close I want to make clear—this and similar types of housing tax proposals are not meant to replace funding for current housing programs. We will still fight for full funding of every housing program—from section 8 to CDBG. We just need to modify our strategy and operate more on the offense rather than the defense.

Mr. SMITH. Mr. President, I rise to join Senator SCHUMER in offering legislation that will help maintain our Nation's affordable housing inventory. Our country's stock of affordable rental housing is shrinking. Every day, we lose affordable units to rent increases, deterioration, and conversions to market-rate housing or commercial use. For millions of Americans, this means that it is getting harder to put a roof over their family's heads and food on the table.

In 2000—recognizing that we had a looming crisis—Congress established the bipartisan Millennial Housing Commission. The Commission was tasked with studying the importance of affordable housing to the infrastructure of the United States as well as the various methods to increase the effectiveness and efficiency of the private sector's role in providing affordable housing.

The bill Senator SCHUMER and I are introducing is based on a recommendation by the Millennial Housing Commission. Our bill would waive the depreciation recapture tax liability if investors sell their property to owners who will preserve the property as affordable housing for 30 years. Through a simple change in the Tax Code, our bill will help preserve the federally assisted affordable housing stock of the United States at a minimal cost to the Federal Government. This proposal is supported by a broad coalition of affordable housing advocates, including the National Housing Conference, the National Housing Trust, the National Low-Income Housing Coalition, and the National Council of State Housing Agencies.

According to Oregon Housing and Community Services, OHCS, there are approximately 4,000 households at risk of losing their homes in the OHCS portfolio alone. There are another 6,000 households at risk in section 8 projects not currently in the OHCS portfolio. All of these properties could benefit from the change Senator SCHUMER and I are proposing.

The Neighborhood Partnership Fund of Portland estimates that an additional 215 Rural Housing Service properties with more than 6,000 units in Oregon could also benefit.

I thank the Senator from New York, Mr. SCHUMER, for working with me on this bill. I believe this is important legislation and will help stem affordable housing losses in the United States. I look forward to working with my colleagues to see the legislation passed and signed into law.

By Mrs. CLINTON (for herself, Mr. LEAHY, Mr. JEFFORDS, and Mr. SCHUMER):

S. 3618. A bill to establish the Champlain Quadricentennial Commemoration Commission, the Hudson-Fulton 400th Commemoration Commission, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. CLINTON. Mr. President, it gives me pride and pleasure to introduce revised legislation to establish the Champlain Quadricentennial Commemoration Commission and the Hudson-Fulton 400th Commemoration Commission.

I began this effort with legislation I introduced 4 years ago during the 107th Congress. Because my colleagues in the other body and I were not able to enact our bill that time, we returned in the 108th Congress with new legislation including needed revisions. I now lay down the next version of the bill that incorporates welcomed input and reflects a consensus reached among key leaders who share the goal of honoring important events in our Nation's and New York State's history.

The United States of America has long been celebrated for its leadership in innovation, exploration, and ingenuity. These qualities have been evident dating back as far as 1609 when Englishman Henry Hudson became the first European to sail up the river later named for him in the vessel Half Moon. Also in 1609, French explorer Samuel de Champlain became the first European to see the lake later named for him, as well as the shores in Northern New York and Vermont.

These explorations led to the establishment of trading posts, military posts, and settlements as far south as Lake George. From these early establishments came trade, commerce, cultural, and religious impact deep into the Mohawk Valley and as far west as Lake Erie. These settlements influenced our Nation's history, culture, law, commerce, and traditions of liberty that extend to the present day.

Almost 200 years later, in 1807, Robert Fulton navigated the Hudson River from the city of New York to Albany in the steamboat Clermont, successfully inaugurating steam navigation on a commercial basis. This event helped revolutionize waterborne commerce on the great rivers of the United States and fostered international relations through transoceanic travel and trade.

We are now almost 400 years removed from the voyages of Hudson and Champlain and 200 years removed from the voyage of Fulton. If America intends to continue in its role as a world leader in innovation, exploration, and ingenuity, it is important that we provide a suitable observance of those before us who have contributed to what our nation is today.

The Champlain Quadricentennial Commemoration Commission and the Hudson-Fulton 400th Commemoration Commission represents a unique opportunity to celebrate New York, Vermont and America's glorious heritage. In 1909, Americans celebrated the 300th anniversaries of these events with maritime celebrations and art exhibitions. The Dutch built the first replica of Hudson's ship, the Half Moon, and sent it up the Hudson River for the observance. In 1959, Congress recognized the 350th anniversary by establishing a similar commission to coordinate federal participation in the celebrations.

I ask that the Senate come together not only to honor these events that have contributed to our past, but to celebrate the effects they will have on our future.

By Mr. LEVIN (for himself, Mrs. DOLE, Mr. REED, Mr. JEFFORDS, Mr. VOINOVICH, and Mr. MARTINEZ):

S. 3620. A bill to facilitate the provision of assistance by the Department of Housing and Urban Development for the cleanup and economic redevelopment of brownfields; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, today I introduced the Brownfields Redevelopment Enhancement Act of 2006 with Senators DOLE, REED, JEFFORDS, VOINOVICH, and MARTINEZ. This bill would allow the U.S. Department of Housing and Urban Development to assist communities in transforming idle brownfield sites into productive uses. Brownfields are abandoned or underused industrial and commercial properties where redevelopment is complicated by real or perceived environmental contamination. More than 450,000 of these sites taint our Nation and limit the economic growth of communities. Brownfields redevelopment can provide new opportunities for businesses, housing, and recreational spaces such as urban parks.

Brownfields redevelopment is a fiscally sound way to bring investment back to neglected neighborhoods, clean up the environment and maximize use of existing infrastructure. My home State of Michigan has benefited from hundreds of brownfields redevelopment projects, and this bill would help to ensure that federal tools are in place to continue with these successes in Michigan and throughout the Nation.

The Brownfields Redevelopment Enhancement Act would provide the Department of Housing and Urban Development with new tools to spur brownfields redevelopment. This bill would provide local governments with increased accessibility to HUD's Brownfields Economic Development Initiative grants by allowing HUD to make brownfields grants without requiring that communities pledge their future community development block grant funds as collateral. Removing this restriction from the HUD Brownfields Economic Development Initiative program would allow many more communities, especially smaller communities, to participate in the program. The bill also adopts the definition of brownfields used by the EPA, which would bring greater consistency and clarity to the federal government's brownfields programs.

The bill authorizes $50 million annually for this important Federal program, which provides funding for a wide variety of brownfield redevelopment activities—from site remediation to construction. Supporters of this bill include the U.S. Conference of Mayors, the National Association of Home Builders, the National Association of Industrial and Office Properties, the Real Estate Roundtable, the National Association of Development Organizations, the Northeast-Midwest Institute, the National Association of Local Government Environmental Professionals, the Associated General Contractors of America, the National Association of Real Estate Investment Trusts, and the Environmental Bankers Association.

I want to thank my Senate colleagues for working with me on this bill, and I want to especially thank JACK REED who played a key role in the early drafting of the bill.

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. 3620

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 ''Brownfields Redevelopment Enhancement Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) grants under the Brownfields Economic Development Initiative of the Department of Housing and Urban Development provide local governments with a flexible source of funding to pursue brownfields redevelopment through land acquisition, site preparation, economic development, and other activities;

(2) to be eligible for such grant funds, a community must be willing to pledge community development block grant funds as partial collateral for a loan guarantee under section 108 of the Housing and Community Development Act of 1974, and this requirement is a barrier to many local communities that are unable or unwilling to pledge such block grant funds as collateral; and

(3) by providing grants for the economic development of brownfield sites independent from section 108 loan guarantees and the related pledge of community development block grant funds, more communities will have access to funding for redevelopment of brownfield sites.

(b) PURPOSE.—The purpose of this Act is to provide units of general local government and Indian tribes with increased accessibility to brownfields redevelopment funds by permitting the Secretary of Housing and Urban Development to make grants for brownfields development independent from section 108 loan guarantees.

SEC. 3. BROWNFIELDS DEVELOPMENT INITIATIVE.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

''SEC. 123. BROWNFIELDS DEVELOPMENT INITIATIVE.

''(a) IN GENERAL.—The Secretary may make grants under this section, on a competitive basis as specified in section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), only to eligible public entities (as such term is defined in section 108(o) of this title) and Indian tribes for carrying out projects and activities to assist the development and redevelopment of brownfield sites, which shall include mine-scarred lands.

''(b) USE OF GRANT AMOUNTS.—Amounts from grants under this section—

''(1) shall be used, as provided in subsection (a) of this section, only for activities specified in section 105(a) in connection with a brownfield site;

''(2) shall be subject to the same requirements that, under section 101(c) and paragraphs (2) and (3) of section 104(b), apply to grants under section 106; and

''(3) shall not be provided or used in a manner that reduces the financial responsibility of any nongovernmental party that is responsible or potentially responsible for contamination on any real property and the provision of assistance pursuant to this section shall not in any way relieve any party of liability with respect to such contamination, including liability for removal and remediation costs.

''(c) AVAILABILITY OF ASSISTANCE.—The Secretary shall not require, for eligibility for a grant under this section, that such grant amounts be used only in connection or conjunction with projects and activities assisted with a loan guaranteed under section 108.

''(d) APPLICATIONS.—Applications for assistance under this subsection shall be in the form and in accordance with the procedures established by the Secretary.

''(e) SELECTION CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for awarding assistance under this subsection.

''(2) CRITERIA.—The criteria established under paragraph (1) shall include—

''(A) the extent of need for such assistance;

''(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

''(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

''(D) such other factors as the Secretary determines to be appropriate.

''(f) DEFINITION OF BROWNFIELD SITE.—For purposes of this section, the term 'brownfield site'—

''(1) has the meaning given such term in section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)); and

''(2) includes a site that meets the requirements under subparagraph (D) of such section for inclusion as a brownfield site for purposes of section 104(k) of such Act (42 U.S.C. 9604(k)).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $50,000,000, for each of fiscal years 2007, 2008, 2009, 2010, and 2011.''.

SEC. 4. TECHNICAL AMENDMENT TO ALLOW USE OF CDBG FUNDS TO ADMINISTER RENEWAL COMMUNITIES.

Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting ''and renewal communities'' after ''enterprise zones''.

SEC. 5. APPLICABILITY.

The amendments made by this Act shall apply only with respect to amounts made available for fiscal year 2007 and fiscal years thereafter for use under the provisions of law amended by this Act.

Mrs. DOLE. Mr. President, across North Carolina and our Nation, many local communities face the challenge of what to do with blighted lands where factories and businesses once thrived. Though abandoned, these sites still hold great promise for prosperity. In fact, around the country, deserted, contaminated industrial facilities, called brownfields, are being reclaimed, cleaned up and redeveloped. Communities are partnering with the private sector and State and Federal agencies to turn brownfields into productive sites that promote economic growth and job creation.

With nearly 1 million brownfields remaining in the United States, we need to strengthen these important public-private partnerships. That is why I am very pleased to introduce the Brownfields Redevelopment Enhancement Act with my colleagues, Senators MARTINEZ, LEVIN, REED, VOINOVICH, and JEFFORDS. This legislation will enable more local communities to use grant funding from the Department of Housing and Urban Development's Brownfields Economic Development Initiative, BEDI, program to literally unearth opportunity.

For several years, HUD has provided more than $200 million to local governments in BEDI grants of up to $3 million to support demolition, site clearance, site preparation, infrastructure upgrades, and redevelopment activities that are needed to transform brownfields into productive sites once again. This HUD support for brownfields projects is critical because redevelopment requires more than the environmental assessment and cleanup funding that is provided by the U.S. Environmental Protection Agency.

BEDI grants generate tremendous private investment in brownfields redevelopment. In fact, every dollar in BEDI grant funding generates 10 dollars in private sector support for brownfields projects. Still, these funds could be provided in a much more effective way. Currently BEDI grants are available only if they are coupled with HUD section 108 loan guarantees, typically in a high loan-to-grant ratio. These section 108 loans must be backed and collateralized by the local government's future allocations of HUD community development block grant, CDBG, funds. This requirement is unworkable for many communities. For smaller localities that do not have an entitlement to CDBG funds, BEDI funds are very difficult to obtain. And larger CDBG entitlement communities also have great difficulty in obtaining BEDI funding, either because they have reached their allowable CDBG borrowing limit or because the demand for scarce CDBG funding is so great.

The legislation we introduce today would amend the Housing and Community Development Act of 1974 by untying the BEDI program from the requirement to obtain Section 108 loans, thus making BEDI funding more accessible for communities large and small. The legislation also would authorize $50 million in annual HUD grant funding for brownfields projects.

Communities around the country, including many in my home State of North Carolina, would benefit tremendously from this adjustment in BEDI grant requirements. For example, Wilson, N.C. wants to clean up and redevelop 30 acres of vacant tobacco warehouses in the downtown district. But because Wilson is not a CDBG entitlement community, these BEDI funds currently are unattainable under the section 108 requirement. And in Winston-Salem, city leaders seek to make a corridor of underutilized brownfield land into part of the Piedmont Triad Research Park, a global center for life science and medical technology. Winston-Salem, though a CDBG entitlement city, cannot access any additional BEDI funding because the city is nearing its CDBG debt guarantee limit. The legislation we propose today would remove these barriers for places like Wilson and Winston-Salem and enable our communities to turn great visions for economic development into reality.

The House of Representatives has already approved a similar measure to spur brownfields cleanup, and this legislation is broadly supported by many localities and private sector organizations, including the U.S. Conference of Mayors, the National Association of Development Organizations, the National Association of Local Government Environmental Professionals, the National Association of Homebuilders, the Associated General Contractors of America, the National Association of Industrial and Office Properties, the National Brownfield Association, the Real Estate Roundtable, the National Association of Real Estate Investment Trusts, and North Carolina-based Cherokee Investment Partners.

With such strong support—in Congress and in communities across the Nation—for this improvement to the BEDI program, I urge the Senate to act swiftly on this legislation. Brownfields revitalization projects are models of successful public-private partnering, and we at the Federal level must do our part to encourage and enable these endeavors to continue.

By Mr. REID:

S. 3621. A bill to permit certain local law enforcement officers to carry firearms on aircraft; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, I rise today to reintroduce legislation I originally introduced last Congress, a bill to make air travel safer by allowing local law enforcement to carry their firearms on aircrafts, the Safer Skies Act of 2006.

This legislation is needed to increase the safety of our airplanes, as well as to make it easier for local law enforcement to travel across the county. Whether on official travel or personal travel, Federal law enforcement officers are allowed to carry firearms with them throughout their flights. The legislation I am introducing today would extend the same privilege—and responsibility—to local law enforcement officers.

Ever since the horrific terrorist attacks that occurred on September 11, 2001, we have seen how our local emergency responders, including local law enforcement officers, play a vital role in protecting not just their local communities, but the entire Nation. Hurricanes Katrina and Rita are the most recent examples. We think of local law enforcement officers as our Nation's first responders, but they are also the Nation's early preventers. They are the first to identify local crimes that could turn into national attacks. They are the first to report suspicious behavior that could thwart a future terrorist attack. And they are the ones who can keep our nation safe by stopping a terrorist threat before it becomes an attack. Their eyes, ears and experience are critical to our national security, and that includes on airplanes.

Hundreds, thousands of police officers use the Nation's airlines each day. Authorizing certain qualified local police officers to carry their weapons onto planes, whether on or off duty, will give airline personal access to additional assistance if needed. The unique, long-term training in handling various disturbances including hostage situations, barricaded subjects, drunken persons and the mentally ill will provide added security to our Nation's flights and enhance passenger safety. Authorizing qualified local officers to carry their duty weapons on aircrafts is a way to be proactive in enhancing the security of our Nation's air travel. It will also have a deterrent effect on potential hijackers, knowing their may be more armed law enforcement on any given flight.

A terrorist attack in any city is a national concern. Local law enforcement officers are a crucial element of the plan to protect our Nation. I want to thank the Las Vegas Police Protective Association and the National Association of Police Organizations for their support of this important legislation. In particular, I would like to thank Detective David Kallas, Executive Director Las Vegas Police Protective Association, Detectives Chris Collins and Michelle Jotz, and John Dean Harper for their input and advice.

With their help, we have produced legislation that will keep our country safe, by giving law enforcement the standing they deserve as they continue to protect our hometowns and the nation. I ask unanimous consent that both this letter of support from the National Association of Police Organizations and 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. 3621

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 ''Safer Skies Act of 2006''.

SEC. 2. AUTHORITY OF LOCAL LAW ENFORCEMENT OFFICERS TO CARRY FIREARMS ON AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

''§ 44926. Authority of local law enforcement officers to carry firearms on aircraft

''(a) IN GENERAL.—Not later than 30 days after the date of the enactment of the Safer Skies Act of 2006, the Under Secretary of Transportation for Security shall prescribe

regulations that permit qualified local law enforcement officers to carry accessible weapons while onboard an aircraft to the same extent and subject to the same limits as Federal law enforcement officers are permitted under section 1544.219 of title 49, Code of Federal Regulations, or any successor regulation.

''(b) QUALIFIED LOCAL LAW ENFORCEMENT OFFICER.—In this section, the term 'qualified local law enforcement officer' means any full-time State or local enforcement officer, whether or not on official travel, who—

''(1) is a direct employee of a government agency that—

''(A) employs more than 400 employees; and

''(B) is accredited by a nationally recognized law enforcement accreditation program;

''(2) is armed in accordance with an agency-wide policy established by the employing agency by directive or policy statement; and

''(3) otherwise complies with the requirements relating to Federal law enforcement officers.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 449 of title 49, United States Code, is amended by inserting after the item related to section 44925 the following:

''Sec. 44926. Authority of local law enforcement officers to carry firearms on aircraft.''.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.,
Washington, DC, June 29, 2006.

Hon. HARRY REID,
U.S. Senate,
Washington, DC.

DEAR SENATOR REID: On behalf of the National Association of Police Organizations (NAPO), representing 238,000 rank-and-file police officers from across the United States, I would like thank you for introducing the ''Safer Skies Act of 2006,'' and advise you of our support for the legislation. If enacted, this legislation would provide additional protection to those flying our nation's skies by permitting qualified local law enforcement officers to carry accessible weapons while onboard an aircraft.

NAPO was actively involved in fighting for the passage of the ''Law Enforcement Officers' Safety Act,'' which rightly allows off-duty and retired police officers to carry their firearms for the protection of themselves, their families and our nation's communities. NAPO stands by this law and firmly believes that allowing an officer the right to carry an accessible weapon on a plane is a natural and appropriate extension of this law.

''Safer Skies Act of 2006'' is necessary and beneficial for the general welfare of the public, especially after the events of September 11, 2001. NAPO supports the bill and looks forward to working with you to expand its coverage in the future. Ultimately, we feel it is important to include all of our nation's law enforcement officers in order to provide greater protection to the officers and our nation's citizens flying the American skies. If you have any questions, please feel free to contact me, or NAPO's Legislative Assistant, Andrea Mournighan.

Sincerely,

WILLIAM J. JOHNSON,
Executive Director.

By Mr. CORNYN (for himself and Mr. COLEMAN):

S. 3622. A bill to authorize the President to negotiate the creation of a North American Investment Fund between the Governments of Canada, of Mexico, and of the United States to increase the economic competitiveness of North America in a global economy; to the Committee on Foreign Relations.

Mr. CORNYN. Mr. President, I rise today to introduce legislation—previously introduced in the 108th Congress—which I believe is important to the long-term competitiveness of North America. And I would like to thank my distinguished colleague, Mr. COLEMAN, for his support and recognition of the value of this legislation. He is an original co-sponsor of the bill, and I look forward to working with him and others to ensure its success.

Currently, a significant development gap exists between Mexico and the United States and Canada. I believe it is in our best interests to find creative ways to bridge this development gap.

As my colleagues undoubtedly are aware, Mexico will elect a new President this weekend. When President Fox was elected in 2000 it was a watershed event for Mexico because the election was fair and the transfer of power was peaceful. I hope that the same fair, peaceful process takes place this weekend. So I wish all the candidates well and I look forward to working with the new Administration and the new Congress on issues of mutual importance to our countries.

Considered in the context of history, Mexico has—particularly within the past decade—made significant strides related to its system of government and its trade policies. However, much work remains to be done, and I think it is important that we explore ways to help our neighbor move their development efforts to the next level, to assist them as they continue on a path of prosperity and growth.

I have come to view the creation of a North American Investment Fund as both central to our relationship with Mexico and necessary to ensure the economic prosperity of North America as part of an ever-changing and growing global economy. I hope that this legislation will be a useful vehicle to help jump-start discussions on this very important topic.

My bill authorizes the President to negotiate the creation of a North American Investment Fund with the governments of Canada and Mexico. The fund can only be created if Mexico satisfies two conditions.

First, the Government of Mexico must raise tax revenue to 18 percent of the gross domestic product of Mexico. Their current tax rate is approximately 9 percent.

Second, Mexico must develop and execute a program of economic reforms to increase private investment and economic growth, while also maintaining economic stability in Mexico.

These steps are of the utmost importance because any lasting changes in Mexico must start from within.

The purpose of this fund is to reinforce efforts already underway in Mexico to ensure their own economic development. The funding would make grants available for projects to construct roads in Mexico to facilitate trade, to develop and expand their education programs, to build infrastructure for the deployment of communications services and to improve job training and workforce development for high-growth industries.

As I have mentioned on several occasions, I have heard from Mexico leaders who say they want desperately to ''export goods and services, not people'' to our country. Well, I think we all recognize that opportunity in one's home country and immigration are linked, and I believe we should be more involved in helping to promote the strength and stability of our neighbors.

Development provides a positive and stabilizing influence on economies, on government institutions, and also on immigration. We've seen, in past years, a steady flow of immigrants—particularly undocumented workers—coming across our borders. A vast number of these immigrants are here to work hard so they can send money home to their families and relatives. They may be well-intentioned, but at the same time, these hard workers are doing nothing to help their own economies.

Mexico does not want the most entrepreneurial members of its society to permanently leave. What it wants most of all is for economic development to grow in their region, so that citizens would have real opportunities to stay and grow the economy there. But with the entrepreneurs and risk-takers coming to the United States, Mexico cannot hope to improve its own economy.

Economic growth creates new jobs and raises incomes. This growth lifts people out of poverty even as it spurs positive economic reform. The potential for good is nearly limitless; as with such a fund we could spur sustainable development, strengthen private property rights, while also encouraging competition, regional integration, the open flow of technology.

So the best solution for all of us is a Mexico economy that is vibrant—and one important way is to ensure its continued development of infrastructure and resources. The legislation I am proposing today would encourage this development, and I urge my colleagues to support it.

I have no illusions that Congress will move quickly to approve the idea of a North American Investment Fund. In fact, I think it will likely take some time to make our case regarding the important role this fund would play in helping spur much-needed reforms in Mexico. But this investment in Mexico's future will only serve to contribute to a more stable and prosperous North America, which should be a goal we all work to actively support.

It is important that we consider not only what is immediately feasible, but also what is ultimately desirable—the ultimate goal—in terms of the relationship between our three countries, and so I urge my colleagues to cosponsor this important legislation.

By Ms. LANDRIEU:

S. 3626. A bill to amend the Internal Revenue Code of 1986 to provide estate tax relief and reform, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, this is a bill that will reduce the estate tax and reform a system that needs to be reformed. It is an issue that many of us have been working on for several—not only several months but for several years. Leaders on both sides of the aisle and Members on both sides of the aisle have been trying to come up with a compromise position that would be respectful of the fiscal situation of our country and also mindful that this tax in its current form, at least the rates and the way it is applied in its current form, can simply not be sustained. It makes no sense for this tax to be in place 1 year and go completely away the next year and then come back in the next year at a completely different rate.

We have been trying to make this much more simple for taxpayers who have to comply with it and much more fair so that it is not a discouragement for people who want to start businesses at later years. We want to try to be fair to the Federal Treasury and to the many demands.

At one point, I supported the total repeal of this tax. That one time was when we were running a surplus and before we were engaged in the wars in Afghanistan and Iraq. The war in Iraq is costing this country approximately $4 billion to $6 billion a month. It has been going on for 3 years. Unfortunately, there does not seem to be an end in sight because things are not going as well as many of us had hoped. We must continue to make a priority of this Nation supporting our men and women in uniform—whether they are here at home or in Iraq in the frontline or in Afghanistan in the frontline or other frontlines around the world. So we simply cannot afford to repeal this tax. It takes too much money out of the Treasury at a time when we need it to support our troops. Most Americans, regardless of how they feel about the war, realize we need the money to support our troops and keep them safe and help bring them home as soon as possible.

I offer this bill in the spirit of compromise. Hopefully, it will give some guidance to those who may be looking for something they can support, that costs significantly less than what Chairman THOMAS has proposed, what Senator KYL has proposed, and what others have proposed, yet gives that assurance to businesses that they will not have to pay a fluctuating rate.

The most important thing I think my bill does is it completely eliminates the estate tax for 99.9 percent of the people in Louisiana and a great percentage of people throughout the country. If you are an estate of less than $10 million, you will pay no tax. If you are a single person with $5 million or an estate worth $10 million, you have to pay income tax, you will pay capital gains tax, you will pay payroll tax, you will pay a lot of other taxes that come with the rights and privileges of being an American citizen, but you will not pay an estate tax. Only those estates over $10 million will pay the tax. And those over $100 million—which I would call superstates—would pay a little more than those that are in the middle.

As a Democrat and as a Senator, I believe in a free enterprise system where people can make money and benefit from their hard work. We need to balance between the individual's right to keep as much money as they can make and the Nation's needs to conduct wars, to protect our borders, to protect our coasts, to build our highway system—which is 50 years old today and certainly did not get built on a wish and a prayer. It got built with good design, good political will, and a lot of money that went into building that highway system that we can be proud of. It needs to be improved.

So for those who say every American should be able to keep all the money they make, I don't know who would keep the public sector that does so much good—from the men and women in uniform, to building the highways, to keeping our air clean and water clean, and other things that we depend on Government to help operate and collect in a sensible way.

I offer this in a spirit of compromise. It is something I certainly can support, and I look forward to working with my colleagues as we move through this recess to come to terms with something that is fiscally responsible and also cognizant of trying to get this tax leveled so people can plan on what they are going to have to pay and it will not become a burden on anyone and so everyone can plan, even those with a great deal of money.

By Mr. OBAMA:

S. 3627. A bill to prohibit the Department of Defense and the Department of Energy from selling, distributing, or transferring elemental mercury, to prohibit the export of elemental mercury, and for other purposes; to the Committee on Environment and Public Works.

Mr. OBAMA. Mr. President, last December, the Chicago Tribune published an in-depth report on the extent of mercury contamination in the fish eaten by the American people.

As I am sure my colleagues know, mercury is a potent neurotoxin that can cause serious developmental problems in children, ranging from severe birth defects to mental retardation. As many as 630,000 children born annually in the U.S. are at risk of neurological problems related to mercury.

In adults, mercury can cause major neurological problems affecting vision, motor skills, blood pressure and fertility. As many as 10 percent of women in the U.S. of childbearing age have mercury in their blood at a level that could put a baby at risk.

Mercury, in short, is a poison, and it often reaches humans through the fish that we eat.

Sampling conducted by the Tribune showed surprisingly high levels of mercury concentrations in freshwater and saltwater fish purchased by Chicago area consumers—fish like tuna, swordfish, orange roughy, and walleye. The Tribune series also reported on how existing programs at the Food and Drug Administration and the Environmental Protection Agency have failed to adequately test and evaluate mercury levels in fish.

As someone who regularly eats fish, I was surprised at the range of species with high mercury levels in the Tribune tests. Fish is an excellent source of nutrients and other compounds indispensable for good health. More of us should eat more fish. But for all Americans—and especially pregnant women and other at-risk groups—there are risks to eating fish with high mercury levels. That's why we need to work harder to get at the root causes of mercury contamination.

You see, the long-term solution isn't eating less fish, or issuing consumption advisories, or printing labels on tuna cans, or posting placards at the supermarket. If we're really serious about making fish safer to eat, we need to reduce the amount of mercury in fish, which means reducing the amount of mercury used in industry.

But, the solution can't be just a U.S. one. Half of mercury settles near where it is emitted and the other half gets transported around the globe—often settling in oceans, lakes, and rivers nowhere near mercury sources. For that reason, we need a comprehensive, global strategy, and the two bills I am introducing today are designed to be part of that strategy.

My first bill, the Mercury Market Minimization Act, or M3 Act, establisbes a ban on U.S. exports of mercury by the year 2010. Such a ban, when coupled with a European Union proposal to ban mercury exports by 2011, will constrain global supply of commercially available mercury in sufficient quantities that developing nations that still use mercury will be compelled to switch to affordable alternatives to mercury that are already widespread in industrialized nations.

My second bill, the Missing Mercury in Manufacturing Monitoring and Mitigation Act, or M5 Act, requires the remaining eight of more than 30 chlor-alkali plants in the United States to complete the transition from mercury to alternative technologies.

Chlor-alkali facilities manufacture chlorine gas and caustic soda, important chemicals that serve as the building blocks of many of the products and plastics essential to modem everyday life. For decades, mercury was a key component in the chlorine process, but today, more than 90 percent of the chlor-alkali industry has switched to an alternative catalyst. Only eight chlor-alkali plants remain in the U.S.

that still use mercury. The chlorine industry has instituted voluntary policies to help capture and reduce mercury missions into the atmosphere—with laudable success. The time has come, however, to finish these upgrades and end the use of mercury in the chlor-alkali process.

The amount of mercury emitted or lost by these eight chlor-alkali plants rivals the amount of mercury emitted by all of the coal-fired plants in the United States. In 2003, the average chlor-alkali facility released 1,055 lbs. of mercury into the air—six times as much as the 183 lbs. of mercury released by the average coal-fired powerplant. And it is likely that the actual amount of mercury released by chlor-alkali plants is even higher because of emissions that escape through unmonitored ventilation systems and other leaks.

The M5 Act also solves another gap in the current system; it puts procedures in place to track and report mercury input and output statistics in the chlor-alkali industry. The evidence suggests that between 2000 and 2004, the industry could not account for more than 130 tons of mercury, in addition to the 29 tons that were released into the environment. The EPA calls this ''an enigma.'' The M5 Act puts an end to this enigma and requires documented tracking of mercury.

Although this bill deals with chlor-alkali plants, it's important to acknowledge that coal-fired powerplants are a significant contributor to the mercury in our atmosphere. We must continue to pursue balanced policies that address those emissions, but our policy approaches on mercury cannot single out coal-fired power plants alone. In truth, the largest source of global mercury contamination is the continued worldwide use of mercury in developing countries, particularly in gold mining and general industry, even thought there are proven and economically viable mercury substitutes.

Mr. President, I believe these two bills will go a long ways towards improving the health of the American people. I urge the swift enactment of these bills.

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. 3627

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 ''Missing Mercury in Manufacturing Monitoring and Mitigation Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) mercury and mercury compounds are highly toxic to humans, ecosystems, and wildlife;

(2) as many as 10 percent of women in the United States of childbearing age have mercury in their bloodstreams at a level that could pose risks to their unborn babies, and as many as 630,000 children born annually in the United States are at risk of neurological problems relating to mercury exposure in utero;

(3) the most significant source of mercury exposure to people in the United States is ingestion of mercury-contaminated fish;

(4) the Environmental Protection Agency reports that, as of 2004, as a result of mercury contamination—

(A) 44 States have fish advisories covering more than 13,000,000 lake acres and more than 750,000 river miles;

(B) in 21 States, the freshwater fish advisories are statewide; and

(C) in 12 States, the coastal fish advisories are statewide;

(5) the long-term solution to mercury pollution is to minimize global mercury use and releases of mercury to eventually achieve reduced contamination levels in the environment, rather than reducing fish consumption, since uncontaminated fish represents a critical and healthy source of nutrition for people worldwide;

(6) an estimated additional 24,000 to 30,000 tons of mercury are used at mercury cell chlor-alkali plants worldwide;

(7) mercury pollution is a transboundary pollutant that—

(A) is deposited locally, regionally, and globally; and

(B) affects bodies of water near industrial areas, such as the Great Lakes, as well as bodies of water in remote areas, such as the Arctic Circle;

(8)(A) of the approximately 30 plants in the United States that produce chlorine, only 8 use the obsolete ''mercury cell'' chlor-alkali process; and

(B) the 8 plants described in subparagraph (A) that use the mercury cell chlor-alkali process release or lose a quantity of mercury that rivals the mercury emissions of all coal-fired power plants in the United States;

(9)(A) only about 10 percent of the total quantity of chlorine and caustic soda produced comes from the chlor-alkali plants described in paragraph (8) that use the mercury cell chlor-alkali process; and

(B) cost-effective alternatives are available and in use in the remaining 90 percent of chlorine and caustic soda production, and other countries, including Japan, have already banned the mercury cell chlor-alkali process;

(10) as of the date of enactment of this Act, the chlor-alkali industry in the United States possesses approximately 2,500 tons of mercury at facilities using the mercury cell process and historically has used substantially greater quantities of mercury because many more facilities in the past used the mercury cell process;

(11) the chlor-alkali industry acknowledges that—

(A) mercury can contaminate products manufactured at mercury cell facilities; and

(B) the use of some of those products results in the direct and indirect release of mercury;

(12) despite those quantities of mercury known to have been used or to be in use, the chlor-alkali industry and the Environmental Protection Agency have failed—

(A) to adequately account for the disposition of the mercury used at those facilities; and

(B) to accurately estimate current mercury emissions; and

(13) it is critically important that the United States work aggressively toward the monitoring and mitigation of domestically-used mercury.

SEC. 3. STATEMENT OF POLICY.

Congress declares that the United States should develop policies and programs that will—

(1) reduce mercury use and emissions within the United States;

(2) reduce mercury releases from the reservoir of mercury currently in use or circulation within the United States; and

(3) reduce exposures to mercury, particularly exposures of women of childbearing age and young children.

SEC. 4. USE OF MERCURY IN CHLORINE AND CAUSTIC SODA MANUFACTURING.

(a) IN GENERAL.—Title I of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following:

''SEC. 6A. USE OF MERCURY IN CHLORINE AND CAUSTIC SODA MANUFACTURING.

''(a) DEFINITIONS.—In this section:

''(1) CHLOR-ALKALI FACILITY.—The term 'chlor-alkali facility' means a facility used for the manufacture of chlorine or caustic soda using a mercury cell process.

''(2) HAZARDOUS WASTE; SOLID WASTE.—The terms 'hazardous waste' and 'solid waste' have the meanings given those terms in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

''(b) PROHIBITION.—Effective beginning January 1, 2012, the manufacture of chlorine or caustic soda using mercury cells is prohibited in the United States.

''(c) REPORTING.—

''(1) IN GENERAL.—Not later than April 1, 2007, and annually thereafter through April 1, 2012, the owner or operator of each chlor-alkali facility shall submit to the Administrator and the State in which the chlor-alkali facility is located a report that identifies—

''(A) each type and quantity of mercury-containing hazardous waste and nonhazardous solid waste generated by the chlor-alkali facility during the preceding calendar year;

''(B) the mercury content of the wastes;

''(C) the manner in which each waste was managed, including the location of each off-site location to which the waste was transported for subsequent handling or management;

''(D) the volume of mercury released, intentionally or unintentionally, into the air or water by the chlor-alkali facility, including mercury released from emissions or vaporization;

''(E) the volume of mercury estimated to have accumulated in pipes and plant equipment of the chlor-alkali facility, including a description of—

''(i) the applicable volume for each type of equipment; and

''(ii) methods of accumulation; and

''(F) the quantity and forms of mercury found in all products produced for sale by the chlor-alkali facility.

''(2) AVOIDANCE OF DUPLICATION.—To avoid duplication, the Administrator may permit the owner or operator of a facility described in paragraph (1) to combine and submit the report required under this subsection with any report required to be submitted by the owner or operator under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.).

''(d) INVENTORY.—

''(1) IN GENERAL.—For each chlor-alkali facility that ceases operations on or after July 1, 2008, not later than 1 year after the date of cessation of operations, the Administrator, in consultation with the State in which the facility is located, shall conduct a comprehensive mercury inventory covering the life and closure of the chlor-alkali facility, taking into the account—

''(A) the total quantity of mercury purchased to start and operate the chlor-alkali facility;

''(B) the total quantity of mercury remaining in mercury cells and other equipment at the time of closure of the chlor-alkali facility;

''(C) the estimated quantity of mercury in hazardous waste, nonhazardous solid waste, and products generated at the chlor-alkali facility during the operational life of the chlor-alkali facility; and

''(D) the estimated aggregate mercury releases from the chlor-alkali facility into air and other environmental media.

''(2) RECORDS AND INFORMATION.—In carrying out paragraph (1), the Administrator shall obtain mercury purchase records and such other information from each chlor-alkali facility as are necessary to determine, as accurately as practicable from available information, the magnitude and nature of mercury releases from the chlor-alkali facility into air and other environmental media.

''(e) TRANSFER TO STORAGE.—

''(1) REGULATIONS.—Not later than July 1, 2008, the Administrator shall promulgate regulations establishing the terms and conditions necessary to facilitate the transfer and storage of mercury located at closed or closing chlor-alkali facilities, including the allocation of costs and potential liabilities of that transfer and storage.

''(2) DEADLINE FOR TRANSFER.—Beginning on July 1, 2008, elemental mercury located at a closed or closing chlor-alkali facility that has ceased operations shall be transferred to a storage facility established by the Administrator in accordance with the regulations promulgated under paragraph (1).

''(f) HEALTH ASSESSMENT.—Not later than July 1, 2009, for each chlor-alkali facility that continues to operate as of July 1, 2008, the Administrator, in coordination with the Administrator of the Agency for Toxic Substances and Disease Registry, shall conduct a health assessment of employees at the chlor-alkali facility.

''(g) REGULATIONS.—In addition to regulations described in subsection (e)(1), the Administrator may promulgate such regulations, including the establishment of a reporting form for use in accordance with subparagraph (c), as are necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Toxic Substances Control Act (15 U.S.C. 2601 note) is amended by inserting after the item relating to section 6 the following:

''Sec. 6A. Use of mercury in chlorine and caustic soda manufacturing.''.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, and Mr. KERRY):

S. 3628. A bill to amend the Internal Revenue Code of 1986 to improve and extend certain energy-related tax provisions, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I am introducing another piece of legislation with Senator FEINSTEIN that addresses the critical issue of the Nation's energy policy, the EXTEND the Energy Efficiency Incentives Act of 2006. The Senator from California and I have come together once again—given where we are as a Nation in terms of reliance on foreign oil, the historically high costs of energy, the state of our environment, and the status of our technological know-how—to introduce realistic, doable legislation that represents one of the best opportunities for developing bipartisan consensus on tax policy to further securing our Nation and its future.

The EXTEND Act, also cosponsored by Senator KERRY, takes a comprehensive and practical approach to assure that America gets the maximum possible energy savings and relief from high energy prices at the lowest cost. It builds on the incentives for efficient buildings adopted in the Energy Policy Act of 2005, EPAct 2005, and modifies them where necessary to achieve these policy goals.

The bill extends the temporary tax incentives for energy efficiency buildings established in EPAct 2005, providing 4 years of assured incentives for most situations, and some additional time for projects with particularly long lead times, such as commercial buildings. A sufficient length of time is needed by the business community to make rational investments. The bill is meant to incentivize not discourage. I want to encourage businesses to make investments to qualify for energy efficiency tax incentives. Commercial buildings and large residential subdivisions have lead times for planning and construction of 2 to 4 years. This is why the EXTEND Act provides 4 years of assured incentives for most situations, and some additional time for projects with long lead times.

I am pleased to have the support of Finance Committee Chairman GRASSLEY for crafting the correct policy for large-scale commercial projects, recognizing that these large commercial building projects take years to design and build. As a mater of fact, I entered into a colloquy with the chairman the day EPAct 2005 passed the Senate and received his assurance that he will continue to work with me to make this a long-term policy of the Tax Code.

Also, the EXTEND Act makes modifications to the EPAct 2005 incentives so that the incentives are not based on cost but based on actual performance. These are measured by on-site ratings for whole buildings and factory ratings for products like solar water heaters and photovoltaic systems as well as air conditioners, furnaces, and water heaters. The EXTEND bill provides a transition from the EPAct 2005 retrofit incentives, which are based partially on cost and partially on performance, to a new system that can provide larger dollar amounts of incentives based truly on performance.

The Snowe-Feinstein legislation also extends the applicability of the EPAct 2005 incentives so that the entire commercial and residential building sectors are covered. The current EPAct 2005 incentives for new homes are limited to owner-occupied properties or high rise buildings. Our bill extends these provisions to rental property and offers incentives whether the owner is an individual taxpayer or a corporation. This extension does not increase costs significantly, but it does provide greater fairness and clearer market signals to builders and equipment manufacturers.

I have worked hard over the past 5 years for performance-based energy tax incentives for commercial buildings—one-third of energy usage is from the building sector, so there are great energy savings to be made with the extension of these incentives. My energy efficiency tax incentives provisions for commercial buildings that came to fruition in the EPAct 2005 were tasked to Treasury to promulgate regulations to harmonize with the law. On June 2, 2006, the Internal Revenue Service issued guidance on how to comply with section 179D of the Internal Revenue Code establishing a deduction for commercial buildings that achieve a reduction in energy consumption of 50 percent.

Unfortunately, the guidance is inadequate, according to energy efficiency experts, which may stem from the fact that we are into some uncharted territory and there may be a basic lack of understanding of what it takes to make energy efficiency tax incentives work, and specifically those based on performance, not cost. It is critical that the IRS guidance is written correctly so as to actually incentivize greater energy efficiencies while making sure any guidance promotes the best use of taxpayer dollars. I brought these issues to the attention of the now Secretary of the Treasury Paulson at his nomination hearing in the Senate Finance Committee on June 27, and I look forward to working with his people at Treasury to resolve these important issues relating to the IRS guidance.

It is reasonable to expect many annual benefits after 10 years if we put into place the appropriate incentives. For instance, direct savings of natural gas would amount to 2 quads per year or 7 percent of total projected natural gas use in 2017. And, to this figure must be added the indirect gas savings from reduced use of gas as an electricity generation fuel. Total natural gas savings would be 35 quads per year, or 12 percent of natural gas supply. Total electric peak power savings would be 115,000 megawatts; almost 12 percent of projected nationwide electric capacity for the year 2017.

In addition, reduction in greenhouse gas emissions would be 330 million metric tons of carbon dioxide annually, about 16 percent of the carbon emissions reductions compared to the base case necessary to bring the U.S. into compliance with the Kyoto Protocol; or roughly 5 percent of projected U.S. emissions in 2017. Also, importantly, the bill will result in the creation, on net, of over 800,000 new jobs.

The value of energy savings should not be overlooked as both business and residential consumers will be saving over $50 billion annually in utility bills by 2017, as a direct result of the reductions in energy consumption induced by the appropriate incentives. Also, the projected decrease in natural gas prices will be saving businesses and households over an additional $30 billion annually.

I would also like to take this opportunity to comment on the Feinstein-Snowe 10 in 10 CAFE standards legislation introduced this past week as the bill is yet another piece for solving the Nation's energy crisis.

The ten in ten measure is straightforward—we increase the average mileage of each company's vehicles fleet by 10 miles per gallon in 10 years—10 in 10. This would save 2.5 million barrels of oil a day by 2025—the same amount we currently import daily from the Persian Gulf—while eliminating 420 million metric tons of carbon dioxide emissions, a climate change-causing greenhouse gas, from entering the atmosphere.

Certainly, we ought to be able to at least meet these goals. Yet, thus far, Congress and the administration have regrettably sent exactly the wrong message at a time when we have already witnessed a crisis—and that is, a ''can't do'' attitude, rather than the ''can do'' spirit that has defined progress in America since our fledgling days as a nation. We have the means, we have seen the demonstrated necessity, we possess the entrepreneurial spirit, what exactly is there left not to get?

There should be no question that increasing fuel economy standards an average of 1 mile per gallon across a manufacturer's fleet for the next 10 years is a challenge to which this country can rise—in fact, it is long overdue. We are long past the point of watching and waiting it out while the U.S. auto makers dither—Congress has a responsibility to provide leadership on this issue by refusing to accept the notion that ''this is as good as it gets.''

We must reject the administration's request that we just cede to the Department of Transportation our statutory authority to reform CAFE standards for passenger cars—especially as DOT has had the opportunity to increase CAFE standards for SUVs, minivans, and light pickups, but only incrementally increased the miles per gallon to 22.2 mpg by model year 2007 that is an increase of less than 1 mile per gallon. This minimal increase will save less than 2 weeks worth of gasoline each year for the next 2 decades. We can do better and under our legislation we will do better.

A wide variety of experts, including some of those who took part in the 2001 congressionally mandated National Academy of Sciences report on CAFE standards, agree that the most effective action we could take today to decrease the price of gasoline is to increase fuel economy standards for all vehicles—passenger cars and light trucks. Yet the only time we raised fuel economy standards for passenger cars was back in 1976. Think about it—in 1976, our computers were about the size of cars—and now we hold them in the palm of our hand—are we really saying the United States of America doesn't have the technological wherewithal to provide 10 more miles-per-gallon over the next 10 years, at a time when the transportation sector accounts for fully 40 percent of all the Nation's fossil fuel consumption?

Morever, we give manufacturers the flexibility to develop an entire fleet that accomplishes the overall fuel economy standard in the most cost-effective manner—it can be done and it must be done. And with a third of American drivers now considering trading their current vehicle for another that gets great fuel economy, frankly, if our auto makers had embraced higher fuel economy standards when our SUV loophole bill was first introduced in 2001, or way back in the early 1990s when an increase in CAFE was a compelling argument for that decade's energy bill, perhaps the U.S. industry would be in better shape today. Consumers certainly would be.

And how can there be any question—at this time when our reliance on foreign oil has skyrocketed from 44 percent 3 decades ago to 72 percent this year—and prices hover at near historic highs of $70 per barrel—that we must take a page from America's greatest quests—like putting a man on the Moon—to finally reduce our consumption of precious fossil fuels. We are financing the ambitions of radical leaders in some of the most volatile regions of the world to supply the energy to power America's future. This makes no sense—not when our bill, through its resulting fuel savings, would effectively develop Middle Eastern oil production within our own country within just the next 19 years.

Mr. President, these two bills, the EXTEND Act and the 10 in 10 Act, are synonymous with the security of America's future. These bills are two pieces of an overall national energy picture that we need to address now. Consumers throughout the United States, from small businesses to families, are demanding leadership on energy prices. Congress should advance past rhetoric, gimmicks, and photo-ops and move to substantive legislation such as the EXTEND Act and the 10 in 10 CAFE bill. It is imperative that Congress begin these policy discussions—we cannot wait for yet another crisis.

I look forward to working with my Senate colleagues and the administration to provide the American people the leadership they deserve on these issues.

By Mr. FRIST (for himself, Mr. REID, Mr. STEVENS, and Mr. BYRD):

S.J. Res. 40. A joint resolution authorizing the printing and binding of a supplement to, and revised edition of, Senate Procedure; considered and passed.

S.J. RES. 40

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRINTING OF SUPPLEMENT TO, AND REVISED EDITION OF, SENATE PROCEDURE.

(a) IN GENERAL.—Each of the following documents shall be prepared under the supervision of Alan Frumin, Parliamentarian and Parliamentarian Emeritus of the Senate, and shall be printed and bound as a Senate document:

(1) A supplement to ''Riddick's Senate Procedure'', to be styled ''Frumin's Supplement to Riddick's Senate Procedure''.

(2) A revised edition of ''Riddick's Senate Procedure'', to be styled ''Frumin's Senate Procedure''.

(b) COPIES.—One thousand five hundred copies of each document described in subsection (a) shall be printed for distribution to Senators and for the use of the Senate.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 524—CONDEMNING THE UNAUTHORIZED DISCLOSURE AND PUBLICATION OF CLASSIFIED INFORMATION ABOUT THE TERRORIST FINANCE TRACKING PROGRAM, THE NATIONAL SECURITY AGENCY'S TERRORIST SURVEILLANCE PROGRAM, AND OTHER VITAL COUNTER-TERRORISM PROGRAMS

Mr. CORNYN (for himself and Mr. ROBERTS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 524

Whereas on June 22, 2006, news organizations publicly disclosed the existence of an ongoing, highly classified national security program to track terrorists' financial transactions, known formally as the ''Terrorist Finance Tracking Program'';

Whereas the President condemned the unauthorized leak and subsequent publication in the strongest possible terms, calling those acts ''disgraceful'' and explaining that public disclosure of the Terrorist Finance Tracking Program ''does great harm to the United States of America'';

Whereas the Secretary of the Treasury noted that this unauthorized leak of classified information and subsequent publication ''undermined a highly successful counter-terrorism program and alerted terrorists to the methods and sources used to track their money trails'';

Whereas similar to the leaks and public disclosure of the National Security Agency's Terrorist Surveillance Program, the disclosure of the Terrorist Finance Tracking Program puts America's terrorist enemies on notice of tactics used to hunt them down and makes defending against further terrorist attacks more difficult;

Whereas Administration officials and the co-chairmen of the 9/11 Commission (a Democrat and a Republican) urged news organizations to refrain from publicly disclosing the existence of the Terrorist Finance Tracking Program because of the probable harm to America's national security;

Whereas there have been no credible allegations of abuse or infringements on civil liberties in the execution of the Terrorist Finance Tracking Program;

Whereas the 9/11 Commission in its Final Report concluded that ''information about terrorist money helps us to understand their networks, search them, and disrupt their operations'';

Whereas the 9/11 Commission had given the Administration high marks in its pursuit of terrorist-finance networks, and recommended that ''vigorous efforts to track terrorist financing must remain front and