from acquiring a nuclear weapons capability.

S. RES. 616

At the request of Mrs. LINCOLN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. Res. 616, a resolution reducing maternal mortality both at home and abroad.

S. RES. 660

At the request of Mr. NELSON of Florida, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 660, a resolution condemning ongoing sales of arms to belligerents in Sudan, including the Government of Sudan, and calling for both a cessation of such sales and an expansion of the United Nations embargo on arms sales to Sudan.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself and Mr. BYRD):

S. 3604. A bill making emergency supplemental appropriations for economic recovery for the fiscal year ending September 30, 2008, and for other purposes; read twice; to the Committee on Appropriations.

Mr. REID. 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. 3604

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

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

TITLE I

INFRASTRUCTURE, ENERGY, AND ECONOMIC RECOVERY

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

SALARIES AND EXPENSES

For an additional amount for ''Farm Service Agency, Salaries and Expenses'', for the purpose of maintaining and modernizing the information technology system, $171,700,000, to remain available until expended.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $171,000,000 for section 502 borrowers for direct loans.

For an additional amount for the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until expended, as follows: $11,500,000 for section 502 direct loans.

RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct and guaranteed loans and grants as authorized by section 306 of the Consolidated Farm and Rural Development Act, to be available from the rural community facilities program account, as follows: $612,000,000 for rural community facilities direct loans; $130,000,000 for guaranteed rural community facilities loans; and $50,000,000 for rural community facilities grants.

For an additional amount for the cost of direct loans, guaranteed loans, and grants, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until expended, as follows: $35,000,000 for rural community facilities direct loans; $4,000,000 for rural community facilities guaranteed loans; and $50,000,000 for rural community facilities grants.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL BUSINESS ENTERPRISE GRANTS

For an additional amount for ''Rural Business Enterprise Grants'', $40,000,000, to remain available until expended.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For an additional amount for gross obligations for the principal amount of direct loans as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $30,000,000.

For an additional amount for the cost of direct loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to remain available until expended, $12,600,000, for direct loans as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)).

RURAL UTILITIES SERVICE

RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, loan guarantees, and grants for the rural water, waste water, waste disposal, and solid waste management programs authorized by sections 306, 306A, 306C, 306D, and 310B and described in sections 306C(a)(2), 306D, and 381E(d)(2) of the Consolidated Farm and Rural Development Act, $200,000,000, to remain available until expended.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM ACCOUNT

For an additional amount for grants for distance learning and telemedicine services in rural areas, as authorized by 7 U.S.C. 950aaa, et seq., $26,000,000, to remain available until expended.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

For an additional amount for the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $450,000,000, to remain available through September 30, 2009.

SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

For an additional amount for the Emergency Food Assistance Program, as authorized by Section 4201 of Public Law 110–246, $50,000,000, to remain available until September 30, 2009, of which the Secretary may use up to 10 percent for costs associated with the distribution of commodities.

COMMODITY ASSISTANCE PROGRAM

For an additional amount for the Commodity Supplemental Food Program, $30,000,000, to support additional food purchases, to remain available until September 30, 2009.

GENERAL PROVISION—THIS CHAPTER

SEC. 1101. (a) In this section, the term ''nonambulatory disabled cattle'' means cattle, other than cattle that are less than 5 months old or weigh less than 500 pounds, subject to inspection under section 3(b) of the Federal Meat Inspection Act (21 U.S.C. 603(b)) that cannot rise from a recumbent position or walk, including cattle with a broken appendage, severed tendon or ligament, nerve paralysis, fractured vertebral column, or a metabolic condition.

(b) None of the funds made available under this Act may be used to pay the salaries or expenses of any personnel of the Food Safety and Inspection Service to pass through inspection any nonambulatory disabled cattle for use as human food, regardless of the reason for the nonambulatory status of the cattle or the time at which the cattle became nonambulatory.

(c) In addition to any penalties available under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Secretary shall impose penalties consistent with sections 10414 and 10415 of the Animal Health Protection Act (7 U.S.C. 8313, 8314) on any establishment that slaughters nonambulatory disabled cattle or prepares a carcass, part of a carcass, or meat or meat food product, from any nonambulatory disabled cattle, for use as human food.

CHAPTER 2

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'' for economic adjustment assistance as authorized by section 209 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3149), $50,000,000, to remain available until expended: *Provided*, That in allocating funds provided in the previous proviso, the Secretary of Commerce shall give priority consideration to areas of the Nation that have experienced sudden and severe economic dislocation and job loss due to corporate restructuring.

DEPARTMENT OF JUSTICE

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $50,000,000 for the United States Marshals Service, to remain available until September 30, 2009, to implement and enforce the Adam Walsh Child Protection and Safety Act (Public Law 109–248) to apprehend non-compliant sex offenders.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $5,000,000, to remain available until September 30, 2009.

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For an additional amount for ''State and Local Law Enforcement Assistance'' Edward Byrne Memorial Justice Assistance Grant program as authorized by subpart 1 of part E of title I of the Omnibus Crime Control and Safe Street Act of 1968 (''1968 Act''), (except that section 1001(c), and the special rules for Puerto Rico under section 505(g), of the 1968 Act, shall not apply for purposes of this Act), $490,000,000, to remain available until September 30, 2009.

For an additional amount for ''State and Local Law Enforcement Assistance'', $100,000,000, to remain available until September 30, 2009, for competitive grants to provide assistance and equipment to local law enforcement along the Southern border and in High-Intensity Drug Trafficking Areas to combat criminal narcotic activity stemming from the Southern border, of

which $15,000,000 shall be transferred to the ''Bureau of Alcohol, Tobacco, Firearms and Explosives'', ''Salaries and Expenses'' for the ATF Project Gunrunner.

COMMUNITY ORIENTED POLICING SERVICES

For additional amount for ''Community Oriented Policing Services'', for grants under section 1701 of title I of the 1968 Omnibus Crime Control and Safe Streets Act (42 U.S.C. 379dd) for hiring and rehiring of additional career law enforcement officers under part Q of such title notwithstanding subsection (i) of such section, $500,000,000, to remain available until September 30, 2009.

SCIENCE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RETURN TO FLIGHT

For necessary expenses, not otherwise provided for, in carrying out return to flight activities associated with the space shuttle and activities from which funds were transferred to accommodate return to flight activities, $250,000,000, to remain available until September 30, 2009, with such sums as determined by the Administrator of the National Aeronautics and Space Administration as available for transfer to ''Science'', ''Aeronautics'', ''Exploration'', and ''Exploration Capabilities'' for restoration of funds previously reallocated to meet return to flight activities.

RELATED AGENCY

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For an additional amount for ''Payment to the Legal Services Corporation'', $37,500,000, to remain available until September 30, 2009, to provide legal assistance related to home ownership preservation, home foreclosure prevention, and tenancy associated foreclosure: *Provided*, That each limitation on expenditures, and each term or condition, that applies to funds appropriated to the Legal Services Corporation under the Consolidated Appropriations Act of 2008 (Public Law 110–61), shall apply to funds appropriated under this Act: *Provided further*, That priority shall be given to entities and individuals that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates; and (2) have the capacity to begin using the funds within 90 days of receipt of the funds.

CHAPTER 3

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for ''Construction'' for rehabilitation of Corps of Engineers owned and operated hydropower facilities and for other activities, $400,000,000, to remain available until expended.

OPERATIONS AND MAINTENANCE

For an additional amount for ''Operations and Maintenance'' to dredge navigation channels that provide access to significant energy infrastructure and for other maintenance needs, $100,000,000, to remain available until expended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for ''Water and Related Resources'' for rehabilitation of Bureau of Reclamation owned and operated hydropower facilities and for other purposes, $50,000,000, to remain available until expended: *Provided*, That up to $5,000,000 can be utilized by the Bureau of Reclamation to initiate a canal safety program to assess the condition of Reclamation water supply canals.

DEPARTMENT OF ENERGY

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for ''Energy Efficiency and Renewable Energy'', $1,100,000,000, to remain available until expended: *Provided*, That of the funds appropriated, $500,000,000 is directed to the Weatherization Assistance Program: *Provided further*, That of the funds appropriated, $300,000,000 is directed to advance battery technology research, development, and demonstration: *Provided further*, That of the funds appropriated, $300,000,000 is directed to competitively awarded local government and tribal technology demonstration grants.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Non-Defense Environmental Cleanup'', $120,000,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For an additional amount for ''Uranium Enrichment Decontamination and Decommissioning Fund'', $120,000,000, to remain available until expended, of which $20,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For an additional amount for ''Science'', $150,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for ''Weapons Activities'', $100,000,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for ''Defense Environmental Cleanup'', $510,000,000, to remain available until expended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. FUTUREGEN. (a) Subject to subsection (b), the Secretary of Energy shall reinstate and continue—

(1) the cooperative agreement numbered DE–FC–26–06NT42073 (as in effect on May 15, 2008); and

(2) Budget Period 1, under such agreement, through March 31, 2009.

(b) During the period beginning on the date of enactment of this Act and ending March 31, 2009—

(1) The agreement described in subsection (a) may not be terminated except by the mutual consent of the parties to the agreement; and

(2) Funds may be expended under the agreement only to complete and provide information and documentation to the Department of Energy.

SEC. 1302. In chapter 3 of title I of division B of H.R. 2638 (110th Congress) as enacted into law, the paragraph under the heading ''Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Construction'' is amended by—

(1) Repealing the second proviso; and

(2) By adding before the period the following: '': *Provided further*, That the Secretary is directed to provide $1,500,000,000 of the funds appropriated under this heading to fund levee and flood protection repairs, restoration, improvements and critical coastal restoration projects in the State of Louisiana: *Provided further*, That funds shall be expended in consultation with the State of Louisiana''.

CHAPTER 4

DEPARTMENT OF THE TREASURY

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For an additional amount to be available until September 30, 2009, $10,550,000 to carry out the provisions of the Inspector General Act of 1978, including material loss reviews in conjunction with bank failures.

COMMODITY FUTURES TRADING COMMISSION

SALARIES AND EXPENSES

For an additional amount to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), $13,100,000, of which $5,100,000 shall remain available until September 30, 2009, and of which $8,000,000 shall remain available until September 30, 2010.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

(LIMITATION ON AVAILABILITY)

For an additional amount to be deposited in the Federal Buildings Fund, $547,639,000, to be used by the Administrator of General Services for GSA real property activities; of which $201,000,000 shall be used for construction, repair and alteration of border inspection facility projects for any previously funded or authorized prospectus level project, for which additional funding is required, to expire on September 30, 2009 and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; and of which $346,639,000 shall be used for the development and construction of the St. Elizabeths campus in the District of Columbia, to remain available until expended and remain in the Federal Buildings Fund except for funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided*, That each of the foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 percent of the amounts provided unless advance approval is obtained from the Committees on Appropriations of a greater amount.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount to be available until September 30, 2009, $4,000,000 for marketing, management, and technical assistance under section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) by intermediaries that make microloans under the Microloan program.

For an additional amount to be available until September 30, 2009, $600,000 for grants in the amount of $200,000 to veterans business resource centers that received grants from the National Veterans Business Development Corporation in fiscal years 2006 and 2007.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $1,000,000, to remain available until September 30, 2009; and for an additional amount for the cost of guaranteed loans, $200,000,000, to remain available until September 30, 2009: *Provided*, That of the amount for the cost of guaranteed loans, $152,000,000 shall be for loan subsidies and loan modifications for loans to small business concerns authorized under section 1401 of this Act; $34,000,000 shall be for the increased veteran participation pilot program

under paragraph (33) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as redesignated by section 1401 of this Act; and $14,000,000 shall be for the energy efficient technologies pilot program under section 7(a)(32) of the Small Business Act (15 U.S.C. 636(a)(32)): *Provided further,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 1401. ECONOMIC STIMULUS FOR SMALL BUSINESS CONCERNS. (a) REDUCTION OF FEES.—

(1) IN GENERAL.—Until September 30, 2009, and to the extent the cost of such reduction in fees is offset by appropriations, with respect to each loan guaranteed under section 7(a) of Small Business Act (15 U.S.C. 636(a)) for which the application is approved on or after the date of enactment of this Act, the Administrator shall—

(A) in lieu of the fee otherwise applicable under section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)), collect an annual fee in an amount equal to a maximum of .25 percent of the outstanding balance of the deferred participation share of that loan;

(B) in lieu of the fee otherwise applicable under section 7(a)(18)(A) of the Small Business Act (15 U.S.C. 636(a)(18)(A)), collect a guarantee fee in an amount equal to a maximum of—

(i) 1 percent of the deferred participation share of a total loan amount that is not more than $150,000;

(ii) 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000 and not more than $700,000; and

(iii) 3 percent of the deferred participation share of a total loan amount that is more than $700,000; and

(C) in lieu of the fee otherwise applicable under section 7(a)(18)(A)(iv) of the Small Business Act (15 U.S.C. 636(a)(18)(A)(iv)), collect no fee.

(2) IMPLEMENTATION.—In carrying out this subsection, the Administrator shall reduce the fees for a loan guaranteed under section 7(a) of Small Business Act (15 U.S.C. 636(a)) to the maximum extent possible, subject to the availability of appropriations.

(b) TECHNICAL CORRECTION.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by redesignating paragraph (32) relating to an increased veteran participation pilot program, as added by section 208 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110–186; 122 Stat. 631), as paragraph (33).

(c) APPLICATION OF FEE REDUCTIONS.—The Administrator shall reduce the fees under subsection (a) for any loan guarantee subject to such subsection for which the application is approved on or after the date of enactment of this Act, until the amount provided for such purpose under the heading ''Business Loans Program Account'' under the heading ''Small Business Administration'' under this Act is expended.

(d) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 1402. None of the funds made available under this Act or any other appropriations Act for any fiscal year may be used by the Small Business Administration to implement the proposed rule relating to women-owned small business Federal contract assistance procedures published in the Federal Register on December 27, 2007 (72 Fed. Reg. 73285 et seq.).

CHAPTER 5

DEPARTMENT OF HOMELAND SECURITY

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For an additional amount for the ''Office of the Under Secretary for Management'', $120,000,000, to remain available until expended, solely for planning, design, and construction costs to consolidate the Department of Homeland Security headquarters.

U.S. CUSTOMS AND BORDER PROTECTION

For an additional amount for ''Border Security, Fencing, Infrastructure, and Technology'', $215,000,000, to remain available until expended, for construction of border fencing on the Southwest border.

CONSTRUCTION

For an additional amount for ''Construction'', $100,000,000, to remain available until expended, for the purpose of repair and construction of inspection facilities at land border ports of entry.

COAST GUARD

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ''Acquisition, Construction and Improvements'' for the acquisition of a new polar icebreaker or for necessary expenses related to the service life extension of existing Coast Guard polar icebreakers, $925,000,000, to remain available until expended.

OFFICE OF HEALTH AFFAIRS

For an additional amount for the ''Office of Health Affairs'', $27,000,000, to remain available until September 30, 2009, for the BioWatch environmental monitoring system.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For an additional amount for ''Acquisitions, Construction, Improvements, and Related Expenses'', $9,000,000, to remain available until expended, for security upgrades to the Federal Law Enforcement Training Center's border-related training facilities.

CHAPTER 6

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for ''Science and Technology'', $10,600,000, to remain available until September 30, 2010, for urgent bio-defense research activities.

HAZARDOUS SUBSTANCE SUPERFUND

For an additional amount for ''Hazardous Substance Superfund'', $24,165,000, to remain available until expended, for urgent decontamination and laboratory response activities.

STATE AND TRIBAL ASSISTANCE GRANTS

For an additional amount for ''State and Tribal Assistance Grants'', $600,000,000, to remain available until expended, for making capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1601. SECURE RURAL SCHOOLS ACT AMENDMENT. (a) For fiscal year 2008, payments shall be made from any revenues, fees, penalties, or miscellaneous receipts described in sections 102(b)(3) and 103(b)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note), not to exceed $100,000,000, and the payments shall be made, to the maximum extent practicable, in the same amounts, for the same purposes, and in the same manner as were made to States and counties in 2006 under that Act.

(b) There is appropriated $400,000,000, to remain available until December 31, 2008, to be used to cover any shortfall for payments made under this section from funds not otherwise appropriated.

(c) Titles II and III of Public Law 106–393 are amended, effective September 30, 2006, by striking ''2007'' and ''2008'' each place they appear and inserting ''2008'' and ''2009'', respectively.

SEC. 1602. Notwithstanding any other provision of law, including section 152 of division A of H.R. 2638 (110th Congress), the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, the terms and conditions contained in section 433 of division F of Public Law 110–161 shall remain in effect for the fiscal year ending September 30, 2009.

CHAPTER 7

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' under the Employment and Training Administration, $600,000,000, for youth activities and dislocated worker activities authorized by the Workforce Investment Act of 1998 (''WIA''): *Provided,* That $300,000,000 shall be for youth activities and available for the period April 1, 2008 through June 30, 2009: *Provided further,* That $300,000,000 shall be for dislocated worker employment and training activities and available for the period July 1, 2008 through June 30, 2009: *Provided further,* That no portion of funds available under this heading in this Act shall be reserved to carry out section 127(b)(1)(A), section 128(a), or section 133(a) of the WIA: *Provided further,* That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of the youth activities, and that the performance indicators in section 136(b)(2)(A)(i) of the WIA shall be the measures of performance used to assess the effectiveness of the dislocated worker activities funded with such funds.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for ''Disease Control, Research, and Training'', $46,000,000, to remain available through September 30, 2009, of which $20,000,000 shall be to continue and expand investigations to determine the root causes of disease clusters, including but not limited to polycythemia vera clusters; of which $21,000,000 shall be for the prevention of and response to medical errors including research, education and outreach activities; and of which $5,000,000 shall be for responding to outbreaks of communicable diseases related to the re-use of syringes in outpatient clinics, including reimbursement of local health departments for testing and genetic sequencing of persons potentially exposed.

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of the Director'', $1,200,000,000, which shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section

402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2008: *Provided*, That these funds shall be available through September 30, 2009: *Provided further*, That these funds shall be used to support additional scientific research and be available for the same purposes as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds may be transferred to ''National Institutes of Health—Buildings and Facilities'', the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For an additional amount for ''Aging Services Programs'', $60,000,000, of which $40,750,000 shall be for Congregate Nutrition Services and $19,250,000 shall be for Home-Delivered Nutrition Services: *Provided*, That these funds shall remain available through September 30, 2009.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the ''Public Health and Social Services Emergency Fund'' to support activities related to countering potential biological, nuclear, radiological and chemical threats to civilian populations, and for other public health emergencies, $542,000,000, to remain available through September 30, 2009: *Provided*, That $473,000,000 is for advanced research and development of medical countermeasures and ancillary products: *Provided further*, That $50,000,000 is available to support the delivery of medical countermeasures, of which up to $20,000,000 may be made available to the United States Postal Service to support such delivery.

For an additional amount for the ''Public Health and Social Services Emergency Fund'' to prepare for and respond to an influenza pandemic, $363,000,000, to remain available through September 30, 2009 for activities including the development and purchase of vaccine, antivirals, necessary medical supplies, diagnostics, and other surveillance tools: *Provided*, That products purchased with these funds may, at the discretion of the Secretary, be deposited in the Strategic National Stockpile: *Provided further*, That notwithstanding section 496(b) of the Public Health Service Act, funds may be used for the construction or renovation of privately owned facilities for the production of pandemic influenza vaccines and other biologics, where the Secretary finds such a contract necessary to secure sufficient supplies of such vaccines or biologics: *Provided further*, That funds appropriated herein may be transferred to other appropriation accounts of the Department of Health and Human Services, as determined by the Secretary to be appropriate, to be used for the purposes specified in this sentence.

DEPARTMENT OF EDUCATION

For carrying out section 1702 of this Act, $2,000,000,000, which shall be available for obligation from July 1, 2008 through September 30, 2009.

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount for ''School Improvement Programs'', $36,000,000, for carrying out activities authorized by subtitle B of title VII of the McKinney-Vento Homeless Assistance Act: *Provided*, That the Secretary shall make such funds available on a competitive basis to local educational agencies that demonstrate a high need for such assistance: *Provided further*, That these funds shall remain available through September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1701. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—Section 8104 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 189) is amended to read as follows:

''SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE MINIMUM WAGE INCREASES.

''(a) STUDY.—Beginning on the date that is 60 days after the date of enactment of this Act, and every year thereafter until the minimum wage in the respective territory is $7.25 per hour, the Government Accountability Office shall conduct a study to—

''(1) assess the impact of the minimum wage increases that occurred in American Samoa and the Commonwealth of the Northern Mariana Islands in 2007 and 2008, as required under Public Law 110–28, on the rates of employment and the living standards of workers, with full consideration of the other factors that impact rates of employment and the living standards of workers such as inflation in the cost of food, energy, and other commodities; and

''(2) estimate the impact of any further wage increases on rates of employment and the living standards of workers in American Samoa and the Commonwealth of the Northern Mariana Islands, with full consideration of the other factors that may impact the rates of employment and the living standards of workers, including assessing how the profitability of major private sector firms may be impacted by wage increases in comparison to other factors such as energy costs and the value of tax benefits.

''(b) REPORT.—No earlier than March 15, 2009, and not later than April 15, 2009, the Government Accountability Office shall transmit its first report to Congress concerning the findings of the study required under subsection (a). The Government Accountability Office shall transmit any subsequent reports to Congress concerning the findings of a study required by subsection (a) between March 15 and April 15 of each year.

''(c) ECONOMIC INFORMATION.—To provide sufficient economic data for the conduct of the study under subsection (a)—

''(1) the Department of Labor shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its household surveys and establishment surveys;

''(2) the Bureau of Economic Analysis of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its gross domestic product data; and

''(3) the Bureau of the Census of the Department of Commerce shall include and separately report on American Samoa and the Commonwealth of the Northern Mariana Islands in its population estimates and demographic profiles from the American Community Survey,

with the same regularity and to the same extent as the Department or each Bureau collects and reports such data for the 50 States. In the event that the inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands in such surveys and data compilations requires time to structure and implement, the Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census (as the case may be) shall in the interim annually report the best available data that can feasibly be secured with respect to such territories. Such interim reports shall describe the steps the Department or the respective Bureau will take to improve future data collection in the territories to achieve comparability with the data collected in the United States. The Department of Labor, the Bureau of Economic Analysis, and the Bureau of the Census, together with the Department of the Interior, shall coordinate their efforts to achieve such improvements.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 1702. GRANTS FOR SCHOOL RENOVATION. (a) ALLOCATION OF FUNDS.—

(1) RESERVATION.—From the funds appropriated to carry out this section for a fiscal year, the Secretary shall reserve 1 percent to provide assistance under this section to the outlying areas and for payments to the Secretary of the Interior to provide assistance consistent with this section to schools funded by the Bureau of Indian Education. Funds reserved under this subsection shall be distributed by the Secretary among the outlying areas and the Secretary of the Interior on the basis of their relative need, as determined by the Secretary, in accordance with the purposes of this section.

(2) ALLOCATION TO STATE EDUCATIONAL AGENCIES.—After making the reservation described in paragraph (1), from the remainder of the appropriated funds described in paragraph (1), the Secretary shall allocate to each State educational agency serving a State an amount that bears the same relation to the remainder for the fiscal year as the amount the State received under part A of title I of such Act for fiscal year 2008 bears to the amount all States received under such part for fiscal year 2008, except that no such State educational agency shall receive less than 0.5 percent of the amount allocated under this paragraph.

(b) WITHIN-STATE ALLOCATIONS.—

(1) ADMINISTRATIVE COSTS.—

(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (C), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(2) or $1,000,000, whichever is less, for the purpose of administering the distribution of grants under this subsection.

(B) REQUIRED USES.—The State educational agency shall use a portion of the reserved funds to establish or support a State-level database of public school facility inventory, condition, design, and utilization.

(C) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the State educational agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(2), the State educational agency shall distribute 100 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the State educational agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the ''State entity'') for distribution by such entity to local educational agencies in accordance with this paragraph,

to be used, consistent with subsection (c), for school repair and renovation.

(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The State educational agency or State entity shall carry out a program awarding grants, on a competitive basis, to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to local educational agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the grant competition—

(i) award to high-need local educational agencies, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such high-need local educational agencies received under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for fiscal year 2008 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

(ii) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under such part for fiscal year 2008 bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

(iii) award the remaining funds to local educational agencies not receiving an award under clause (i) or (ii), including high-need local educational agencies and rural local educational agencies that did not receive such an award.

(C) CRITERIA FOR AWARDING GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

(i) PERCENTAGE OF POOR CHILDREN.—The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

(ii) NEED FOR SCHOOL REPAIR AND RENOVATION.—The need of a local educational agency for school repair and renovation, as demonstrated by the condition of the public school facilities of the local educational agency.

(iii) FISCAL CAPACITY.—The fiscal capacity of a local educational agency to meet the needs of the local educational agency for repair and renovation of public school facilities without assistance under this section, including the ability of the local educational agency to raise funds through the use of local bonding capacity and otherwise.

(iv) CHARTER SCHOOL ACCESS TO FUNDING.—In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school, the extent to which the school has access to funding for the project through the financing methods available to other public schools or local educational agencies in the State.

(v) LIKELIHOOD OF MAINTAINING THE FACILITY.—The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

(D) MATCHING REQUIREMENT.—

(i) IN GENERAL.—A State educational agency or State entity shall require local educational agencies to match funds awarded under this subsection.

(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

(c) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to 1 or more of the following:

(A) EMERGENCY REPAIRS OR RENOVATIONS.—Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

(i) repairing, replacing, or installing roofs, windows, doors, electrical wiring, plumbing systems, or sewage systems;

(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

(iii) bringing public schools into compliance with fire and safety codes.

(B) MODIFICATIONS FOR COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990.—School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(C) MODIFICATIONS FOR COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973.—School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(D) ASBESTOS ABATEMENT OR REMOVAL.—Asbestos abatement or removal from public school facilities.

(E) CHARTER SCHOOL BUILDING INFRASTRUCTURE.—Renovation and repair needs related to the building infrastructure of a charter school.

(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

(A) payment of maintenance costs in connection with any projects constructed in whole or part with Federal funds provided under this section;

(B) the construction of new facilities; or

(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

(3) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

(d) QUALIFIED BIDDERS; COMPETITION.—Each local educational agency that receives funds under this section shall ensure that, if the local educational agency carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

(e) REPORTING.—

(1) LOCAL REPORTING.—Each local educational agency receiving funds made available under subsection (a)(2) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for school repair and renovation.

(2) STATE REPORTING.—Each State educational agency receiving funds made available under subsection (a)(2) shall submit to the Secretary, not later than December 31, 2010, a report on the use of funds received under subsection (a)(2) and made available to local educational agencies for school repair and renovation.

(f) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(2) for a fiscal year, or does not use its entire allocation for such fiscal year, then the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) for such fiscal year to the remaining State educational agencies in accordance with subsection (a)(2).

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

(1) CHARTER SCHOOL.—The term ''charter school'' has the meaning given the term in section 5210 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i).

(2) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term ''high-need local educational agency'' has the meaning given the term in section 2102(3)(A) of such Act (20 U.S.C. 6602(3)(A)).

(3) LOCAL EDUCATIONAL AGENCY; SECRETARY; STATE EDUCATIONAL AGENCY.—The terms ''local educational agency'', ''Secretary'', and ''State educational agency'' have the meanings given the terms in section 9101 of such Act (20 U.S.C. 7801).

(4) OUTLYING AREA.—The term ''outlying area'' has the meaning given the term in section 1121(c) of such Act (20 U.S.C. 6331(c)).

(5) POOR CHILDREN.—The term ''poor children'' refers to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

(6) RURAL LOCAL EDUCATIONAL AGENCY.—The term ''rural local educational agency'' means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term ''rural''.

(7) STATE.—The term ''State'' means each of the several states of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1703. RESTORATION OF ACCESS TO NOMINAL DRUG PRICING FOR CERTAIN CLINICS AND HEALTH CENTERS. (a) IN GENERAL.—Section 1927(c)(1)(D) of the Social Security Act (42 U.S.C. §1396r-8(c)(1)(D)), as added by section 6001(d)(2) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended—

(1) in clause (i)—

(A) by redesignating subclause (IV) as subclause (VI); and

(B) by inserting after subclause (III) the following:

''(IV) An entity that—

''(aa) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Act or is State-owned or operated; and

''(bb) would be a covered entity described in section 340(B)(a)(4) of the Public Health Service Act insofar as the entity provides the same type of services to the same type of populations as a covered entity described in such section provides, but does not receive funding under a provision of law referred to in such section.

''(V) A public or nonprofit entity, or an entity based at an institution of higher learning whose primary purpose is to provide health care services to students of that institution, that provides a service or services described under section 1001(a) of the Public Health Service Act.''; and

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

''(iv) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to alter any existing statutory or regulatory prohibition on services with respect to an entity described in subclause (IV) or (V) of clause (i),

including the prohibition set forth in section 1008 of the Public Health Service Act.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 6001(d)(2) of the Deficit Reduction Act of 2005.

CHAPTER 8

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'', $55,000,000 for costs associated with a radio modernization system, to remain available until expended: *Provided*, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CHAPTER 9

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT INVESTMENT

For an additional amount for capital expenditures authorized under section 47102(3) of title 49, United States Code, $400,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation shall distribute funds provided under this heading as discretionary grants to airports that demonstrate to her satisfaction their ability to obligate these funds within 180 days of the date of such distribution and shall serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities: *Provided further*, That no funds provided under this heading shall be used for activities not identified on an airport layout plan: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code.

FEDERAL HIGHWAY ADMINISTRATION

SUPPLEMENTAL GRANTS TO STATES FOR FEDERAL-AID HIGHWAY INVESTMENT

For an additional amount for restoration, repair, construction and other activities eligible under paragraph (b) of section 133 of title 23, United States Code, $8,000,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be apportioned to States using the formula set forth in section 104(b)(3) of such title: *Provided further*, That funding provided under this heading shall be in addition to any and all funds provided for fiscal years 2008 and 2009 in any other Act for ''Federal-aid Highways'' and shall not affect the distribution of funds provided for ''Federal-aid Highways'' in any other Act: *Provided further*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 90 days of the date of their apportionment, and shall serve to supplement and not supplant planned expenditures by States and localities on such activities from other Federal, State, and local sources: *Provided further*, That 90 days following the date of such apportionment, the Secretary shall withdraw and redistribute any unobligated funds utilizing whatever method she deems appropriate to ensure that all funds provided under this heading shall be obligated promptly: *Provided further*, That projects conducted using funds provided under this heading must comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code: *Provided further*, That for the purposes of the definition of States for this paragraph, sections 101(a)(32) of title 23, United States Code, shall apply.

FEDERAL RAILROAD ADMINISTRATION

SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the immediate investment in capital projects necessary to maintain and improve national intercity passenger rail service, $350,000,000, to remain available until September 30, 2009: *Provided*, That funds made available under this heading shall be allocated directly to the corporation for the purpose of immediate investment in capital projects including the rehabilitation of rolling stock for the purpose of expanding passenger rail capacity: *Provided further*, that the Board of Directors shall take measures to ensure that funds provided under this heading shall be obligated within 180 days of the enactment of this Act and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, State, local and corporate sources: *Provided further*, That said Board of Directors shall certify to the House and Senate Committees on Appropriations in writing their compliance with the preceding proviso: *Provided further*, That not more than 50 percent of the funds provided under this heading may be used for capital projects along the Northeast Corridor.

FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL DISCRETIONARY GRANTS FOR PUBLIC TRANSIT INVESTMENT

For an additional amount for capital expenditures authorized under section 5302(a)(1) of title 49, United States Code, $2,000,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation shall apportion funds provided under this heading based on the formula set forth in subsections (a) through (c) of section 5336 of title 49, United States Code: *Provided further*, That the Secretary shall take such measures necessary to ensure that the minimum amount of funding distributed under this heading to any individual transit authority shall not be less than $100,000: *Provided further*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 90 days of the date of their apportionment, and shall serve to supplement and not supplant planned expenditures by States and localities on such activities from other Federal, State and local sources as well as transit authority revenues: *Provided further*, That 90 days following the date of such apportionment, the Secretary shall withdraw and redistribute any unobligated funds utilizing whatever method she deems appropriate to ensure that all funds provided under this paragraph shall be obligated promptly: *Provided further*, That the Secretary of Transportation shall make such funds available to pay for operating expenses to the extent that a transit authority demonstrates to her satisfaction that such funds are necessary to continue current services or expand such services to meet increased ridership: *Provided further*, That the funds appropriated under this heading shall be subject to section 5333(a) of title 49, United States Code but shall not be comingled with funds available under the Formula and Bus Grants account.

MARITIME ADMINISTRATION

SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL SHIPYARDS

For an additional amount to make grants to qualified shipyards as authorized under section 3506 of Public Law 109–163 or section 54101 of title 46, United States Code, $44,000,000, to remain available until September 30, 2009: *Provided*, That the Secretary of Transportation shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their apportionment: *Provided further*, That not to exceed 2 percent of the funds appropriated under this heading shall be available for necessary costs of grant administration.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUPPLEMENTAL GRANTS TO PUBLIC HOUSING AGENCIES FOR CAPITAL NEEDS

For an additional amount for discretionary grants to public housing agencies for capital expenditures permitted under section 9(d)(1) of the United States Housing Act of 1937, as amended, $250,000,000, to remain available until September 30, 2009: *Provided,* That in allocating discretionary grants under this paragraph, the Secretary of Housing and Urban Development shall give priority consideration to the rehabilitation of vacant rental units: *Provided further*, That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this paragraph shall be obligated within 180 days of the date of enactment of this Act and shall serve to supplement and not supplant expenditures from other Federal, State, or local sources or funds independently generated by the grantee: *Provided further*, That in administering funds provided in this paragraph, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the timely use of such funds.

SUPPLEMENTAL GRANTS TO PUBLIC HOUSING AGENCIES FOR EXTRAORDINARY ENERGY COSTS

For an additional amount for discretionary grants to public housing agencies for operating expenses permitted under section 9(e) of the United States Housing Act of 1937 (42 U.S.C. 1437g(e)), $200,000,000, to remain available until September 30, 2009: *Provided,* That funding provided under this heading shall be used to cover extraordinary energy costs: *Provided further*, That to be eligible for such grants, public housing agencies must demonstrate to the satisfaction of the Secretary a significant increase in energy costs associated with operating and maintaining public housing: *Provided further*, That notwithstanding any other provision of law, the Secretary shall institute measures to ensure that funds provided under this paragraph shall be allocated to those public housing agencies most in need of such assistance and that such funds shall be obligated within 180 days of the date of enactment of this Act: *Provided further*, That in administering funds provided in this paragraph, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards and the environment), upon a finding that such a waiver is required to facilitate the timely use of such funds.

HOUSING ASSISTANCE FOR TENANTS DISPLACED BY FORECLOSURE

For an additional amount for grants to public housing agencies or grantees participating in Continuums of Care receiving assistance through existing Housing and Urban Development programs, for the purpose of providing relocation and temporary housing assistance to individuals and families that

reside in dwelling units that have been foreclosed upon, or are in default and where foreclosure is imminent, $200,000,000, to be available until September 30, 2009: *Provided*, That the Secretary of Housing and Urban Development shall allocate amounts made available under this heading to grantees located in areas with the greatest number and percentage of homes in default or delinquency and the greatest number and percentage of homes in foreclosure: *Provided further*, That funding made available under this heading may be used for temporary rental assistance, first and last month's rent, security deposit, case management services, or other appropriate services necessary to assist eligible individuals or families in finding safe and affordable permanent housing: *Provided further*, That the Secretary shall provide notice of the availability of funding provided under this heading within 60 days of the enactment of this Act.

FEDERAL HOUSING ADMINISTRATION

INFORMATION TECHNOLOGY

For an additional amount to maintain, modernize and improve technology systems and infrastructure for the Federal Housing Administration, $37,000,000, to remain available until September 30, 2009: *Provided*, That these funds shall serve to supplement and not supplant planned expenditures for the Federal Housing Administration for information technology maintenance and development funding provided through the Departmental Working Capital Fund.

SALARIES AND EXPENSES

For an additional amount for salaries and expenses for the Federal Housing Administration, $15,000,000, to remain available until September 30, 2009: *Provided*, That of the total amount provided under this paragraph, not less than $13,000,000 shall be made available under the heading ''Housing Personnel Compensation and Benefits'' and up to $2,000,000 shall be made available under the heading ''Management and Administration, Administration, Operations and Management'': *Provided further*, That with funding provided under this paragraph, the Federal Housing Administration Commissioner is hereby authorized to take such actions and perform such functions as necessary regarding the hiring of personnel for performing functions of the Federal Housing Administration within the Office of Housing.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1901. Section 5309(g)(4)(A) of title 49, United States Code, is amended by striking ''or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii)'' and inserting ''or the sum of the funds available for the next three fiscal years beyond the current fiscal year, assuming an annual growth of the program of 10 percent''.

SEC. 1902. No funds provided in this Act or any other Act may be used by the Secretary of Transportation to take any action regarding airline operations at any United States commercial airport that involves:

(1) auction, sale, lease, or the imposition of any charge or fee, by the Secretary or the Federal Aviation Administrator, for rights, authorization or permission by them to conduct flight operations at, or in the navigable airspace of, any such airport;

(2) implementing or facilitating any such auction, sale or lease, or the imposition of any such charge or fee by the Secretary or the Administrator initiated prior to enactment of this Act; or

(3) the withdrawal or involuntary transfer by the Secretary or Administrator of rights, authorizations or permissions to operate at, or in the navigable airspace of, any such airport for the purpose of the auction, sale or lease of such rights, authorizations or permissions, or the imposition by the Secretary or Administrator of any charge or fee for such rights, authorization or permission.

TITLE II—NUTRITION PROGRAMS FOR ECONOMIC STIMULUS

SEC. 2001. NUTRITION PROGRAMS FOR ECONOMIC STIMULUS.

(a) MAXIMUM BENEFIT INCREASE.—

(1) IN GENERAL.—Beginning with the first month that begins not less than 25 days after the date of enactment of this Act, the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall increase the cost of the thrifty food plan for purposes of section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) by 10 percent.

(2) TERMINATION OF EFFECTIVENESS.—The authority provided by this subsection terminates and has no effect, effective on October 1, 2009.

(b) REQUIREMENTS FOR THE SECRETARY.—In carrying out this section, the Secretary shall—

(1) consider the benefit increase described in subsection (a) to be a ''mass change'';

(2) require a simple process for States to notify households of the increase in benefits;

(3) consider section 16(c)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A)) to apply to any errors in the implementation of this section, without regard to the 120-day limit described in that section; and

(4) disregard the value of benefits resulting from this section in any required calculations or estimates of benefits if the Secretary determines it is necessary to ensure efficient administration of programs authorized under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or other Federal programs.

(c) STATE ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—For the costs of State administrative expenses associated with carrying out this section, the Secretary shall make available $50,000,000, to remain available until expended.

(2) AVAILABILITY OF FUNDS.—Funds described in paragraph (1) shall be made available to State agencies based on each State's share of households that participate in the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(3) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—For fiscal year 2009, the Secretary shall increase by 10 percent the amount available for nutrition assistance for eligible households under the consolidated block grants for Puerto Rico and American Samoa under section 19 of the Food and Nutrition Act of 2008 (7 U.S.C. 2028).

(d) FUNDING.—There are hereby appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until September 30, 2010.

TITLE III—STATE FISCAL RELIEF

SEC. 3001. TEMPORARY INCREASE OF MEDICAID FMAP.

(a) PERMITTING MAINTENANCE OF FISCAL YEAR 2008 FMAP FOR FISCAL YEAR 2009.—Subject to subsections (d), (e), and (f), if the FMAP determined without regard to this section for a State for fiscal year 2009 is less than the FMAP as so determined for fiscal year 2008, the FMAP for the State for fiscal year 2008 shall be substituted for the State's FMAP for fiscal year 2009, before the application of this section.

(b) PERMITTING MAINTENANCE OF FISCAL YEAR 2009 FMAP FOR FIRST QUARTER OF FISCAL YEAR 2010.—Subject to subsections (d), (e), and (f), if the FMAP determined without regard to this section for a State for fiscal year 2010 is less than the FMAP as so determined for fiscal year 2009, the FMAP for the State for fiscal year 2009 shall be substituted for the State's FMAP for the first calendar quarter of fiscal year 2010, before the application of this section.

(c) GENERAL 4 PERCENTAGE POINTS INCREASE FOR FISCAL YEAR 2009 AND FIRST CALENDAR QUARTER OF FISCAL YEAR 2010.—

(1) IN GENERAL.—Subject to subsections (d), (e), and (f), for each State for fiscal year 2009 and for the first calendar quarter of fiscal year 2010, the FMAP (taking into account the application of subsections (a) and (b)) shall be increased by 4.0 percentage points.

(2) INCREASE IN CAP ON MEDICAID PAYMENTS TO TERRITORIES.—Subject to subsections (e) and (f), with respect to fiscal year 2009 and the first calendar quarter of fiscal year 2010, the amounts otherwise determined for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) shall each be increased by an amount equal to 4.0 percent of such amounts.

(d) SCOPE OF APPLICATION.—The increases in the FMAP for a State under this section shall apply only for purposes of title XIX of the Social Security Act and shall not apply with respect to—

(1) disproportionate share hospital payments described in section 1923 of such Act (42 U.S.C. 1396r–4);

(2) payments under title IV or XXI of such Act (42 U.S.C. 601 et seq. and 1397aa et seq.); or

(3) any payments under title XIX of such Act that are based on the enhanced FMAP described in section 2105(b) of such Act (42 U.S.C. 1397ee(b)).

(e) STATE INELIGIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State is not eligible for an increase in its FMAP under subsection (c)(1), or an increase in a cap amount under subsection (c)(2), if the eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) is more restrictive than the eligibility under such plan (or waiver) as in effect on September 1, 2008.

(2) STATE REINSTATEMENT OF ELIGIBILITY PERMITTED.—A State that has restricted eligibility under its State plan under title XIX of the Social Security Act (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) after September 1, 2008, is no longer ineligible under paragraph (1) beginning with the first calendar quarter in which the State has reinstated eligibility that is no more restrictive than the eligibility under such plan (or waiver) as in effect on September 1, 2008.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall be construed as affecting a State's flexibility with respect to benefits offered under the State Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (including any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)).

(f) REQUIREMENTS.—

(1) IN GENERAL.—A State may not use the additional Federal funds paid to the State as a result of this section for purposes of increasing any reserve or rainy day fund maintained by the State.

(2) ADDITIONAL REQUIREMENT FOR CERTAIN STATES.—In the case of a State that requires political subdivisions within the State to contribute toward the non-Federal share of expenditures under the State Medicaid plan required under section 1902(a)(2) of the Social Security Act (42 U.S.C. 1396a(a)(2)), the State is not eligible for an increase in its FMAP under subsection (c)(1), or an increase in a

cap amount under subsection (c)(2), if it requires that such political subdivisions pay a greater percentage of the non-Federal share of such expenditures for fiscal year 2009, and the first calendar quarter of fiscal year 2010, than the percentage that would have been required by the State under such plan on September 1, 2008, prior to application of this section.

(g) DEFINITIONS.—In this section:

(1) FMAP.—The term ''FMAP'' means the Federal medical assistance percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)).

(2) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(h) REPEAL.—Effective as of January 1, 2010, this section is repealed.

SEC. 3002. TEMPORARY REINSTATEMENT OF AUTHORITY TO PROVIDE FEDERAL MATCHING PAYMENTS FOR STATE SPENDING OF CHILD SUPPORT INCENTIVE PAYMENTS.

During the period that begins on October 1, 2008, and ends on September 30, 2010, section 455(a)(1) of the Social Security Act (42 U.S.C. 655(a)(1)) shall be applied without regard to the amendment made by section 7309(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 147).

TITLE IV—UNEMPLOYMENT INSURANCE

SEC. 4001. EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) ADDITIONAL FIRST-TIER BENEFITS.—Section 4002(b)(1) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in subparagraph (A), by striking ''50'' and inserting ''80''; and

(2) in subparagraph (B), by striking ''13'' and inserting ''20''.

(b) SECOND-TIER BENEFITS.—Section 4002 of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended by adding at the end the following:

''(c) SPECIAL RULE.—

''(1) IN GENERAL.—If, at the time that the amount established in an individual's account under subsection (b)(1) is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be augmented by an amount equal to the lesser of—

''(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law, or

''(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

''(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

''(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970;

''(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act—

''(i) were applied by substituting '4' for '5' each place it appears; and

''(ii) did not include the requirement under paragraph (1)(A) thereof; or

''(C) such a period would then be in effect for such State under such Act if—

''(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

''(ii) such section 203(f)—

''(I) were applied by substituting '6.0' for '6.5' in paragraph (1)(A)(i) thereof; and

''(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

''(3) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.''.

(c) PHASEOUT PROVISIONS.—Section 4007(b) of the Supplemental Appropriations Act, 2008 (26 U.S.C. 3304 note) is amended—

(1) in paragraph (1), by striking ''paragraph (2),'' and inserting ''paragraphs (2) and (3),''; and

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

''(2) NO AUGMENTATION AFTER MARCH 31, 2009.—If the amount established in an individual's account under subsection (b)(1) is exhausted after March 31, 2009, then section 4002(c) shall not apply and such account shall not be augmented under such section, regardless of whether such individual's State is in an extended benefit period (as determined under paragraph (2) of such section).

''(3) TERMINATION.—No compensation under this title shall be payable for any week beginning after November 27, 2009.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply as if included in the enactment of the Supplemental Appropriations Act, 2008, subject to paragraph (2).

(2) ADDITIONAL BENEFITS.—In applying the amendments made by subsections (a) and (b), any additional emergency unemployment compensation made payable by such amendments (which would not otherwise have been payable if such amendments had not been enacted) shall be payable only with respect to any week of unemployment beginning on or after the date of the enactment of this Act.

SEC. 4002. TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.

With respect to weeks of unemployment beginning after the date of enactment of this Act and ending on or before December 8, 2009, subparagraph (B) of section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) shall not apply.

TITLE V—NATIONAL PARK CENTENNIAL FUND ACT

SECTION 5001. SHORT TITLE.

This Act may be cited as the ''National Park Centennial Fund Act''.

SEC. 5002. DEFINITIONS.

In this Act:

(1) FUND.—The term ''Fund'' means the National Park Centennial Fund established under section 5003.

(2) IN-KIND.—The term ''in-kind'' means the fair market value of non-cash contributions provided by non-Federal partners, which may be in the form of real property, equipment, supplies and other expendable property, as well as other goods and services.

(3) PROJECT OR PROGRAM.—The term ''Project or program'' means a National Park Centennial Project or Program funded pursuant to this Act.

(4) PROPOSAL.—The term ''Proposal'' means a National Park Centennial Proposal submitted pursuant to section 5004.

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

SEC. 5003. NATIONAL PARK CENTENNIAL FUND.

(a) IN GENERAL.—There is established in the Treasury of the United States a fund which shall be known as the ''National Park Centennial Fund''. In each of fiscal years 2009 through 2018, the Secretary of the Treasury shall deposit into the Fund the following:

(1) Cash donations received by the National Park Service in support of projects or programs authorized by this Act.

(2) From the General Fund, an amount equivalent to—

(A) the amount described in paragraph (1), excluding donations pledged through a letter of credit in a prior year; and

(B) the amount of donations pledged through letters of credit in the same fiscal year.

(b) LIMITATION ON AMOUNT.—The total amount of deposits from the General Fund under subsection (a)(2) shall not exceed, in the aggregate, $1,000,000,000 for fiscal years 2009 through 2018.

SEC. 5004. PROGRAM ALLOCATION.

(a) IN GENERAL.—Each fiscal year, the President's annual budget submission for the Department of the Interior shall include a list of proposals which shall be known as National Park Centennial Proposals. The Secretary shall establish a standard process for developing the list that shall encourage input from both the public and a broad cross-section of employees at every level of the National Park Service. The list—

(1) shall include proposals having an aggregate cost to the Federal Government equal to the unobligated amount in the Fund;

(2) shall include only proposals consistent with National Park Service policies and adopted park planning documents;

(3) may include proposals for any area within the national park system (as that term is defined in section 2 of the Act of August 8, 1953 (16 U.S.C. 1c)), clusters of areas within such system, a region or regions of such system, or such system in its entirety;

(4) shall cumulatively represent a nationwide array of proposals that is diverse geographically, in size, scope, magnitude, theme, and variety under the initiatives described in subsection (b);

(5) shall give priority to proposals demonstrating long-term viability beyond receipts from the Fund;

(6) shall include only proposals meeting the requirements of one or more of the initiatives set forth in subsection (b);

(7) should contain proposals under each of the initiatives set forth in subsection (b); and

(8) shall give priority to proposals with committed, non-Federal support but shall also include proposals funded entirely by the Fund.

(b) NATIONAL PARK CENTENNIAL INITIATIVES.—The requirements referred to in subsection (a)(6) are as follows:

(1) EDUCATION IN PARKS CENTENNIAL INITIATIVE.—Proposals for the ''Education in Parks Centennial Initiative'' shall meet the following requirements:

(A) Priority shall be given to proposals designed to increase National Park-based educational opportunities for elementary, secondary and college students particularly those from populations historically under represented among visitors to the National Park System.

(B) Priority shall be given to proposals designed to bring students into the National Park System in person.

(C) Proposals should include strategies for encouraging young people to become lifelong advocates for National Parks.

(D) Proposals shall be developed in consultation with the leadership of educational and youth organizations expected to participate in the proposed initiative.

(2) DIVERSITY IN PARKS CENTENNIAL INITIATIVE.—

(A) STUDY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report detailing a service-wide strategy for increasing diversity among National Park Service employees at all levels and visitors to the National Park System.

(B) PROPOSALS.—Proposals for the ''Diversity in Parks Centennial Initiative'' shall meet the following requirements:

(i) Each proposal shall be based on recommendations contained in the report required in subparagraph (A).

(ii) Each proposal shall be designed to make National Park Service employees, visitors to the National Park System, or both, reflect the diversity of the population of the United States.

(3) SUPPORTING PARK PROFESSIONALS CENTENNIAL INITIATIVE.—Proposals for the ''Supporting Park Professionals Centennial Initiative'' shall meet the following requirements:

(A) Taken as a whole, proposals shall provide specific opportunities for National Park Service employees, at all levels, to participate in professional career development.

(B) Proposals may include National Park Service-designed, internal professional development programs.

(C) Proposals may also be designed to facilitate participation in external professional development programs or established courses of study by National Park Service employees.

(4) ENVIRONMENTAL LEADERSHIP CENTENNIAL INITIATIVE.—Proposals for the ''Environmental Leadership Centennial Initiative'' shall meet the following requirements:

(A) Each proposal shall be designed to do one or more of the following:

(i) Reduce harmful emissions.

(ii) Conserve energy or water resources.

(iii) Reduce solid waste production within the National Park System.

(B) Each proposal shall include strategies for educating the public regarding Environmental Leadership projects and their results.

(C) Priority shall be given to proposals with the potential to spread technological advances to other Federal agencies or to the private sector.

(5) NATURAL RESOURCE PROTECTION CENTENNIAL INITIATIVE.—Proposals for the ''Natural Resource Protection Centennial Initiative'' shall meet the following requirements:

(A) Each proposal shall be designed to restore or conserve native ecosystems within the National Park System.

(B) Priority shall be given to proposals designed to control invasive species.

(C) Each proposal shall be based on the best available scientific information.

(6) CULTURAL RESOURCE PROTECTION CENTENNIAL INITIATIVE.—Proposals for the ''Cultural Resource Protection Centennial Initiative'' shall—

(A) either—

(i) increase the National Park Service's knowledge of cultural resources located within the National Park System through means including, but not limited to, surveys, studies, mapping, and documentation of such resources; or

(ii) improve the condition of documented cultural resources within the National Park System;

(B) incorporate the best available scientific information; and

(C) where appropriate, be developed in consultation with Native American tribes, State historic preservation offices, or other organizations with cultural resource preservation expertise.

(7) HEALTH AND FITNESS IN PARKS CENTENNIAL INITIATIVE.—

(A) IN GENERAL.—Proposals for the ''Health and Fitness in Parks Centennial Initiative'' shall fall into one or more of the following four categories:

(i) Proposals designed to repair, rehabilitate, or otherwise improve infrastructure, including trails, that facilitates healthy outdoor activity within the National Park System.

(ii) Proposals designed to expand opportunities for access to the National Park System for visitors with disabilities.

(iii) Proposals to develop and implement management plans (such as climbing plans and trail system plans) for activities designed to increase the health and fitness of visitors to the National Park System.

(iv) Proposals to develop outreach programs and media that provide public information regarding health and fitness opportunities within the National Park System.

(B) MISCELLANEOUS REQUIREMENTS.—All proposals for ''the Health and Fitness in Parks Centennial Initiative'' shall—

(i) be consistent with National Park Service policies and adopted park planning documents; and

(ii) be designed to provide for visitor enjoyment in such a way as to leave the National Park System unimpaired for future generations.

(c) FUNDING.—In each of fiscal years 2009 through 2018, unobligated amounts in the Fund shall be available without further appropriation for projects authorized by this Act, but may not be obligated or expended until 120 days after the annual submission of the list of proposals required under this section to allow for Congressional review.

(d) LIMITATION ON DISTRIBUTION OF FUNDS.—No more than 50 percent of amounts available from the Fund for any fiscal year may be spent on projects that are for the construction of facilities that cost in excess of $5,000,000.

SEC. 5005. PARTNERSHIPS.

(a) DONATIONS.—The Secretary may actively encourage and facilitate participation in proposals from non-Federal and philanthropic partners, and may accept donations, both monetary and in-kind for any Project or Program pursuant to section 1 of the Act of June 5, 1920 (16 U.S.C. 6), and other authorities to accept donations existing on the date of enactment of this Act.

(b) TERMS AND CONDITIONS.—To the extent that private organizations or individuals are to participate in or contribute to any Project or Program, the terms and conditions of that participation or contribution as well as all actions of employees of the National Park Service, shall be governed by National Park Service Directors Order #21, ''Donations and Fundraising'', as in force on the date of the enactment of this Act.

SEC. 5006. MAINTENANCE OF EFFORT.

Amounts made available from the Fund shall supplement rather than replace annual expenditures by the National Park Service, including authorized expenditures from the Land and Water Conservation Fund and the National Park Service Line Item Construction Program. The National Park Service shall maintain adequate, permanent staffing levels and permanent staff shall not be replaced with nonpermanent employees hired to carry out this Act or Projects or Programs carried out with funds provided under this Act.

SEC. 5007. REPORTS.

For each fiscal year beginning in fiscal year 2009, the Secretary shall submit to Congress a report that includes the following:

(1) A detailed accounting of all expenditures from the Fund divided by categories of proposals under section 4(b), including a detailed accounting of any private contributions, either in funds or in kind, to any Project or Program.

(2) A cumulative summary of the results of the National Park Centennial program including recommendations for revisions to the program.

(3) A statement of whether the National Park Service has maintained adequate, permanent staffing levels and what nonpermanent and permanent staff have been hired to carry out this Act or Projects or Programs carried out with funds provided under this Act.

TITLE VI

GENERAL PROVISIONS—THIS ACT

EMERGENCY DESIGNATION

SEC. 6001. Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

COORDINATION OF PROVISIONS

SEC. 6002. Unless otherwise expressly provided, each amount in this Act is a supplemental appropriation for fiscal year 2008, or, if enacted after September 30, 2008, for fiscal year 2009.

This Act may be cited as the ''Economic Recovery Act, 2008''.

By Mr. HATCH:

S. 3606. A bill to extend the special immigrant nonminister religious worker program and for other purposes, considered and passed.

Mr. HATCH. Mr. President, I rise today to introduce the Special Immigrant Non-Minister Religious Worker Program Act, S. 3606, which would extend the Special Immigrant Non-Minister Religious Worker Visa Program until March 6, 2009.

The program provides for up to 5,000 special Immigrant visas per year which religious denominations or organizations in the United States can use to sponsor foreign nationals to perform religious service in our country. Since its initial enactment in 1990, the Special Immigrant Non-Minister Religious Worker Visa Program has been extended four times. Yet some seem quick to discount the importance of the program. I point out that the continuing resolution passed by the House of Representatives did not include language to extend the Special Immigrant Non-Minister Religious Worker Visa Program.

Among the important tasks nonminister religious workers perform are: providing human services to the most needy, including shelter and nutrition; caring for and ministering to the sick, aged, and dying; working with adolescents and young adults; assisting religious leaders as they lead their congregations and communities in worship; counseling those who have suffered severe trauma and/or hardship; supporting families, particularly when they are in crisis; offering religious instruction, especially to new members of the religious denomination; and, helping refugees and immigrants in the United States adjust to a new way of life.

To ensure that this program is not abused by fraud or other measures, the proposed legislation requires the Secretary of Homeland Security to issue final regulations to eliminate or reduce fraud in the program before it goes into

effect. Additionally, the legislation requires the inspector general of the Department of Homeland Security to submit to Congress a report on the effectiveness of the aforementioned regulations.

I note that there are several religious organizations that support passage of my legislation, including The Church of Jesus Christ of Latter-day Saints, the American Jewish Committee, the Agudath Israel of America, the Catholic Legal Immigration Network, Inc., the Church Communities International, the Conference of Major Superiors of Men, the Hebrew Immigrant Aid Society, the Lutheran Immigration and Refugee Service, the Mennonite Central Committee, the United States National Association of Evangelicals, the National Spiritual Assembly of the Bahai of the United States, The Church of Scientology International, The First Church of Christ, Scientist, Boston, MA, the United Methodist Church, the General Board of Church and Society, the World Relief, and the U.S. Conference of Catholic Bishops.

There is no doubt that our country's religious organizations face sometimes insurmountable obstacles in using traditional employment immigration categories to fit their unique situations. Fortunately, the Non-Minister Religious Worker Visa Program allows our country's religious denominations to continue uninterrupted in their call to serve and provide support to those who are in the greatest need. I commend their service and hope they know how much I respect their work.

I urge my colleagues to support this legislation.

By Ms. CANTWELL (for herself, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. SMITH, and Mr. STEVENS):

S. 3608. A bill to establish a Salmon Stronghold Partnership program to protect wild Pacific salmon and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I rise today to introduce the Pacific Salmon Stronghold Conservation Act of 2008, together with my colleague from Alaska, Senator MURKOWSKI. I am grateful for all the input and collaboration from key stakeholders in Washington State that I have received on this legislation. I am especially grateful for the input from the Quinault Tribe, the Wild Salmon Center, and Bill Ruckelshaus.

While current Federal salmon recovery efforts are focused on recovering salmon listed under the Endangered Species Act, ESA, seeking to ''restore what we've lost,'' the Salmon Stronghold Act seeks to ''protect what we have.'' To this end, I have consistently fought for increased funding for the Pacific Coast Salmon Recovery Fund and will continue to proudly do so. In addition, with this legislation we will direct new Federal resources on protection of healthy salmon population.

Restoring threatened and endangered salmon in the Pacific Northwest is an imperative. Wild Pacific salmon are central to the culture, economy, and environment of western North America. The Pacific Coast Salmon Recovery Fund, since its inception in 2000, has allowed my home State of Washington to focus the efforts of counties and conservation districts, on average, to remove 300 barriers to fish passage and to open 300 miles of habitat each year. That is 2,400 barriers removed and 2,400 miles of habitat restored. In 2007, for every Federal dollar spent on this program it leveraged about $2 in local and State dollars.

I will continue the fight to protect this salmon recovery funding. But more must be done. This legislation will complement ongoing recovery efforts to ensure the future viability of healthy wild Pacific salmon runs by establishing a Federal program supporting voluntary public-private incentive-based efforts to proactively maintain the rivers that are home to the thriving populations of Pacific salmon—known as our ''Salmon Strongholds.''

This bill does that by establishing a new regional Salmon Stronghold Partnership program that provides Federal support and resources to protect a network of the healthiest remaining wild Pacific salmon ecosystems in North America. The bill promotes enhanced coordination and cooperation of Federal, tribal, State and local governments, public and private land managers, fisheries managers, power authorities, and nongovernmental organizations in efforts to protect salmon strongholds.

It is time to increase funding to recovery efforts, but also focus on prevention. It is time to adopt the kind of comprehensive solution that can solidify wild Pacific salmon's place in American culture for generations to come.

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. 3608

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 ''Pacific Salmon Stronghold Conservation Act of 2008''.

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

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) salmon are a central part of the culture, economy, and environment of Western North America;

(2) economic activities relating to salmon generate billions of dollars of economic activity and provide thousands of jobs;

(3) during the anticipated rapid environmental change during the several decade period beginning on the date of enactment of this Act, maintaining key ecosystem processes and functions, population abundance, and genetic integrity are vital to ensuring the health of salmon populations;

(4) salmon strongholds provide critical production zones for commercial and recreational fisheries;

(5) taking into consideration the frequency of fisheries collapses during the period immediately preceding the date of enactment of this Act, conserving core centers of abundance, productivity, and diversity is vital to sustain salmon populations and fisheries into the future;

(6) measures being undertaken as of the date of enactment of this Act to recover threatened or endangered salmon stocks are vital, but must be complemented by identifying and sustaining core centers of abundance, productivity, and diversity in the healthiest remaining salmon ecosystems throughout the salmon range; and

(7) greater coordination between public and private actors can assist salmon strongholds by marshaling and focusing resources on high priority protection and restoration actions.

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

(1) to expand Federal support for the protection and restoration of the healthiest remaining salmon strongholds in North America to sustain core centers of salmon abundance, productivity, and diversity in order to prevent decline of salmon populations—

(A) in the States of Washington, Idaho, Oregon, and California, by focusing resources on cooperative, incentive-based efforts to protect the roughly 20 percent of salmon habitat that supports approximately ⅔ of salmon abundance; and

(B) in the State of Alaska, a regional stronghold that produces over ⅓ of all Pacific salmon, by increasing resources available to public and private organizations working cooperatively to protect regional core centers of salmon abundance and diversity;

(2) to obtain long-term funding for implementation of salmon stronghold strategies, including the bundling and delivery of incentive-based conservation measures;

(3) to promote economic co-benefits associated with healthy and restored salmon stronghold habitat, including flood protection, recreation, water quantity and quality, climate benefits, and other ecosystem services; and

(4) to accelerate as applicable the implementation of recovery plans for salmon populations listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) within salmon strongholds.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Assistant Administrator for the National Marine Fisheries Service of

the National Oceanic and Atmospheric Administration.

(2) BOARD.—The term ''Board'' means the Salmon Stronghold Partnership Board established under section 4(a).

(3) CHARTER.—The term ''Charter'' means the charter developed under section 4(g).

(4) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

(5) ECOSYSTEM SERVICES.—The term ''ecosystem services'' means an ecological benefit generated from a healthy, functioning ecosystem, including clean water, pollutant filtration, regulation of river flow, prevention of soil erosion, regulation of climate, and fish production.

(6) PROGRAM.—The term ''program'' means the salmon stronghold watershed grants and technical assistance program established under section 6(a).

(7) SALMON.—The term ''salmon'' means any of the wild anadromous Oncorhynchus species in the Western United States, including—

(A) chum salmon (Oncorhynchus keta);

(B) pink salmon (Oncorhynchus gorbuscha);

(C) sockeye salmon (Oncorhynchus nerka);

(D) chinook salmon (Oncorhynchus tshawytscha);

(E) coho salmon (Oncorhynchus kisutch); and

(F) steelhead trout (Oncorhynchus mykiss).

(8) SALMON STRONGHOLD.—The term ''salmon stronghold'' means all or part of a watershed that meets biological criteria for abundance, productivity, diversity (life history and run timing), habitat quality, or other biological attributes important to sustaining viable populations of salmon throughout the salmon range.

(9) SALMON STRONGHOLD PARTNERSHIP.—The term ''Salmon Stronghold Partnership'' means a cooperative, incentive-based, public-private partnership between Federal, State, tribal, private, and non-governmental organizations working across political boundaries, government jurisdictions, and land ownerships to identify and protect salmon strongholds.

(10) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Commerce.

SEC. 4. ESTABLISHMENT OF SALMON STRONGHOLD PARTNERSHIP BOARD.

(a) ESTABLISHMENT.—There is established a Board to be known as the ''Salmon Stronghold Partnership Board''.

(b) MEMBERSHIP.—The members of the Board shall include members from Federal, State, tribal, and non-governmental organizations, and other entities with significant resources regionally dedicated to protection of wild salmon ecosystems, including—

(1) one representative from each of—

(A) the National Oceanic and Atmospheric Administration;

(B) the United States Fish and Wildlife Service;

(C) the Forest Service;

(D) the Environmental Protection Agency;

(E) the Bonneville Power Administration;

(F) the Bureau of Land Management; and

(G) the Northwest Power and Conservation Council;

(2) State representatives from the Governor's Office or the appropriate natural resource agencies, as determined by the Board, from each of the States of—

(A) Oregon;

(B) Washington;

(C) California;

(D) Idaho; and

(E) Alaska;

(3) three representatives from West Coast Indian tribes;

(4) one representative from each of 3 non-governmental organizations selected by the Board; and

(5) any other members that the Board determines are appropriate.

(c) BOARD CONSULTATION.—The Board may seek expertise from fisheries experts from appropriate agencies or universities.

(d) MEETINGS.—

(1) FREQUENCY.—Not less frequently than 3 times each year, the Board shall hold Salmon Stronghold Partnership meetings to provide opportunities for input from a broader set of stakeholders.

(2) NOTICE.—Prior to each Salmon Stronghold Partnership meeting, the Board shall give timely notice of the meeting to the public and to the government of each county in which a salmon stronghold is identified by the Board.

(e) CHAIRPERSON.—The Board shall nominate and select a Chairperson from among the members of the Board.

(f) COMMITTEES.—The Board may establish standing or ad hoc committees, including a science advisory committee.

(g) CHARTER.—The Board shall develop a written Charter that—

(1) provides for the members of the Board described in subsection (b);

(2) may be signed by a broad range of partners, to reflect a shared understanding of the purposes, intent, and governance framework of the Salmon Stronghold Partnership; and

(3) shall include—

(A) a description of the process for identifying salmon strongholds; and

(B) the process for reviewing and selecting watershed grants under section 6, including—

(i) the number of years for which grants can be issued;

(ii) the process for renewing grants;

(iii) a description of grant eligibility;

(iv) reporting requirements for selected projects; and

(v) criteria for evaluation of the success of a project.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

SEC. 5. INFORMATION AND ASSESSMENT.

The Administrator shall carry out specific information and assessment functions associated with the network of salmon strongholds, in coordination with other regional salmon efforts, including—

(1) triennial assessment of status and trends in network sites;

(2) geographic information system and mapping support to facilitate conservation planning;

(3) development and application of models and other tools to identify highest value conservation actions within salmon strongholds; and

(4) measurement of the effectiveness of the Salmon Stronghold Partnership activities.

SEC. 6. SALMON STRONGHOLD WATERSHED GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Administrator, in consultation with the Director, shall establish a salmon stronghold watershed grants and technical assistance program, as described in this section.

(b) PURPOSE.—The purpose of the program shall be to support salmon stronghold protection and restoration activities, including—

(1) to fund the administration of the Salmon Stronghold Partnership in carrying out the Charter;

(2) to encourage cooperation among the entities represented on the Board, local authorities, and private entities to establish a network of salmon strongholds, and assist locally in specific actions that support the Salmon Stronghold Partnership;

(3) to work with entities represented on the Board—

(A) to develop strategies focusing on the highest value salmon conservation actions in salmon strongholds; and

(B) in addition to protection actions, including voluntary acquisitions and easements, to provide financial assistance to the Salmon Stronghold Partnership to develop innovative financial mechanisms to increase local economic opportunities and resources for actions or practices that provide long-term or permanent protection and maintain key ecosystem services in salmon strongholds, including—

(i) approaches to explore a payment for ecosystem services model that values and compensates individuals or groups for actions taken, or not taken, and that preserves, increases, or maintains key ecosystem services; and

(ii) carrying out several demonstration projects designed for specific salmon strongholds;

(4) to maintain a forum to share best practices and approaches, employ consistent and comparable metrics, and monitor, evaluate, and report regional status and trends of salmon ecosystems in coordination with related regional and State efforts;

(5) to carry out activities and existing conservation programs in, and across, salmon strongholds on a regional scale to achieve the goals of the Salmon Stronghold Partnership;

(6) to develop and make information available to the public pertaining to the Salmon Stronghold Partnership; and

(7) to conduct education outreach to the public to encourage increased stewardship of salmon strongholds.

(c) SELECTION.—

(1) ADMINISTRATION AND SELECTION.—The Administrator, in consultation with the Board, shall establish a process to select grant applicants and administer the grants made under this section.

(2) CRITERIA FOR APPROVAL.—Subject to subsection (d), a project may be approved to receive a grant under this section if—

(A) the project contributes to the protection and restoration of salmon;

(B) the project meets criteria regarding geographic and programmatic parameters for strategic investments in Salmon Strongholds, as identified and periodically revised by the Board preceding each grant review process; and

(C) the project—

(i)(I) addresses a key factor limiting or threatening to limit abundance, productivity, diversity, habitat quality, or other biological attributes important to sustaining viable wild salmon populations within a Salmon Stronghold; or

(II) a programmatic action that supports the Salmon Stronghold Partnership;

(ii) addresses major limiting factors to healthy ecosystem processes or sustainable fisheries management; and

(iii) has the potential for major conservation benefits and potentially exportable results.

(d) ACQUISITION OF REAL PROPERTY INTERESTS.—No project that will result in the acquisition by the Secretary or the Secretary of the Interior of any land or interest in land, in whole or in part, may receive funds under this Act unless the project is consistent with the purposes of this Act.

(e) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports to the Administrator that include such information as the Administrator may require to evaluate the progress and success of the project.

(f) STAFF.—Subject to the availability of appropriations, the Administrator may hire such additional full-time employees as are necessary to carry out this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) GRANTS.—There is authorized to be appropriated to the Administrator, to be distributed by the National Fish and Wildlife Foundation as a fiscal agent, to provide grants under this section $15,000,000 for each of fiscal years 2009 through 2013, to remain available until expended.

(2) TECHNICAL ASSISTANCE.—For each of fiscal years 2009 through 2013, there is authorized to be appropriated to the Administrator an additional $300,000 to carry out this section and section 5, to remain available until expended.

SEC. 7. CONSERVATION OF SALMON STRONGHOLDS ON FEDERAL LAND.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal land in salmon strongholds shall, to the extent consistent with the mission of the agency and existing statutory authorities, cooperate with the Administrator and the Director to—

(1) conserve salmon strongholds; and

(2) effectively coordinate and streamline delivery of overlapping incentive-based programs affecting salmon strongholds within the land of each agency.

SEC. 8. CONDITIONS RELATING TO SALMON STRONGHOLD CONSERVATION PROJECTS.

(a) IN GENERAL.—No land or interest in land, acquired in whole or in part by 1 or both of the Secretaries with Federal funds made available under this Act to carry out salmon stronghold conservation projects may be conveyed to a State, other public agency, or other entity unless—

(1) the Secretaries determine that the State, agency, or other entity is committed to undertake the management of the property being transferred in accordance with this Act; and

(2) the deed or other instrument of transfer contains provisions for the reversion of the title to the property to the United States if the State, agency, or other entity fails to manage the property in accordance with this Act.

(b) REQUIREMENT.—Any real property interest conveyed under this section shall be subject to such terms and conditions as will ensure, to the maximum extent practicable, that the interest will be administered for the long-term conservation and management of the applicable aquatic ecosystem and the fish and wildlife dependent on that ecosystem.

SEC. 9. ALLOCATION OF AMOUNTS.

(a) FEDERAL SHARE.—

(1) NON-FEDERAL LAND.—For any fiscal year, the Federal share of carrying out a salmon stronghold conservation project that receives funds under section 6 on non-Federal land shall not exceed 50 percent of the costs of the project.

(2) FEDERAL LAND.—For any fiscal year, the Federal share of carrying out a salmon stronghold conservation project that receives funds under section 6 on Federal land, including the acquisition of inholdings, may be up to 100 percent of the costs of the project.

(b) NON-FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the non-Federal share of the cost of a project that receives funds under section 6 may not be derived from Federal grant programs, but may include in-kind contributions and cash.

(2) BONNEVILLE POWER ADMINISTRATION.—Any amounts provided by the Bonneville Power Administration directly or through a grant to another entity shall be credited toward the non-Federal share of the cost of the project.

(c) PROVISION OF FUNDING.—In carrying out this Act, the Secretary may—

(1) consistent with a recommendation of the Board and notwithstanding sections 6304 and 6305 of title 31, United States Code, and the Federal Financial Assistance Management Improvement Act of 1999 (31 U.S.C. 6101 note; Public Law 106-107), enter into cooperative agreements, contracts, and grants;

(2) notwithstanding any other provision of law, apply for, accept, and use grants from any person to carry out the purposes of this Act; and

(3) make funds available to any Federal agency to be used by the agency to award financial assistance for any salmon stronghold protection, restoration, and enhancement project that the Secretary determines to be consistent with this Act.

(d) DONATIONS.—

(1) IN GENERAL.—The Secretary may—

(A) enter into an agreement with any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 to authorize the organization to carry out activities under this Act; and

(B) accept donations of funds or services for use in carrying out this Act.

(2) PROPERTY.—The Secretary of the Interior may accept donations of property for use in carrying out this Act.

(3) USE OF DONATIONS.—Donations accepted under this section—

(A) shall be considered to be gifts or bequests to, or for the use of, the United States; and

(B) may be used directly by the Secretary (or, in the case of donated property under paragraph (2), the Secretary of the Interior) or provided to other Federal agencies through interagency agreements.

(e) INTERAGENCY FINANCING.—The Secretary may participate in interagency financing, including receiving appropriated funds from other agencies to carry out this Act.

SEC. 10. ACCOUNTABILITY AND REPORTING.

Not less frequently than once every 3 years, the Administrator and the Director shall jointly submit to Congress a report describing the activities carried out under this Act, including any legislative recommendations relating to the Salmon Stronghold Partnership.

SEC. 11. REGULATIONS.

The Secretary may promulgate regulations to carry out this Act.

SEC. 12. LIMITATIONS.

Nothing in this Act may be construed—

(1) to create a reserved water right, express or implied, in the United States for any purpose, or affect any water right in existence on the date of enactment of this Act;

(2) to affect any Federal or State law in existence on the date of enactment of this Act regarding water quality or water quantity;

(3) to affect the authority, jurisdiction, or responsibility of any agency or department of the United States or of a State to manage, control, or regulate fish and resident wildlife under a Federal or State law (including regulations);

(4) to authorize the Secretary or the Secretary of Interior to control or regulate hunting or fishing under State law;

(5) to abrogate, abridge, affect, modify, supersede, or otherwise alter any right of a federally recognized Indian tribe under any law (including regulations); or

(6) to diminish or affect the ability of the Secretary or the Secretary of Interior to join the adjudication of rights to the use of water pursuant to subsections (a), (b), or (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666).

SEC. 13. PRIVATE PROPERTY PROTECTION.

No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the 1 or more owners of the property or interest in property.

By Mr. FEINGOLD (for himself, Ms. CANTWELL, Mr. AKAKA and Mr. WYDEN):

S. 3612. A bill to protect citizens and legal residents of the United States from unreasonable searches and seizures of electronic equipment at the border, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Today, I am joined by the junior Senator from Washington, Senator CANTWELL, in introducing the Travelers' Privacy Protection Act of 2008. This bill restores privacy for law-abiding Americans who, under current administration policy, may be required to give customs agents unfettered access to the contents of their laptop computers and other electronic devices when they return from overseas travel.

There is a compelling and immediate need for this legislation. Over the last two years, reports have surfaced that customs agents have been requiring American citizens and others lawfully residing in the U.S. to turn over their cell phones or give them the passwords to their laptops. The travelers have been forced to wait for hours while customs agents reviewed and sometimes copied the contents of the electronic devices. In some cases, the laptops or cell phones were confiscated, and returned weeks or even months later, with no explanation.

When the practice was challenged in court, the administration argued that it can search the contents of American travelers' laptops without any suspicion of wrongdoing whatsoever, because a laptop is no different than any other ''closed container.'' In other words, according to this administration, there is no difference between rifling through the contents of your suitcase, and logging on to your laptop, opening your files, and reviewing your photographs, medical records, financial records, e-mails, letters, journals, work product, or an electronic record of all the Web sites you have visited.

I am willing to bet that most Americans would disagree. Americans understand the importance of security at the borders, and the vast majority of them accept that the government is entitled to look through their suitcases when they are returning from an overseas trip. But I say to my colleagues: try asking your constituents whether the government has a right to open their laptops, read their documents and e-mails, look at their photographs, and examine the Web sites they have visited—all without any suspicion of wrongdoing—and see what they say. I think you'll hear the same thing that I have heard: ''Not in the United States of America.''

In June of this year, I held a hearing of the Constitution Subcommittee of the Judiciary Committee to examine this issue. At this hearing, we learned about the effect of suspicionless electronic border searches on American businesses. The Executive Director for the Association of Corporate Travel Executives testified that, in a survey of ACTE members, 7 out of 100 respondents had experienced seizures of their laptops or other electronic equipment. Many companies are now taking expensive and burdensome measures to protect their electronic information from forced disclosure at the border. The administration's intrusive border practices thus come with a hefty price tag for the American business sector, at a time when the economy can ill afford it.

We also heard disturbing evidence suggesting that Muslim Americans and Americans of Arab or South Asian descent are being targeted for these invasive searches. Many travelers from these backgrounds who have been subject to electronic searches have also been asked about their religious and political views, including why they chose to convert to Islam, what they think about Jews, and their views of the candidates in the upcoming election. This questioning is deeply disturbing in its own right. It also strongly suggests that some border searches are being based, at least in part, on impermissible factors.

At the same time it was claiming the right to look at all of the information Americans carry with them across the border, the administration was refusing to provide Americans or Congress with information about its policies for border searches. Requests by the public and members of Congress were steadfastly ignored. DHS declined my invitation to send a witness to the hearing, claiming that its preferred witness was unavailable on that day. But after the hearing sparked a flurry of press coverage and major newspapers criticized DHS for its secrecy, the agency made public a written policy for border searches dated July 16, 2008.

The DHS policy is truly alarming in the sweeping authority it claims. According to the policy, customs agents may ''analyze and review'' the information in Americans' laptops and other electronic devices ''absent individualized suspicion.'' As part of this search authority, customs agents may ''detain'' the electronic device for an unspecified period of time, take it offsite, make copies of its contents, and send the equipment or the copies to other agencies or even private individuals in some cases. Although the policy purports to require probable cause to ''seize'' a laptop, as opposed to merely searching it, this safeguard is almost meaningless given that DHS's definition of ''search'' includes the right to ''detain'' the laptop indefinitely. Moreover the policy exempts officers' written notes from any constraints, allowing customs agents to transcribe an electronic document verbatim and keep it forever without any level of suspicion.

Defenders of this policy outside the administration are hard to find. Major newspapers across the country, including the New York Times, the Washington Post, and a host of other national and local outlets, have published editorials condemning the policy and urging Congress to act. As USA Today put it: ''[T]he notion that the government can arbitrarily have a free crack at your e-mail, Web searches and other personal electronic data is chilling. Given the government's abysmal record of safeguarding private data, it's no wonder that business and civil liberties groups are protesting.'' In my home state of Wisconsin, the Green Bay Press-Gazette put it this way: ''[T]he fact that this policy exists . . . is an affront to the core values of the United States of America.''

In the fact of this public outcry, DHS has reacted like a traffic officer standing by a 20–car pile-up and telling onlookers ''Nothing to see here—move along.'' The agency claims that its July 16 policy spells out the practice followed by customs agents for years and across administration. But that just isn't true. The Customs Directive that governed border searches of documents through the end of the Clinton Administration stated that Customs agents could glance at documents—but not read them—''to see if they appear to be merchandise.'' At that point, ''reasonable suspicion [was] required for read and continued detention'' of the documents. The reading of personal correspondence other than merchandise was expressly prohibited. This administration's policy authorizing ''review and analysis'' of any and all electronic documents without a shred of suspicion thus represents a 180 degree turnaround from previous policy.

DHS alternatively defends its policy by arguing that the authority to conduct suspicionless searches of Americans' laptops is necessary to capture terrorists and criminals. Yet the few specific examples DHS has seen fit to give have all been cases in which the search was anything but suspicionless. For example, in one instance DHS has cited, the laptop search took place after customs agents received a tip that the traveler was a smuggler and discovered $79,000 in unlawful U.S. currency in his belongings. Despite many opportunities to do so, DHS has yet to identify a single example in which a search that was conducted ''absent individualized suspicion'' resulted in the apprehension of a dangerous criminal or terrorist.

This brings me to my next point. Both Secretary Chertoff and the Deputy Commissioner for Customs and Border Protection have tried to downplay the extent of privacy violations by pointing out that DHS has limited resources for conducting electronic searches at the border. That may be true, but it hardly justifies suspicionless searches. To the contrary, the limited nature of these resources makes it all the more important to direct them toward people who actually do present some objective basis for suspicion. As the DHS examples confirm, these are the cases in which electronic searches are most likely to yield results. Using our limited resources to search the laptops of law-abiding Americans who present no basis for suspicion is frankly irresponsible.

This is not simply a matter of what the Constitution protects or allows. In fact, a few lower courts have agreed with the administration that the Fourth Amendment does not protect Americans against suspicionless searches of their laptops at the border. I happen to believe that these decisions incorrectly applied Supreme Court precedent, but ultimately, that is beside the point. Not everything that comports with the Constitution is sound policy. A government practice can satisfy minimum constitutional requirements and still violate Americans' expectations for what they want and deserve from their government. In those cases, it is up to Congress to act.

The bill I am introducing today would require DHS agents to have reasonable suspicion before searching the contents of laptops or other electronic equipment carried by U.S. citizens or other lawful residents of the U.S. ''Reasonable suspicion'' is a lower standard than ''probable cause''; it simply requires DHS to have an objective basis for suspecting that a particular person is engaged in illegal behavior. No less should be required when the government seeks to encroach on such a significant privacy interest.

Like the current DHS policy, the bill I am introducing requires probable cause in order for DHS agents to seize electronic equipment lent. Unlike the current policy, however, the bill defines ''seize'' in a manner than is consistent with both legal precedent and common sense. If DHS keeps your laptop or any of its contents for longer than 24 hours, there has clearly been a seizure, and the bill recognizes this. The bill also reinforces the probable cause requirement by requiring DHS to obtain a warrant, while allowing DHS to hold on to the equipment pending a ruling on the warrant application.

Most of the information DHS will review, even under a reasonable suspicion standard, will prove innocuous. Recognizing this, the bill contains provisions to protect law-abiding Americans' privacy by strictly limiting disclosure of information that DHS acquires through electronic border searches. The only disclosures that are permitted in the absence of warrant or court order are limited disclosures to other federal, state, or local government agencies. Those agencies in turn may apply for a warrant—or, if the laptop appears to contain foreign intelligence information, a Foreign Intelligence Surveillance Court Order—to seize the equipment.

If DHS damages the electronic equipment in the course of a search, the

agency must compensate the owner for any resulting economic loss. The bill requires DHS to establish an administrative claims process to that end. Awards will be paid from agency funds, ensuring that the bill is deficit-neutral.

The bill prohibits profiling based on race, ethnic, religion, or national origin. Profiling based on these characteristics has no place in our society. It is repugnant to our values as a pluralistic nation, and it is counterproductive as a matter of law enforcement. At the hearing I held on this issue, all of the witnesses, those invited by myself and those invited by Senator BROWNBACK, AGREED AT THAT POINT.

Finally, the bill contains provisions to ensure that DHS provides the information about its policies and practices that Congress needs and that the public is entitled to have. The agency must provide Congress and the public with any past, existing, or future policies relating to electronic border searches, as well as information about the implementation of those policies. Our ability to know what DHS claims the right to do at the border should never depend on whether DHS chooses to send a witness to a congressional hearing.

Taken together, these provisions reverse this administration's departure from previous policy and, more importantly, bring the government's practices at the border back in line with the reasonable expectations of law-abiding Americans. Furthermore, they enhance the security of our borders by focusing the government's resources where they can do the most good. And they will enable all of us in this body to look our constituents in the eyes and say, ''You're right—that doesn't happen in the United States of America.''

Mr. President, I hope that my colleagues give this bill the enthusiastic support it deserves. 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 ''Travelers' Privacy Protection Act of 2008''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Law-abiding citizens and legal residents of the United States, regardless of their race, ethnicity, religion, or national origin, have a reasonable expectation of privacy in the contents of their laptops, cell phones, personal handheld devices, and other electronic equipment.

(2) The Department of Homeland Security has taken the position that laptops and other electronic devices should not be treated any differently from suitcases or other ''closed containers'' and may be inspected by customs or immigration agents at the border or in international airports without suspicion of wrongdoing.

(3) The Department of Homeland Security published a policy on July 16, 2008, allowing customs and immigration agents at the border and in international airports to ''detain'' electronic equipment and ''review and analyze'' the contents of electronic equipment ''absent individualized suspicion''. The policy applies to any person entering the United States, including citizens and other legal residents of the United States returning from overseas travel.

(4) The privacy interest in the contents of a laptop computer differs in kind and in amount from the privacy interest in other ''closed containers'' for many reasons, including the following:

(A) Unlike any other ''closed container'' that can be transported across the border, laptops and similar electronic devices can contain the equivalent of a full library of information about a person, including medical records, financial records, e-mails and other personal and business correspondence, journals, and privileged work product.

(B) Most people do not know, and cannot control, all of the information contained on their laptops, such as records of websites previously visited and deleted files.

(C) Electronic search tools render searches of electronic equipment more invasive than searches of physical locations or objects.

(5) Requiring citizens and other legal residents of the United States to submit to a government review and analysis of thousands of pages of their most personal information without any suspicion of wrongdoing is incompatible with the values of liberty and personal freedom on which the United States was founded.

(6) Searching the electronic equipment of persons for whom no individualized suspicion exists is an inefficient and ineffective use of limited law enforcement resources.

(7) Some citizens and legal residents of the United States who have been subjected to electronic border searches have reported being asked inappropriate questions about their religious practices, political beliefs, or national allegiance, indicating that the search may have been premised in part on perceptions about their race, ethnicity, religion, or national origin.

(8) Targeting citizens and legal residents of the United States for electronic border searches based on race, ethnicity, religion, or national origin is wholly ineffective as a matter of law enforcement and repugnant to the values and constitutional principles of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) BORDER.—The term ''border'' includes the border and the functional equivalent of the border.

(2) COPIES.—The term ''copies'', as applied to the contents of electronic equipment, includes printouts, electronic copies or images, or photographs of, or notes reproducing or describing, any contents of the electronic equipment.

(3) CONTRABAND.—The term ''contraband'' means any item the importation of which is prohibited by the laws enforced by officials of the Department of Homeland Security.

(4) ELECTRONIC EQUIPMENT.—The term ''electronic equipment'' has the meaning given the term ''computer'' in section 1030(e)(1) of title 18, United States Code.

(5) FOREIGN INTELLIGENCE INFORMATION.—The term ''foreign intelligence information'' means information described in section 101(e)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(e)(1)).

(6) FOREIGN INTELLIGENCE SURVEILLANCE COURT.—The term ''Foreign Intelligence Surveillance Court'' means the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

(7) OFFICIALS OF THE DEPARTMENT OF HOMELAND SECURITY.—The term ''officials of the Department of Homeland Security'' means officials and employees of the Department of Homeland Security, including officials and employees of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, who are authorized to conduct searches at the border.

(8) PERMANENTLY DESTROYED.—The term ''permanently destroyed'', with respect to information stored electronically, means the information has been deleted and cannot be reconstructed or retrieved through any means.

(9) REASONABLE SUSPICION.—The term ''reasonable suspicion'' means a suspicion that has a particularized and objective basis.

(10) SEARCH.—

(A) IN GENERAL.—The term ''search'' means any inspection of any of the contents of any electronic equipment, including a visual scan of icons or file names.

(B) EXCEPTION.—The term ''search'' does not include asking a person to turn electronic equipment on or off or to engage in similar actions to ensure that the electronic equipment is not itself dangerous.

(11) SEIZURE.—

(A) IN GENERAL.—The term ''seizure'' means the retention of electronic equipment or copies of any contents of electronic equipment for a period longer than 24 hours.

(B) EXCEPTIONS.—The term ''seizure'' does not include the retention of electronic equipment or copies of any contents of electronic equipment—

(i) for a period of not more than 3 days after the expiration of the 24-hour period specified in section 5(e) if an application for a warrant is being prepared or pending in a district court of the United States;

(ii) for a period of not more than 21 days after the expiration of the 24-hour period specified in section 5(e) if an application for an order from the Foreign Intelligence Surveillance Court with respect to such equipment or copies is being prepared; or

(iii) if an application for an order from the Foreign Intelligence Surveillance Court with respect to such equipment or copies is pending before that Court.

(12) UNITED STATES RESIDENT.—The term ''United States resident'' means a United States citizen, an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), or a nonimmigrant alien described in section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) who is lawfully residing in the United States.

SEC. 4. STANDARDS FOR SEARCHES AND SEIZURES.

(a) SEARCHES.—Except as provided in subsection (c), electronic equipment transported by a United States resident may be searched at the border only if an official of the Department of Homeland Security has a reasonable suspicion that the resident—

(1) is carrying contraband or is otherwise transporting goods or persons in violation of the laws enforced by officials of the Department of Homeland Security; or

(2) is inadmissible or otherwise not entitled to enter the United States under the laws enforced by officials of the Department of Homeland Security.

(b) SEIZURES.—Except as provided in subsection (c), electronic equipment transported by a United States resident may be seized at the border only if—

(1) the Secretary of Homeland Security obtains a warrant based on probable cause to believe that the equipment contains information or evidence relevant to a violation of any law enforced by the Department of Homeland Security;

(2) another Federal, State, or local law enforcement agency obtains a warrant based on probable cause to believe that the equipment contains information or evidence relevant to a violation of any law enforced by that agency; or

(3) an agency or department of the United States obtains an order from the Foreign Intelligence Surveillance Court authorizing the seizure of foreign intelligence information.

(c) EXCEPTIONS.—Nothing in this Act shall be construed to affect the authority of any law enforcement official to conduct a search incident to arrest, a search based upon voluntary consent, or any other search predicated on an established exception, other than the exception for border searches, to the warrant requirement of the fourth amendment to the Constitution of the United States.

SEC. 5. PROCEDURES FOR SEARCHES.

(a) INITIATING SEARCH.—Before beginning a search of electronic equipment transported by a United States resident at the border, the official of the Department of Homeland Security initiating the search shall—

(1) obtain supervisory approval to engage in the search;

(2) record—

(A) the nature of the reasonable suspicion and the specific basis or bases for that suspicion;

(B) if travel patterns are cited as a basis for suspicion, the specific geographic area or areas of concern to which the resident traveled;

(C) the age of the resident;

(D) the sex of the resident;

(E) the country of origin of the resident;

(F) the citizenship or immigration status of the resident; and

(G) the race or ethnicity of the resident, as perceived by the official of the Department of Homeland Security initiating the search.

(b) CONDITIONS OF SEARCH.—

(1) PRESENCE OF UNITED STATES RESIDENT.—The United States resident transporting the electronic equipment to be searched shall be permitted to remain present during the search, whether the search occurs on- or offsite.

(2) PRESENCE OF OFFICIALS OF THE DEPARTMENT OF HOMELAND SECURITY.—Not fewer than 2 officials of the Department of Homeland Security, including 1 supervisor, shall be present during the search.

(3) ENVIRONMENT.—The search shall take place in a secure environment where only the United States resident transporting the electronic equipment and officials of the Department of Homeland Security are able to view the contents of the electronic equipment.

(c) SCOPE OF SEARCH.—The search shall—

(1) be tailored to the reasonable suspicion recorded by the official of the Department of Homeland Security before the search began; and

(2) be confined to documents, files, or other stored electronic information that could reasonably contain—

(A) contraband;

(B) evidence that the United States resident is transporting goods or persons in violation of the laws enforced by the Department of Homeland Security; or

(C) evidence that the person is inadmissible or otherwise not entitled to enter the United States under the laws enforced by officials of the Department of Homeland Security.

(d) RECORD OF SEARCH.—At the time of the search, the official or agent of the Department of Homeland Security conducting the search shall record a detailed description of the search conducted, including the documents, files, or other stored electronic information searched.

(e) CONCLUSION OF WARRANTLESS SEARCH.—At the conclusion of the 24-hour period following commencement of a search of electronic equipment or the contents of electronic equipment at the border—

(1) no further search of the electronic equipment or any contents of the electronic equipment is permitted without a warrant or an order from the Foreign Intelligence Surveillance Court authorizing the seizure of the electronic equipment or the contents of the electronic equipment; and

(2) except as specified in section 6, the electronic equipment shall immediately be returned to the United States resident and any copies of the contents of the electronic equipment shall be permanently destroyed not later than 3 days after the conclusion of the search.

SEC. 6. PROCEDURES FOR SEIZURES.

(a) APPLICATION FOR WARRANT BY THE DEPARTMENT OF HOMELAND SECURITY.—If, after completing a search under section 5, an official of the Department of Homeland Security has probable cause to believe that the electronic equipment of a United States resident contains information or evidence relevant to a violation of any law enforced by the Department, the Secretary of Homeland Security shall immediately apply for a warrant describing with particularity the electronic equipment or contents of the electronic equipment to be searched (if further search is required) and the contents to be seized.

(b) DISCLOSURE OF INFORMATION AND APPLICATION BY OTHER FEDERAL, STATE, OR LOCAL GOVERNMENT DEPARTMENTS OR AGENCIES.—

(1) DISCLOSURE TO OTHER AGENCIES OR DEPARTMENTS.—

(A) IN GENERAL.—If an official of the Department of Homeland Security discovers, during a search that complies with the requirements of section 5, information or evidence relevant to a potential violation of a law with respect to which another Federal, State, or local law enforcement agency has jurisdiction, the Secretary of Homeland Security may transmit a copy of that information or evidence to that law enforcement agency.

(B) FOREIGN INTELLIGENCE INFORMATION.—If an official the Department of Homeland Security discovers, during a search that complies with the requirements of section 5, information that the Secretary of Homeland Security believes to be foreign intelligence information, the Secretary may transmit a copy of that information to the appropriate agency or department of the United States.

(2) PROHIBITION ON TRANSMISSION OF OTHER INFORMATION.—The Secretary may not transmit any information or evidence with respect to the contents of the electronic equipment other than the information or evidence described in paragraph (1).

(3) APPLICATION FOR WARRANT OR COURT ORDER.—

(A) IN GENERAL.—A Federal, State, or local law enforcement agency to which the Secretary of Homeland Security transmits a copy of information or evidence pursuant to paragraph (1)(A) may use the information or evidence as the basis for an application for a warrant authorizing the seizure of the electronic equipment or any other contents of the electronic equipment.

(B) FOREIGN INTELLIGENCE INFORMATION.—An agency or department of the United States to which the Secretary transmits a copy of information pursuant to paragraph (1)(B) may use the information as the basis for an application for an order from the Foreign Intelligence Surveillance Court authorizing the seizure of the electronic equipment or any contents of the electronic equipment.

(c) RETENTION WHILE AN APPLICATION FOR A WARRANT OR A COURT ORDER IS PENDING.—

(1) ELECTRONIC EQUIPMENT.—The Secretary of Homeland Security—

(A) may retain possession of the electronic equipment or copies of any contents of the electronic equipment—

(i) for a period not to exceed 3 days after the expiration of the 24-hour period specified in section 5(e) if an application for a warrant described in subsection (a) or subsection (b)(3)(A) is being prepared or pending;

(ii) for a period not to exceed 21 days after the expiration of the 24-hour period specified in section 5(e) while an application for an order from the Foreign Intelligence Surveillance Court described in subsection (b)(3)(B) is being prepared; or

(iii) while an application for an order from the Foreign Intelligence Surveillance Court described in subsection (b)(3)(B) is pending before that Court; and

(B) may not further search the electronic equipment or the contents of the electronic equipment during a period described in subparagraph (A).

(2) INFORMATION TRANSMITTED TO OTHER AGENCIES.—

(A) IN GENERAL.—Any Federal, State, or local law enforcement agency that receives a copy of information or evidence pursuant to subsection (b)(1)(A) shall permanently destroy the copy not later than 3 days after receiving the copy unless the agency has obtained a warrant authorizing the seizure of the electronic equipment or copies of any contents of the electronic equipment.

(B) FOREIGN INTELLIGENCE INFORMATION.—Any agency or department of the United States that receives a copy of information pursuant to subsection (b)(1)(B) shall permanently destroy the copy—

(i) not later than 21 days after receiving the copy if a court order authorizing the seizure of the electronic equipment or copies of any contents of the electronic equipment has not been obtained or denied and an application for such an order is not pending before the Foreign Intelligence Surveillance Court; or

(ii) not later than 3 days after a denial by the Foreign Intelligence Surveillance Court of an application for a court order.

(d) RETENTION UPON EXECUTION OF A WARRANT OR COURT ORDER.—

(1) IN GENERAL.—Upon execution of a warrant or an order of the Foreign Intelligence Surveillance Court, officials of the Department of Homeland Security, the Federal, State, or local law enforcement agency obtaining the warrant pursuant to subsection (b)(3)(A), or the agency or department of the United States obtaining the court order pursuant to subsection (b)(3)(B), as the case may be, may retain copies of the contents of the electronic equipment that the warrant or court order authorizes to be seized.

(2) DESTRUCTION OF CONTENTS NOT AUTHORIZED TO BE SEIZED.—Copies of any contents of the electronic equipment that are not authorized to be seized pursuant to the warrant or court order described in paragraph (1) shall be permanently destroyed and the electronic equipment shall be returned to the United States resident unless the warrant or court order authorizes seizure of the electronic equipment.

(e) NONRETENTION UPON DENIAL OF WARRANT OR COURT ORDER.—If the application for a warrant described in subsection (a) or subsection (b)(3)(A) or for a court order described in subsection (b)(3)(B) is denied, the electronic equipment shall be returned to the United States resident and any copies of the contents of the electronic equipment shall be permanently destroyed not later than 3 days after the denial of the warrant or court order.

(f) RECEIPT AND DISCLOSURE.—Any United States resident whose electronic equipment is removed from the resident's possession for longer than a 24-hour period shall be provided with—

(1) a receipt;

(2) a statement of the rights of the resident and the remedies available to the resident under this Act; and

(3) the name and telephone number of an official of the Department of Homeland Security who can provide the resident with information about the status of the electronic equipment.

SEC. 7. PROHIBITION ON PROFILING.

(a) IN GENERAL.—An official of the Department of Homeland Security may not consider race, ethnicity, national origin, or religion in selecting United States residents for searches of electronic equipment or in determining the scope or substance of such a search except as provided in subsection (b).

(b) EXCEPTION WITH RESPECT TO DESCRIPTIONS OF PARTICULAR PERSONS.—An official of the Department of Homeland Security may consider race, ethnicity, national origin, or religion in selecting United States resident for searches of electronic equipment only to the extent that race, ethnicity, national origin, or religion, as the case may be, is included among other factors in a description of a particular person for whom reasonable suspicion is present, based on factors unrelated to race, ethnicity, national origin, or religion.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Inspector General and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security shall jointly issue a public report that—

(A) assesses the compliance of the Department of Homeland Security with the prohibition under subsection (a);

(B) assesses the impact of searches of electronic equipment by the Department of Homeland Security on racial, ethnic, national, and religious minorities, including whether such searches have a disparate impact; and

(C) includes any recommendations for changes to the policies and procedures of the Department of Homeland Security with respect to searches of electronic equipment to improve the compliance of the Department with the prohibition under subsection (a).

(2) RESOURCES.—The Secretary of Homeland Security shall ensure that the Inspector General and the Officer for Civil Rights and Civil Liberties are provided the necessary staff, resources, data, and documentation to issue the reports required under paragraph (1), including the information described in sections 5(a)(2) and 5(d) if requested by the Inspector General or the Officer for Civil Rights and Civil Liberties.

(d) SURVEY.—To facilitate an understanding of the impact on racial, ethnic, national, and religious minorities of searches of electronic equipment at the border, the Secretary of Homeland Security shall conduct a random sampling of a statistically significant number of travelers and record for such travelers the demographic information described in subparagraphs (C) through (G) of section 5(a)(2). That information shall be maintained by the Department of Homeland Security in aggregate form only.

SEC. 8. LIMITS ON ACCESS AND DISCLOSURE.

(a) SCOPE.—The limitations on access and disclosure set forth in this section apply to any electronic equipment, copies of contents of electronic equipment, or information acquired pursuant to a search of electronic equipment at the border, other than such equipment, copies, or information seized pursuant to a warrant or court order.

(b) ACCESS.—No official, employee, or agent of the Department of Homeland Security or any Federal, State, or local government agency or department may have access to electronic equipment or copies of the contents of the electronic equipment acquired pursuant to a search of electronic equipment at the border other than such an official, employee, or agent who requires such access in order to perform a function specifically provided for under this Act.

(c) SECURITY.—The Secretary of Homeland Security and the head of any Federal, State, or local government agency or departments that comes into possession of electronic equipment or any copies of the contents of electronic equipment pursuant to a search of electronic equipment at the border shall ensure that—

(1) the electronic equipment is secured against theft or unauthorized access; and

(2) any electronic copies of the contents of electronic equipment are encrypted or otherwise secured against theft or unauthorized access.

(d) GENERAL PROHIBITION ON DISCLOSURE.—No information acquired by officials, employees, or agents of the Department of Homeland Security or any Federal, State, or local government agency or department pursuant to a search of electronic equipment at the border shall be shared with or disclosed to any other Federal, State, or local government agency or official or any private person except as specifically provided in this Act.

(e) COURT ORDER EXCEPTION.—If the Secretary of Homeland Security or any other Federal, State, or local government agency or department determines that a disclosure of information that is not authorized by this Act is necessary to prevent grave harm to persons or property, the Secretary or agency or department, as the case may be, may apply ex parte to a district court of the United States for an order permitting such disclosure.

(f) PRIVILEGES.—Any disclosure of privileged information that results directly from a search of electronic equipment at the border shall not operate as a waiver of the privilege.

(g) APPLICABILITY OF PRIVACY ACT.—The limitations on access and disclosure under this Act supplement rather than supplant any applicable limitations set forth in section 552a of title 5, United States Code.

SEC. 9. IMPLEMENTATION.

(a) REGULATIONS.—The Secretary of Homeland Security shall issue regulations to carry out this Act.

(b) TRAINING.—The Secretary of Homeland Security shall ensure that all officials and agents of the Department of Homeland Security engaged in searches of electronic equipment at the border are thoroughly and adequately trained in the laws and procedures related to such searches.

(c) ACCOUNTABILITY.—The Secretary of Homeland Security shall implement procedures to detect and discipline violations of this Act by officials, employees, and agents of the Department of Homeland Security.

SEC. 10. RECORDKEEPING AND REPORTING.

(a) REPORTS TO CONGRESS.—

(1) EXISTING POLICIES AND GUIDELINES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report that includes—

(A) the policies and guidelines of the Department of Homeland Security, including field supervision and intelligence directives, relating to searches of electronic equipment at the border in effect on the date of the enactment of this Act;

(B) any training programs or materials relating to such searches being utilized on such date of enactment; and

(C) any personnel review and accountability procedures, or memoranda of understanding with other government agencies, relating to such searches in effect on such date of enactment.

(2) UPDATED POLICIES AND GUIDELINES.—Not later than 30 days after revising any of the policies, guidelines, programs, materials, procedures, or memoranda described in paragraph (1) or developing new such policies, guidelines, programs, materials, procedures, or memoranda, the Secretary of Homeland Security shall submit to Congress a report containing the revised or new policies, guidelines, programs, materials, procedures, or memoranda.

(3) INFORMATION ABOUT IMPLEMENTATION.—

(A) REQUESTS.—The information described in subsection (b)(1)(B) and sections 5(a)(2) and 5(d) shall be made available to Congress promptly upon the request of any Member of Congress.

(B) REPORTS.—The information described in section 5(a)(2) shall be provided to Congress in aggregate form every 6 months.

(4) PUBLIC AVAILABILITY.—The Secretary of Homeland Security shall make the information in the reports required under paragraphs (1), (2), and (3)(B) available to the public, but may redact any information in those reports if the Secretary determines that public disclosure of the information would cause harm to national security.

(b) MAINTENANCE OF RECORDS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall maintain records with respect to—

(A) the information described in sections 5(a)(2) and 5(d); and

(B) any disclosures of information acquired through searches of electronic equipment at the border to other agencies, officials, or private persons, and the reasons for such disclosures.

(2) LIMITATIONS ON ACCESS AND DISCLOSURE.—The information described in paragraph (1)—

(A) may be used or disclosed only as specifically provided in this Act or another Federal law and access to that information shall be limited to officials or agents of the Department of Homeland Security who require access in order to effectuate an authorized use or disclosure; and

(B) shall be encrypted or otherwise protected against theft or authorized access.

(3) USE IN LITIGATION.—If otherwise discoverable, the information in subsection (b)(1)(B) and sections 5(a)(2) and 5(d) may be provided to a person who files a civil action under section 12(a) or a criminal defendant seeking to suppress evidence obtained through a search of electronic equipment at the border pursuant to section 12(d).

SEC. 11. COMPENSATION FOR DAMAGE OR LOSS OF ELECTRONIC EQUIPMENT.

(a) IN GENERAL.—A United States resident who believes that the electronic equipment of the resident, or contents of the electronic equipment, were damaged as a result of a search or seizure under this Act may file a claim with the Secretary of Homeland Security for compensation. If the resident demonstrates that the search or seizure resulted in damage to the electronic equipment or the contents of the electronic equipment, the Secretary shall compensate the resident for any resulting economic loss using existing appropriations available for the Department of Homeland Security.

(b) CLAIMS PROCESS.—The Secretary of Homeland Security shall establish an administrative claims process to handle the claims

described in subsection (a). The compensation decisions of the Secretary shall constitute final agency actions for purposes of judicial review under chapter 5 of title 5, United States Code.

SEC. 12. ENFORCEMENT AND REMEDIES.

(a) CIVIL ACTIONS.—

(1) IN GENERAL.—Any person injured by a violation of this Act may file a civil action in a district court of the United States against the United States or an individual officer or agent of the United States for declaratory or injunctive relief or damages.

(2) STATUTE OF LIMITATIONS.—A civil action under paragraph (1) shall be filed not later than 2 years after the later of—

(A) the date of the alleged violation of this Act; or

(B) the date on which the person who files the civil action reasonably should have known of the alleged violation.

(3) DAMAGES.—A person who demonstrates that the person has been injured by a violation of this Act may receive liquidated damages of $1,000 or actual economic damages, whichever is higher.

(4) SPECIAL RULE WITH RESPECT TO CIVIL ACTIONS FOR PROFILING.—In the case of a civil action filed under paragraph (1) that alleges a violation of section 7, proof that searches of the electronic equipment of United States residents at the border have a disparate impact on racial, ethnic, religious, or national minorities shall constitute prima facie evidence of the violation.

(5) ATTORNEY'S FEES.—In any civil action filed under paragraph (1), the district court may allow a prevailing plaintiff reasonable attorney's fees and costs, including expert fees.

(b) ADMISSIBILITY OF INFORMATION IN CRIMINAL ACTIONS.—In any criminal prosecution brought in a district court of the United States, the court may exclude evidence obtained as a direct or indirect result of a violation of this Act if the exclusion would serve the interests of justice.

By Mr. WYDEN (for himself, Ms. MIKULSKI, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 3613. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to Independence at home services in lower cost treatment settings, such as their residences, under a plan of care developed by an Independence at Home physician or Independence at Home nurse practitioner; to the Committee on Finance.

Mr. WYDEN. Mr. President, together with colleagues in the Senate and the House, I am introducing the Independence at Home, IAH, Act. This legislation will help Medicare and our Nation improve the efficiency and effectiveness of spending on Medicare beneficiaries with multiple chronic conditions. It will not only improve care for seniors suffering from serious illnesses but also save money.

Roughly 75 percent of the Nation's health care dollars are spent on chronic diseases. Yet spite this enormous investment, today's chronically ill only receive just over half, 56 percent, of the preventive and maintenance services that they need. Our Nation clearly needs to do better.

Recent Medicare demonstrations have shown that a number of key improvements could go a long way to help fix this situation: First, primary care physicians and key health professionals must assume more responsibility for care coordination; second, we need to target efforts at beneficiaries with multiple conditions; third, afterhours care needs to be available so people can access medical help when they need it and avoid calling 911; and finally, there must be better use of health information technology to help manage care.

The optimal way to address the challenges of caring for persons with chronic conditions is to better integrate their care. Medical problems are best managed and coordinated by health care professionals who know their patients, their problems, their medications, and their other health care providers. Using this approach, the IAH provides a better, more cost-effective way for Medicare patients with chronic conditions to get the care they need.

We do all these things in the legislation I am introducing along with colleagues in the Senate and House: Our bill would put in place a demonstration that improves at-home care availability for beneficiaries with multiple chronic conditions to help people remain independent in their homes. Physicians would get paid better for managing care while at the same time they would be responsible for demonstrating at least 5 percent savings in the cost of their patients' care. The bill also includes minimum performance standards for patient health outcomes, and would measure patient, caregiver and provider satisfaction.

The Independence at Home Act establishes a three-year Medicare demonstration project that uses a patient-centered health care delivery model to ensure that Medicare beneficiaries with multiple chronic conditions can remain independent for as long as possible in a comfortable environment; advances Medicare reform by creating incentives for providers to develop better and lower cost health care for the highest cost beneficiaries; incorporates lessons from past Medicare demonstration projects; provides for physician and nurse practitioner-directed programs that hold providers accountable for quality, patient satisfaction, and mandatory annual minimum savings; and generates savings by providing better care to Medicare beneficiaries with multiple chronic conditions and reducing duplicative and unnecessary services, hospitalization, and other health care costs.

The demonstration program will take place in the thirteen highest-cost states plus thirteen additional states. Persons eligible for the program include Medicare beneficiaries with functional impairments, two or more chronic health problems, and recent use of other health services. Each IAH patient will receive a comprehensive assessment at least annually. The assessment will inform a plan for care that is directed by an IAH physician or nurse-practitioner and developed in collaboration with the patient. Each patient will also have an IAH plan coordinator. Electronic medical records and health information technology will be employed to improve patient care. The IAH organization will be required to demonstrate savings of at least 5 percent annually compared with the costs of serving non-participating Medicare chronically ill beneficiaries. The IAH organization may keep 80 percent of savings beyond the required 5 percent savings as an incentive to maximize the financial benefits of being an IAH member.

I would like to thank my cosponsors in the House, Representatives ED MARKEY, CHRIS SMITH and RAHM EMANUEL for their support, along with my fellow Senate cosponsors, Senators BARBARA MIKULSKI, BENJAMIN CARDIN and SHELDON WHITEHOUSE. I would also like to thank all our staff who worked so hard on this legislation, particularly Gregory Hinrichsen in my office. Finally, we would like to thank the following groups for voicing their support for this legislation: the American Academy of Home Care Physicians; the AARP; the American Academy of Nurse Practitioners; the National Family Caregivers Association; the Family Caregiver Alliance/National Center on Caregiving; the American Association of Homes and Services for the Aging; the Maryland-National Capital Home Care Association; the Visiting Nurse Associations of America, and Intel Corp.

I urge all of my colleagues to support this important legislation to help Medicare patients get better care at lower cost.

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. 3613

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 ''Independence at Home Act of 2008''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the November 2007 Congressional Budget Office Long Term Outlook for Health Care Spending, unless changes are made to the way health care is delivered, growing demand for resources caused by rising health care costs and to a lesser extent the nation's expanding elderly population will confront Americans with increasingly difficult choices between health care and other priorities. However, opportunities exist to constrain health care costs without adverse health care consequences.

(2) Medicare beneficiaries with multiple chronic conditions account for a disproportionate share of Medicare spending compared to their representation in the overall Medicare population, and evidence suggests that such patients often receive poorly coordinated care, including conflicting information from health providers and different diagnoses of the same symptoms.

(3) People with chronic conditions account for 76 percent of all hospital admissions, 88 percent of all prescriptions filled, and 72 percent of physician visits.

(4) More than 60 percent of physicians treating patients with chronic conditions believe that their training did not adequately prepare them to coordinate in-home and community services; educate patients with chronic conditions; manage the psychological and social aspects of chronic care; provide effective nutritional guidance; and manage chronic pain.

(5) Recent studies cited by the Congressional Budget Office found substantial differences among regions of the country in the cost to Medicare of treating beneficiaries with multiple chronic conditions with lower cost regions experiencing better outcomes and lower mortality rates. These studies have suggested that Medicare spending could be reduced by 30 percent if more conservative practice styles were adopted, however, the current Medicare fee-for-service program creates incentives to provide fragmented, high cost health care services.

(6) Studies show that hospital utilization and emergency room visits for patients with multiple chronic conditions can be reduced and significant savings can be achieved through the use of interdisciplinary teams of health care professionals caring for patients in their places of residence.

(7) The Independence at Home program, designed to fund better health care and improved health care technology through savings it achieves, uses a patient-centered health care delivery model to permit the growing number of Medicare beneficiaries with multiple chronic conditions to remain as independent as possible for as long as possible and to receive care in a setting that is preferred by the beneficiary involved and the family of such beneficiary.

(8) The Independence at Home program begins Medicare reform by creating incentives for practitioners and providers to develop methods and technologies for providing better and lower cost health care to the highest cost Medicare beneficiaries with the greatest incentives provided in the case of highest cost beneficiaries.

(9) The Independence at Home program incorporates lessons learned from prior demonstration projects and phase I of the Voluntary Chronic Care Improvement program under section 1807 of the Social Security Act, enacted in sections 721 and 722 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Public Law 108–173).

(10) The Independence at Home Act provides for a chronic care coordination demonstration for the highest cost Medicare beneficiaries with multiple chronic conditions that holds providers accountable for quality outcomes, patient satisfaction, and mandatory minimum savings on an annual basis.

(11) The Independence at Home Act generates savings by providing better, more coordinated care to the highest cost Medicare beneficiaries with multiple chronic conditions, reducing duplicative and unnecessary services, and avoiding unnecessary hospitalizations and emergency room visits.

SEC. 3. ESTABLISHMENT OF VOLUNTARY INDEPENDENCE AT HOME CHRONIC CARE COORDINATION DEMONSTRATION PROJECT UNDER TRADITIONAL MEDICARE FEE-FOR-SERVICE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by amending subsection (c) of section 1807 (42 U.S.C. 1395b–8) to read as follows:

''(c) INDEPENDENCE AT HOME CHRONIC CARE COORDINATION DEMONSTRATION PROJECT.—A demonstration project for Independence at Home chronic care coordination programs for high cost Medicare beneficiaries with multiple chronic conditions is set forth in section 1807A.''; and

(2) by inserting after section 1807 the following new section:

''INDEPENDENCE AT HOME CHRONIC CARE COORDINATION DEMONSTRATION PROJECT

''SEC. 1807A. (a) IN GENERAL.—

''(1) IMPLEMENTATION.—The Secretary shall, where possible, enter into agreements with at least two unaffiliated Independence at Home organizations, as described in this section, to provide chronic care coordination services for a period of three years in each of the 13 highest cost States and the District of Columbia and in 13 additional States that are representative of other regions of the United States. Such organizations shall have documented experience in furnishing the types of services covered by this section to eligible beneficiaries in non-institutional settings using qualified teams of health care professionals that are directed by Independence at Home physicians or Independence at Home nurse practitioners and that use health information technology and individualized plans of care.

''(2) ELIGIBILITY.—Any organization shall be eligible for an Independence at Home agreement in the developmental phase if it is an Independence at Home organization (as defined in subsection (b)(7)) and has the demonstrated capacity to provide the services covered under this section to the number of eligible beneficiaries specified in subsection (e)(3)(C). No organization shall be prohibited from participating because of its small size as long as it meets the eligibility requirements of this section.

''(3) INDEPENDENT EVALUATION.—The Secretary shall contract for an independent evaluation of the Independence at Home demonstration project under this section with an interim report to be provided after the first year and a final report to be provided after the third year of the project. Such an evaluation shall be conducted by a contractor with knowledge of chronic care coordination programs for the targeted patient population and demonstrated experience in the evaluation of such programs. Each such report shall include an assessment of the following factors and shall identify the characteristics of individual Independence at Home programs that are the most effective:

''(A) Quality improvement measures.

''(B) Beneficiary, caregiver, and provider satisfaction.

''(C) Health outcomes appropriate for patients with multiple chronic conditions.

''(D) Cost savings to the program under this title.

''(4) AGREEMENTS.—The Secretary shall enter into agreements, beginning not later than one year after the date of the enactment of this section, with Independence at Home organizations that meet the participation requirements of this section, including minimum performance standards developed under subsection (e)(3), in order to provide access by eligible beneficiaries to Independence at Home programs under this section.

''(5) REGULATIONS.—At least three months before entering into the first agreement under this section, the Secretary shall publish in the Federal Register the specifications for implementing this section.

''(6) PERIODIC PROGRESS REPORTS.—Semi-annually during the first year in which this section is implemented and annually thereafter during the period of implementation of this section, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that describes the progress of implementation of this section and explaining any variation from the Independence at Home program as described in this section.

''(b) DEFINITIONS.—For purposes of this section:

''(1) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means bathing, dressing, grooming, transferring, feeding, or toileting.

''(2) CAREGIVER.—The term 'caregiver' means, with respect to an individual with a qualifying functional impairment, a family member, friend, or neighbor who provides assistance to the individual.

''(3) ELIGIBLE BENEFICIARY.—

''(A) IN GENERAL.—The term 'eligible beneficiary' means, with respect to an Independence at Home program, an individual who—

''(i) is entitled to benefits under part A and enrolled under part B, but not enrolled in a plan under part C;

''(ii) has a qualifying functional impairment and has been diagnosed with two or more of the chronic conditions described in subparagraph (C); and

''(iii) within the 12 months prior to the individual first enrolling with an Independence at Home program under this section, has received benefits under this title for services described in each of clauses (i), (ii) and (iii) of subparagraph (D).

''(B) DISQUALIFICATIONS.—Such term does not include an individual—

''(i) who is receiving benefits under section 1881;

''(ii) who is enrolled in a PACE program under section 1894;

''(iii) who is enrolled in (and is not disenrolled from) a chronic care improvement program under section 1807;

''(iv) who within the previous year has been a resident for more than 90 days in a skilled nursing facility, a nursing facility (as defined in section 1919), or any other facility identified by the Secretary;

''(v) who resides in a setting that presents a danger to the safety of in-home health care providers and primary caregivers; or

''(vi) whose enrollment in an Independence at Home program the Secretary determines would be inappropriate.

''(C) CHRONIC CONDITIONS DESCRIBED.—The chronic conditions described in this subparagraph are the following:

''(i) Congestive heart failure.

''(ii) Diabetes.

''(iii) Chronic obstructive pulmonary disease.

''(iv) Ischemic heart disease.

''(v) Peripheral arterial disease.

''(vi) Stroke.

''(vii) Alzheimer's Disease and other dementias designated by the Secretary.

''(viii) Pressure ulcers.

''(ix) Hypertension.

''(x) Neurodegenerative diseases designated by the Secretary which result in high costs under this title, including amyotropic lateral sclerosis (ALS), multiple sclerosis, and Parkinson's disease.

''(xi) Any other chronic condition that the Secretary identifies as likely to result in high costs to the program under this title when such condition is present in combination with one or more of the chronic conditions specified in the preceding clauses.

''(D) SERVICES DESCRIBED.—The services described in this subparagraph are the following:

''(i) Non-elective inpatient hospital services.

''(ii) Services in the emergency department of a hospital.

''(iii) Any of the following services:

''(I) Extended care services.

''(II) Services in an acute rehabilitation facility.

''(III) Home health services.

''(4) INDEPENDENCE AT HOME ASSESSMENT.—The term 'Independence at Home assessment' means, with respect to an eligible beneficiary, a comprehensive medical history, physical examination, and assessment of the beneficiary's clinical and functional status that—

''(A) is conducted by—

''(i) an Independence at Home physician or an Independence at Home nurse practitioner;

''(ii) a physician assistant, nurse practitioner, or clinical nurse specialist, as defined in section 1861(aa)(5), who is employed by an Independence at Home organization and is working in collaboration with an Independence at Home physician or Independence at Home nurse practitioner; or

''(iii) any other health care professional that meets such conditions as the Secretary may specify; and

''(B) includes an assessment of—

''(i) activities of daily living and other comorbidities;

''(ii) medications and medication adherence;

''(iii) affect, cognition, executive function, and presence of mental disorders;

''(iv) functional status, including mobility, balance, gait, risk of falling, and sensory function;

''(v) social functioning and social integration;

''(vi) environmental needs and a safety assessment;

''(vii) the ability of the beneficiary's primary caregiver to assist with the beneficiary's care as well as the caregiver's own physical and emotional capacity, education, and training;

''(viii) whether the beneficiary is likely to benefit from an Independence at Home program;

''(ix) whether the conditions in the beneficiary's home or place of residence would permit the safe provision of services in the home or residence, respectively, under an Independence at Home program; and

''(x) other factors determined appropriate by the Secretary.

''(5) INDEPENDENCE AT HOME CARE TEAM.—The term 'Independence at Home care team'—

''(A) means, with respect to a participant, a team of qualified individuals that provides services to the participant as part of an Independence at Home program; and

''(B) includes an Independence at Home physician or an Independence at Home nurse practitioner and an Independence at Home coordinator (who may also be an Independence at Home physician or an Independence at Home nurse practitioner).

''(6) INDEPENDENCE AT HOME COORDINATOR.—The term 'Independence at Home coordinator' means, with respect to a participant, an individual who—

''(A) is employed by an Independence at Home organization and is responsible for coordinating all of the elements of the participant's Independence at Home plan;

''(B) is a licensed health professional, such as a physician, registered nurse, nurse practitioner, clinical nurse specialist, physician assistant, or other health care professional as the Secretary determines appropriate, who has at least one year of experience providing and coordinating medical and related services for individuals in their homes; and

''(C) serves as the primary point of contact responsible for communications with the participant and for facilitating communications with other health care providers under the plan.

''(7) INDEPENDENCE AT HOME ORGANIZATION.—The term 'Independence at Home organization' means a provider of services, a physician or physician group practice, a nurse practitioner or nurse practitioner group practice, or other legal entity which receives payment for services furnished under this title (other than only under this section) and which—

''(A) has entered into an agreement under subsection (a)(2) to provide an Independence at Home program under this section;

''(B)(i) is able to provide all of the elements of the Independence at Home plan in a participant's home or place of residence, or

''(ii) if the organization is not able to provide all such elements in such home or residence, has adequate mechanisms for ensuring the provision of such elements by one or more qualified entities;

''(C) has Independence at Home physicians, clinical nurse specialists, nurse practitioners, or physician assistants available to respond to patient emergencies 24 hours a day, seven days a week;

''(D) accepts all eligible beneficiaries from the organization's service area except to the extent that qualified staff are not available; and

''(E) meets other requirements for such an organization under this section.

''(8) INDEPENDENCE AT HOME PHYSICIAN.—The term 'Independence at Home physician' means a physician who—

''(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the physician to be responsible for the plans of care for the physician's patients;

''(B) is certified—

''(i) by the American Board of Family Physicians, the American Board of Internal Medicine, the American Osteopathic Board of Family Physicians, the American Osteopathic Board of Internal Medicine, the American Board of Emergency Medicine, or the American Board of Physical Medicine and Rehabilitation; or

''(ii) by a Board recognized by the American Board of Medical Specialties and determined by the Secretary to be appropriate for the Independence at Home program;

''(C) has—

''(i) a certification in geriatric medicine as provided by American Board of Medical Specialties; or

''(ii) passed the clinical competency examination of the American Academy of Home Care Physicians and has substantial experience in the delivery of medical care in the home, including at least two years of experience in the management of Medicare patients and one year of experience in home-based medical care including at least 200 house calls; and

''(D) has furnished services during the previous 12 months for which payment is made under this title.

''(9) INDEPENDENCE AT HOME NURSE PRACTITIONER.—The term 'Independence at Home nurse practitioner' means a nurse practitioner who—

''(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the nurse practitioner to be responsible for the plans of care for the nurse practitioner's patients;

''(B) practices in accordance with State law regarding scope of practice for nurse practitioners;

''(C) is certified—

''(i) as a Gerontologic Nurse Practitioner by the American Academy of Nurse Practitioners Certification Program or the American Nurses Credentialing Center; or

''(ii) as a family nurse practitioner or adult nurse practitioner by the American Academy of Nurse Practitioners Certification Board or the American Nurses Credentialing Center and holds a certificate of Added Qualification in gerontology, elder care or care of the older adult provided by the American Academy of Nurse Practitioners, the American Nurses Credentialing Center or a national nurse practitioner certification board deemed by the Secretary to be appropriate for an Independence at Home program; and

''(D) has furnished services during the previous 12 months for which payment is made under this title.

''(10) INDEPENDENCE AT HOME PLAN.—The term 'Independence at Home plan' means a plan established under subsection (d)(2) for a specific participant in an Independence at Home program.

''(11) INDEPENDENCE AT HOME PROGRAM.—The term 'Independence at Home program' means a program described in subsection (d) that is operated by an Independence at Home organization.

''(12) PARTICIPANT.—The term 'participant' means an eligible beneficiary who has voluntarily enrolled in an Independence at Home program.

''(13) QUALIFIED ENTITY.—The term 'qualified entity' means a person or organization that is licensed or otherwise legally permitted to provide the specific element (or elements) of an Independence at Home plan that the entity has agreed to provide.

''(14) QUALIFYING FUNCTIONAL IMPAIRMENT.—The term 'qualifying functional impairment' means an inability to perform, without the assistance of another person, two or more activities of daily living.

''(c) IDENTIFICATION AND ENROLLMENT OF PROSPECTIVE PROGRAM PARTICIPANTS.—

''(1) NOTICE TO ELIGIBLE INDEPENDENCE AT HOME BENEFICIARIES.—The Secretary shall develop a model notice to be made available to Medicare beneficiaries (and to their caregivers) who are potentially eligible for an Independence at Home program by participating providers and by Independence at Home programs. Such notice shall include the following information:

''(A) A description of the potential advantages to the beneficiary participating in an Independence at Home program.

''(B) A description of the eligibility requirements to participate.

''(C) Notice that participation is voluntary.

''(D) A statement that all other Medicare benefits remain available to beneficiaries who enroll in an Independence at Home program.

''(E) Notice that those who enroll in an Independence at Home program may have co-payments for house calls by Independence at Home physicians or by Independence at Home nurse practitioners reduced or eliminated at the discretion of the Independence at Home physician or Independence at Home nurse practitioner involved.

''(F) A description of the services that could potentially be provided under an Independence at Home plan.

''(G) A description of the method for participating, or withdrawing from participation, in an Independence at Home program or becoming no longer eligible to so participate.

''(2) VOLUNTARY PARTICIPATION AND CHOICE.—An eligible beneficiary may participate in an Independence at Home program through enrollment in such program on a voluntary basis and may terminate such participation at any time. Such a beneficiary may also receive Independence at Home services from the Independence at Home organization of the beneficiary's choice but may not receive Independence at Home services

from more than one Independence at Home organization at a time.

''(d) INDEPENDENCE AT HOME PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—Each Independence at Home program shall, for each participant enrolled in the program—

''(A) designate—

''(i) an Independence at Home physician or an Independence at Home nurse practitioner; and

''(ii) an Independence at Home coordinator;

''(B) have a process to ensure that the participant received an Independence at Home assessment before enrollment in the program;

''(C) with the participation of the participant (or the participant's representative or caregiver), an Independence at Home physician or an Independence at Home nurse practitioner, and Independence at Home coordinator, develop an Independence at Home plan for the participant in accordance with paragraph (2);

''(D) ensure that the participant receives an Independence at Home assessment at least annually after the original assessment to ensure that the Independence at Home plan for the participant remains current and appropriate;

''(E) implement all of the elements of the participant's Independence at Home plan and in instances in which the Independence at Home organization does not provide specific elements of the Independence at Home plan, ensure that qualified entities successfully implement those specific elements;

''(F) provide for an electronic medical record and electronic health information technology to coordinate the participant's care and to exchange information with the Medicare program and electronic monitoring and communication technologies and mobile diagnostic and therapeutic technologies as appropriate and accepted by the participant; and

''(G) respect the participant's right to health information privacy and obtain permission from the participant (or responsible person) for the use and disclosure of identifiable health information necessary for treatment, payment, or health care operations.

''(2) INDEPENDENCE AT HOME PLAN.—

''(A) IN GENERAL.—An Independence at Home plan for a participant shall be developed with the participant, an Independence at Home physician or an Independence at Home nurse practitioner, an Independence at Home coordinator, and, if appropriate, one or more of the participant's caregivers and shall—

''(i) document the chronic conditions, comorbidities, and other health needs identified in the participant's Independence at Home assessment;

''(ii) determine which elements of an Independence at Home plan described in subparagraph (C) are appropriate for the participant; and

''(iii) identify the qualified entity responsible for providing each element of such plan.

''(B) COMMUNICATION OF INDIVIDUALIZED INDEPENDENCE AT HOME PLAN TO THE INDEPENDENCE AT HOME COORDINATOR.—If the Independence at Home physician or Independence at Home nurse practitioner responsible for conducting the participant's Independence at Home assessment and developing the Independence at Home plan is not the participant's Independence at Home coordinator, the Independence at Home physician or Independence at Home nurse practitioner is responsible for ensuring that the participant's Independence at Home coordinator has such plan and is familiar with the requirements of the plan and has the appropriate contact information for all of the members of the Independence at Home care team.

''(C) ELEMENTS OF INDEPENDENCE AT HOME PLAN.—An Independence at Home organization shall have the capability to provide, directly or through a qualified entity, and shall offer all of the following elements of an Independence at Home plan to the extent they are appropriate and accepted by a participant:

''(i) Self-care education and preventive care consistent with the participant's condition.

''(ii) Coordination of all medical treatment furnished to the participant, regardless of whether such treatment is covered and available to the participant under this title.

''(iii) Information about, and access to, hospice care.

''(iv) Pain and palliative care and end-of-life care.

''(v) Education for primary caregivers and family members.

''(vi) Caregiver counseling services and information about, and referral to, other caregiver support and health care services in the community.

''(vii) Monitoring and management of medications as well as assistance to participants and their caregivers with respect to selection of a prescription drug plan under part D that best meets the needs of the participant's chronic conditions.

''(viii) Referral to social services, such as personal care, meals, volunteers, and individual and family therapy.

''(ix) Access to phlebotomy and ancillary laboratory and imaging services, including point of care laboratory and imaging diagnostics.

''(3) PRIMARY TREATMENT ROLE WITHIN AN INDEPENDENCE AT HOME CARE TEAM .—An Independence at Home physician or an Independence at Home nurse practitioner may assume the primary treatment role as permitted under State law.

''(4) ADDITIONAL RESPONSIBILITIES.—

''(A) OUTCOMES REPORT.—Each Independence at Home organization offering an Independence at Home program shall monitor and report to the Secretary, in a manner specified by the Secretary, on—

''(i) patient outcomes;

''(ii) beneficiary, caregiver, and provider satisfaction with respect to coordination of the participant's care; and

''(iii) the achievement of mandatory minimum savings described in subsection (e)(6).

''(B) ADDITIONAL REQUIREMENTS.—Each such organization and program shall comply with such additional requirements as the Secretary may specify.

''(e) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—An agreement under this section with an Independence at Home organization shall contain such terms and conditions as the Secretary may specify consistent with this section.

''(2) CLINICAL, QUALITY IMPROVEMENT, AND FINANCIAL REQUIREMENTS.—The Secretary may not enter into an agreement with such an organization under this section for the operation of an Independence at Home program unless—

''(A) the program and organization meet the requirements of subsection (d), minimum quality and performance standards developed under paragraph (3), and such clinical, quality improvement, financial, and other requirements as the Secretary deems to be appropriate for participants to be served; and

''(B) the organization demonstrates to the satisfaction of the Secretary that the organization is able to assume financial risk for performance under the agreement with respect to payments made to the organization under such agreement through available reserves, reinsurance, or withholding of funding provided under this title, or such other means as the Secretary determines appropriate.

''(3) MINIMUM QUALITY AND PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—The Secretary shall develop mandatory minimum quality and performance standards for Independence at Home organizations and programs.

''(B) STANDARDS TO BE INCLUDED.—Such standards shall include measures of—

''(i) participant outcomes;

''(ii) satisfaction of the beneficiary, caregiver, and provider involved; and

''(iii) cost savings consistent with paragraph (6).

''(C) MINIMUM PARTICIPATION STANDARD.—Such standards shall include a requirement that, for any year after the first year, an Independence at Home program had an average number of participants during the previous year of at least 100 participants.

''(4) TERM OF AGREEMENT AND MODIFICATION.—The agreement under this subsection shall be, subject to paragraphs (3)(C) and (5), for a period of three years, and the terms and conditions may be modified during the contract period only upon the request of the Independence at Home organization.

''(5) TERMINATION AND NON-RENEWAL OF AGREEMENT.—

''(A) IN GENERAL.—If the Secretary determines that an Independence at Home organization has failed to meet the minimum performance standards under paragraph (3) or other requirements under this section, the Secretary may terminate the agreement of the organization at the end of the contract year.

''(B) REQUIRED TERMINATION WHERE RISK TO HEALTH OR SAFETY OF A PARTICIPANT.—The Secretary shall terminate an agreement with an Independence at Home organization at any time the Secretary determines that the care being provided by such organization poses a threat to the health and safety of a participant.

''(C) TERMINATION BY INDEPENDENCE AT HOME ORGANIZATIONS.—Notwithstanding any other provision of this subsection, an Independence at Home organization may terminate an agreement with the Secretary under this section to provide an Independence at Home program at the end of a contract year if the organization provides to the Secretary and to the beneficiaries participating in the program notification of such termination more than 90 days before the end of such year. Paragraphs (6), (8), and (9)(B) shall apply to the organization until the date of termination.

''(D) NOTICE OF INVOLUNTARY TERMINATION.—The Secretary shall notify the participants in an Independence at Home program as soon as practicable if a determination is make to terminate an agreement with the Independence at Home organization involuntarily as provided in subparagraphs (A) and (B). Such notice shall inform the beneficiary of any other Independence at Home organizations that might be available to the beneficiary.

''(6) MANDATORY MINIMUM SAVINGS.—

''(A) IN GENERAL.—Under an agreement under this subsection, each Independence at Home organization shall ensure that during any year of the agreement for its Independence at Home program, there is an aggregate savings in the cost to the program under this title for participating beneficiaries, as calculated under subparagraph (B), that is not less than the product of—

''(i) 5 percent of the estimated average monthly costs that would have been incurred under parts A, B, and D if those beneficiaries had not participated in the Independence at Home program; and

''(ii) the number of participant-months for that year.

''(B) COMPUTATION OF AGGREGATE SAVINGS.—

''(i) MODEL FOR CALCULATING SAVINGS.—The Secretary shall contract with a nongovernmental organization or academic institution to independently develop an analytical model for determining whether an Independence at Home program achieves at least savings required under subparagraph (A) relative to costs that would have been incurred by Medicare in the absence of Independence at Home programs. The analytical model developed by the independent research organization for making these determinations shall utilize state-of-the-art econometric techniques, such as Heckman's selection correction methodologies, to account for sample selection bias, omitted variable bias, or problems with endogeneity.

''(ii) APPLICATION OF THE MODEL.—Using the model developed under clause (i), the Secretary shall compare the actual costs to Medicare of beneficiaries participating in an Independence at Home program to the predicted costs to Medicare of such beneficiaries to determine whether an Independence at Home program achieves the savings required under subparagraph (A).

''(iii) REVISIONS OF THE MODEL.—The Secretary shall require that the model developed under clause (i) for determining savings shall be designed according to instructions that will control, or adjust for, inflation as well as risk factors including, age, race, gender, disability status, socioeconomic status, region of country (such as State, county, metropolitan statistical area, or zip code), and such other factors as the Secretary determines to be appropriate, including adjustment for prior health care utilization. The Secretary may add to, modify, or substitute for such adjustment factors if such changes will improve the sensitivity or specificity of the calculation of costs savings.

''(iv) PARTICIPANT-MONTH.—In making the calculation described in subparagraph (A), each month or part of a month in a program year that a beneficiary participates in an Independence at Home program shall be counted as a 'participant-month'.

''(C) NOTICE OF SAVINGS CALCULATION.—No later than 120 days before the beginning of any Independence at Home program year, the Secretary shall publish in the Federal Register a description of the model developed under subparagraph (B)(i) and information for calculating savings required under subparagraph (A), including any revisions, sufficient to permit Independence at Home organizations to determine the savings they will be required to achieve during the program year to meet the savings requirement under such subparagraph. In order to facilitate this notice, the Secretary may designate a single annual date for the beginning of all Independence at Home program years that shall not be later than one year from the date of enactment of this section.

''(7) MANNER OF PAYMENT.—Subject to paragraph (8), payments shall be made by the Secretary to an Independence at Home organization at a rate negotiated between the Secretary and the organization under the agreement for—

''(A) Independence at Home assessments; and

''(B) on a per-participant, per-month basis for the items and services required to be provided or made available under subsection (d).

''(8) ENSURING MANDATORY MINIMUM SAVINGS.—The Secretary shall require any Independence at Home organization that fails in any year to achieve the mandatory minimum savings described in paragraph (6) to provide those savings by refunding payments made to the organization under paragraph (7) during such year.

''(9) BUDGET NEUTRAL PAYMENT CONDITION.—

''(A) IN GENERAL.—Under this section, the Secretary shall ensure that the cumulative, aggregate sum of Medicare program benefit expenditures under parts A, B, and D for participants in Independence at Home programs and funds paid to Independence at Home organizations under this section, shall not exceed the Medicare program benefit expenditures under such parts that the Secretary estimates would have been made for such participants in the absence of such programs.

''(B) TREATMENT OF SAVINGS.—If an Independence at Home organization achieves aggregate savings in a year in excess of the mandatory minimum savings described in paragraph (6), 80 percent of such aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title.

''(f) WAIVER OF COINSURANCE FOR HOUSE CALLS.—A physician or nurse practitioner furnishing services in the home or residence of a participant in an Independence at Home program may waive collection of any coinsurance that might otherwise be payable under section 1833(a) with respect to such services.

''(g) REPORT.—Not later than one year after the end of the Independence at Home demonstration project under this section, the Secretary shall submit to Congress a report on such project. Such report shall include information on—

''(1) whether Independence at Home programs under the project met the performance standards for beneficiary, caregiver, and provider satisfaction; and

''(2) participant outcomes and cost savings, as well as the characteristics of the programs that were most effective and whether the participant eligibility criteria identified beneficiaries who were in the top ten percent of the highest cost Medicare beneficiaries.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended, in the matter before paragraph (1), by inserting ''and section 1807A(f)'' after ''section 1876''.

(2) Section 1128B(b)(3) of such Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking ''and'' at the end of subparagraph (G);

(B) by striking ''1853(a)(4).'' at the end of the first subparagraph (H) and inserting ''1853(a)(4);'';

(C) by redesignating the second subparagraph (H) as subparagraph (I) and by striking the period at the end and inserting ''; and''; and

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

''(J) a waiver of coinsurance under section 1807A(f).''.

By Mr. CASEY:

S. 3614. A bill to require semiannual indexing of mandatory Federal food assistance programs; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CASEY. Mr. President, I rise today to talk about an issue that, in the midst of this devastating economic crisis, continues to plague more and more Americans every day—hunger. Although hunger in this country may not be as obvious as it is in other nations, it nonetheless exists and has devastating consequences for those it affects. It weakens the body, making it more susceptible to illness. It impedes child development and reduces a child's ability to learn. It saps valuable energy, resulting in lowered productivity and less earning potential. In short, hunger has a devastating effect on those it touches.

In 2006 alone, the United States Department of Agriculture, USDA, reported that 35.5 million Americans did not have enough money or resources to get food for at least some period during the year. This figure was an increase of 400,000 over 2005 and an increase of 2.3 million since 2000. And, with the fragile state of our economy, we can only assume that when the figures for 2007 and 2008 are released, the number of Americans living with hunger will be even greater.

Unfortunately, for these millions of Americans facing hunger, the ability to afford the food they so desperately need has not become any easier over the past year. According to the Department of Labor, the cost of food at home rose 7.1 percent from July 2007 to July 2008. But, for the nearly 28 million Americans receiving food stamps, the effects of food price inflation during that time period were even more devastating. From July 2007 to July 2008, the cost of the ''Thrifty Food Plan''—the Government's estimate of what constitutes a nutritious, minimal cost meal plan—rose by 10 percent. As a result, the benefits currently provided to food stamp participants are not enough to even cover the cost of this minimally adequate diet.

Each summer, the United States Department of Agriculture sets new food stamp benefit levels based on the average of the previous year's food price inflation. However, these new benefit levels are not implemented until the first day of October each year, by which time they already lag behind current prices. For instance, when updated food stamp benefit levels were provided to an average family of four in October 2007, they were already lagging $12.20 behind the monthly cost of the Thrifty Food Plan. By July of this year, that same family of four was receiving $56 per month less than they needed to afford the cost of this minimal diet. for such low-income families, already facing rising home energy and transportation costs, and having non-negotiable expenditures like rent or mortgage payments and child care expenses needing to be paid, food purchases are often the only area of the monthly budget where cuts can be made.

But, food price inflation is not only affecting the price families are paying for food at home. It is also affecting the prices schools are paying for foods provided through child nutrition programs like school breakfasts, lunches, and after-school snack programs. While the Federal Government does reimburse schools for the costs of providing these programs to children from low-income families, with ever rising food prices, these reimbursements are not enough to cover the expenses of providing these meals.

Like food stamps, school meal reimbursement rates are updated every

summer to account for inflation. But, by the time the school year begins, these reimbursements already lag behind the true cost of producing the meal. In fact, a recent survey by the School Nutrition Association found that 88 percent of responding school districts indicated that Federal reimbursement rates were not sufficient to cover the costs of producing a meal during the 2007/08 school year. As a result, 73 percent of these school districts said they plan to increase the price other students pay for food services in this coming school year to make up for the increased costs.

Congress can and must do more to ensure that Federal nutrition assistance programs can adequately cover the costs of food for those most in need. That's why today I'm pleased to introduce the National Hunger Relief Act of 2008. This act will make critical changes needed to help low-income families and schools cover the costs of purchasing healthy, nutritious foods.

Under this act, when setting benefit levels for food stamps, Congress would anticipate the food price inflation that will occur in the coming fiscal year, and would act to offset it by setting a higher benefit rate for October 1 than is currently provided. Beginning in fiscal year 2010, recipients would receive 102 percent of the cost of the Thrifty Food Plan in the previous June. By fiscal year 2012, this benefit rate would be ramped up to 103 percent of the cost of the Thrifty Food Plan in the previous June. This change would be consistent with the way food stamp benefits were regularly adjusted for food price inflation for many years prior to 1996. By providing this higher benefit rate, food stamp benefits would be adequate to meet rising food prices over the course of the following year. As a result, low-income families participating in the food stamp program would have the necessary resources to purchase the foods their families need and be able to ensure that their families do not suffer from the adverse effects of hunger.

To solve the problem of inadequate reimbursement rates for certain child nutrition programs, this bill would provide for semi-annual reimbursement rate adjustments. In addition to the current annual update in July to reimbursement rates for school meal programs, reimbursement rates would also be adjusted for inflation each January. As a result of this change, reimbursement rates for the National School Lunch and Breakfast Programs, the Special Milk Program, the Child and Adult Day Care Program, and the Summer Food Service Program would more accurately reflect the costs that schools or service providers incur to provide foods through these programs. This, in turn, would help to keep the prices charged for foods provided to other children at schools more in line with the costs of procuring and providing those foods.

I am introducing this legislation today because it is critically important to begin the dialogue on finding ways to ensure that our nutrition assistance programs can continue to prevent hunger by providing necessary nourishment to Americans of all ages. However, I also recognize that we have a challenge to ensure that these nutrition assistance programs can operate in the most efficient and cost-effective manner possible while adequately serving the more than 35.5 million Americans who continue to be plagued by the threat of hunger. Over the coming months, as we continue to work on ways to eradicate hunger in this Nation and begin to consider the reauthorization of the Child Nutrition Act, I will continue seeking out ways to make reforms to this and other nutrition assistance legislation to ensure that—at the end of the day—these programs can continue to effectively reach those most in need.

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. 3614

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Hunger Relief Act of 2008''.

SEC. 2. NUTRITION PROGRAMS.

(a) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—Section 3(u) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(u)) is amended—

(1) by striking ''(u) 'Thrifty food plan' means'' and inserting the following:

''(u) THRIFTY FOOD PLAN.—

''(1) IN GENERAL.—The term 'thrifty food plan' means'';

(2) in the second sentence—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(B) by striking ''The cost of such diet'' and inserting the following:

''(2) ADJUSTMENTS.—The cost of the diet described in paragraph (1)''; and

(C) by striking subparagraph (D) (as redesignated by subparagraph (A)) and inserting the following:

''(D)(i) on October 1, 2009, adjust the cost of the diet to reflect 102 percent of the cost of the diet in the preceding June, and round the result to the nearest higher dollar increment for each household size, except that the Secretary may not reduce the cost of the diet below that in effect during the immediately preceding fiscal year;

''(ii) on October 1, 2010, adjust the cost of the diet to reflect 102.5 percent of the cost of the diet in the preceding June, and round the result to the nearest higher dollar increment for each household size, except that the Secretary may not reduce the cost of the diet below that in effect during the immediately preceding fiscal year; and

''(iii) on October 1, 2011, and each October 1 thereafter, adjust the cost of the diet to reflect 103 percent of the cost of the diet in the preceding June, and round the result to the nearest higher dollar increment for each household size, except that the Secretary may not reduce the cost of the diet below that in effect during the immediately preceding fiscal year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking ''3(u)(4)'' and inserting ''3(u)(2)''.

(2) Section 27(a)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)(2)(C)) is amended by striking ''3(u)(4)'' and inserting ''3(u)(2)''.

SEC. 3. SCHOOL MEALS.

(a) COMMODITIES.—Section 6(c)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)(1)) is amended—

(1) in subparagraph (A), by striking ''on July 1, 1982, and each July 1 thereafter'' and inserting ''in accordance with subparagraph (B)''; and

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

''(B) ADJUSTMENT.—The Secretary shall—

''(i) on each January 1, increase the value of food assistance for each meal by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for September, October, and November each year;

''(ii) on each July 1, increase the value of food assistance for each meal by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year; and

''(iii) round the result of each increase to the nearest higher ¼ cent.''.

(b) OVERALL ADJUSTMENT.—Section 11(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)) is amended—

(1) in paragraph (2), by striking ''98.75 cents'' and inserting ''the amount computed under paragraph (3)''; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter before clause (i), by striking ''July 1, 1982, and on each subsequent July 1, an annual adjustment'' and inserting ''each January 1 and July 1, a semiannual increase''; and

(ii) in clause (ii), by striking ''(as established under paragraph (2) of this subsection)'';

(B) in subparagraph (B)—

(i) in clause (i), by striking ''annual adjustment'' and inserting ''semiannual increase'';

(ii) in clause (ii)—

(I) by striking ''annual adjustment'' and inserting ''semiannual increase''; and

(II) by striking ''12-month period'' and inserting ''6-month period''; and

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

''(iii) ROUNDING.—On each January 1 and July 1, the national average payment rates for meals and supplements shall be—

''(I) increased to the nearest higher cent; and

''(II) based on the unrounded amount previously in effect.''.

(c) PAYMENTS TO SERVICE INSTITUTIONS.—Section 13(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(b)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) ADJUSTMENTS.—The Secretary shall—

''(i) on each January 1, increase each amount specified in subparagraph (A) as adjusted through the preceding July 1 to reflect changes for the 6-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor;

''(ii) on each July 1, increase each amount specified in subparagraph (A) as adjusted through the preceding January 1 to reflect changes for the 6-month period ending the preceding May 31 in the series for food away

from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor;

''(iii) base each increase on the unrounded amount previously in effect; and

''(iv) round each increase described in clauses (i) and (ii) to the nearest higher cent increment.''.

(d) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(1) TIER I.—Section 17(f)(3)(A)(ii)(IV) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(ii)(IV)) is amended by striking subclause (IV) and inserting the following:

''(IV) ADJUSTMENTS.—On each July 1 and January 1, the Secretary shall—

''(aa) increase each reimbursement factor under this subparagraph to reflect the changes in the Consumer Price Index for food at home for the most recent 6-month period for which the data are available;

''(bb) base each increase on the unrounded amount previously in effect; and

''(cc) round each increase described in item (aa) to the nearest higher cent increment.''.

(2) TIER II.—Section 17(f)(3)(A)(iii)(I) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(iii)(I)) is amended by striking item (bb) and inserting the following:

''(bb) ADJUSTMENTS.—On each July 1 and January 1, the Secretary shall increase the reimbursement factors to reflect the changes in the Consumer Price Index for food at home for the most recent 6-month period for which the data are available, base the increases on the unrounded amount previously in effect, and round the increases to the nearest higher cent increment.''.

(e) SPECIAL MILK PROGRAM.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) by striking paragraph (7) and inserting the following:

''(7) MINIMUM RATE OF REIMBURSEMENT.—For each school year, the minimum rate of reimbursement for a ½ pint of milk served in schools and other eligible institutions shall be not less than minimum rate of reimbursement in effect on September 30, 2008, as increased on a semiannual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.''; and

(2) in paragraph (8), by inserting ''higher'' after ''nearest''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2008.

By Ms. COLLINS (for herself and Mrs. FEINSTEIN):

S. 3618. A bi11 to establish a research, development, demonstration, and commercial application program to promote research of appropriate technologies for heavy duty plug-in hybrid vehicles, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, today I am introducing the Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act, along with my colleague from California, Senator FEINSTEIN. This bill will accelerate research of plug-in hybrid technologies for heavy duty trucks.

The Department of Energy, DOE, administers several grants to speed production of hybrid cars, but DOE does not have a single grant specifically intended for trucks. Truck operators in Maine and around the country are being hit hard by high diesel prices. In 1999, a Maine truck driver could purchase $500 of diesel fuel and drive from Augusta, ME, all the way to Albuquerque, NM. Today, a driver who purchases $500 of diesel and leaves Augusta would not even make it to Altoona, PA, and because diesel prices may well continue to increase, the problem is only getting worse. Plug-in hybrid trucks would make them less susceptible to dramatic swings in oil prices.

Industries turn their trucks over faster than consumers do their cars and can therefore adopt new technologies faster. This means reducing oil consumption by heavy duty trucks could go a long way toward reduce our Nation's oil consumption. DOE's National Renewable Energy Laboratory estimates that hybrid trucks could reduce fuel use by as much as 60 percent.

Current hybrid technology works well for cars because they can be made with lightweight materials and run shorter distances. Trucks need to be able to carry heavy loads and, if they are going to be plug-in hybrids, travel long distances in between charges. So, the battery and other technologies needed to make plug-in trucks a reality are more advanced than for cars.

The Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act would direct DOE to expand its research in advanced energy storage technologies to include heavy hybrid trucks as well as passenger vehicles. The focus on plug-ins builds on a proven technology for cars that can drastically reduce our use of foreign oil and enhance the efficiency of the electric grid.

Grant recipients will be required to complete two phases. In phase one, recipients must build one plug-in hybrid truck, collect data and make comparisons to traditional trucks, and report on the fuel savings. In phase two, recipients must produce 50 plug-in hybrid trucks and report on the technological and market obstacles to widespread production. To help with this second phase, grant applicants can partner with other manufacturers. The bill authorizes $16 million for each of fiscal years 2009–2011 for the grant program.

We need a comprehensive approach to addressing the energy crisis. The Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act is one vital piece of that approach. I urge my colleagues to support this important legislation.

By Mr. CASEY (for himself and Mr. SPECTER):

S. 3619. A bill to establish the Susquehana Gateway National Heritage Area in the State of Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce legislation that would establish the Susquehanna Gateway National Heritage Area in York and Lancaster Counties, Pennsylvania. Since 1984, Congressionally-designated National Heritage Areas have fostered partnerships between the public and private sectors for undertaking preservation, educational, and recreational initiatives in diverse regions throughout the country. Through these efforts, National Heritage Areas have helped to protect our Nation's natural and cultural resources while promoting local economic development. Today, I am proud to join my colleague from Pennsylvania Senator ARLEN SPECTER to propose a bill that would grant national recognition to the Susquehanna Gateway region, an area that has played a key role in the development of our nation's cultural, political, and economic identity.

While the region boasts an impressive catalogue of historic and scenic resources, perhaps two examples in particular best underscore how the distinct traditions and natural landscape of the Susquehanna Gateway offer an insight into the broader American experience. For centuries, the Susquehanna River, which forms a natural border between Pennsylvania's York and Lancaster Counties and represents the heart of the proposed National Heritage Area, has been at the center of agricultural, industrial, and recreational activity in the Mid-Atlantic United States. The river provided colonial settlers with a trading route to Native American communities. It was an important shipping lane for timber, iron, coal, and agricultural products throughout the nineteenth century and into the twentieth century. With the decline of industry and commercial shipping in the region, the river today has assumed a new identity as a center of recreation for millions of boaters, fishermen, hunters, birders, and others. In tracing these developments, we recognize that the story of the Susquehanna River Valley reflects much of the American story. Passing the Susquehanna Gateway National Heritage Area Act will allow more Americans to discover and better appreciate this narrative.

No less than in this tremendous natural resource, the Susquehanna Gateway region's national significance is rooted in its populace. As the Commonwealth of Pennsylvania was founded in the spirit of providing refuge to those suffering religious and cultural persecution, so did York and Lancaster Counties offer a home to German Baptist immigrants who created Amish and Mennonite farming communities. By their example of humility, hard work, environmental stewardship, and respect for others, these ''Plain'' people continue to inspire millions of Americans. Designating the Susquehanna Gateway National Heritage Area is the proper way to acknowledge their contributions to the story of American agriculture and its transformative influence on the natural landscape.

Finally, I would like to recognize the leadership of Mark Platts, President of the Lancaster-York Heritage Region, and his colleague Jonathan Pinkerton, Deputy Director. Through their tireless efforts, they have developed a feasibility study for the Susquehanna Gateway National Heritage Area that meets the National Parks Service's ten interim criteria for designation of a National Heritage Area. I look forward to working with my colleagues in the Senate to pass the Susquehanna Gateway National Heritage Area Act soon so that the region can begin to play a national role in sharing America's story.

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. 3619

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 ''Susquehanna Gateway National Heritage Area Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) numerous sites of significance to the heritage of the United States are located within the boundaries of the proposed Susquehanna Gateway National Heritage Area, which includes the Lower Susquehanna River corridor and all of Lancaster and York Counties in the State of Pennsylvania;

(2) included among the more than 200 historically significant sites, structures, districts, and tours in the area are—

(A) the home of a former United States President;

(B) the community where the Continental Congress adopted the Articles of Confederation;

(C) the homes of many prominent figures in the history of the United States;

(D) the preserved agricultural landscape of the Plain communities of Lancaster County, Pennsylvania;

(E) the exceptional beauty and rich cultural resources of the Susquehanna River Gorge;

(F) numerous National Historic Landmarks, National Historic Districts, and Main Street communities; and

(G) many thriving examples of the nationally significant industrial and agricultural heritage of the region, which are collectively and individually of significance to the history of the United States;

(3) in 1999, a regional, collaborative public-private partnership of organizations and agencies began an initiative to assess historic sites in Lancaster and York Counties, Pennsylvania, for consideration as a Pennsylvania Heritage Area;

(4) the initiative—

(A) issued a feasibility study of significant stories, sites, and structures associated with Native American, African American, European American, Colonial American, Revolutionary, and Civil War history; and

(B) concluded that the sites and area—

(i) possess historical, cultural, and architectural values of significance to the United States; and

(ii) retain a high degree of historical integrity;

(5) in 2001, the feasibility study was followed by development of a management action plan and designation of the area by the State of Pennsylvania as an official Pennsylvania Heritage Area;

(6) in 2008, a feasibility study report for the Heritage Area—

(A) was prepared and submitted to the National Park Service—

(i) to document the significance of the area to the United States; and

(ii) to demonstrate compliance with the interim criteria of the National Park Service for National Heritage Area designation; and

(B) found that throughout the history of the United States, Lancaster and York Counties and the Susquehanna Gateway region have played a key role in the development of the political, cultural, and economic identity of the United States;

(7) the people of the region in which the Heritage Area is located have—

(A) advanced the cause of freedom; and

(B) shared their agricultural bounty and industrial ingenuity with the world;

(8) the town and country landscapes and natural wonders of the area are visited and treasured by people from across the globe;

(9) for centuries, the Susquehanna River has been an important corridor of culture and commerce for the United States, playing key roles as a major fishery, transportation artery, power generator, and place for outdoor recreation;

(10) the river and the region were a gateway to the early settlement of the ever-moving frontier;

(11) the area played a critical role as host to the Colonial government during a turning point in the Revolutionary War;

(12) the rural landscape created by the Amish and other Plain people of the region is of a scale and scope that is rare, if not entirely unknown in any other region, in the United States;

(13) for many people in the United States, the Plain people of the region personify the virtues of faith, honesty, community, and stewardship at the heart of the identity of the United States;

(14) the regional stories of people, land, and waterways in the area are essential parts of the story of the United States and exemplify the qualities inherent in a National Heritage Area;

(15) in 2008, the National Park Service found, based on a comprehensive review of the Susquehanna Gateway National Heritage Area Feasibility Study Report, that the area meets the 10 interim criteria of the National Park Service for designation of a National Heritage Area;

(16) the preservation and interpretation of the sites within the Heritage Area will make a vital contribution to the understanding of the development and heritage of the United States for the education and benefit of present and future generations;

(17) the Secretary of the Interior is responsible for protecting the historic and cultural resources of the United States;

(18) there are significant examples of historic and cultural resources within the Heritage Area that merit the involvement of the Federal Government, in cooperation with the management entity and State and local governmental bodies, to develop programs and projects to adequately conserve, support, protect, and interpret the heritage of the area;

(19) partnerships between the Federal Government, State and local governments, regional entities, the private sector, and citizens of the area offer the most effective opportunities for the enhancement and management of the historic sites throughout the Heritage Area to promote the cultural and historic attractions of the Heritage Area for visitors and the local economy; and

(20) the Lancaster-York Heritage Region, a 501(c)(3) nonprofit corporation and State-designated management entity of the Pennsylvania Heritage Area, would be an appropriate management entity for the Heritage Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Susquehanna Gateway National Heritage Area established by section 4(a).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 5(a).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the plan developed by the management entity under section 6(a).

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

(5) STATE.—The term ''State'' means the State of Pennsylvania.

SEC. 4. ESTABLISHMENT OF SUSQUEHANNA GATEWAY NATIONAL HERITAGE AREA.

(a) IN GENERAL.—There is established in the State the Susquehanna Gateway National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include a core area located in south-central Pennsylvania consisting of an 1869-square-mile region east and west of the Susquehanna River and encompassing Lancaster and York Counties.

(c) MAP.—A map of the Heritage Area shall be—

(1) included in the management plan; and

(2) on file in the appropriate offices of the National Park Service.

SEC. 5. DESIGNATION OF MANAGEMENT ENTITY.

(a) MANAGEMENT ENTITY.—The Lancaster-York Heritage Region shall be the management entity for the Heritage Area.

(b) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity may, for purposes of preparing and implementing the management plan, use Federal funds made available under this Act—

(1) to prepare reports, studies, interpretive exhibits and programs, historic preservation projects, and other activities recommended in the management plan for the Heritage Area;

(2) to pay for operational expenses of the management entity;

(3) to make grants to the State, political subdivisions of the State, nonprofit organizations, and other persons;

(4) to enter into cooperative agreements with the State, political subdivisions of the State, nonprofit organizations, and other organizations;

(5) to hire and compensate staff;

(6) to obtain funds or services from any source, including funds and services provided under any other Federal program or law; and

(7) to contract for goods and services.

(c) DUTIES OF MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

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

(2) give priority to the implementation of actions, goals, and strategies set forth in the management plan, including assisting units of government and other persons in—

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

(B) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(C) establishing and maintaining interpretive exhibits in the Heritage Area;

(D) developing heritage-based recreational and educational opportunities for residents and visitors in the Heritage Area;

(E) increasing public awareness of and appreciation for the natural, historic, and cultural resources of the Heritage Area;

(F) restoring historic buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area; and

(G) installing throughout the Heritage Area clear, consistent, and appropriate signs identifying public access points and sites of interest;

(3) consider the interests of diverse units of government, businesses, tourism officials, private property owners, and nonprofit groups within the Heritage Area in developing and implementing the management plan;

(4) conduct public meetings at least semiannually regarding the development and implementation of the management plan; and

(5) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary an annual report that describes—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) the entities to which the management entity made any grants;

(B) make available for audit all records relating to the expenditure of the Federal funds and any matching funds; and

(C) require, with respect to all agreements authorizing the expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records relating to the expenditure of the Federal funds.

(d) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this Act to acquire real property or any interest in real property.

(2) OTHER SOURCES.—Nothing in this Act precludes the management entity from using Federal funds from other sources for authorized purposes, including the acquisition of real property or any interest in real property.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall prepare and submit to the Secretary a management plan for the Heritage Area.

(b) CONTENTS.—The management plan for the Heritage Area shall—

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

(2) take into consideration existing State, county, and local plans;

(3) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(4) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area relating to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained; and

(5) include an analysis of, and recommendations for, ways in which Federal, State, and local programs, may best be coordinated to further the purposes of this Act, including recommendations for the role of the National Park Service in the Heritage Area.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed management plan is not submitted to the Secretary by the date that is 3 years after the date on which funds are first made available to carry out this Act, the management entity may not receive additional funding under this Act until the date on which the Secretary receives the proposed management plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date on which the management entity submits the management plan to the Secretary, the Secretary shall approve or disapprove the proposed management plan.

(2) CONSIDERATIONS.—In determining whether to approve or disapprove the management plan, the Secretary shall consider whether—

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

(B) the management entity has provided adequate opportunities (including public meetings) for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials, the cooperation of which is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) DISAPPROVAL AND REVISIONS.—

(A) IN GENERAL.—If the Secretary disapproves a proposed management plan, the Secretary shall—

(i) advise the management entity, in writing, of the reasons for the disapproval; and

(ii) make recommendations for revision of the proposed management plan.

(B) APPROVAL OR DISAPPROVAL.—The Secretary shall approve or disapprove a revised management plan not later than 180 days after the date on which the revised management plan is submitted.

(e) APPROVAL OF AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall review and approve or disapprove substantial amendments to the management plan in accordance with subsection (d).

(2) FUNDING.—Funds appropriated under this Act may not be expended to implement any changes made by an amendment to the management plan until the Secretary approves the amendment.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the management entity to the extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State, or local agency, or conveys any land use or other regulatory authority to the management entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. EVALUATION; REPORT.

(a) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area, the Secretary shall—

(1) conduct an evaluation of the accomplishments of the Heritage Area; and

(2) prepare a report in accordance with subsection (c).

(b) EVALUATION.—An evaluation conducted under subsection (a)(1) shall—

(1) assess the progress of the management entity with respect to—

(A) accomplishing the purposes of this Act for the Heritage Area; and

(B) achieving the goals and objectives of the approved management plan for the Heritage Area;

(2) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(3) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(c) REPORT.—

(1) IN GENERAL.—Based on the evaluation conducted under subsection (a)(1), the Secretary shall prepare a report that includes recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) REQUIRED ANALYSIS.—If the report prepared under paragraph (1) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(A) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(B) the appropriate time period necessary to achieve the recommended reduction or elimination.

(3) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity carried

out using funds made available under this Act shall be not more than 50 percent.

SEC. 11. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

Mr. SPECTER. Mr. President, I have sought recognition to thank my colleague and fellow Senator from Pennsylvania, BOB CASEY, for introducing a bill designating the Susquehanna Gateway National Heritage Area. I am pleased to be an original cosponsor of this legislation.

National heritage areas are designated by Congress and recognized by the National Park Service for their natural, cultural, and historic significance. The proposed National Heritage Area is currently a State heritage area known as the Lancaster-York Heritage Region and meets the criteria for national designation.

This region of southern Pennsylvania encompasses Lancaster and York counties and the portion of the Susquehanna River that connects the two counties. This area is home to numerous nature and wildlife preserves, State and local parks, trail systems and conservation areas, which celebrate and utilize the natural resources of the Susquehanna River and surrounding rural landscape. Both Lancaster and York counties have demonstrated a strong commitment to maintaining the open space and agricultural heritage for which this area of Pennsylvania is known throughout the State and country.

This region is perhaps most renowned and culturally distinctive for the Amish and Mennonite communities that have made Lancaster County their home for hundreds of years. Pennsylvania has the largest Amish population in the world, and Lancaster County has one of the largest Old Order Amish communities. The Old Order Amish have retained a traditional way of life and have resisted the incorporation of modern technology into their society. Visitors to Amish Country have a unique opportunity to observe how the world looked and people behaved hundreds of years ago.

This area is also rich in historical significance. Among the sites located in Lancaster and York counties that tell the story of our Nation's history is the home of James Buchanan, the only President from Pennsylvania, and the location where the Continental Congress adopted the Articles of Confederation. Scattered throughout the two counties are centuries-old churches, train stations, homes, and other structures, many of which played important roles in history including stops on the Underground Railroad and sites visited by President Lincoln on his way to Gettysburg to deliver the Gettysburg Address.

This region is defined by the natural, cultural, and historical qualities that most certainly qualify it for National Heritage Area designation. I have been contacted by all six county commissioners, other local public officials, chambers of commerce, large corporations, small businesses, historical societies, preservation advocacy groups and others, urging congressional designation of the Susquehanna Gateway National Heritage Area. Additionally, I am informed that National Park Service Northeast Regional Director Dennis Reidenbach has stated that this region meets Park Service standards for recognition as a national heritage area. Accordingly, I again thank Senator CASEY and urge my colleagues to support this bill.

By Mrs. LINCOLN (for herself, Mr. SMITH, and Mr. PRYOR):

S. 3620. A bill to amend the Social Security Act to enable States to carry out quality initiatives, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today with my colleague, Senator BLANCHE LINCOLN to introduce a very important bill for our Nation's working families, the Child Care Investment Act of 2008. Throughout our Nation, so many families today are struggling to provide for their families. One important action we can take to support working parents is to help ensure that their children are taken care of in safe and affordable childcare, and, most importantly, that this childcare is available to them. Unfortunately, we know that so many families are not able to access childcare, much less childcare that is high quality. This leads some to leave their children with unqualified caregivers, and, too often, in a dangerous situation.

Because families were facing such dire shortages of affordable child care, Congress developed the Child Care and Development Block Grant Act of 1990 that founded the CCDBG program. Since that time, this program has benefited low-income families by providing them with the help they need to remain employed, care for their children and have the peace of mind that their children are being well cared for. However, much more can be done to support and increase the funding for this important program. Recently, the National Association of Child Care Resource and Referral Agencies, NACCRRA, released a report on the cost of child care for parents in our Nation.Their findings were startling and further underline the call to action that Senator LINCOLN and I feel is necessary for working parents. The NACCRRA report says that the cost of child care is rising at nearly twice the rate of inflation in most states. In fact, my home state of Oregon is the ninth least affordable state for infant care in a child care center. They found that in Oregon, on average, nearly 46 percent of a single parent's salary goes towards child care for an infant. This study also found that in every region of our Nation, child care costs more than food.

During difficult economic times, the resources of families in our Nation become even more stretched. Decisions are often made within family budgets and sacrifices are made during times of lean. However, we owe it to our Nation's children to ensure that they are safe and cared for by responsible care providers while their parents work. Low-income parents should not be placed in a situation when they have to choose between their job and the safety of their children.

The bill that Senator LINCOLN and I are introducing today will work to ensure more quality children care is available as the cost of this care increase and family budgets are squeezed. This bill will increase funding for the CCDBG program from $2.9 billion to $4 billion. It will also incorporate new quality goals for States to ensure quality care is given to our Nation's children.

I thank Senator LINCOLN for her continuing commitment to this issue and to children in our Nation and ask my colleagues for their support of this legislation and quick passage.

By Mr. DURBIN (for himself, Mr. LEVIN, and Mr. BROWN):

S. 3622. A bill to establish a grant program to promote the conservation of the Great Lakes and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DURBIN. Mr. President, today I am introducing the Great Lakes Conservation Education Act.

From orbit in space, the Great Lakes are the most recognizable feature of the North American landscape. And no wonder. The Great Lakes are the largest single source of fresh surface water in the world. They hold 90 percent of America's fresh surface water. They hold 20 percent of the world's fresh surface water.

Forty-two million people call the Great Lakes basin home and rely on it for clean, safe water.

What is not evident from space, though, is the trash and other debris that litter the shorelines of the Great Lakes. Debris, in fact, is one of the most pervasive pollution problems affecting America's waterways. Debris detracts from the beauty of our Nation's coasts, threatens freshwater life, poses public health and safety concerns, and interferes with commercial and recreational boats and ships.

Over the weekend, I participated in the Adopt-a-Beach clean-up on Lake Michigan. We started at Montrose Beach, stopped at both North Ave. and the 12th Street Beaches, and worked our way down to the 57th Street Beach. It was heartening to meet so many people who are committed to cleaning up the lake.

The Adopt-a-Beach program is one volunteer effort to clean up the beaches of the Great Lakes and increase public awareness of the seriousness of the litter problem. The program is run by the Alliance for the Great Lakes, a group dedicated to the conservation and restoration of this national treasure.

Adopt-a-Beach began in Illinois in 2002 and has quickly spread to neighboring states. It is a year-round program, but its chief event is a beach clean-up day each September, coordinated with the Ocean Conservancy's annual International Coastal Clean-up.

Citizens, organizations, and businesses are working together on efforts to restore the Great Lakes shorelines clean. We need to expand on these efforts and educate people throughout the Great Lakes about how they can help to cleanup and restore the lakes.

That is why I am introducing the Great Lakes Conservation Education Act. This bill would authorize a new program within the Department of Commerce to provide funding for nongovernmental organizations, museums, school, consortiums, and others to support conservation education and outreach programs to restore the Great Lakes.

I am looking forward to working with my colleagues to make this program a reality. We have a long way to go to restore the lakes and this legislation will make it possible for organizations through out the Great Lakes to educate students, teachers, and the general public about the steps they can take to improve the lakes.

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. 3622

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 ''Great Lakes Conservation Education Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to establish a competitive grant program to increase knowledge about, raise awareness of, and educate the public on the importance of conservation of the Great Lakes in order to improve the overall health of the Great Lakes.

SEC. 3. GREAT LAKES EDUCATION GRANTS.

(a) AUTHORITY TO AWARD.—The Secretary of Commerce is authorized to award grants to eligible entities to carry out eligible activities.

(b) ELIGIBLE ENTITY DEFINED.—In this Act, the term ''eligible entity'' means an educational entity or a nonprofit nongovernmental organization, consortium, or other entity that the Secretary of Commerce finds has a demonstrated record of success in carrying out conservation education or outreach programs.

(c) ELIGIBLE ACTIVITY DEFINED.—In this Act, the term ''eligible activity'' means an activity carried out in a State, or across multiple States, that is adjacent to one of the Great Lakes that provides hands-on or real world experiences to increase knowledge about, raise awareness of, or provide education regarding the importance of conservation of the Great Lakes and on actions individuals can take to promote such conservation, including—

(1) educational activities for students that are consistent with elementary and secondary learning standards established by a State;

(2) professional development activities for educators;

(3) Great Lakes conservation activities that have been identified by a State and adjacent States as a regional priority; or

(4) Great Lakes stewardship and place-based education activities.

(d) USE OF SUBCONTRACTORS.—An eligible entity awarded a grant under subsection (a) to carry out an eligible activity may utilize subcontractors to carry out such activity.

SEC. 4. REPORTS.

(a) REPORTS FROM GRANTEES.—The Secretary of Commerce may require an eligible entity awarded a grant under section 3(a) to submit to the Secretary a report describing each activity that was carried out with the grant funds. The Secretary may require such report to include information on any subcontractor utilized by the eligible entity to carry out an activity.

(b) REPORTS FROM THE SECRETARY.—Not later than December 31, 2010, and once every 3 years thereafter, the Secretary of Commerce shall submit to Congress a report on the grant program authorized by section 3(a). Each such report shall include a description—

(1) of the eligible activities carried out with grants awarded under section 3(a) during the previous fiscal year and an assessment of the success of such activities;

(2) of the type of education and outreach programs carried out with such grants, disaggregated by State; and

(3) of the number of schools, and schools reached through a formal partnership with an eligible entity awarded such a grant, involved in carrying out such programs.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $15,000,000 for each fiscal year to carry out this Act.

By Mr. LIEBERMAN (for himself and Ms. COLLINS): . 3623. A bill to authorize appropriations for the Department of Homeland Security for fiscal years 2008 and 2009, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to introduce a bill to authorize appropriations for the Department of Homeland Security—the first comprehensive DHS authorization bill introduced in the Senate in the 5-year history of this agency created in response to the attacks of 9/11.

This bipartisan bill is cosponsored by my friend and colleague, ranking member Senator SUSAN COLLINS, who has long been one of the Senate's great leaders in our efforts to make our nation more secure.

I understand there is not time in this session for full consideration and passage of this legislation but we offer it as a blueprint for the next administration and the 111th Congress outlining key areas of improvement we think can make DHS more efficient and effective in its mission to safeguard our homeland.

Before I offer more detail on this bill, I would like to briefly review the history of the Department that has brought us to where we are today.

The attacks of 9/11 made it clear that oceans are no longer a defense against those who mean to harm our Nation. After a series of hearings, the Homeland Security and Governmental Affairs Committee proposed legislation pulling more than 22 different agencies responsible for different areas of homeland defense into one Department whose overarching mission was the protection of the American people.

Success was not guaranteed. The administration and many in Congress at first opposed the creation of a Department of Homeland Security. But we persevered in our mission and President Bush signed legislation creating the Department in January 2003.

We all knew at the time that creating a new Department with a single identity out of 22 different agencies would be difficult. Each agency came into the Department with its own culture—not to mention its own procurement, personnel and computer systems. In some cases, they came after having been neglected in other Departments where homeland security had been an afterthought. There was, and remains, much work to be done.

But over the past 5 years, the men and women who work at the Department, under the leadership first of Secretary Tom Ridge and now of Michael Chertoff, have worked hard, often under difficult circumstances, to systematically improve the Nation's security.

Our committee has also written and helped pass several pieces of important legislation to strengthen and guide DHS as it evolved into a more mature agency. I would like to briefly mention some of them because I am proud of the Homeland Security and Governmental Affairs Committee's work under former Chairman SUSAN COLLINS and during my own tenure as chairman, because we truly worked as partners across party lines.

In the 108th Congress, our committee led the effort to enact the recommendations of the National Commission on Terrorist Attacks upon the United States—otherwise known as the 9/11 Commission—a Commission which, had been created through the Committee's work in the previous Congress. The resulting Intelligence Reform and Terrorism Prevention Act of 2004 implemented most of the 41 recommendations of the 9/11 Commission, including a number directed at the work of the new Department.

In the 109th Congress, in the wake of the catastrophe of Hurricane Katrina, our committee conducted a far-reaching investigation into the actions at all levels of government that contributed to the disastrous response to the hurricane.

The Homeland Security and Governmental Affairs Committee held 22 hearings, interviewed hundreds of witnesses, reviewed hundreds of thousands of pages of documents, and issued a comprehensive, 700-page report on what went wrong.

The committee's findings on shortcomings at FEMA and DHS led us to draft the Post-Katrina Emergency Management Reform Act, which strengthened and elevated FEMA within the Department, brought together

into a single agency those charged with preparing for disasters with those responsible for responding to them; required planning for catastrophic events; and helped ensure that the resources of the whole Department would be available in a catastrophe.

The Post-Katrina Emergency Management Reform Act was signed into law in October 2006, and the results of that Act can be seen in the much improved—though admittedly still imperfect—Federal response to the series of recent tornadoes in the Midwest and devastating hurricanes that have hit the Gulf Coast.

In the 109th Congress, our Committee helped draft and pass the SAFE Ports Act, to strengthen the Department's port security efforts, and we passed legislation to provide DHS authority to better secure dangerous chemical facilities.

In this Congress, after many hearings and much hard work, legislation implementing the final recommendations of the 9/11 Commission was signed into law. This legislation addressed a diverse array of issues at DHS, from homeland security grants to information sharing to interoperable communications to transportation security.

So while we offer this authorization bill as DHS readies for its sixth year as a department—and its first Presidential transition—this committee has been working hard all along to give DHS both the support it needed and the oversight—sometimes harsh—to steadily improve its capacity to carry out its critical mission.

With this authorization act we continue that important work and I would like to touch on key portions of the bill.

This bill can be summarized under three major themes: integration, accountability, and effectiveness.

As I have already noted, we knew when we passed the Homeland Security Act that the process of creating a new, unified Department out of many diverse component agencies would be both challenging and time consuming—and the process is not yet complete. Therefore, a number of provisions of this bill would improve the integration of the Department. These provisions are collectively intended to help the Department to perform its missions at a level that is greater than the sum of its parts.

First, the bill would create an Under Secretary for Policy, to ensure that there is policy coordination across the Department.

The bill would also require the Secretary to develop and maintain the capability to coordinate operations and strategically plan across all of the component organizations of the Department. To this end, it permits the establishment of an Office of Operations Coordination and Planning within the Department, making it easier for the staffs of agencies such as the Coast Guard, Customs and Border Protection, CBP, Immigration and Customs Enforcement, ICE, and FEMA to work together on key operational activities, such as planning for the upcoming DHS transition.

The bill would enhance the statutory authorities of the Chief Information Officer, allowing for greater control over IT investments in the Department. It also gives the Assistant Secretary for International Affairs of DHS new authority to coordinate the international activities of the Department. The bill would establish the Office of the Chief Learning Officer, who would coordinate training and workforce development activities on a Department-wide basis.

Finally, the bill would require the establishment of a consolidated headquarters for the Department of Homeland Security, which is long overdue. Currently, the Department is spread throughout 70 buildings and 40 sites across the National Capital Region making communication, coordination, and cooperation among DHS components a significant challenge. The deplorable condition of the present headquarters complex also makes it harder for DHS to recruit and retain talented professionals—directly affecting homeland security—and I will continue to push Congress and the administration to get the funding necessary for the headquarters consolidation to proceed.

The second major theme of the bill is accountability. The bill contains a number of provisions intended to enhance oversight and ensure that the Department is held accountable for the decisions that it makes.

The bill requires that DHS have certified program managers for all major acquisition programs, and directs the Department to report to Congress on its use of various contracting authorities and on task orders within two of its major acquisition vehicles.

The bill creates a statutory requirement for a formal investment review process within the Department, and for investments where there are significant technological challenges, requires a formal testing and evaluation process prior to investment. These provisions will help to ensure that the Department does not again move forward with costly acquisitions without first proving that the underlying technology will work.

The bill also requires reports to Congress on a number of other activities, including the Comprehensive National Cybersecurity Initiative and the Department's efforts to improve minority representation among its employees.

The third major theme of the bill is effectiveness. There are a number of homeland security mission areas where the Federal government needs new or expanded authorities to effectively address threats that face us.

For example, the bill addresses growing concerns about the cybersecurity threat by establishing a robust National Cyber Security Center with the mission of coordinating and enhancing Federal efforts to protect government networks, and by enhancing the statutory authorities of the National Cyber Security Division.

The bill would enhance our nation's border security by authorizing an increase in the number of CBP officers and ensuring that they receive sufficient and appropriate training. It also recognizes the essential work of the agriculture specialists at the border, who perform plant inspections and help protect against both devastating pests and potential bioterrorism events, authorizes an increase in the number of agriculture specialists and requires measures to improve their recruitment and retention.

The bill addresses the threat of improvised explosive devices, IEDs, by including provisions that would authorize the DHS Office of Bombing Prevention, OBP, as well as authorize an increase in its budget to $25 million. OBP would lead bombing prevention activities within DHS, and would coordinate with other Federal, State, and local agencies to ensure that existing gaps in Federal bombing prevention efforts are filled.

Building upon changes already being implemented in the Post Katrina Act, the bill also seeks to continue improvement in the Nation's preparedness. It would require that DHS work with other Federal agencies to develop plans for responding to potential catastrophic scenarios, and would authorize a pilot program to assign National Guard planners to State emergency planning offices, to foster better State-Federal planning coordination. In addition, it would authorize the Metropolitan Medical Rescue System to assist States and localities prepare for mass casualty events. It would reauthorize the Pre-Disaster Hazard Mitigation Program, which provides grants to States for mitigation measures designed to reduce losses in disasters.

Collectively the measures in this bill will improve the ability of the Department to carry out its missions and become a more mature and effective entity.

I believe that the reforms and enhancements contained in this legislation, along with continued, vigorous oversight, will make DHS a stronger agency in the years to come. And reform, not thoughtless reorganization, is the course future Ccngresses should follow when it comes to DHS. Five years into its mission, and ignoring some noticeable improvements in its performance, there are still those who believe DHS should be chopped up and its parts shipped off to other agencies.

I believe that is exactly the wrong course to take. It makes no sense to disrupt the development of the Department, and weaken the hand of the next Secretary, at a time when the challenges she or he must face, from preventing nuclear terrorism, to securing our borders, to ensuring more effective responses to catastropies of all kinds remain daunting. It took decades for the Department of Defense to become a

coherent whole, and its work is still not complete. Just as DHS and its component arts are beginning to gel into an effective organization ready to deal with disasters visited upon our nation by nature or terrorists, it makes no sense to plunge responsibility for our homeland back into the chaos that existed before 9/11.

This is a course I have fought and will fight in the years to come.

In their report to the nation, the 9/11 Commissioners wrote: ''The men and women of the World War II generation rose to the challenges of the 1940s and the 1950s. They restructured the government so it could protect the country. That is now the job of the generation that experienced 9/11.''

The Department of Homeland Security was part of that response to the new dangers we face and must remain so.

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. 3623

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 ''Department of Homeland Security Authorization Act of 2008 and 2009''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Department'' means the Department of Homeland Security; and

(2) the term ''Secretary'' means the Secretary of Homeland Security.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. DEPARTMENT OF HOMELAND SECURITY.

(a) FISCAL YEAR 2008.—There is authorized to be appropriated to the Secretary such sums as may be necessary for the necessary expenses of the Department for fiscal year 2008.

(b) FISCAL YEAR 2009.—There is authorized to be appropriated to the Secretary $42,186,000,000 for the necessary expenses of the Department for fiscal year 2009.

TITLE II—POLICY, MANAGEMENT, AND INTEGRATION IMPROVEMENTS

SEC. 201. UNDER SECRETARY FOR POLICY.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by—

(1) redesignating section 601 as section 890A and transferring that section to after section 890; and

(2) striking the heading for title VI and inserting the following:

''TITLE VI—POLICY, PLANNING, AND OPERATIONS COORDINATION

''SEC. 601. UNDER SECRETARY FOR POLICY.

''(a) IN GENERAL.—There shall be in the Department an Under Secretary for Policy, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(b) RESPONSIBILITIES.—Subject to the direction and control of the Secretary, the Under Secretary for Policy shall—

''(1) serve as the principal policy advisor to the Secretary;

''(2) provide overall direction and supervision of policy development for the programs, offices, and activities of the Department;

''(3) establish and direct a formal policymaking process for the Department;

''(4) ensure that the budget of the Department (including the development of future year budgets) is compatible with the statutory and regulatory responsibilities of the Department and with the priorities, strategic plans, and policies established by the Secretary;

''(5) conduct long-range, strategic planning for the Department, including overseeing each quadrennial homeland security review under section 621;

''(6) coordinate policy development undertaken by the component agencies and offices of the Department; and

''(7) carry out such other responsibilities as the Secretary determines are appropriate, consistent with this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) in the table of contents in section 1(b)—

(i) by striking the item relating to title IV and inserting the following:

''TITLE IV—BORDER AND TRANSPORTATION SECURITY''.

(ii) by striking the item relating to subtitle A of title IV and inserting the following:

''Subtitle A—Border and Transportation Security''.

(iii) by striking the item relating to section 441 and inserting the following:

''Sec. 441. Transfer of functions.'';

(iv) by striking the items relating to title VI and section 601 and inserting the following:

''TITLE VI—POLICY, PLANNING, AND OPERATIONS COORDINATION

''Sec. 601. Under Secretary for Policy.''; and

(v) by inserting after the item relating to section 890 the following:

''Sec. 890A. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations.'';

(B) in section 102(f)(10), by striking ''the Directorate of Border and Transportation Security'' and inserting ''U.S. Customs and Border Protection'';

(C) in section 103(a)(3), by striking ''for Border and Transportation Security'' and inserting ''for Policy'';

(D) by striking the heading for title IV and inserting the following:

''TITLE IV—BORDER AND TRANSPORTATION SECURITY'';

(E) by striking the heading for subtitle A of title IV and inserting the following:

''Subtitle A—Border and Transportation Security'';

(F) in section 402, by striking '', acting through the Under Secretary for Border and Transportation Security,'';

(G) in section 411(a), by striking ''under the authority of the Under Secretary for Border and Transportation Security,'';

(H) in section 441—

(i) in the section heading, by striking ''**TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY**''; and

(ii) by striking ''Under Secretary for Border and Transportation Security'' and inserting ''Secretary'';

(I) in section 442(a)—

(i) in paragraph (2), by striking ''who—'' and all that follows through ''(B) shall'' and inserting ''who shall''; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by striking ''Under Secretary for Border and Transportation Security'' each place it appears and inserting ''Secretary''; and

(II) in subparagraph (C), by striking ''Border and Transportation Security'' and inserting ''Policy'';

(J) in section 443, by striking ''The Under Secretary for Border and Transportation Security'' and inserting ''The Secretary'';

(K) in section 444, by striking ''The Under Secretary for Border and Transportation Security'' and inserting ''The Secretary'';

(L) in section 472(e), by striking ''or the Under Secretary for Border and Transportation Security''; and

(M) in section 878(e), by striking ''the Directorate of Border and Transportation Security'' and inserting ''U.S. Customs and Border Protection, Immigration and Customs Enforcement''.

(2) OTHER LAWS.—

(A) VULNERABILITY AND THREAT ASSESSMENT.—Section 301 of the REAL ID Act of 2005 (8 U.S.C. 1778) is amended—

(i) in subsection (a)—

(I) in the first sentence, by striking ''Under Secretary of Homeland Security for Border and Transportation Security'' and inserting ''Secretary of Homeland Security''; and

(II) in the second sentence, by striking ''Under'';

(ii) in subsection (b)—

(I) by striking ''Under''; and

(II) by striking ''Under Secretary's findings and conclusions'' and inserting ''Secretary's findings and conclusions''; and

(iii) in subsection (c), by striking ''Directorate of Border and Transportation Security''.

(B) AIR CHARTER PROGRAM.—Section 44903(l)(1) of title 49, United States Code, is amended by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''.

(C) BASIC SECURITY TRAINING.—Section 44918(a)(2)(E) of title 49, United States Code, is amended by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''.

(D) AIRPORT SECURITY IMPROVEMENT PROJECTS.—Section 44923 of title 49, United States Code, is amended—

(i) in subsection (a), in the matter preceding paragraph (1), by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of'';

(ii) by striking ''Under Secretary'' each place it appears and inserting ''Secretary of Homeland Security''; and

(iii) in subsection (d)(3), in the paragraph heading, by striking ''UNDER''.

(E) REPAIR STATION SECURITY.—Section 44924 of title 49, United States Code, is amended—

(i) in subsection (a), by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''; and

(ii) by striking ''Under Secretary'' each place it appears and inserting ''Secretary of Homeland Security''.

(F) CERTIFICATE ACTIONS IN RESPONSE TO A SECURITY THREAT.—Section 46111 of title 49, United States Code, is amended—

(i) in subsection (a), by striking ''Under Secretary for Border and Transportation Security of the Department of'' and inserting ''Secretary of''; and

(ii) by striking ''Under Secretary'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 202. OPERATIONS COORDINATION AND PLANNING.

(a) IN GENERAL.—Title VI of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), as amended by section 201 of this Act, is amended by adding at the end the following:

''Subtitle B—Operations Coordination and Planning

''SEC. 611. OPERATIONS COORDINATION AND PLANNING.

''(a) IN GENERAL.—The Secretary shall ensure that the Department develops and maintains the capability to coordinate operations and strategically plan across all of the component organizations of the Department, including, where appropriate, through the use of a joint staff comprising personnel from those component organizations.

''(b) OFFICE.—In order to carry out the responsibilities described in subsection (a), the Secretary may establish in the Department an Office of Operations Coordination and Planning, which may be headed by a Director for Operations Coordination and Planning.

''(c) RESPONSIBILITIES.—The responsibilities of a Director for Operations Coordination and Planning, subject to the direction and control of the Secretary, may include—

''(1) operations coordination and strategic planning, consistent with the responsibilities described in subsection (a);

''(2) supervision of a joint staff comprised of personnel detailed from the component organizations of the Department in order to carry out the responsibilities under paragraph (1);

''(3) overseeing the National Operations Center described in section 515; and

''(4) any other responsibilities, as determined by the Secretary.

''(d) LIMITATION.—Nothing in this section may be construed to modify or impair the authorities of the Secretary or the Administrator of the Federal Emergency Management Agency under title V of this Act.

''Subtitle C—Quadrennial Homeland Security Review''.

(b) TRANSFER.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by redesignating section 707 as section 621 and transferring that section to after the heading for subtitle C of title VI, as added by subsection (a) of this section.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by inserting after the item relating to section 601, as added by section 201 of this Act, the following:

''Subtitle B—Operations Coordination and Planning

''Sec. 611.Operations Coordination and Planning.

''Subtitle C—Quadrennial Homeland Security Review

''Sec. 621. Quadrennial Homeland Security Review.''; and

(2) by striking the item relating to section 707.

SEC. 203. DEPARTMENT OF HOMELAND SECURITY HEADQUARTERS.

(a) FINDINGS.—Relating to the consolidation of the operations of the Department in a secure location, Congress finds the following:

(1) The headquarters facilities of the Department are currently spread throughout 40 sites across the National Capital Region, making communication, coordination, and cooperation among the components of the Department a significant challenge and disrupting the ability of the Department to effectively fulfill the homeland security mission.

(2) The General Services Administration has determined that the only site under the control of the Federal Government within the National Capital Region with the size, capacity, and security features to meet the minimum consolidation needs of the Department as identified in the National Capital

Region Housing Master Plan of the Department submitted to the Congress on October 24, 2006, is the West Campus of Saint Elizabeth's Hospital in the District of Columbia.

(b) CONSOLIDATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law and not later than the end of fiscal year 2016, the Secretary shall consolidate key headquarters and components of the Department, as determined by the Secretary, in accordance with this subsection.

(2) ST. ELIZABETH'S HOSPITAL.—The Secretary shall ensure that at the West Campus of Saint Elizabeth's Hospital in the District of Columbia, in a secure setting, there are—

(A) not less than 4,500,000 gross square feet of office space for use by the Department; and

(B) all necessary parking and infrastructure to support approximately 14,000 employees.

(3) OTHER MISSION SUPPORT ACTIVITIES.—

(A) IN GENERAL.—The Secretary shall consolidate the physical location of all components and activities of the Department in the National Capitol Region that do not relocate to the West Campus of St. Elizabeth's Hospital to as few locations within the National Capitol Region as possible.

(B) LIMITATION.—The Secretary may only consolidate components and activities described in subparagraph (A) if the consolidation can be accomplished without negatively affecting the specific mission of the components or activities being consolidated.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2016.

SEC. 204. CHIEF INFORMATION OFFICER.

Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by redesignating subsection (b) as subsection (c); and

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

''(b) RESPONSIBILITIES.—The Chief Information Officer shall—

''(1) advise and assist the Secretary, heads of the components of the Department, and other senior officers in carrying out the responsibilities of the Department for all activities relating to the programs and operations of the information technology functions of the Department;

''(2) establish the information technology priorities, policies, processes, standards, guidelines, and procedures of the Department;

''(3) in accordance with guidance from the Director of the Office of Management and Budget, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions as required by section 3506(b)(2) of title 44, United States Code;

''(4) be responsible for information technology capital planning and investment management in accordance with section 3506(h) of title 44, United States Code and sections 11312 and 11313 of title 40, United States Code;

''(5) develop, maintain, and facilitate the implementation of a sound, secure, and integrated information technology architecture for the Department, as required by section 11315 of title 40, United States Code;

''(6) in coordination with the Chief Procurement Officer of the Department, assume responsibility for information systems acquisition, development and integration as required by section 3506(h)(2) of title 44, United States Code, and section 11312 of title 40, United States Code;

''(7) in coordination with the Chief Procurement Officer of the Department, review and approve any information technology acquisition with a total value greater than a threshold level to be determined by the Secretary;

''(8) implement initiatives to use information technology to improve government services to the public under section 101 of title 44, United States Code, (commonly known as the E-Government Act) and as required by section 3506(h)(3) of title 44, United States Code;

''(9) in coordination with the Executive Agent for Information Sharing of the Department, as designated by the Secretary, ensure that information technology systems meet the standards established under the information sharing environment, as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

''(10) ensure that the Department meets its information technology and information resources management workforce or human capital needs in its hiring, training and professional development policies as required by section 3506(b) of title 44, United States Code, and section 11315(c) of title 40, United States Code;

''(11) collaborate with the heads of the components of the Department in recruiting and selecting key information technology officials in the components of the Department; and

''(12) perform other responsibilities, as determined by the Secretary.''.

SEC. 205. DEPARTMENT OF HOMELAND SECURITY INTERNATIONAL AFFAIRS OFFICE.

(a) OFFICE OF INTERNATIONAL AFFAIRS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking section 879 and inserting the following:

''SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

''(a) ESTABLISHMENT.—There is established within the Department an Office of International Affairs, headed by the Assistant Secretary for International Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(b) RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—The Assistant Secretary for International Affairs shall—

''(1) coordinate international activities within the Department, including the components of the Department, in coordination with other Federal officers with responsibility for counterterrorism and homeland security matters;

''(2) develop and update, in consultation with all components of the Department with international activities, an international strategic plan for the Department and establish a process for managing its implementation;

''(3) provide guidance to components of the Department on executing international activities and to employees of the Department who are deployed overseas, including—

''(A) establishing predeployment preparedness criteria for employees and any accompanying family members;

''(B) establishing, in coordination with the Under Secretary for Management, minimum support requirements for Department employees abroad, to ensure the employees have the proper resources and have received adequate and timely support prior to and during tours of duty;

''(C) providing information and training on administrative support services available to overseas employees from the Department of State and other Federal agencies;

''(D) establishing guidance on how Department attaches are expected to coordinate with other component staff and activities; and

''(E) developing procedures and guidance for employees of the Department returning to the United States;

''(4) maintain full awareness regarding the international travel of senior officers of the Department, in order to fully inform the Secretary and Deputy Secretary of the Department's international activities;

''(5) promote information and education exchange with the international community of nations friendly to the United States in order to promote the sharing of homeland security information, best practices, and technologies relating to homeland security, in coordination with the Science and Technology Homeland Security International Cooperative Programs Office established under section 317, including—

''(A) exchange of information on research and development on homeland security technologies;

''(B) joint training exercises of emergency response providers;

''(C) exchange of expertise on terrorism prevention, preparedness, response, and recovery;

''(D) exchange of information with appropriate private sector entities with international exposure; and

''(E) international training and technical assistance to representatives of foreign countries who are collaborating with the Department;

''(6) identify areas for homeland security information and training exchange in which the United States has a demonstrated weakness and a country that is a friend or ally of the United States has a demonstrated expertise;

''(7) review and provide input to the Secretary on budget requests relating to the international expenditures of the elements and components of the Department;

''(8) participate, in coordination with other appropriate Federal agencies, in the development and implementation of international agreements relating to homeland security; and

''(9) perform other duties, as determined by the Secretary.

''(c) RESPONSIBILITIES OF THE COMPONENTS OF THE DEPARTMENT.—

''(1) IN GENERAL.—All components of the Department shall notify the Office of International Affairs of the intent of the component to pursue negotiations with foreign governments.

''(2) TRAVEL.—All components of the Departments shall inform the Office of International Affairs about the international travel of senior officers of the Department, including contacts with foreign governments.

''(d) EXCLUSIONS.—This section does not apply to international activities related to the protective mission of the United States Secret Service or to the United States Coast Guard when operating under the direct authority of the Secretary of Defense or Secretary of the Navy.''.

(b) REVIEW OF HOMELAND SECURITY INTERNATIONAL AFFAIRS ACTIVITIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall develop a plan to improve the coordination of the activities of the Department outside of the United States.

(2) CONTENTS OF PLAN.—The plan developed under paragraph (1) shall include—

(A) an assessment of the strategic priorities for the Department in the outreach and liaison activities of the Department with international partners;

(B) an inventory and cost analysis of the international offices, workforce, and fixed assets of the Department;

(C) a plan for improving the coordination of the activities and resources of the Department outside of the United States, including at United States embassies overseas; and

(D) recommendations relating to the appropriate role for Senior Homeland Security Representatives and attaches of the Department at United States embassies overseas.

(3) REPORTING.—Not later than 210 days after the date of enactment of this Act, the Secretary shall submit the plan developed under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Homeland Security and the Committee on Foreign Affairs of the House of Representatives.

SEC. 206. DEPARTMENT OF HOMELAND SECURITY REORGANIZATION AUTHORITY.

Section 872(b) of the Homeland Security Act of 2002 (6 U.S.C. 452(b)) is amended—

(1) in paragraph (1), in the paragraph heading, by striking ''IN GENERAL'' and inserting ''LIMITATIONS ON INITIAL REORGANIZATION PLAN''; and

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

''(2) LIMITATIONS ON OTHER REORGANIZATION AUTHORITY.—

''(A) IN GENERAL.—Authority under subsection (a)(2) does not extend to the discontinuance, abolition, substantial consolidation, alteration, or transfer of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

''(B) EXCEPTION.—Notwithstanding paragraph (1), if the President determines it to be necessary because of an imminent threat to homeland security, a function, power, or duty vested by law in the Department, or an officer, official, or agency thereof, may be transferred, reassigned, or consolidated within the Department. A transfer, reassignment, or consolidation under this subparagraph shall remain in effect only until the President determines that the threat to homeland security has terminated or is no longer imminent.''.

SEC. 207. HOMELAND SECURITY INSTITUTE.

Section 312 of the Homeland Security Act of 2002 (6 U.S.C. 192) is amended by striking subsection (g), and inserting the following:

''(g) PUBLICATION OF INSTITUTE REPORTS.—To the maximum extent possible, the Homeland Security Institute shall make available unclassified versions of reports by the Homeland Security Institute on the website of the Homeland Security Institute.''.

SEC. 208. OFFICE OF THE INSPECTOR GENERAL.

Of the amount authorized to be appropriated under section 101, there are authorized to be appropriated to the Secretary for operations of the Office of the Inspector General of the Department—

(1) $108,500,000 for fiscal year 2008; and

(2) $111,600,000 for fiscal year 2009.

SEC. 209. DEPARTMENT MANAGEMENT DIRECTIVE SYSTEM.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall make available on the website of the Department all unclassified directives and management directives of the Department, including relevant attachments and enclosures. Any directive that contains controlled unclassified information may be redacted, as appropriate.

(b) REPORT.—Not later than 7 days after the date on which the Secretary makes all directives available under subsection (a), the Secretary shall submit a report that includes any directive or management directive of the Department (including attachments and enclosures) that was redacted or not published on the website of the Department because the directive or management directive contains classified information or controlled unclassified information to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

TITLE III—PROCUREMENT POLICY AND RESOURCES IMPROVEMENTS

SEC. 301. DEPARTMENT OF HOMELAND SECURITY INVESTMENT REVIEW.

(a) IN GENERAL.—Title VII of the Homeland Security Act of 2002 (6 U.S.C. 341 et seq.), as amended by section 202 of this Act, is amended by adding at the end the following:

''SEC. 707. DEPARTMENT INVESTMENT REVIEW.

''(a) ESTABLISHMENT.—The Secretary shall establish a process for the review of proposed investments by the Department.

''(b) PURPOSE.—The Secretary shall use the process established under subsection (a) to inform investment decisions, strengthen acquisition oversight, and improve resource management across the Department.

''(c) BOARDS AND COUNCILS.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Department-wide Acquisition Review Board for the purpose of carrying out the investment review process established under subsection (a).

''(2) MEMBERSHIP.—The Secretary shall designate appropriate officers of the Department to serve on the Acquisition Review Board.

''(3) SUBORDINATE BOARDS AND COUNCILS.—The Secretary may establish subordinate boards and councils reporting to the Acquisition Review Board to review certain categories of investments on a Department-wide basis.

''(d) INVESTMENT THRESHOLDS.—The Secretary shall establish threshold amounts for the review of investments by the Acquisition Review Board and any subordinate boards and councils.''.

(b) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit a report on the implementation of the amendments made by this section, including providing all directives, instructions, memoranda, manuals, guidebooks, and other materials relevant to the implementation of the amendments made by this section to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

(2) ANNUAL REPORT.—

(A) IN GENERAL.—The Secretary shall submit an annual report on the activities of the Acquisition Review Board and subordinate boards and councils established within the Department for the purpose of Department-wide investment review and acquisition oversight under section 707 of the Homeland Security Act of 2002, as added by this section, including detailed statistics on programs and activities reviewed, to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(ii) the Committee on Homeland Security of the House of Representatives.

(B) ANNUAL FINANCIAL REPORT.—The report under this paragraph may be included as part of the performance and accountability report submitted by the Department under section 3516(f) of title 31, United States Code.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 706 the following:

''Sec. 707. Department investment review.''.

SEC. 302. REQUIRED CERTIFICATION OF PROJECT MANAGERS FOR LEVEL ONE PROJECTS.

Not later than 12 months after the date of enactment of this Act, the Secretary shall assign to each Level 1 project of the Department (as defined by the Acquisition Review Board established under section 707 of the Homeland Security Act of 2002, as added by this Act) with an estimated value of more than $100,000,000 at least 1 project manager certified by the Secretary as competent to administer programs of that size. The designation of project level and the certification of project managers shall be in accordance with the Federal IT Project Manager Guidance issued by the Chief Information Officers Council.

SEC. 303. REVIEW AND REPORT ON EAGLE AND FIRST SOURCE CONTRACTS.

(a) REVIEW.—Not later than 6 months after the date of enactment of this Act, the Secretary shall review the Enterprise Acquisition Gateway for Leading Edge Solutions and First Source contract vehicles and determine whether each contract vehicle is cost effective or redundant considering all contracts in effect on the date of enactment of this Act that are available for multi-agency use. In determining whether a contract is cost effective, the Secretary shall consider all direct and indirect costs to the Department of awarding and administering the contract and the impact the contract will have on the ability of the Federal Government to leverage its purchasing power. The Secretary shall submit the results of the review to the Administrator of the Office of Federal Procurement Policy and the Committees listed in subsection (b).

(b) IN GENERAL.—On a quarterly basis, the Chief Procurement Officer of the Department shall submit a report on contracts awarded and orders issued in an amount greater than $1,000,000 by the Department under the Enterprise Acquisition Gateway for Leading Edge Solutions and First Source contract vehicles to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

(c) CONTENTS.—Each report submitted under this section shall contain—

(1) a description of each contract awarded or order issued by the Department under the Enterprise Acquisition Gateway for Leading Edge Solutions and First Source contract vehicles during the applicable quarter, including the name of the contractor, the estimated cost, and the type of contract or order and, if applicable, the award fee structure;

(2) for each contract or order described in paragraph (1), a copy of the statement of work;

(3) for each contract or order described in paragraph (1), an explanation of why other Governmentwide contract vehicles are not suitable to meet the needs of the Department; and

(4) for any contract or order described in paragraph (1) that is a cost reimbursement or time and materials contract or order, an explanation of why a fixed price arrangement was not an appropriate solution.

SEC. 304. REPORT ON USE OF PERSONAL SERVICES CONTRACTS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report on the use by the Department of the authority granted for procurement of personal services under section 832 of the Homeland Security Act of 2002 (6 U.S.C. 392) to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of each procurement for temporary or intermittent personal services acquired under the authority granted for procurement of personal services under section 832 of the Homeland Security Act of 2002 (6 U.S.C. 392), including the duration of any contract for such services.

SEC. 305. PROHIBITION ON USE OF CONTRACTS FOR CONGRESSIONAL AFFAIRS ACTIVITIES.

The Department may not enter into a contract under which the person contracting with the Department will—

(1) provide responses to requests for information from a Member of Congress or a committee of Congress; or

(2) prepare written or oral testimony of an officer or employee of the Department in response to a request to appear before Congress.

SEC. 306. SMALL BUSINESS UTILIZATION REPORT.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Chief Procurement Officer of the Department shall submit a report regarding the use of small business concerns by the Department to—

(A) the Secretary;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall identify each component of the Department that did not meet the goals for small business participation by the component the previous fiscal year.

(b) ACTION PLAN.—For a component meeting or exceeding the goals for small business participation an action plan is not required. For a component not meeting the goals for small business participation, not later than 90 days after the date on which the report under subsection (a) is submitted, the Chief Procurement Officer of the Department, in consultation with the Director of Small and Disadvantaged Business Utilization of the Department, shall, for each component develop, submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and begin implementing an action plan, including a timetable, for achieving small business participation goals.

SEC. 307. DEPARTMENT OF HOMELAND SECURITY MENTOR-PROTEGE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish within the Office of Small and Disadvantaged Business Utilization of the Department a mentor-protégé program.

(b) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department shall conduct a review of the mentor-protégé program established under this section, which shall include—

(1) an assessment of the effectiveness of the program under this section;

(2) identification of any barriers that restrict contractors from participating in the program under this section;

(3) a comparison of the program under this section with the Department of Defense mentor-protégé program; and

(4) development of recommendations to strengthen the program.

SEC. 308. OTHER TRANSACTION AUTHORITY.

Section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) is amended—

(1) in subsection (a)—

(A) by striking ''Until September 30, 2008, the Secretary may carry out a pilot program'' and inserting ''If the Secretary issues policy guidance by September 30, 2008, detailing the appropriate use of other transaction authority and provides mandatory other transaction training to each employee who has the authority to handle procurements under other transaction authority, the Secretary may, before September 30, 2010, carry out a program''; and

(B) in paragraph (1), by striking ''subsection (b)'' and inserting ''subsection (b)(1)'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and realigning such subparagraphs, as so redesignated, so as to be indented 4 ems from the left margin;

(B) by striking ''(b) REPORT.—Not later than 2 years'' and inserting the following:

''(b) REPORTS.—

''(1) IN GENERAL.—Not later than 2 years''; and

(C) by adding at the end the following:

''(2) ANNUAL REPORT ON EXERCISE OF OTHER TRANSACTION AUTHORITY.—

''(A) IN GENERAL.—The Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an annual report on the exercise of other transaction authority under subsection (a).

''(B) CONTENT.—The report required under subparagraph (A) shall include the following:

''(i) The technology areas in which research projects were conducted under other transaction authority.

''(ii) The extent of the cost-sharing among Federal and non-Federal sources.

''(iii) The extent to which the use of the other transaction authority—

''(I) has contributed to a broadening of the technology and industrial base available for meeting the needs of the Department; and

''(II) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.

''(iv) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report.

''(v) The rationale for using other transaction authority, including why grants or Federal Acquisition Regulation-based contracts were not used, the extent of competition, and the amount expended for each such project.''.

SEC. 309. INDEPENDENT VERIFICATION AND VALIDATION.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and semi-annually thereafter, the Chief Procurement Officer of the Department shall submit a report regarding the use of independent verification and validation by the Department to—

(A) the Secretary;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Homeland Security of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) identify each program in the Department where independent verification and validation was used and a description of the use;

(B) include recommendations for implementing independent verification and validation in future procurements; and

(C) for all Level 1 projects of the Department (as defined by the Acquisition Review Board established under section 707 of the Homeland Security Act of 2002, as added by this Act) not using independent verification and validation, provide an explanation of why independent verification and validation was not used.

SEC. 310. STRATEGIC PLAN FOR ACQUISITION WORKFORCE.

(a) STRATEGIC PLAN.—Not later than 6 months after the date of enactment of this Act, the Chief Procurement Officer and the Chief Human Capital Officer of the Department shall develop and deliver to relevant congressional committees a 5-year strategic plan for the acquisition workforce of the Department.

(b) ELEMENTS OF PLAN.—The plan required under subsection (a) shall, at a minimum—

(1) designate, in coordination with the Office of Federal Procurement Policy, positions in the Department that are acquisition positions which—

(A) shall include, at a minimum—

(i) program management positions;

(ii) systems planning, research, development, engineering, and testing positions;

(iii) procurement, including contracting positions;

(iv) industrial property management positions;

(v) logistics positions;

(vi) quality control and assurance positions;

(vii) manufacturing and production positions;

(viii) business, cost estimating, financial management, and auditing positions;

(ix) education, training, and career development positions;

(x) construction positions; and

(xi) positions involving joint development and production with other government agencies and foreign countries; and

(B) may include positions that are in management headquarters activities and in management headquarters support activities and perform acquisition-related functions;

(2) identify acquisition workforce needs of each component and of units performing Department-wide acquisition functions, including workforce gaps and strategies for filling those gaps;

(3) include Departmental guidance and policies on the use of contractors to perform acquisition functions;

(4) describe specific steps for the recruitment, hiring, training, and retention of the workforce identified in paragraph (2); and

(5) set forth goals for achieving integration and consistency with governmentwide training and accreditation standards, acquisition training tools and training facilities.

(c) OTHER ACQUISITION POSITIONS.—The plan required under subsection (a) may provide that the Chief Acquisition Officer or Senior Procurement Executive, as appropriate, may designate as acquisition positions those additional positions that perform significant acquisition-related functions within that component of the Department.

(d) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''relevant congressional committees'' means the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

SEC. 311. BUY AMERICAN REQUIREMENT; EXCEPTIONS.

(a) REQUIREMENT.—Except as provided in subsections (c) through (e), funds appropriated or otherwise available to the Transportation Security Administration may not be used for the procurement of an item described in subsection (b) if the item is not grown, reprocessed, reused, or produced in the United States.

(b) COVERED ITEMS.—An item referred to in subsection (a) is, if the item is directly related to the national security interests of the United States, an article or item of—

(1) clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing (and the materials and components thereof);

(2) tents, tarpaulins, or covers; or

(3) cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric (including all textile fibers and yarns that are for use in such fabrics), canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

(c) AVAILABILITY EXCEPTION.—Subsection (a) does not apply to the extent that the Secretary determines that satisfactory quality and sufficient quantity of any such article or item described in subsection (b) grown, reprocessed, reused, or produced in the United States cannot be procured as and when needed.

(d) EXCEPTION FOR CERTAIN PROCUREMENTS OUTSIDE THE UNITED STATES.—Subsection (a) does not apply to—

(1) procurements by vessels in foreign waters; or

(2) emergency procurements.

(e) EXCEPTION FOR SMALL PURCHASES.—Subsection (a) does not apply to purchases for amounts not greater than the threshold for a public notice of solicitation described in section 18(a)(1)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)).

(f) APPLICABILITY TO CONTRACTS AND SUBCONTRACTS FOR PROCUREMENT OF COMMERCIAL ITEMS.—This section shall apply to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

(g) GEOGRAPHIC COVERAGE.—In this section, the term ''United States'' includes the possessions of the United States.

(h) NOTIFICATION REQUIRED WITHIN 7 DAYS AFTER CONTRACT AWARD IF CERTAIN EXCEPTIONS APPLIED.—In the case of any contract for the procurement of an item described in subsection (b), if the Secretary applies an exception set forth in subsection (c) with respect to that contract, the Secretary shall, not later than 7 days after the award of the contract, post a notification that the exception has been applied on the Internet site maintained by the General Services Administration know as FedBizOpps.gov (or any successor site).

(i) TRAINING DURING FISCAL YEAR 2008.—

(1) IN GENERAL.—The Secretary shall ensure that each member of the acquisition workforce in the Department who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2008 on the requirements of this section and the regulations implementing this section.

(2) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the acquisition workforce developed or implemented after the date of enactment of this Act includes comprehensive information on the requirements described in paragraph (1).

(j) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—

(1) IN GENERAL.—A provision of this section shall not apply to the extent the Secretary, in consultation with the United States Trade Representative, determines that the provision is inconsistent with United States obligations under an international agreement.

(2) REPORT.—The Secretary shall submit to Congress a report each year containing, with respect to the year covered by the report—

(A) a list of each provision of this section that did not apply during that year pursuant to a determination by the Secretary under paragraph (1); and

(B) a list of each contract awarded by the Department during that year without regard to a provision in this section because that provision was made inapplicable pursuant to such a determination.

(k) EFFECTIVE DATE.—This section applies with respect to contracts entered into by or on behalf of the Transportation Security Administration after the date of the enactment of this Act.

TITLE IV—WORKFORCE PROVISIONS

SEC. 401. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT AT THE OFFICE OF INTELLIGENCE AND ANALYSIS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 845 the following:

''SEC. 846. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT AT THE OFFICE OF INTELLIGENCE AND ANALYSIS.

''(a) AUTHORITY TO ESTABLISH POSITIONS IN EXCEPTED SERVICE.—

''(1) IN GENERAL.—With the concurrence of the Director of National Intelligence and in coordination with the Director of the Office of Personnel Management, the Secretary may—

''(A) convert competitive service positions, and the incumbents of such positions, within the Office of Intelligence and Analysis to excepted service positions as the Secretary determines necessary to carry out the intelligence functions of the Department; and

''(B) establish new positions within the Office of Intelligence and Analysis in the excepted service, if the Secretary determines such positions are necessary to carry out the intelligence functions of the Department.

''(2) CLASSIFICATION AND PAY RANGES.—In coordination with the Director of National Intelligence, the Secretary may establish the classification and ranges of rates of basic pay for any position converted under paragraph (1)(A) or established under paragraph (1)(B), notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

''(3) APPOINTMENT AND COMPENSATION.—The Secretary may appoint individuals for service in positions converted under paragraph (1)(A) or established under paragraph (1)(B) without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, and to fix the compensation of such individuals within the applicable ranges of rates of basic pay established under paragraph (2).

''(4) MAXIMUM RATE OF BASIC PAY.—The maximum rate of basic pay the Secretary may establish under this subsection is the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(b) EXTENSION OF FLEXIBLE PERSONNEL MANAGEMENT AUTHORITIES.—

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

''(A) the term 'compensation authority'—

''(i) means authority involving basic pay (including position classification), premium pay, awards, bonuses, incentives, allowances, differentials, student loan repayments, and special payments; and

''(ii) shall not include—

''(I) authorities relating to benefits such as leave, severance pay, retirement, and insurance;

''(II) authority to grant a rank award by the President under section 4507, 4507a, or 3151(c) of title 5, United States Code, or any other provision of law; or

''(III) compensation authorities and performance management authorities provided under provisions of law relating to the Senior Executive Service; and

''(B) the term 'intelligence community' has the meaning given under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(2) IN GENERAL.—Notwithstanding any other provision of law, in order to ensure the equitable treatment of employees across the intelligence community, the Secretary, with the concurrence of the Director of National Intelligence, or for those matters that fall under the responsibilities of the Office of Personnel Management under statute or executive order, in coordination with the Director of the Office of Personnel Management, may authorize the Office of Intelligence and Analysis to adopt compensation authority, performance management authority, and scholarship authority that have been authorized for another element of the intelligence community if the Secretary and the Director of National Intelligence—

''(A) determine that the adoption of such authority would improve the management and performance of the intelligence community; and

''(B) not later than 60 days before such authority is to take effect, submit notice of the adoption of such authority by the Office of Intelligence and Analysis, including the authority to be so adopted, and an estimate of the costs associated with the adoption of such authority to—

''(i) the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate; and

''(ii) the Committee on Homeland Security and the Permanent Select Committee on Intelligence of the House of Representatives.

''(3) EQUIVALENT APPLICATION OF COMPENSATION AUTHORITY.—To the extent that a compensation authority within the intelligence community is limited to a particular category of employees or a particular situation, the authority may be adopted by the Office of Intelligence and Analysis under this subsection only for employees in an equivalent category or in an equivalent situation.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 845 the following:

''Sec. 846. Authority for flexible personnel management at the Office of Intelligence and Analysis.''.

SEC. 402. DIRECT HIRE AUTHORITY FOR CERTAIN POSITIONS AT THE SCIENCE AND TECHNOLOGY DIRECTORATE.

(a) DEFINITION.—In this section, the term ''employee'' has the meaning given under section 2105 of title 5, United States Code.

(b) AUTHORITY.—The Secretary may make appointments to a position described under subsection (c) without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title.

(c) POSITIONS.—This section applies with respect to any scientific or engineering position within the Science and Technology Directorate which requires an advanced degree.

(d) LIMITATION.—

(1) IN GENERAL.—Authority under this section may not, in any calendar year and with respect to any laboratory, be exercised with respect to a number of positions greater than the number equal to 2 percent of the total number of positions within such laboratory that are filled as of the end of the most recent fiscal year before the start of such calendar year.

(2) FULL-TIME EQUIVALENT BASIS.—For purposes of this subsection, positions shall be counted on a full-time equivalent basis.

(e) TERMINATION.—The authority to make appointments under this section shall terminate on January 1, 2014.

SEC. 403. APPOINTMENT OF THE CHIEF HUMAN CAPITAL OFFICER BY THE SECRETARY OF HOMELAND SECURITY.

Section 103(d) of the Homeland Security Act of 2002 (6 U.S.C. 113(d)) is amended—

(1) by striking paragraph (3); and

(2) redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 404. PLAN TO IMPROVE REPRESENTATION OF MINORITIES IN VARIOUS CATEGORIES OF EMPLOYMENT.

(a) REPRESENTATION OF MINORITIES.—

(1) IN GENERAL.—The Department shall implement policies and procedures Department-wide in accordance with section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) and section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(2) TERMS.—In this section, the terms defined in section 7201(a) of title 5, United States Code, have the meanings given such terms in that section 7201(a).

(b) PLAN FOR IMPROVING REPRESENTATION OF MINORITIES.—

(1) IN GENERAL.—

(A) SUBMISSION OF PLAN.—Not later than 90 days after the date of enactment of this Act, the Chief Human Capital Officer of the Department shall submit a plan to achieve the objective of addressing any underrepresentation of minorities in the various categories of civil service employment within the Department to—

(i) the Committee on Homeland Security and Governmental Affairs of the Senate;

(ii) the Committee on Homeland Security and the Committee on Oversight and Government Reform of the House of Representatives; and

(iii) the Comptroller General of the United States.

(B) CONTENTS.—The plan submitted under this subsection shall identify and describe—

(i) any barriers to achieving the objective described under subparagraph (A); and

(ii) the strategies and measures to overcome such barriers.

(2) DETERMINATION BY EQUAL EMPLOYMENT OPPORTUNITY COMMISSION .—In consultation with the Office of Personnel Management, the Equal Employment Opportunity Commission shall make the determination of the number of members of a minority group for purposes of applying definitions under section 7201(a) of title 5, United States Code, in this section.

(c) ASSESSMENTS.—Not later than 1 year after the date on which Chief Human Capital Officer submits the plan under subsection (b), the Comptroller General of the United States shall assess—

(1) any programs and other measures currently being implemented to achieve the objective described under subsection (b)(1); and

(2) the likelihood that the plan will allow the Department to achieve such objective.

SEC. 405. OFFICE OF THE CHIEF LEARNING OFFICER.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 707 the following:

"SEC. 708. CHIEF LEARNING OFFICER.

''(a) ESTABLISHMENT.—There is established within the Department an Office of the Chief Learning Officer.

''(b) CHIEF LEARNING OFFICER.—The Chief Learning Officer shall be the head of the Office of the Chief Learning Officer.

''(c) RESPONSIBILITIES.—The responsibilities of the Chief Learning Officer shall include—

''(1) establishing a Learning and Development strategy for the Department, and managing the implementation of that strategy;

''(2) managing the Department of Homeland Security University System;

''(3) coordinating with the components of the Department to ensure that training and education activities at the component level are consistent, as appropriate, with the objectives of the Learning and Development strategy;

''(4) identifying training and education requirements throughout the Department for career fields not otherwise managed by another office or component of the Department as directed by statute;

''(5) filling gaps in training and education through analysis and creation of courses or programs;

''(6) coordinating with the Administrator of the Federal Emergency Management Agency on activities under section 845;

''(7) ensuring that training and education programs and activities are adequately publicized to Department employees and to other stakeholders, including other Federal, State, local and tribal officials, as appropriate; and

''(8) other responsibilities, as directed by the Secretary.''.

(b) LEARNING AND DEVELOPMENT STRATEGY.—Not later than 15 days after the date of enactment of this Act, the Department shall publish the Department of Homeland Security Learning and Development strategy, dated September 28, 2007, on the Department website.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by inserting after the item relating to section 707 the following:

''Sec. 708. Chief Learning Officer.''.

SEC. 406. EXTENSION OF RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739(e) of title 5, United States Code, is amended by striking ''11 years'' and inserting ''14 years''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2355).

TITLE V—INTELLIGENCE AND INFORMATION-SHARING PROVISIONS

SEC. 501. FULL AND EFFICIENT USE OF OPEN SOURCE INFORMATION.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 210F. FULL AND EFFICIENT USE OF OPEN SOURCE INFORMATION.

''(a) DEFINITION OF OPEN SOURCE INFORMATION.—In this section, the term 'open source information' means publicly available information that can be lawfully obtained by a member of the public by request, purchase, or observation.

''(b) RESPONSIBILITIES OF SECRETARY.—In coordination with the Assistant Deputy Director of National Intelligence for Open Source and the Director of National Intelligence, the Secretary shall establish an open source collection, analysis, and dissemination program within the Office of Intelligence and Analysis. The program shall make full and efficient use of open source information to develop and disseminate open source alerts, warnings, and other intelligence products relating to the mission of the Department.

''(c) INTELLIGENCE ANALYSIS.—The Secretary shall ensure that the Department makes full and efficient use of open source information in carrying out paragraphs (1) and (2) of section 201(d).

''(d) DISSEMINATION.—The Secretary shall make open source information of the Department available to appropriate officers of the Federal Government, State, local, and tribal governments, and private-sector entities, using systems and networks for the dissemination of homeland security information.

''(e) PROTECTION OF PRIVACY.—

''(1) COMPLIANCE WITH OTHER LAWS.—The Secretary shall ensure that the manner in which open source information is gathered and disseminated by the Department complies with section 552a of title 5, United States Code (commonly referred to as the Privacy Act of 1974), provisions of law enacted by the E-Government Act of 2002 (Public Law 107–347), and all other relevant Federal laws.

''(2) DESCRIPTION IN ANNUAL REPORT BY PRIVACY OFFICER.—The Privacy Officer of the Department shall include in the annual report submitted to Congress under section 222 an assessment of compliance by Federal departments and agencies with the laws described in paragraph (1), as they relate to the use of open source information.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. et seq.) is amended by inserting after the item relating to section 210E the following:

''Sec. 210F. Full and efficient use of open source information.''.

SEC. 502. AUTHORIZATION OF INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Funds authorized or made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal years 2008 and 2009.

(b) RULE OF CONSTRUCTION.—The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 503. UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS TECHNICAL CORRECTION.

Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(2) by inserting after paragraph (8) the following:

''(9) An Under Secretary for Intelligence and Analysis.''.

TITLE VI—CYBER SECURITY INFRASTRUCTURE PROTECTION IMPROVEMENTS

SEC. 601. NATIONAL CYBER SECURITY DIVISION.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.) is amended by adding at the end the following:

"SEC. 226. NATIONAL CYBER SECURITY DIVISION.

''(a) DEFINITIONS.—In this section—

''(1) the term 'critical information infrastructure' means a system or asset, whether physical or virtual, used in processing, transferring, and storing information so vital to the United States that the incapacity or destruction of such system or asset would have a debilitating impact on security, national economic security, or national public health or safety; and

''(2) the term 'Division' means the National Cyber Security Division.

''(b) ESTABLISHMENT.—There shall be within the Office of the Assistant Secretary for Cyber Security and Communications a National Cyber Security Division.

''(c) RESPONSIBILITIES.—

''(1) IN GENERAL.—The Division shall be responsible for overseeing preparation, situational awareness, response, reconstitution, and mitigation necessary for cyber security, including—

''(A) establishing and maintaining a capability within the Department to identify threats to critical information infrastructure to aid in detection of vulnerabilities and

warning of potential acts of terrorism and other attacks;

''(B) establishing and maintaining a capability to share useful, timely information regarding cyber vulnerabilities, threats, and attacks with officers of the Federal Government and State and local governments, the private sector, and the general public;

''(C) conducting comprehensive risk assessments on critical information infrastructure with respect to acts of terrorism and other large-scale disruptions, identifying and prioritizing vulnerabilities in non-Federal critical information infrastructure, and coordinating the mitigation of such vulnerabilities;

''(D) coordinating with the Assistant Secretary for Infrastructure Protection to ensure that cyber security is appropriately addressed in carrying out the infrastructure protection responsibilities described in section 201(d);

''(E) developing, with input from the owners and operators of relevant assets and systems, a plan for the continuation of critical information operations in the event of a cyber attack or other large-scale disruption of the information infrastructure of the United States;

''(F) defining what qualifies as a cyber incident of national significance for purposes of the National Response Plan or any successor plan prepared under section 504(a)(6);

''(G) ensuring that the priorities, procedures, and resources of the Department are in place to reconstitute critical information infrastructures in the event of an act of terrorism or other large-scale disruption of such infrastructures;

''(H) developing, in coordination with the National Cyber Security Center, a national cyber security awareness, training, and education program that promotes cyber security awareness within the Federal Government and throughout the Nation; and

''(I) consulting and coordinating with the Under Secretary for Science and Technology on cyber security research and development to strengthen critical information infrastructure against acts of terrorism and other large-scale disruptions.

''(2) STAFFING.—The Division shall establish a capability to attract and retain qualified information technology experts at the Department to help analyze cyber threats and vulnerabilities.

''(3) FEDERAL NETWORK SECURITY.—The Division, in coordination with the National Cyber Security Center, shall monitor, consistent with the Constitution and other applicable laws of the United States, network traffic for all Federal civilian departments and agencies to determine any potential cyber incidents or vulnerabilities.

''(4) COLLABORATION.—

''(A) IN GENERAL.—Wherever possible, the Division shall work collaboratively with relevant members of the private sector, academia, other cyber security experts, and officers of the Federal Government and State, local, and tribal governments in carrying out the responsibilities under this subsection.

''(B) SINGLE CONTACT.—The Division shall provide a single Federal Government contact for State, local, and tribal governments and academia and other private sector entities to exchange information and work collaboratively regarding the security of critical information infrastructure.''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 225 the following:

''Sec. 226. National Cyber Security Division.''.

SEC. 602. NATIONAL CYBER SECURITY CENTER.

(a) IN GENERAL.—Subtitle C of title II of the Homeland Security Act of 2002 (6 U.S.C. 141 et seq.), as amended by section 601 of this Act, is amended by adding at the end the following:

''SEC. 227. NATIONAL CYBER SECURITY CENTER.

''(a) DEFINITIONS.—In this section—

''(1) the term 'agency'—

''(A) means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

''(B) does not include the governments of the District of Columbia and of the territories and possessions of the United States and their various subdivisions;

''(2) the term 'Director' means the Director of the National Cyber Security Center;

''(3) the term 'Federal information infrastructure' means the information infrastructure that is operated by an agency; and

''(4) the term 'information infrastructure' means the underlying framework that information systems and assets rely on in processing, transmitting, receiving, or storing information electronically.

''(b) ESTABLISHMENT.—There is established within the Department a National Cyber Security Center.

''(c) DIRECTOR.—

''(1) ESTABLISHMENT AND APPOINTMENT.—There is a Director of the National Cyber Security Center, who shall be—

''(A) the head of the National Cyber Security Center;

''(B) a member of the Chief Information Officers Council; and

''(C) appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—The Director shall have significant expertise in matters relating to the security of information technology systems or other relevant experience.

''(3) LIMITATION ON SERVICE.—The individual serving as the Director may not, while so serving, serve in any other capacity in the Federal Government, except to the extent that the individual serving as Director is doing so in an acting capacity.

''(4) SUPERVISION.—The Director shall report to—

''(A) the President on matters relating to the interagency missions described in subparagraph (B), (C), or (E) of subsection (e)(1); and

''(B) the Secretary on all other matters, without being required to report through any other official of the Department.

''(d) DEPUTY DIRECTORS.—

''(1) ESTABLISHMENT AND APPOINTMENT.—There are 2 Deputy Directors of the National Cyber Security Center, who shall report to the Director.

''(2) DETAILEE AND EMPLOYEE.—

''(A) DETAILEE.—The Director shall enter into a memorandum of understanding with the Director of National Intelligence for the assignment of an employee of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) with relevant experience to work at the National Cyber Security Center as a Deputy Director.

''(B) EMPLOYEE.—One Deputy Director shall be a permanent employee of the Department and a member of the Senior Executive Service.

''(e) PRIMARY MISSIONS.—

''(1) IN GENERAL.—The primary missions of the National Cyber Security Center shall be to—

''(A) coordinate and integrate information to—

''(i) provide cross-domain situational awareness; and

''(ii) analyze and report on the composite state of the Federal information infrastructure;

''(B) unify strategy for the security of the Federal information infrastructure;

''(C) coordinate the development of interagency plans in response to an incident of national significance relating to the security of the Federal information infrastructure;

''(D) coordinate in conjunction with the Director of the Office of Management and Budget the development of uniform standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3);

''(E) develop performance measures to evaluate the security of the Federal information infrastructure; and

''(F) ensure, in coordination with the Privacy Office and the Office for Civil Rights and Civil Liberties, that all policies and procedures for securing the Federal information infrastructure comply with all applicable policies, regulations, and laws protecting the privacy and civil liberties of individuals.

''(2) AWARENESS OF SECURITY STATUS.—The National Cyber Security Center shall establish electronic connections to ensure timely awareness of the security status of the information infrastructure and overall United States Cyber Networks and Systems with—

''(A) the United States Computer Emergency Readiness Team;

''(B) the National Security Agency Threat Operations Center;

''(C) the Joint Task Force-Global Network Operations;

''(D) the Department of Defense Cyber Crime Center;

''(E) the National Cyber Investigative Joint Task Force;

''(F) the Intelligence Community Incident Response Center;

''(G) any other agency identified by the Director, with the concurrence of the head of that agency; and

''(H) any other nongovernmental organization identified by the Director, with the concurrence of the owner or operator of that organization.

''(f) AUTHORITIES OF THE DIRECTOR.—

''(1) ACCESS TO INFORMATION.—Unless otherwise directed by the President—

''(A) the Director shall access, receive, and analyze law enforcement information, intelligence information, terrorism information (as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485)), and other information as determined by the Director, relevant to the security of the Federal information infrastructure from agencies of the Federal Government, State, and local government agencies (including law enforcement agencies), and as appropriate, private sector entities related to the security of Federal information infrastructure; and

''(B) any agency in possession of law enforcement information, intelligence information, and terrorism information (as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485)) relevant to the security of the Federal information infrastructure shall provide that information to the Director in a timely manner.

''(2) BREACH OF ANY GOVERNMENT INFORMATION TECHNOLOGY SYSTEM.—Unless otherwise directed by the President, upon notification or detection of any act or omission by any person or entity that substantially jeopardizes the security of the Federal information infrastructure, the entities described under subsection (e)(2) shall immediately inform the Director of such act or omission.

''(3) DEVELOPMENT OF BUDGETS.—Based on standards and guidelines developed under subsection (e)(1)(D) and any other relevant information, the Director shall—

''(A) provide to the head of each agency that operates a Federal computer system, guidance for developing the budget pertaining to the information security activities of each agency;

''(B) provide such guidance to the Director of the Office of Management and Budget who shall, to the maximum extent practicable, ensure that each agency budget conforms with such guidance;

''(C) regularly evaluate each agency budget to determine if that budget is adequate to meet the performance measures established under subsection (e)(1)(E); and

''(D) provide copies of that evaluation to—

''(i) the head of each relevant agency;

''(ii) the Director of the Office of Management and Budget;

''(iii) the Committee on Appropriations of the Senate;

''(iv) the Committee on Appropriations of the House of Representatives;

''(v) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(vi) the Committee on Oversight and Government Reform of the House of Representatives; and

''(vii) and the Committee on Homeland Security of the House of Representatives.

''(4) REVIEW AND INSPECTION.—

''(A) IN GENERAL.—The Director may—

''(i) review the enterprise architecture, acquisition plans, contracts, policies, and procedures of any agency relevant to the information security of the Federal information infrastructure; and

''(ii) physically inspect any facility to determine if the performance measures established by the National Cyber Security Center have been satisfied.

''(B) REMEDIAL MEASURES.—If the Director determines, through review, inspection, or audit, that the applicable security performance measures have not been satisfied, the Director, in coordination with the Director of the Office of Management and Budget, may recommend remedial measures to be taken to prevent any damage, loss of information, or other threat to information security as a result of the failure to satisfy the applicable performance measures. Such measures shall be implemented or the head of the agency shall certify that, and explain how, the identified vulnerability has been mitigated.

''(5) OPERATIONAL EVALUATIONS.—Unless otherwise directed by the President, the Director, in coordination with the Director of the National Security Agency, shall support strategic planning for the operational evaluation of the security of the Federal information infrastructure. Such planning may include the determination of objectives to be achieved, tasks to be performed, interagency coordination of operational activities, and the assignment of roles and responsibilities, but the Director shall not, unless otherwise directed by the Secretary, direct the execution of operational evaluations.

''(6) INFORMATION SHARING.—The Director shall provide information to the Director of the National Cyber Security Division on potential vulnerabilities, attacks, and exploitations of the Federal information infrastructure to the extent that such information might assist State, local, tribal, private, and other entities in securing their own information systems.

''(g) REPORTS.—

''(1) IN GENERAL.—Not less than once in each calendar year, the National Cyber Security Center shall submit a report to Congress.

''(2) CONTENTS.—

''(A) IN GENERAL.—Each report submitted under this subsection shall include—

''(i) a general assessment of the security of the information technology infrastructure of the Federal Government;

''(ii) a description of the activities of the National Cyber Security Center in the preceding year;

''(iii) a description of all vulnerabilities, attacks, and exploitations of Federal Government information technology infrastructure in the preceding year and actions taken in response; and

''(iv) an assessment of the amount and frequency of information shared with the Center by the entities described under subsection (e)(2).

''(B) CLASSIFIED ANNEX.—To the extent that any information in a report submitted under this subsection is classified, the report may include a classified annex.

''(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to create any new authority to collect, maintain, or disseminate personally identifiable information concerning United States citizens.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $30,000,000 for fiscal year 2009; and

''(2) such sums as necessary for each of fiscal years 2010, 2011, 2012, and 2013.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 226, as added by section 601 of this Act, the following:

''Sec. 227. National Cyber Security Center.''.

SEC. 603. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT FOR CYBER SECURITY POSITIONS IN THE DEPARTMENT.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after section 846, as added by section 401 of this Act, the following:

''SEC. 847. AUTHORITY FOR FLEXIBLE PERSONNEL MANAGEMENT FOR CYBER SECURITY POSITIONS AT THE DEPARTMENT.

''(a) IN GENERAL.—With the concurrence of the Director of the National Cyber Security Center or the Assistant Secretary for Cyber Security and Communications, as appropriate, and in coordination with the Director of the Office of Personnel Management, the Secretary may establish new positions within the National Cyber Security Center and the National Cyber Security Division in the excepted service, if the Secretary determines such positions are necessary to carry out the cyber security functions of the Department.

''(b) CLASSIFICATION AND PAY RANGES.—In coordination with the Director of the National Cyber Security Center and the Assistant Secretary for Cyber Security and Communications, the Secretary may establish the classification and ranges of rates of basic pay for any position established under subsection (a), notwithstanding otherwise applicable laws governing the classification and rates of basic pay for such positions.

''(c) APPOINTMENT AND COMPENSATION.—The Secretary may appoint individuals for service in positions established under subsection (a) without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, and to fix the compensation of such individuals within the applicable ranges of rates of basic pay established under subsection (b).

''(d) MAXIMUM RATE OF BASIC PAY.—The maximum rate of basic pay the Secretary may establish under this section is the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 846, as added by section 401 of this Act, the following:

''Sec. 847. Authority for flexible personnel management for cyber security positions at the department.''.

SEC. 604. CYBER THREAT.

(a) DEFINITION.—In this section, the term ''critical infrastructure'' has the meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(b) SHARING OF CYBER THREAT INFORMATION.—The Inspector General of the Department, in coordination with the Inspector General of the Office of the Director of National Intelligence, shall—

(1) assess the sharing of cyber threat information, including—

(A) how cyber threat information, including classified information, is shared with the owners and operators of United States critical infrastructure;

(B) the mechanisms by which classified cyber threat information is distributed; and

(C) the effectiveness of the sharing of cyber threat information; and

(2) not later than 180 days after the date of enactment of this Act, submit a report regarding the assessment under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

(c) CYBER THREAT ASSESSMENT.—The Secretary, in coordination with the Director of National Intelligence, shall—

(1) perform a comprehensive, up-to-date assessment of the cyber threat to critical infrastructure, including threats to electric power command and control systems in the United States; and

(2) not later than 180 days after the date of enactment of this Act, submit a report regarding the assessment under paragraph (1) to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

SEC. 605. CYBER SECURITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

''SEC. 318. CYBER SECURITY RESEARCH AND DEVELOPMENT.

''(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary for Science and Technology, in coordination with the Assistant Secretary for Cyber Security and Communications and the Director of the National Cyber Security Center, shall carry out a research and development program for the purpose of improving the security of information systems.

''(b) ELIGIBLE PROJECTS.—The research and development program under this section may include projects to—

''(1) advance the development and accelerate the deployment of more secure versions of fundamental Internet protocols and architectures, including for the domain name system and routing protocols;

''(2) improve and create technologies for detecting attacks or intrusions, including monitoring technologies;

''(3) improve and create mitigation and recovery methodologies, including techniques for containment of attacks and development of resilient networks and systems that degrade gracefully;

''(4) develop and support infrastructure and tools to support cyber security research and

development efforts, including modeling, testbeds, and data sets for assessment of new cyber security technologies;

''(5) assist the development and support of technologies to reduce vulnerabilities in process control systems;

''(6) test, evaluate, and facilitate the transfer of technologies associated with the engineering of less vulnerable software and securing the information technology software development lifecycle; and

''(7) address other vulnerabilities and risks identified by the Secretary.

''(c) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary for Science and Technology—

''(1) shall ensure that the research and development program is consistent with the National Strategy to Secure Cyberspace, or any succeeding strategy;

''(2) shall, to the extent practicable, coordinate the research and development activities of the Department with other ongoing research and development security-related initiatives, including research being conducted by—

''(A) the National Institutes of Standards and Technology;

''(B) the National Academy of Sciences;

''(C) other Federal departments and agencies; and

''(D) other Federal and private research laboratories, research entities, and universities and institutions of higher education;

''(3) shall carry out any research and development project authorized by this section through a reimbursable agreement with an appropriate Federal agency, if the agency—

''(A) is sponsoring a research and development project in a similar area; or

''(B) has a unique facility or capability that would be useful in carrying out the project; and

''(4) may award grants, or enter into cooperative agreements, contracts, other transactions, or reimbursable agreements to the entities described in paragraph (2).

''(d) PRIVACY AND CIVIL RIGHTS AND CIVIL LIBERTIES ISSUES.—

''(1) CONSULTATION.—In carrying out research and development projects under this section, the Secretary shall consult with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department.

''(2) PRIVACY IMPACT ASSESSMENTS.—In accordance with sections 222 and 705, the Privacy Officer shall conduct privacy impact assessments and the Officer for Civil Rights and Civil Liberties shall conduct reviews, as appropriate, for research and development initiatives developed under this section that the Secretary determines could have an impact on privacy, civil rights, or civil liberties.

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—From funds appropriated under section 114(w) of title 49, United States Code, there shall be made available to the Secretary to carry out this section $50,000,000 for each fiscal year 2009 through 2012.

''(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization under this subsection shall remain available until expended.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 317 the following:

''Sec. 318. Cyber security research and development.''.

SEC. 606. COMPREHENSIVE NATIONAL CYBER SECURITY INITIATIVE.

Not later than 90 days after the date of enactment of this Act, the Secretary, in coordination with the Director of National Intelligence, shall submit a report containing comprehensive and detailed program and budget information and delineating plans for and linking expenditures to the goals of the Comprehensive National Cyber Security Initiative, as described in National Security Policy Directive 54/Homeland Security Policy Directive 23 signed by the President on January 8, 2008, as modified by the President under this Act and the amendments made by this Act, including implementation guidance and personnel recruiting, retention, and assignment goals to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Homeland Security of the House of Representatives.

SEC. 607. NATIONAL CYBER SECURITY PRIVATE SECTOR ADVISORY BOARD.

(a) DEFINITION.—In this section, the term ''Board'' means the National Cyber Security Private Sector Advisory Board established under subsection (b).

(b) ESTABLISHMENT.—There is established the National Cyber Security Private Sector Advisory Board.

(c) FUNCTIONS.—

(1) IN GENERAL.—The Board shall provide advice and comment to the Secretary on—

(A) the cyber security standards, practices, and policies of the Department;

(B) the state of security of information technology infrastructure in the United States; and

(C) any other issue relating to cyber security that the members of the Board determine is relevant.

(2) THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(d) CHAIRPERSON.—

(1) IN GENERAL.—The chairperson of the Board shall be the Secretary.

(2) DELEGATION.—Through the Secretary, the Board shall provide advice to both the National Cyber Security Division and the National Cyber Security Center. The chairpersonship of the Board shall not be delegated solely to 1 of these entities.

(e) VICE CHAIRPERSON.—The vice chairperson of the Board shall be selected from among the private sector members of the Private-Sector Advisory Board by means determined by the members of the Board.

(f) MEMBERS.—The Board shall be composed of academics, business leaders, and other nongovernment individuals with relevant expertise in the area of cyber security appointed by the Secretary.

(g) MEETINGS.—The Board shall meet not less than twice each calendar year.

SEC. 608. INFRASTRUCTURE PROTECTION.

Section 201 of the Homeland Security Act of 2002 (6 U.S.C. 121) is amended—

(1) in subsection (b)(3), by adding at the end the following: ''The Assistant Secretary for Infrastructure Protection shall report to the Under Secretary with responsibility for overseeing critical infrastructure protection established in section 103(a)(8).''; and

(2) in subsection (d)—

(A) by redesignating paragraphs (2) through (25) as paragraphs (3) through (26), respectively;

(B) by inserting after paragraph (1) the following:

''(2) To promote, prioritize, coordinate, and plan for the protection, security, resiliency, and postdisaster restoration of critical infrastructure and key resources of the United States against or in the event of an act of terrorism, natural disaster, or other manmade disaster, in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.'';

(C) in paragraph (6), as so redesignated—

(i) by inserting '', implement, and coordinate'' after ''develop''; and

(ii) by inserting '', in partnership with the private sector,'' after ''comprehensive national plan'';

(D) in paragraph (7), as so redesignated, by inserting ''and facilitate the implementation of'' after ''recommend''; and

(E) in paragraph (9), as so redesignated, by inserting '', including owners and operators of critical infrastructure, in a timely and effective manner'' after ''such responsibilities''.

TITLE VII—BIOLOGICAL, MEDICAL, AND SCIENCE AND TECHNOLOGY PROVISIONS

SEC. 701. CHIEF MEDICAL OFFICER AND OFFICE OF HEALTH AFFAIRS.

Section 516 of the Homeland Security Act of 2002 (6 U.S.C. 321e) is amended to read as follows:

''SEC. 516. CHIEF MEDICAL OFFICER.

''(a) IN GENERAL.—There is in the Department an Office of Health Affairs, which shall be headed by a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate. The Chief Medical Officer shall also have the title of Assistant Secretary for Health Affairs.

''(b) QUALIFICATIONS.—The individual appointed as the Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.

''(c) RESPONSIBILITIES.—

''(1) IN GENERAL.—The Chief Medical Officer shall have the primary responsibility within the Department for medical and public health issues relating to the mission and operations of the Department, including medical and public health issues relating to natural disasters, acts of terrorism, and other man-made disasters.

''(2) SPECIFIC RESPONSIBILITIES.—The responsibilities of the Chief Medical Officer shall include—

''(A) serving as the principal advisor to the Secretary and the Administrator on the medical care, public health, and agrodefense responsibilities of the Department;

''(B) providing oversight of all medically-related actions and of protocols of the medical personnel of the Department;

''(C) administering the responsibilities of the Department for medical readiness, including providing guidance to support State and local training, equipment, and exercises funded by the Department;

''(D) serving as the primary point of contact in the Department with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Department of Transportation, the Department of Veterans Affairs, and other Federal departments and agencies, on medical and public health matters;

''(E) serving as the primary point of contact in the Department for State, local, and tribal governments, the medical community, and the private sector, with respect to medical and public health matters;

''(F) coordinating the biodefense and biosurveillance activities of the Department, including managing the National Biosurveillance Integration Center under section 316;

''(G) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department under Project BioShield under sections 319F-1 and 319F-2 of the Public Health Service Act (42 U.S.C. 247d-6a and 247d-6b);

''(H) ensuring that the workforce of the Department has science-based policy, standards, requirements, and metrics for occupational safety and health;

''(I) providing medical expertise for the components of the Department with respect

to prevention, preparedness, protection, response, and recovery for medical and public health matters;

''(J) working in conjunction with appropriate Department entities and other appropriate Federal departments and agencies to develop guidance for prevention, preparedness, protection, response, and recovery from catastrophic events with human, animal, agricultural, or environmental health consequences; and

''(K) performing such other duties as the Secretary may require.''.

SEC. 702. TEST, EVALUATION, AND STANDARDS DIVISION.

(a) TEST, EVALUATION, AND STANDARDS DIVISION.—Section 308 of the Homeland Security Act of 2002 (6 U.S.C. 188) is amended—

(1) in subsection (a), by inserting ''and through the Test, Evaluation, and Standards Division of the Directorate'' after ''programs''; and

(2) by adding at the end the following:

''(d) TEST, EVALUATION, AND STANDARDS DIVISION.—

''(1) ESTABLISHMENT.—There is established in the Directorate of Science and Technology a Test, Evaluation, and Standards Division.

''(2) LEADERSHIP.—The Test, Evaluation, and Standards Division shall be headed by a Director of Test, Evaluation, and Standards.

''(3) RESPONSIBILITIES, AUTHORITIES, AND FUNCTIONS.—The Secretary, acting through the Director of Test, Evaluation, and Standards, shall—

''(A) ensure the effectiveness, reliability, and suitability of testing and evaluation activities conduct by or on behalf of components and agencies of the Department in acquisition programs that are designated as high-risk major acquisition programs;

''(B) provide the Department with independent and objective assessments of the adequacy of testing and evaluation activities conducted in support of acquisition programs that are designed as high-risk major acquisition programs;

''(C) review and approve all Testing and Evaluation Master Plans, test plans, and testing evaluation procedures for acquisition programs that are designated as high-risk major acquisition programs;

''(D) develop testing and evaluation policies for the Department;

''(E) develop a testing and evaluation infrastructure investment plan to modernize departmental test-bed facilities that conduct developmental, performance, or operational testing in support of acquisition programs that are designated as high-risk major acquisition programs;

''(F) accredit test facilities or test-beds, as necessary, that will be used by the Department for testing and evaluation activities; and

''(G) support the development and adoption of voluntary standards in accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

''(4) DEFINITION.—In this subsection, the term 'high-risk major acquisition program' means any acquisition program that is—

''(A) designated as a Level 1 acquisition under the policies of the Acquisition Review Board of the Department established under section 707; or

''(B) otherwise designated by the Secretary as a complex, high-risk, or major acquisition programs requiring enhanced oversight by the Department.''.

(b) OVERSIGHT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that identifies each current or planned high-risk major acquisition program, as defined in this section.

SEC. 703. DIRECTOR OF OPERATIONAL TESTING.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 605 of this Act, is amended by adding at the end the following:

''SEC. 319. DIRECTOR OF OPERATIONAL TESTING.

''(a) DEFINITIONS.—In this section—

''(1) the term 'high-risk major acquisition program' has the meaning given that term in section 308(d)(4); and

''(2) the term 'operational test and evaluation' means testing conducted under realistic operational conditions of any item or key component of a high-risk major acquisition program for the purpose of determining the operational effectiveness, performance, suitability, reliability, availability, and maintenance of the system for the intended mission.

''(b) ESTABLISHMENT.—There is in the Department a Director of Operational Testing, who shall report to the Under Secretary for Science and Technology and the Under Secretary for Management on the operational testing and evaluation of all high-risk major acquisition programs.

''(c) ACCESS TO RECORDS AND DATA.—

''(1) IN GENERAL.—The Director of Operational Testing shall have prompt and full access to test and evaluation documents, data, and test results of the Department that the Director considers necessary to review in order to carry out the duties of the Director under this section.

''(2) OBSERVERS.—The Director of Operational Testing may require that observers designated by the Director shall be present during the preparation for and the conduct of any operational test and evaluation conducted of a high-risk major acquisition program.

''(3) REPORTING BY PROGRAM MANAGERS.—The program manager of a high-risk major acquisition program shall promptly report to the Director of Operational Testing the results of any operational test and evaluation conducted for a system in that program.

''(d) SAFETY CONCERNS.—The Director of Operational Testing shall ensure that any safety concern developed during the test and evaluation of a system in a high-risk major acquisition program are communicated in a timely manner to the Program Manager and Component Head for the applicable program.

''(e) REPORTING TO CONGRESS.—The Director shall promptly comply with any request made by the Committee on Homeland Security and Governmental Affairs of the Senate or the Committee on Homeland Security of the House of Representatives for information or reports relating to the operational test and evaluation of a high-risk major acquisition program.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 318, as added by section 605 of this Act, the following:

''Sec. 319. Director of Operational Testing.''.

SEC. 704. AVAILABILITY OF TESTING FACILITIES AND EQUIPMENT.

(a) AUTHORITY.—The Under Secretary for Science and Technology may make available to any person or entity, for an appropriate fee, the services of any center or other testing facility owned and operated by the Department for the testing of materials, equipment, models, computer software, and other items designed to advance the homeland security mission.

(b) INTERFERENCE WITH FEDERAL PROGRAMS.—The Under Secretary for Science and Technology shall ensure that the testing of materials, equipment, models, computer software, or other items not owned by the Federal Government shall not cause personnel or other resources of the Federal Government to be diverted from scheduled Federal Government tests or otherwise interfere with Federal Government mission requirements.

(c) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available under subsection (a) and any associated data provided by the person or entity for the conduct of the tests—

(1) are trade secrets and commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code; and

(2) may not be disclosed outside the Federal Government without the consent of the person or entity for whom the tests are performed.

(d) FEES.—The fee for using the services of a center or facility under subsection (a) may not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel, that are incurred by the Federal Government to provide for the testing.

(e) USE OF FEES.—Any fee collected under subsection (a) shall be credited to the appropriations or other funds of the Directorate of Science and Technology and shall be used to directly support the research and development activities of the Department.

(f) OPERATIONAL PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary for Science and Technology shall submit to Congress a report detailing a plan for exercising the authority to make available a center or other testing facility under this section.

(2) CONTENTS.—The plan submitted under paragraph (1) shall include—

(A) a list of the facilities and equipment that could be made available to a person or entity under this section;

(B) a 5-year budget plan, including the costs for facility construction, staff training, contract and legal fees, equipment maintenance and operation, and any incidental costs associated with exercising the authority to make available a center or other testing facility under this section;

(C) a 5-year estimate of the number of persons and entities that may use a center or other testing facility and fees to be collected under this section;

(D) a list of criteria to be used by the Under Secretary for Science and Technology in selecting persons and entities to use a center or other testing facility under this section, including any special requirements for foreign applicants; and

(E) an assessment of the effect the authority to make available a center or other testing facility under this section would have on the ability of a center or testing facility to meet its obligations under other Federal programs.

(g) REPORT TO CONGRESS.—The Under Secretary for Science and Technology shall submit to Congress an annual report containing a list of the centers and testing facilities that have collected fees under this section, the amount of fees collected, a brief description of each use of a center or facility under this section, and the purpose for which the testing was conducted.

SEC. 705. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) IN GENERAL.—Section 311(j) of the Homeland Security Act of 2002 (6 U.S.C. 191(j)) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2012''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department should fully use the Homeland Security Science and Technology Advisory Committee to address the science and technology challenges of the Department.

SEC. 706. NATIONAL ACADEMY OF SCIENCES REPORT.

(a) IN GENERAL.—The Under Secretary for Science and Technology shall enter into an agreement with the National Research Council of the National Academy of Sciences to produce a report updating the 2002 report of the National Research Council entitled ''Making the Nation Safer'' (in this section referred to as the ''2002 report'').

(b) CONTENT OF REPORT.—The report produced under subsection (a) shall—

(1) reexamine the framework in the 2002 report for the application of science and technology for countering terrorism and homeland security;

(2) reassess the research agendas in the 9 areas addressed in the 2002 report, and in any new areas the National Research Council determines to address;

(3) define priority research areas that have not been sufficiently addressed by Federal Government research and development activities since 2002;

(4) assess the efficacy of the organizational structure and processes of the Federal Government for conducting research and development relating to counterterrorism and homeland security;

(5) assess the efficacy of the science and technology workforce in the United States in terms of supporting research and development relating to counterterrorism and homeland security; and

(6) address other related topics that the National Research Council determines to examine.

(c) PUBLICATION.—Not later than 1 year after the date of enactment of this Act, the National Research Council shall release the report produced under subsection (a) and make the report available free of charge on the website of the National Academies.

(d) AUTHORIZATION.—Of the total authorized in section 101 of this Act for fiscal year 2009, $1,000,000 is authorized to carry out this section.

SEC. 707. MATERIAL THREATS.

(a) IN GENERAL.—

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

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by moving each of such subclauses 2 ems to the right;

(C) by striking ''(A) MATERIAL THREAT.—The Homeland Security Secretary'' and inserting the following:

''(A) MATERIAL THREAT.—

''(i) IN GENERAL.—The Homeland Security Secretary''; and

(D) by adding at the end the following clauses:

''(ii) GROUPINGS TO FACILITATE ASSESSMENT OF COUNTERMEASURES.—

''(I) IN GENERAL.—In conducting threat assessments and determinations under clause (i) of chemical, biological, radiological, and nuclear agents, the Homeland Security Secretary may consider the completion of such assessments and determinations for groups of agents toward the goal of facilitating the assessment of countermeasures under paragraph (3) by the Secretary.

''(II) CATEGORIES OF COUNTERMEASURES.—The grouping of agents under subclause (I) by the Homeland Security Secretary shall be designed, in consultation with the Secretary, to facilitate assessments under paragraph (3) by the Secretary regarding the following two categories of countermeasures:

''(aa) Countermeasures that may address more than one agent identified under clause (i)(II).

''(bb) Countermeasures that may address adverse health consequences that are common to exposure to different agents.

''(III) RULE OF CONSTRUCTION.—A particular grouping of agents pursuant to subclause (II) is not required under such subclause to facilitate assessments of both categories of countermeasures described in such subclause. A grouping may concern one category and not the other.

''(iii) TIMEFRAME FOR COMPLETION OF CERTAIN NATIONAL SECURITY DETERMINATIONS.—With respect to chemical and biological agents and particular radiological isotopes and nuclear materials, or appropriate groupings of such agents, known to the Homeland Security Secretary as of the day before the date of the enactment of this clause, and which such Secretary considers to be capable of significantly affecting national security, such Secretary shall complete the determinations under clause (i)(II) not later than December 31, 2009.

''(iv) REPORT TO CONGRESS.—Not later than 30 days after the date on which the Homeland Security Secretary completes a material threat assessment under clause (i) or a risk assessment for the purpose of satisfying such clause, such Secretary shall submit to Congress a report containing the results of such assessment.

''(v) DEFINITION.—For purposes of this subparagraph, the term 'risk assessment' means a scientific, technically-based analysis of agents that incorporates threat, vulnerability, and consequence information.''.

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

(A) in paragraph (1)(B)(i)(I), by striking ''paragraph (2)(A)(ii)'' and inserting ''paragraph (2)(A)(i)(II)''; and

(B) in paragraph (2)—

(i) in subparagraph (B)—

(I) in clause (i), by striking ''subparagraph (A)(ii)'' and inserting ''subparagraph (A)(i)(II)''; and

(II) in clause (ii), by striking ''subparagraph (A)(ii)'' and inserting ''subparagraph (A)(i)(II)'';

(ii) in subparagraph (C), by striking ''subparagraph (A)'' and inserting ''subparagraph (A)(i)''; and

(iii) in subparagraph (D), by striking ''subparagraph (A)'' and inserting ''subparagraph (A)(i)''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 521(d) of the Homeland Security Act of 2002 (6 U.S.C. 321–j(d)) is amended—

(1) in paragraph (1), by striking ''2006,'' and inserting ''2010,''; and

(2) by adding at the end the following:

''(3) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS REGARDING CERTAIN THREAT ASSESSMENTS.—For the purpose of providing an additional amount to the Secretary to assist the Secretary in meeting the requirements of clause (iii) of section 319F–2(c)(2)(A)) of the Public Health Service Act (relating to time frames), there are authorized to be appropriated such sums as may be necessary for fiscal year 2009, in addition to the authorization of appropriations established in paragraph (1). The purposes for which such additional amount may be expended include conducting risk assessments regarding clause (i)(II) of such section when there are no existing risk assessments that the Secretary considers credible.''.

TITLE VIII—BORDER SECURITY PROVISIONS

Subtitle A—Border Security Generally

SEC. 801. INCREASE OF CUSTOMS AND BORDER PROTECTION OFFICERS AND SUPPORT STAFF AT PORTS OF ENTRY.

(a) CUSTOMS AND BORDER PROTECTION OFFICERS.—For each of the fiscal years 2009 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose and in accordance with subsection (c), increase annually by not less than 1,000, the total number of full-time, active-duty Customs and Border Protection Officers within U.S. Customs and Border Protection for posting at United States ports of entry over the number of such Officers authorized on the last day of the previous fiscal year.

(b) BORDER SECURITY SUPPORT PERSONNEL.—For each of the fiscal years 2009 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase annually by not less than a total of 171, the number of full-time border security support personnel assigned to United States ports of entry over the number of such support personnel authorized on the last day of the previous fiscal year.

(c) WORKFORCE STAFFING MODEL.—

(1) IN GENERAL.—Not later than December 31, 2008, and every 2 years thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a workforce staffing model—

(A) detailing the optimal level of staffing required to carry out the responsibilities of U.S. Customs and Border Protection; and

(B) describing the process through which U.S. Customs and Border Protection makes workforce allocation decisions.

(2) REVIEW BY GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 45 days after the date on which the Secretary submits the workforce staffing model under paragraph (1), the Comptroller General of the United States shall review and submit an assessment of the workforce staffing model to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for the purpose of meeting the staffing requirements provided for in subsections (a) and (b) such sums as are necessary.

(2) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to paragraph (1) shall supplement and not supplant any other amounts authorized to be appropriated to U.S. Customs and Border Protection for staffing.

SEC. 802. CUSTOMS AND BORDER PROTECTION OFFICER TRAINING.

(a) ENSURING CUSTOMS AND BORDER PROTECTION OFFICER TRAINING.—The Commissioner responsible for U.S. Customs and Border Protection (in this section referred to as the ''Commissioner'') shall incorporate into an existing database or develop a database system, by June 30, 2009, that identifies for each Customs and Border Protection Officer—

(1) the assigned port placement location;

(2) the specific assignment and responsibilities;

(3) the required initial training courses completed;

(4) the required ongoing training courses available and completed;

(5) for each training course completed, the method by which the training was delivered (classroom, internet/computer, on-the-job, CD-ROM);

(6) for each training course, the time allocated during on-duty hours within which training must be completed;

(7) for each training course offered, the duration of training and the amount of time an employee must be absent from work to complete the training;

(8) if training has been postponed, the basis for postponing training;

(9) the date training was completed;

(10) certification or evidence of completion of each training course; and

(11) certification by a supervising officer that the Officer is able to carry out the function for which the training was provided.

(b) IDENTIFYING AND ENHANCING ON-THE-JOB TRAINING.—Not later than June 30, 2009, the Commissioner shall—

(1) review the mission and responsibilities of Customs and Border Protection Officers carried out at air, land, and sea ports of entry in both primary and secondary inspections areas;

(2) develop an inventory of specific tasks that must be performed by Customs and Border Protection Officers throughout the entire inspection process at ports of entry, including tasks to be performed in primary and secondary inspections areas;

(3) ensure that on-the-job training includes supervised and evaluated performance of those tasks identified in paragraph (2) or a supervised and evaluated practical training exercise that simulates the on-the-job experience; and

(4) develop criteria to measure officer proficiency in performing those tasks identified in paragraph (2) and for providing feedback to officers on a regular basis.

(c) USE OF DATA.—The Commissioner shall use the information developed under subsection (a) and subsection (b)(2) to—

(1) develop specific training requirements for Customs and Border Protection Officers to ensure that Officers have sufficient training to conduct primary and secondary inspections at land, air, and sea ports of entry;

(2) measure progress toward achieving those training requirements; and

(3) make staffing allocation decisions.

(d) COMPETENCY.—Supervisors of on-the-job training shall—

(1) attest to the competency of Customs and Border Protection Officers to carry out the functions for which the Officers received training; and

(2) provide feedback to the Officers on performance.

SEC. 803. MOBILE ENROLLMENT TEAMS PILOT PROJECT.

Section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by adding at the end the following:

''(3) MOBILE ENROLLMENT TEAMS.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—Not later than November 1, 2008, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall establish 20 temporary mobile enrollment teams along the international borders to assist United States citizens in applying for passport cards and passports. Not more than a total of 40 personnel shall be assigned to participate on the teams.

''(ii) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL PERSONNEL.—

''(I) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the purpose of meeting the staffing requirements under this paragraph such sums as may be necessary.

''(II) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to subclause (I) shall supplement and not supplant any other amounts authorized to be appropriated to the U.S. Customs and Border Protection for staffing.

''(B) DEPLOYMENT.—Enrollment teams established under subparagraph (A) shall be deployed to communities in each State that has a land or maritime border with Canada or Mexico. In allocating teams among the States, consideration shall be given to the number of passport acceptance facilities in the State and the length of the international border of the State.

''(C) COORDINATION; OUTREACH.—In deploying enrollment teams under subparagraph (B), the Secretary shall—

''(i) implement this provision in conjunction with the Secretary of State;

''(ii) develop an awareness and outreach campaign for the mobile enrollment program; and

''(iii) coordinate with Federal, State, and local government officials in strategic locations along the northern and southern international borders to temporarily secure suitable space to conduct enrollments.

''(D) FEES.—

''(i) EXECUTION FEES.—Notwithstanding any other provision of law, the Secretary of Homeland Security and the Secretary of State may not charge an execution fee for a passport or a passport card obtained through a mobile enrollment team established under this paragraph.

''(ii) APPLICATION FEES.—The Secretary of State may charge an application fee for a passport card obtained through a mobile enrollment team in an amount not to exceed—

''(I) $20 for individuals who are 16 years of age or older; and

''(II) $10 for individuals who are younger than 16 years of age.

''(E) REPORT.—Not later than November 1, 2008, the Secretary of Homeland Security shall submit a report to the appropriate congressional committees that describes—

''(i) the status of the implementation of the mobile enrollment team pilot project;

''(ii) the number and location of the enrollment teams that have been deployed; and

''(iii) the amount of Federal appropriations needed to expand the number of mobile enrollment teams.

''(F) SUNSET.—The mobile enrollment team pilot project established under this paragraph shall terminate on July 1, 2010.''.

SEC. 804. FEDERAL-STATE BORDER SECURITY COOPERATION.

(a) IN GENERAL.—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.) is amended by adding at the end the following:

''Subtitle C—Other Grant Programs

''SEC. 2041. BORDER SECURITY ASSISTANCE PROGRAM.

''(a) BORDER SECURITY TASK FORCES.—The Commissioner responsible for U.S. Customs and Border Protection (in this section referred to as the 'Commissioner'), in conjunction with appropriate State, local, and tribal officials, may establish State or regional task forces to facilitate the coordination of the activities of State, local, or tribal law enforcement and other officials with Federal efforts to enhance the Nation's border security.

''(b) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—In support of the task forces authorized under subsection (a), the Secretary, through the Administrator, and in consultation with the Commissioner, is authorized to make grants to States to facilitate and enhance State, local, and tribal participation in border security efforts.

''(2) ELIGIBILITY.—A State is eligible to apply for a grant under this section if—

''(A) the State is located on the international border between the United States and Mexico or the United States and Canada; and

''(B) the State, local, or tribal governments within the State, participate in a task force described in subsection (a).

''(3) AVAILABILITY OF FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Not later than 45 days after receiving grant funds, any State that receives a grant under this section shall obligate or otherwise make available to local and tribal governments—

''(A) not less than 80 percent of the grant funds;

''(B) with the consent of local and tribal governments, eligible expenditures having a value of not less than 80 percent of the amount of the grant; or

''(C) with the consent of local and tribal governments, grant funds combined with other eligible expenditures having a total value of not less than 80 percent of the amount of the grant.

''(4) LIMITATIONS ON USE OF FUNDS.—Funds provided under this section may not be used—

''(A) to supplant State, local, or tribal government funds;

''(B) to pay salaries and benefits for personnel, other than overtime expenses;

''(C) to purchase vehicles, vessels or aircraft; and

''(D) to construct and renovate buildings or other physical facilities.

''(5) PRIORITIZATION.—In allocating funds among eligible States applying for grants under this section, the Administrator shall consider for each eligible State—

''(A) the relative threat, vulnerability, and consequences from acts of terrorism to that State, including consideration of—

''(i) the most current threat assessments available to the Department relevant to the border of that State;

''(ii) the length of the international border of that State; and

''(iii) such other factors as the Administrator may provide; and

''(B) the anticipated effectiveness of the proposed use of the grant by the State to enhance border security capabilities.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $20,000,000 for each of the fiscal years 2009 through 2013.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 2022 the following:

''Subtitle C—Other Grant Programs

''Sec. 2041. Border security assistance program.''.

Subtitle B—Customs and Border Protection Agriculture Specialists

SEC. 811. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) agriculture specialists in U.S. Customs and Border Protection at the Department serve a critical role in protecting the United States from both the unintentional and the intentional introduction of diseases or pests that threaten the economy and human health of the United States through—

(A) applying advanced scientific education and expertise to the examination of foreign agriculture products;

(B) identifying and intercepting harmful pests and plant and animal diseases; and

(C) seizing and destroying infested products that would result in harm to the United States;

(2) customs and border protection agriculture specialists enhance the security of the United States and are an integral part of the border protection force of the Department by working synergistically and sharing information with others in the Department who are responsible for protecting the borders and keeping dangerous people and things out of the United States; and

(3) there should be continued and additional support for customs and border protection agriculture specialists and their unique mission.

SEC. 812. INCREASE IN NUMBER OF U.S. CUSTOMS AND BORDER PROTECTION AGRICULTURE SPECIALISTS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall increase the number of full-time customs and border protection agriculture specialists for United States ports of entry by not fewer than 195 each fiscal year, for fiscal years 2009 through 2013, over the number of customs and border protection agriculture specialists authorized on the last day of the previous fiscal year.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department for the purpose of increasing the number of customs and border protection agriculture specialists such sums as necessary for fiscal years 2009 through 2013.

SEC. 813. AGRICULTURE SPECIALIST CAREER TRACK.

(a) IN GENERAL.—The Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection—

(1) shall ensure that appropriate career paths for customs and border protection agriculture specialists are identified, including the education, training, experience, and assignments necessary for career progression within U.S. Customs and Border Protection;

(2) shall publish information on the career paths described in paragraph (1); and

(3) may establish criteria by which appropriately qualified U.S. Customs and Border Protection technicians may be promoted to customs and border protection agriculture specialists.

(b) EDUCATION, TRAINING, AND EXPERIENCE.—The Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall ensure that all customs and border protection agriculture specialists are provided the opportunity to acquire the education, training, and experience necessary to qualify for promotion within U.S. Customs and Border Protection.

SEC. 814. AGRICULTURE SPECIALIST RECRUITMENT AND RETENTION.

Not later than 270 days after the date of enactment of this Act, the Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall develop a plan for more effective recruitment and retention of qualified customs and border protection agriculture specialists, including numerical goals for increased recruitment and retention and the use of bonuses and other incentives where appropriate and permissible under existing laws and regulations.

SEC. 815. RETIREMENT PROVISIONS FOR AGRICULTURE SPECIALISTS AND SEIZED PROPERTY SPECIALISTS.

(a) AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (30);

(B) by striking the period at the end of paragraph (31) and inserting a semicolon; and

(C) by adding at the end the following:

''(32) 'customs and border protection agriculture specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–0401 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to preventing the introduction of harmful pests, plant and animal diseases, and other biological threats at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described in subparagraph (A)) for at least 3 years;

''(33) 'customs and border protection seized property specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–1801 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to the efficient and effective custody, management, and disposition of seized or forfeited property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described in subparagraph (A)) for at least 3 years; and''.

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1)(A), by striking ''or customs and border protection officer,'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''; and

(B) in the table contained in subsection (c), by adding at the end the following:

''Customs and border protection agriculture specialist and customs and border protection seized property specialist	7.5	After April 1, 2009.''.

(3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States Code, is amended by striking ''or customs and border protection officer'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(4) IMMEDIATE RETIREMENT.—Section 8336 of title 5, United States Code, is amended—

(A) in subsection (c)(1), by striking ''or customs and border protection officer'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''; and

(B) in subsections (m) and (n), by striking ''or as a customs and border protection officer'' and inserting ''or as a customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(b) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (35), by striking ''and'' at the end;

(B) in paragraph (36), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(37) 'customs and border protection agriculture specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–0401 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to preventing the introduction of harmful pests, plant and animal diseases, and other biological threats at ports of entry, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years;

''(38) 'customs and border protection seized property specialist' means an employee in the Department of Homeland Security—

''(A) who holds a position within the GS–1801 job series (determined by applying the criteria in effect as of September 1, 2008) or any successor position; and

''(B) whose duties include activities relating to the efficient and effective custody, management, and disposition of seized or forfeited property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties (as described in subparagraph (B)) in 1 or more positions (as described in subparagraph (A)) for at least 3 years; and''.

(2) IMMEDIATE RETIREMENT.—Paragraphs (1) and (2) of section 8412(d) of title 5, United States Code, are amended by striking ''or customs and border protection officer'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(h)(2) of title 5, United States Code, is amended by striking ''or customs and border protection officer''; and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist''.

(4) DEDUCTIONS FROM PAY.—The table contained in section 8422(a)(3) of title 5, United States Code, is amended by adding at the end the following:

Customs and border protection agriculture specialist and customs and border protection seized property specialist	7.5	After April 1, 2009.

(5) GOVERNMENT CONTRIBUTIONS.—Paragraphs (1)(B)(i) and (3) of section 8423(a) of title 5, United States Code, are amended by inserting ''customs and border protection agriculture specialists, and customs and border protection seized property specialists'' after ''customs and border protection officers,'' each place it appears.

(6) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, is amended—

(A) by striking ''or customs and border protection officer who'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist who''; and

(B) by striking ''or customs and border protection officer as the case may be'' and inserting ''or customs and border protection officer, customs and border protection agriculture specialist, or customs and border protection seized property specialist as the case may be''.

(c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—Section 3307(g) of title 5, United States Code, is amended by striking ''customs and border protection officer, as defined by section 8401(36)'' and inserting ''customs and border protection officer, customs and border protection agriculture specialist, and customs and border protection seized property specialist, as defined by section 8401 (36), (37), and (38), respectively''.

(d) REGULATIONS.—Any regulations necessary to carry out the amendments made by

this section shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary.

(e) EFFECTIVE DATE; TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first pay period beginning at least 6 months after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6), respectively, shall not apply to an individual first appointed as a customs and border protection agriculture specialist or customs and border protection seized property officer before the effective date under paragraph (1).

(B) TREATMENT OF PRIOR SERVICE.—

(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section or any amendment made by this section shall be considered to apply with respect to any service performed as a customs and border protection agriculture specialist or customs and border protection seized property specialist before the effective date under paragraph (1).

(ii) EXCEPTIONS.—

(I) Service described in section 8331(32) or 8401(37) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a customs and border protection agriculture specialist by virtue of holding a supervisory or administrative position in the Department.

(II) Service described in section 8331(33) or 8401(38) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a customs and border protection agriculture specialist by virtue of holding a supervisory or administrative position in the Department.

(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a customs and border protection agriculture specialist or customs and border protection seized property specialist on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a customs and border protection agriculture specialist or customs and border protection seized property specialist, respectively, on or after that date, be at least equal to the amount that would be payable—

(i) to the extent that such service is subject to the Civil Service Retirement System, by applying section 8339(d) of title 5, United States Code, with respect to such service; and

(ii) to the extent such service is subject to the Federal Employees Retirement System, by applying section 8415(d) of title 5, United States Code, with respect to such service.

(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) shall be considered to apply with respect to any appointment made before the effective date under paragraph (1).

(3) ELECTION.—

(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term ''incumbent'' means an individual who is serving as a customs and border protection agriculture specialist or customs and border protection seized property specialist on the date of the enactment of this Act.

(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

(C) ELECTION AVAILABLE TO INCUMBENTS.—

(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

(I) to be treated in accordance with the amendments made by subsection (a) or (b), as applicable; or

(II) to be treated as if subsections (a) and (b) had never been enacted.

Failure to make a timely election under this paragraph shall be treated in the same way as an election made under subclause (I) on the last day allowable under clause (ii).

(ii) DEADLINE.—An election under this paragraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term ''customs and border protection agriculture specialist'' has the meaning given such term by section 8331(32) or 8401(37) of title 5, United States Code (as amended by this section).

(B) the term ''customs and border protection seized property specialist'' has the meaning given such term by section 8331(33) or 8401(38) of title 5, United States Code (as amended by this section).

(5) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

(A) holds a position within U.S. Customs and Border Protection; and

(B) is considered a law enforcement officer for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.

SEC. 816. EQUIPMENT SUPPORT.

Not later than 90 days after the date of enactment of this Act, the Commissioner responsible for U.S. Customs and Border Protection shall—

(1) determine the minimum equipment and other resources at U.S. Customs and Border Protection agriculture inspection stations and facilities that are necessary for customs and border protection agriculture specialists to carry out their mission fully and effectively;

(2) complete an inventory of the equipment and other resources available at each U.S. Customs and Border Protection agriculture inspection station and facility;

(3) identify the gaps between the necessary level of equipment and other resources and those available at agriculture inspection stations and facilities; and

(4) develop a plan to address any gaps identified under paragraph (3).

SEC. 817. REPORTS.

(a) IMPLEMENTATION OF ACTION PLANS AND EQUIPMENT SUPPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(1) the status of the implementation of action plans developed by the Animal and Plant Health Inspection Service-U.S. Customs and Border Protection Joint Task Force on Improved Agriculture Inspection;

(2) the findings of the Commissioner under section 816; and

(3) the plan described in section 816(4).

(b) IMPLEMENTATION OF SUBTITLE.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner responsible for U.S. Customs and Border Protection, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

(1) the implementation of the requirements of this subtitle not addressed in the report required under subsection (a); and

(2) any additional legal authority believed necessary to carry out the Department's agriculture inspection mission effectively.

TITLE IX—PREPAREDNESS AND RESPONSE PROVISIONS

SEC. 901. NATIONAL PLANNING.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311) is amended by adding at the end the following:

''SEC. 525. NATIONAL PLANNING.

''(a) DEFINITIONS.—In this section—

''(1) the term 'operations plan' means a plan that—

''(A) identifies the resource, personnel, and asset allocations necessary to execute the objectives of a strategic plan and turn strategic priorities into operational execution; and

''(B) contains a full description of specific roles, responsibilities, tasks, integration, and actions required under the plan; and

''(2) the term 'strategic plan' means a plan that—

''(A) outlines strategic priorities and broad national strategic objectives, and describes intended outcomes; and

''(B) defines the mission, identifies authorities, delineates roles, responsibilities, and essential tasks, and determines and prioritizes required capabilities.

''(b) NATIONAL PLANNING SYSTEM.—The President, through the Secretary and the Administrator, in conjunction with the heads of appropriate Federal departments and agencies, and in consultation with the National Advisory Council established under section 508, shall develop a national planning system that—

''(1) provides common processes across Federal departments and agencies for developing plans to prevent, prepare for, protect against, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters;

''(2) includes a process for modifying plans described under paragraph (1) to reflect developments in risk, capabilities, or policies and incorporate lessons learned from exercises and events;

''(3) provides for the development of—

''(A) strategic guidance that outlines broad national strategic objectives and priorities and is intended to guide the development of strategic and operations plans;

''(B) strategic plans to address those hazards that pose the greatest risk, including natural disasters, acts of terrorism, and other man-made disasters, and, where appropriate, the national planning scenarios prescribed in section 645 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 745); and

''(C) operations plans by all relevant Federal departments and agencies, including operations plans required under section 653(b) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 753(b)) and such other operations plans as necessary for the execution of the roles and responsibilities identified by such strategic plans; and

''(D) such other plans as the Secretary determines necessary;

''(4) includes practical planning instruction and planning templates that may be voluntarily used or adapted by State, local, and tribal governments, in order to promote consistent planning for all hazards, including

natural disasters, acts of terrorism, and other man-made disasters, across Federal, State, local, and tribal governments; and

''(5) includes processes for linking Federal plans with those of State, local, and tribal governments.

''(c) STATE, LOCAL, AND TRIBAL PLANNING.—The Secretary, through the Administrator, shall—

''(1) promote the planning system developed under subsection (b) to State and local governments and provide assistance, as appropriate, with the development of plans to prevent, prepare for, protect against, respond to, and recover from all hazards, including natural disasters, acts of terrorism and other man-made disasters; and

''(2) develop a means by which strategic and operations plans developed by State, local, and tribal governments and Federal strategic and operations plans developed under the national planning system required under subsection (b), may be coordinated and aligned.

''(d) REPORT.—Not later than 1 year after the date of enactment of this section, and every year thereafter until the date that is 11 years after such date of enactment, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on—

''(1) the status of the national planning system required under subsections (b), and a document describing the system;

''(2) the status of strategic guidance and strategic and operations plans and other plans developed under the national planning system;

''(3) the current ability of Federal departments and agencies to execute the plans developed under the national planning system and any additional resources required to enable execution of such plans; and

''(4) the extent to which State, local, and tribal planning efforts and Federal planning efforts are being coordinated.''.

SEC. 902. PREDISASTER HAZARD MITIGATION.

(a) IN GENERAL.—

(1) ALLOCATION OF FUNDS.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

''(f) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

''(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

''(A) is not less than the lesser of—

''(i) $575,000; and

''(ii) the amount that is equal to 1 percent of the total funds appropriated to carry out this section for the fiscal year; and

''(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.''.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended to read as follows:

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $210,000,000 for fiscal year 2009;

''(2) $220,000,000 for fiscal year 2010;

''(3) $230,000,000 for fiscal year 2011;

''(4) $240,000,000 for fiscal year 2012; and

''(5) $250,000,000 for fiscal year 2013.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) in section 204(b) (42 U.S.C. 5134(b)), by striking ''Director'' and inserting ''Administrator'';

(2) in section 303(b) (42 U.S.C. 5144(b)), by striking ''Director'' each place it appears and inserting ''Administrator'';

(3) in section 326(c)(3) (42 U.S.C. 5165d(c)(3)), by striking ''Director'' and inserting ''Administrator'';

(4) in section 404(b) (42 U.S.C. 5170c(b)), by striking ''Director'' each place it appears and inserting ''Administrator'';

(5) in section 406 (42 U.S.C. 5172), by striking ''Director'' each place it appears and inserting ''Administrator'';

(6) in section 602(a) (42 U.S.C. 5195a(a))—

(A) in paragraph (4), by striking ''Director'' and inserting ''Administrator''; and

(B) by striking paragraph (7) and inserting the following:

''(7) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.'';

(7) in sections 603 through 613 (42 U.S.C. 5195b et seq.), by striking ''Director'' each place it appears and inserting ''Administrator'';

(8) in sections 616 and 621 (42 U.S.C. 5196f and 5197), by striking ''Director'' each place it appears and inserting ''Administrator'';

(9) in section 622 (42 U.S.C. 5197a)—

(A) in subsection (a), by striking ''Director'' each place it appears and inserting ''Administrator'';

(B) in subsection (b), by striking ''Director'' and inserting ''Administrator''; and

(C) in subsection (c)—

(i) by striking ''Director'' the first place it appears and inserting ''Administrator''; and

(ii) by striking ''Director of the Federal Emergency Management Agency'' each place it appears and inserting ''Administrator'';

(10) in sections 623 and 624 (42 U.S.C. 5197b and 5197c), by striking ''Director'' each place it appears and inserting ''Administrator''; and

(11) in section 629 (42 U.S.C. 5197h), by striking ''Director'' each place it appears and inserting ''Administrator''.

(c) PROGRAM ELIGIBILITY.—Section 203(e) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(e)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) FLOOD CONTROL PROJECTS.—

''(A) IN GENERAL.—A State may use not more than 25 percent of the financial assistance under this section made available to the State in a fiscal year (including any such financial assistance made available to local governments of the State) for flood control projects.

''(B) DEFINITION.—In this paragraph, the term 'flood control project'—

''(i) means—

''(I) a project relating to the construction, demolition, repair, or improvement of a dam, dike, levee, floodwall, seawall, groin, jetty, or breakwater;

''(II) a waterway channelization; or

''(III) an erosion project relating to beach nourishment or renourishment; and

''(ii) does not include any project the maintenance of which is the responsibility of a Federal department or agency, including the Corps of Engineers.''.

SEC. 903. COMMUNITY PREPAREDNESS.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311), as amended by section 901 of this Act, is amended by adding at the end the following:

''SEC. 526. COMMUNITY PREPAREDNESS.

''(a) IN GENERAL.—The Administrator shall assist State, local, and tribal governments in enhancing and promoting the preparedness of individuals and communities for natural disasters, acts of terrorism, and other man-made disasters.

''(b) COORDINATION.—Where appropriate, the Administrator shall coordinate with private sector and nongovernmental organizations to promote community preparedness.

''(c) DIRECTOR.—The Administrator shall appoint a Director of Community Preparedness to coordinate and oversee the Agency's community preparedness activities.''.

SEC. 904. METROPOLITAN MEDICAL RESPONSE SYSTEM.

(a) IN GENERAL.—Title XX of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 804 of this Act, is amended by adding at the end the following:

''SEC. 2042. METROPOLITAN MEDICAL RESPONSE SYSTEM.

''(a) IN GENERAL.—There is in the Department a Metropolitan Medical Response System, which shall assist State, local, and tribal governments in preparing for and responding to mass casualty incidents resulting from natural disasters, acts of terrorism and other man-made disasters.

''(b) FINANCIAL ASSISTANCE.—

''(1) AUTHORIZATION OF GRANTS.—

''(A) IN GENERAL.—The Secretary, through the Administrator, may make grants under this section to State, local, and tribal governments to assist in preparing for and responding to mass casualty incidents resulting from natural disasters, acts of terrorism, and other man-made disasters.

''(B) CONSULTATION.—In developing guidance for grants authorized under this section, the Administrator shall consult with the Chief Medical Officer.

''(2) USE OF FUNDS.—

''(A) IN GENERAL.—A grant made under this section may be used in support of public health and medical preparedness, including—

''(i) medical surge capacity;

''(ii) mass prophylaxis;

''(iii) chemical, biological, radiological, nuclear, and explosive detection, response, and decontamination capabilities;

''(iv) mass triage;

''(v) planning;

''(vi) information sharing and collaboration capabilities;

''(vii) medicinal stockpiling;

''(viii) fatality management;

''(ix) training and exercises;

''(x) integration and coordination of the activities and capabilities of public health personnel and medical care providers with those of other emergency response providers as well as private sector and nonprofit organizations; and

''(xi) such other activities as the Administrator may provide.

''(3) ELIGIBILITY.—

''(A) IN GENERAL.—Any jurisdiction that received funds through the Metropolitan Medical Response System in fiscal year 2008 shall be eligible to receive a grant under this section.

''(B) ADDITIONAL JURISDICTIONS.—

''(i) UNREPRESENTED STATES.—

''(I) IN GENERAL.—For any State in which no jurisdiction received funds through the Metropolitan Medical Response System in fiscal year 2008, or in which funding was received only through another State, the metropolitan statistical area in such State with the largest population shall be eligible to receive a grant under this section.

''(II) LIMITATION.—For each of fiscal years 2009 through 2011, no jurisdiction that would

otherwise be eligible to receive grants under subclause (I) shall receive a grant under this section if it would result in any jurisdiction under subparagraph (A) receiving less funding than such jurisdiction received in fiscal year 2008.

''(ii) OTHER JURISDICTIONS.—

''(I) IN GENERAL.—The Administrator, at the discretion of the Administrator, may determine that additional jurisdictions are eligible to receive grants under this section.

''(II) LIMITATION.—For each of fiscal years 2009 through 2011, the eligibility of any additional jurisdiction to receive grants under this section is subject to the availability of appropriations beyond that necessary to—

''(aa) ensure that each jurisdiction eligible to receive a grant under subparagraph (A) does not receive less funding than such jurisdiction received in fiscal year 2008; and

''(bb) provide grants to jurisdictions eligible under clause (i).

''(C) REGIONAL COORDINATION.—The Administrator shall ensure that each recipient of a grant under this section, as a condition of receiving such grant, is actively coordinating its preparedness efforts with surrounding jurisdictions, with the government of the State in which the jurisdiction is located, and with emergency response providers from all relevant disciplines, to effectively enhance regional preparedness.

''(4) DISTRIBUTION OF FUNDS.—

''(A) ALLOCATION.—For each fiscal year, the Administrator shall allocate funds for grants under this section among eligible jurisdictions in the same manner that such allocations were made in fiscal year 2008.

''(B) STATE DISTRIBUTION OF FUNDS.—

''(i) IN GENERAL.—The Administrator shall distribute grant funds under this section to the State in which the jurisdiction receiving a grant under this section is located.

''(ii) PASS THROUGH.—Subject to clause (iii), not later than 45 days after the date on which a State receives grant funds under clause (i), the State shall provide the jurisdiction receiving the grant 100 percent of the grant funds.

''(iii) EXCEPTION.—The Administrator, in the discretion of the Administrator, may permit a State to provide to a jurisdiction receiving a grant under this section 90 percent of the grant funds awarded if doing so would not result in any jurisdiction eligible for a grant under paragraph (3)(A) receiving less funding than such jurisdiction received in fiscal year 2008.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program—

''(1) $75,000,000 for each of fiscal years 2009 through 2013; and

''(2) such sums as may be necessary for each of fiscal years 2014 and 2015.''.

(b) PROGRAM REVIEW.—

(1) IN GENERAL.—The Administrator and the Chief Medical Officer shall conduct a review of the Metropolitan Medical Response System authorized under section 2042 of the Homeland Security Act of 2002, as added by subsection (a), including an examination of—

(A) the goals and objectives of the Metropolitan Medical Response System;

(B) the extent to which the goals and objectives are being met;

(C) the performance metrics that can best help assess whether the Metropolitan Medical Response System is succeeding;

(D) how the Metropolitan Medical Response System can be improved;

(E) how the Metropolitan Medical Response System does or does not relate to other Department-supported preparedness programs;

(F) how eligibility for financial assistance, and the allocation of financial assistance, under the Metropolitan Medical Response System, should be determined; and

(G) the resource requirements of the Metropolitan Medical Response System.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Medical Officer shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the results of the review under this subsection.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 635 of the Post-Katrina Management Reform Act of 2006 (6 U.S.C. 723) is repealed.

SEC. 905. EMERGENCY MANAGEMENT ASSISTANCE COMPACT.

Section 661(d) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 761(d)) is amended by striking ''2008'' and inserting ''2009''.

SEC. 906. CLARIFICATION ON USE OF FUNDS.

Section 2008 of the Homeland Security Act of 2002 (6 U.S.C. 609) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''Grants'' and all that follows through ''used'' and inserting the following: ''The Administrator shall permit the recipient of a grant under section 2003 or 2004 to use grant funds''; and

(B) in paragraph (10), by inserting '', regardless of whether such analysts are current or new full-time employees or contract employees'' after ''analysts''; and

(2) in subsection (b)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(B) by inserting after paragraph (2) the following:

''(3) LIMITATIONS ON DISCRETION.—

''(A) IN GENERAL.—With respect to the use of amounts awarded to a grant recipient under section 2003 or 2004 for personnel costs in accordance with paragraph (2) of this subsection, the Administrator may not—

''(i) impose a limit on the amount of the award that may be used to pay for personnel, or personnel-related, costs that is higher or lower than the percent limit imposed in paragraph (2)(A); or

''(ii) impose any additional limitation on the portion of the funds of a recipient that may be used for a specific type, purpose, or category of personnel, or personnel-related, costs.

''(B) ANALYSTS.—If amounts awarded to a grant recipient under section 2003 or 2004 are used for paying salary or benefits of a qualified intelligence analyst under subsection (a)(10), the Administrator shall make such amounts available without time limitations placed on the period of time that the analyst can serve under the grant.''.

SEC. 907. COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM.

Title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et seq.), as amended by section 904 of this Act, is amended by adding at the end the following:

''SEC. 2043. COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, through the Administrator, is authorized to provide equipment, equipment training, and equipment technical assistance to assist State and local law enforcement and other emergency response providers in preventing, preparing for, protecting against, responding to, and recovering from natural disasters, acts of terrorism, and other man-made disasters.

''(b) ELIGIBILITY.—A law enforcement agency, fire department, emergency medical service, emergency management agency, public safety agency, or other emergency response agency shall be eligible to apply for direct equipment, training, and technical assistance under this section, if such an applicant—

''(1) has not received equipment funding or other assistance under a grant under the Assistance to Firefighters Grant Program during the 2-year period ending on the application deadline for the Commercial Equipment Direct Assistance Program in any fiscal year; and

''(2) has not received equipment funding, or other assistance under a grant under section 2003 during the 2-year period ending on the application deadline for the Commercial Equipment Direct Assistance Program in any fiscal year.

''(c) APPLICATION.—

''(1) IN GENERAL.—An applicant for direct equipment, training, or technical assistance under this section shall submit such information in support of the application as the Administrator may require, including an explanation of how any requested equipment will be used to support a system of mutual aid among neighboring jurisdictions.

''(2) STATE CONCURRENCE.—

''(A) IN GENERAL.—An emergency response agency submitting an application for direct equipment, training, or technical assistance under this section shall provide a copy of the application to the State within which the agency is located not later than the date on which the agency submits the application to the Administrator.

''(B) NOTICE.—If the Governor of a State determines that the application of an emergency response agency provided under subparagraph (A) is inconsistent with the homeland security plan of that State, or otherwise does not support the application, not later than 30 days after receipt of that application the Governor shall—

''(i) notify the Administrator, in writing, of that fact; and

''(ii) provide an explanation of the reason for not supporting the application.

''(d) LIMITATIONS ON DIRECT ASSISTANCE.—

''(1) TRAINING AND TECHNICAL ASSISTANCE.—Not more than 40 percent of the amount appropriated pursuant to the authorization of appropriations under this section in any fiscal year may be used to pay for training and technical assistance.

''(2) VOLUNTARY CONSENSUS STANDARDS.—The Administrator may not directly provide to a law enforcement or other emergency response agency under this section equipment that does not meet applicable voluntary consensus standards, unless the agency demonstrates that there are compelling reasons for such provision of equipment.

''(3) PROHIBITION AND OTHER USE.—No amount appropriated pursuant to the authorization of appropriations under this section may be used for an assessment and validation program or for any other purpose or program not provided for in this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2009 through 2012.''.

SEC. 908. TASK FORCE FOR EMERGENCY READINESS.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 903 of this Act, is amended by adding at the end the following:

''SEC. 527. TASK FORCE FOR EMERGENCY READINESS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'national planning scenarios' means the national planning scenarios developed under section 645 of the Post Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 745); and

''(2) the term 'operational readiness' has the meaning given that term in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741).

''(b) PILOT PROGRAM.—

''(1) IN GENERAL.—The Administrator, in coordination with the Secretary of Defense, shall establish, for the purposes set out in subsection (c), a Task Force for Emergency Readiness pilot program for fiscal years 2010, 2011, and 2012.

''(2) TASK FORCE ESTABLISHMENT.—Under the program described in paragraph (1), the Administrator shall establish a Task Force for Emergency Readiness in not fewer than 5 States.

''(3) TASK FORCE MEMBERSHIP.—Each task force established under the program under this subsection shall consist of—

''(A) State and local emergency planners from the applicable State, including National Guard planners in State status, appointed by the Governor of the applicable State;

''(B) experienced emergency planners from the Agency, designated by the Administrator, in conjunction with the Regional Administrator for the applicable State; and

''(C) experienced emergency planners from the Department of Defense, designated by the Secretary of Defense, which may include civilian and military personnel.

''(c) PURPOSES.—The purpose of the Task Force for Emergency Readiness pilot program authorized under subsection (b) is to assist each State participating in the pilot program in—

''(1) planning to prevent, prepare for, protect against, respond to, and recover from catastrophic incidents, including, as appropriate, incidents identified in the national planning scenarios;

''(2) coordinating the planning efforts of the State with those of other States;

''(3) coordinating planning efforts of the State with those of the Federal Government;

''(4) using plans developed to respond to catastrophic incidents for training and exercises consistent with section 648 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748); and

''(5) monitoring and improving the operational readiness of the State, consistent with the national preparedness system required by chapter 1 of subtitle C of title VI of the Post Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741 et seq.).

''(d) DIRECTION.—The planning activities of a task force established under this section shall be directed by the Governor of the applicable State.

''(e) PARTICIPATING STATES.—The States participating in the Task Force for Emergency Readiness pilot program shall be selected—

''(1) by the Administrator, with the consent of the Governor of the applicable State and in coordination with the Regional Administrator of the applicable region of the Agency; and

''(2) to the maximum extent practicable, from different regions of the Agency.

''(f) REPORT.—Not later than 2 years after the date of enactment of the Department of Homeland Security Authorization Act of 2008 and 2009, the Administrator, in conjunction with the Assistant Secretary of Defense for Homeland Defense, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the implementation and effectiveness of the Task Force for Emergency Readiness pilot program, and shall provide recommendations for modifications to or expansion of the program.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.''.

SEC. 909. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 514 of the Homeland Security Act of 2002 (6 U.S.C. 321c) is amended by adding at the end the following:

''(d) DIRECTOR OF GRANT PROGRAMS.—There shall be in the Agency a Director of Grant Programs, who shall be appointed by the President by and with the advice and consent of the Senate.''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by inserting after the item relating to section 524 the following:

''Sec. 525. National planning.
''Sec. 526. Community Preparedness.
''Sec. 527. Task force for emergency readiness.''; and

(2) by adding after the item relating to section 2041, as added by section 804 of this Act, the following:

''Sec. 2042. Metropolitan Medical Response System.
''Sec. 2043. Commercial Equipment Direct Assistance Program.''.

TITLE X—NATIONAL BOMBING PREVENTION ACT

SEC. 1001. BOMBING PREVENTION.

(a) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), as amended by section 501 of this Act, is amended by adding at the end the following:

''SEC. 210G. OFFICE FOR BOMBING PREVENTION.

''(a) IN GENERAL.—There is in the Department an Office for Bombing Prevention (in this section referred to as 'the Office') within the Office of Infrastructure Protection.

''(b) RESPONSIBILITIES.—The Office shall have the primary responsibility within the Department for enhancing the ability, and coordinating the efforts, of the Nation to deter, detect, prevent, protect against, and respond to terrorist explosive attacks, including by—

''(1) serving as the lead agency of the Department for ensuring that programs designed to counter terrorist explosive attacks nationwide, function together efficiently to meet the evolving threat from explosives and improvised explosive devices;

''(2) coordinating, in consultation with the National Domestic Preparedness Consortium of the Department and in coordination with the Attorney General, national and intergovernmental bombing prevention training activities to ensure those activities work toward achieving common national goals;

''(3) conducting, in coordination with the Attorney General, analysis of the capabilities and requirements necessary for State and local governments to deter, prevent, detect, protect against, and assist in any response to terrorist explosive attacks by—

''(A) maintaining a national analysis database on the capabilities of bomb squads, explosive detection canine teams, tactics teams, and public safety dive teams; and

''(B) applying the analysis derived from the database described in subparagraph (A) in—

''(i) evaluating progress toward closing identified gaps relating to applicable national strategic goals and standards; and

''(ii) informing decisions relating to homeland security policy, assistance, training, research, development efforts, and testing and evaluation, and related requirements;

''(4) promoting secure information sharing of sensitive material relating to terrorist explosives and promoting security awareness, including by—

''(A) operating and maintaining a secure information sharing system that allows the sharing of critical information relating to terrorist explosive attack tactics, techniques, and procedures;

''(B) in consultation with the Attorney General, educating the public and private sectors about explosive precursor chemicals;

''(C) working with international partners, in coordination with the Office for International Affairs of the Department and the Attorney General, to develop and share effective practices to deter, prevent, detect, protect, and respond to terrorist explosive attacks; and

''(D) executing national public awareness and vigilance campaigns relating to terrorist explosive threats, preventing explosive attacks, and activities and measures underway to safeguard the Nation;

''(5) assisting, in consultation with the Administrator of the Federal Emergency Management Agency, State and local governments in developing multijurisdictional improvised explosive devices security plans for high-risk jurisdictions;

''(6) helping to ensure, in coordination with the Under Secretary for Science and Technology and the Administrator of the Federal Emergency Management Agency, the identification and availability of effective technology applications through field pilot testing and acquisition of such technology applications by Federal, State, and local governments to deter, prevent, detect, protect, and respond to terrorist explosive attacks;

''(7) coordinating, in consultation with the Attorney General, other departments and agencies of Federal, State, and local government, and the private sector, the efforts of the Department to assist in the development and promulgation of national explosives detection canine training, certification, and performance standards;

''(8) coordinating the efforts to implement within the Department applicable explosives detection training, certification, and performance standards;

''(9) ensuring the implementation of any recommendations and responsibilities of the Department contained in the national strategy described in section 210H, including developing, maintaining, and tracking progress toward achieving objectives to reduce the Nation's vulnerability to terrorist attacks using explosives or improvised explosive devices; and

''(10) developing, in coordination with the Administrator of the Federal Emergency Management Agency, programmatic guidance and permitted uses for bombing prevention activities funded by homeland security assistance administered by the Department.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

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

''(A) $25,000,000 for each of fiscal years 2009 through 2010; and

''(B) such sums as are necessary for each fiscal year thereafter.

''(2) AVAILABILITY.—Amounts made available pursuant to this subsection shall remain available until expended.

''SEC. 210H. NATIONAL STRATEGY.

''(a) IN GENERAL.—The President shall develop and periodically update a national strategy to prevent and prepare for terrorist attacks in the United States using explosives or improvised explosive devices.

''(b) DEVELOPMENT.—Not later than 90 days after the date of enactment of this section, the President shall develop the national strategy described in subsection (a).

''(c) REPORTING.—Not later than 6 months after the date of submission of the report regarding each quadrennial homeland security review conducted under section 621(c), the President shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on

Homeland Security of the House of Representatives a report regarding the national strategy described in subsection (a), which shall include recommendations, if any, for deterring, preventing, detecting, protecting against, and responding to terrorist attacks in the United States using explosives or improvised explosive devices, including any such recommendations relating to coordinating the efforts of Federal, State, local, and tribal governments, emergency response providers, and the private sector.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 210F, as added by section 501 of this Act, the following:

''Sec. 210G. Office for Bombing Prevention.
''Sec. 210H. National strategy.''.

SEC. 1002. EXPLOSIVES TECHNOLOGY DEVELOPMENT AND TRANSFER.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by section 703 of this Act, is amended by adding at the end the following:

''SEC. 320. EXPLOSIVES RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, the Attorney General, the Secretary of Defense, and the head of any other relevant Federal department or agency, shall—

''(1) evaluate and assess nonmilitary research, development, testing, and evaluation activities of the Federal Government relating to the detection and prevention of, protection against, and response to explosive attacks within the United States; and

''(2) make recommendations for enhancing coordination of the research, development, testing, and evaluation activities described in paragraph (1).

''(b) MILITARY RESEARCH.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs, shall coordinate with the Secretary of Defense, the Attorney General, and the head of any other relevant Federal department or agency to ensure that, to the maximum extent possible, military information and research, development, testing, and evaluation activities relating to the detection and prevention of, protection against, and response to explosive attacks, and the development of tools and technologies necessary to neutralize and disable explosive devices, are applied to nonmilitary uses.

''SEC. 321. TECHNOLOGY TRANSFER.

''(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, and in coordination with the Under Secretary for National Protection and Programs and the Attorney General, shall establish a technology transfer program to facilitate the identification, modification, and commercialization of technology and equipment for use by State and local governmental agencies, emergency response providers, and the private sector to deter, prevent, detect, protect, and respond to explosive attacks within the United States.

''(b) PROGRAM.—The activities under the program established under subsection (a) shall include—

''(1) applying the analysis conducted under section 210G(b)(3) of the capabilities and requirements of bomb squads, explosive detection canine teams, tactical teams, and public safety dive teams of State and local governments, to assist in the determination of training and technology requirements for State and local governments, emergency response providers, and the private sector;

''(2) identifying available technologies designed to deter, prevent, detect, protect, or respond to explosive attacks that have been, or are in the process of being, developed, tested, evaluated, or demonstrated by the Department, other Federal agencies, the private sector, foreign governments, or international organizations;

''(3) reviewing whether a technology described in paragraph (2) may be useful in assisting Federal, State, or local governments, emergency response providers, or the private sector in detecting, deterring, preventing, or responding to explosive attacks;

''(4) communicating, in coordination with the Attorney General, to Federal, State, and local governments, emergency response providers, and the private sector the availability of any technology described in paragraph (2), including providing the specifications of such technology, indicating whether such technology satisfies applicable standards, and identifying grants, if any, available from the Department to purchase such technology; and

''(5) developing and assisting in the deployment of electronic countermeasures to protect high-risk critical infrastructure and key resources.

''(c) WORKING GROUP.—To facilitate the transfer of military technologies, the Secretary, acting through the Under Secretary for Science and Technology, in coordination with the Attorney General and the Secretary of Defense, and in a manner consistent with protection of sensitive sources and methods, shall establish a working group, or use an appropriate interagency body in existence on the date of enactment of this section, to advise and assist in the identification of military technologies designed to deter, prevent, detect, protect, or respond to explosive attacks that are in the process of being developed, or are developed, by the Department of Defense or the private sector.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 319, as added by section 703 of this Act, the following:

''Sec. 320. Explosives research and development.
''Sec. 321. Technology transfer.''.

SEC. 1003. SAVINGS CLAUSE.

Nothing in this title or the amendments made by this title may be construed to limit or otherwise affect the authorities or responsibilities of the Attorney General.

TITLE XI—FEDERAL PROTECTIVE SERVICE AUTHORIZATION

SEC. 1101. AUTHORIZATION OF FEDERAL PROTECTIVE SERVICE PERSONNEL.

(a) IN GENERAL.—The Secretary shall ensure that—

(1) in fiscal year 2009 the Federal Protective Service maintains not fewer than 1,200 full-time equivalent employees, including not fewer than 900 full-time equivalent police officers, inspectors, area commanders, and criminal investigators who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings; and

(2) in fiscal year 2010 the Federal Protective Service maintains not fewer than 1,300 full-time equivalent employees, including not fewer than 950 full-time equivalent police officers, inspectors, area commanders, and criminal investigators who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings.

(b) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit a report on recommendations for a funding structure for the Federal Protective Service to—

(A) the Committee on Appropriations of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Appropriations of the House of Representatives;

(D) the Committee on Homeland Security of the House of Representatives; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report submitted under this subsection shall include—

(A) an evaluation of whether all, part, or none of the Federal Protective Service should be funded by fee collections, direct appropriations, or an alternative funding mechanism;

(B) an evaluation of the basis for assessing any security fees charged to agencies which utilize the Federal Protective Service, including whether such fees should be assessed based on square footage of facilities or by some other means; and

(C) an evaluation of assessing an enhanced security fee, in addition to a basic security fee, to facilities or agencies which require an enhanced level of service from the Federal Protective Service.

(c) ADJUSTMENT OF FEES.—The Federal Protective Service shall adjust fees as necessary to ensure collections are sufficient to carry out subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

(1) $650,000,000 for fiscal year 2009; and

(2) $675,000,000 for fiscal year 2010.

(e) SAVINGS CLAUSE.—Nothing in this section shall prohibit the Federal Protective Service from continuing to provide reimbursable security and law enforcement services as requested by other Federal agencies and organizations, without limitation to the appropriations authorized by this section.

SEC. 1102. REPORT ON PERSONNEL NEEDS OF THE FEDERAL PROTECTIVE SERVICE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall enter into a contract with an independent consultant to—

(1) prepare a report that recommends the appropriate level and composition of staffing required to accomplish the law enforcement response, proactive patrols, 24-hour service in major metropolitan areas, support to building security committees, assistance with emergency plans, supervision and monitoring of contract guards, implementation and maintenance of security systems and countermeasures, and other missions of the Federal Protective Service, including recommendations for full-time equivalent police officers, inspectors, area commanders, criminal investigators, canine units, administrative and support staff, and contract security guards; and

(2) submit the report to—

(A) the Secretary;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Homeland Security of the House of Representatives;

(D) the Committee on Transportation and Infrastructure of the House of Representatives; and

(E) the Committees on Appropriations of the Senate and the House of Representatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

SEC. 1103. AUTHORITY FOR FEDERAL PROTECTIVE SERVICE OFFICERS AND INVESTIGATORS TO CARRY WEAPONS DURING OFF-DUTY TIMES.

Section 1315(b)(2) of title 40, United States Code, is amended by striking ''While engaged in the performance of official duties, an'' and inserting ''An''.

SEC. 1104. AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, as amended by section 815 of this Act, is amended by adding at the end the following:

''(34) 'Federal protective service officer' means an employee in the Federal Protective Service, Department of Homeland Security—

''(A) who holds a position within the GS–0083, GS–0080, GS–1801, or GS–1811 job series (determined applying the criteria in effect as of September 1, 2007 or any successor position; and

''(B) who are authorized to carry firearms and empowered to make arrests in the performance of duties related to the protection of buildings, grounds and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality or wholly owned or mixed-ownership corporation thereof) and the persons on the property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described under subparagraph (A)) for at least 3 years.''.

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, as amended by section 815 of this Act, is amended—

(A) in subsection (a)(1)(A), by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''; and

(B) in the table contained in subsection (c), by adding at the end the following:

''Federal Protective Service Officer	7.5	After June 29, 2009.''.

(3) MANDATORY SEPARATION.—The first sentence of section 8335(b)(1) of title 5, United States Code, as amended by section 815 of this Act, is amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(4) IMMEDIATE RETIREMENT.—Section 8336 of title 5, United States Code, as amended by section 815 of this Act, is amended—

(A) in subsection (c)(1), by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''; and

(B) in subsections (m) and (n), by inserting ''as a Federal protective service officer,'' before ''or as a customs and border protection officer,''.

(b) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8401 of title 5, United States Code, as amended by section 815 of this Act, is amended by adding at the end the following:

''(39) 'Federal protective service officer' means an employee in the Federal Protective Service, Department of Homeland Security—

''(A) who holds a position within the GS–0083, GS–0080, GS–1801, or GS–1811 job series (determined applying the criteria in effect as of September 1, 2007 or any successor position; and

''(B) who are authorized to carry firearms and empowered to make arrests in the performance of duties related to the protection of buildings, grounds and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality or wholly owned or mixed-ownership corporation thereof) and the persons on the property, including any such employee who is transferred directly to a supervisory or administrative position in the Department of Homeland Security after performing such duties in 1 or more positions (as described under subparagraph (A)) for at least 3 years.''.

(2) IMMEDIATE RETIREMENT.—Paragraphs (1) and (2) of section 8412(d) of title 5, United States Code, as amended by section 815 of this Act, are amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(3) COMPUTATION OF BASIC ANNUITY.—Section 8415(h)(2) of title 5, United States Code, as amended by section 815 of this Act, is amended by inserting ''Federal protective service officer,'' before ''or customs and border protection officer,''.

(4) DEDUCTIONS FROM PAY.—The table contained in section 8422(a)(3) of title 5, United States Code, as amended by section 815 of this Act, is amended by adding at the end the following:

''Federal Protective Service Officer	7.5	After June 29, 2009.''.

(5) GOVERNMENT CONTRIBUTIONS.—Paragraphs (1)(B)(i) and (3) of section 8423(a) of title 5, United States Code, as amended by section 815 of this Act, are amended by inserting ''Federal protective service officer,'' before ''customs and border protection officer,'' each place it appears.

(6) MANDATORY SEPARATION.—Section 8425(b)(1) of title 5, United States Code, as amended by section 815 of this Act, is amended—

(A) by inserting ''Federal protective service officer who,'' before ''or customs and border protection officer,'' the first place it appears; and

(B) inserting ''Federal protective service officer,'' before ''or customs and border protection officer,'' the second place it appears.

(c) MAXIMUM AGE FOR ORIGINAL APPOINTMENT.—Section 3307 of title 5, United States Code, is amended by adding at the end the following:

''(h) The Secretary of Homeland Security may determine and fix the maximum age limit for an original appointment to a position as a Federal protective service officer, as defined by section 8401(39).''.

(d) REGULATIONS.—Any regulations necessary to carry out the amendments made by this section shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary.

(e) EFFECTIVE DATE; TRANSITION RULES; FUNDING.—

(1) EFFECTIVE DATE.—The amendments made by this section shall become effective on the later of June 30, 2009, or the first day of the first pay period beginning at least 6 months after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) NONAPPLICABILITY OF MANDATORY SEPARATION PROVISIONS TO CERTAIN INDIVIDUALS.—The amendments made by subsections (a)(3) and (b)(6), respectively, shall not apply to an individual first appointed as a Federal protective service officer before the effective date under paragraph (1).

(B) TREATMENT OF PRIOR FEDERAL PROTECTIVE SERVICE OFFICER SERVICE.—

(i) GENERAL RULE.—Except as provided in clause (ii), nothing in this section shall be considered to apply with respect to any service performed as a Federal protective service officer before the effective date under paragraph (1).

(ii) EXCEPTION.—Service described in section 8331(34) and 8401(39) of title 5, United States Code (as amended by this section) rendered before the effective date under paragraph (1) may be taken into account to determine if an individual who is serving on or after such effective date then qualifies as a Federal protective service officer by virtue of holding a supervisory or administrative position in the Department of Homeland Security.

(C) MINIMUM ANNUITY AMOUNT.—The annuity of an individual serving as a Federal protective service officer on the effective date under paragraph (1) pursuant to an appointment made before that date shall, to the extent that its computation is based on service rendered as a Federal protective service officer on or after that date, be at least equal to the amount that would be payable to the extent that such service is subject to the Civil Service Retirement System or Federal Employees Retirement System, as appropriate, by applying section 8339(d) of title 5, United States Code, with respect to such service.

(D) RULE OF CONSTRUCTION.—Nothing in the amendment made by subsection (c) shall be considered to apply with respect to any appointment made before the effective date under paragraph (1).

(3) FEES AND AUTHORIZATIONS OF APPROPRIATIONS.—

(A) FEES.—The Federal Protective Service shall adjust fees as necessary to ensure collections are sufficient to carry out amendments made in this section.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(4) ELECTION.—

(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term ''incumbent'' means an individual who is serving as an Federal protective service officer on the date of the enactment of this Act.

(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

(C) ELECTION AVAILABLE TO INCUMBENTS.—

(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

(I) to be treated in accordance with the amendments made by subsection (a) or (b), as applicable; or

(II) to be treated as if subsections (a) and (b) had never been enacted.

(ii) FAILURE TO MAKE A TIMELY ELECTION.—Failure to make a timely election under clause (i) shall be treated in the same way as an election made under clause (i)(I) on the last day allowable under clause (iii).

(iii) DEADLINE.—An election under this subparagraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

(5) DEFINITION.—For the purposes of this subsection, the term ''Federal protective service officer'' has the meaning given such term by section 8331(34) or 8401(39) of title 5, United States Code (as amended by this section).

(6) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

(A) holds a positions within the Federal Protective Service; and

(B) is considered a law enforcement officers for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.

SEC. 1105. FEDERAL PROTECTIVE SERVICE CONTRACTS.

(a) PROHIBITION ON AWARD OF CONTRACTS TO ANY BUSINESS CONCERN OWNED, CONTROLLED, OR OPERATED BY AN INDIVIDUAL CONVICTED OF A FELONY.—

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary of U.S. Immigration and Customs Enforcement—

(A) shall promulgate regulations establishing guidelines for the prohibition of contract awards for the provision of guard services under the contract security guard program of the Federal Protective Service to any business concern that is owned, controlled, or operated by an individual who has been convicted of a felony; and

(B) may consider permanent or interim prohibitions when promulgating the regulations.

(2) CONTENTS.—The regulations under this subsection shall—

(A) identify which serious felonies may prohibit a contractor from being awarded a contract;

(B) require contractors to provide information regarding any relevant felony convictions when submitting bids or proposals; and

(C) provide guidelines for the contracting officer to assess present responsibility, mitigating factors, and the risk associated with the previous conviction, and allow the contracting officer to award a contract under certain circumstances.

(b) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

(c) REPORT ON GOVERNMENT-WIDE APPLICABILITY.—Not later than 18 months after the date of enactment of the Act, the Administrator for Federal Procurement Policy shall submit a report on establishing similar guidelines government-wide to—

(1) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Oversight and Government Reform of the House of Representatives.

By Mr. HATCH:

S. 3626. A bill to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Family and Retirement Health Investment Act of 2008. In these difficult economic times, many Utahns are facing the rising costs of health insurance and medical expenses. This bill would make it easier for families to decrease the cost of health insurance and encourage savings for retirement health care costs.

Briefly stated, this bill would enhance and improve Health Savings Accounts by addressing some of the questions and concerns that have been raised sine HSAs were first enacted in 2003 but were not addressed by the Health Opportunity Patient Empowerment Act of 2006.

Health Savings Accounts were created as an alternative to traditional health insurance. HSAs allow participants to pay for current medical bills while saving for future health care expenses. One of the most attractive features of these accounts is the high degree of control the participants have over how to spend the money and how to manage investments within the account.

Since their creation, HSAs have become increasingly popular. Part of the reason for this is that Health Savings Accounts offer several important tax incentives. Earnings accrued on savings in an HSA are not taxed. Funds can also be withdrawn from an HSA 100 percent tax free, so long as the withdrawal is related to medical care. HSAs are very easy is set up. Anyone can go to his or her local bank, credit union, insurance company, or sometimes even their employer and request to create an HSA.

Broad agreement now exists that Congress must advance reform that will ''bend the growth curve'' in health care inflation. In recent years American families—often along with the businesses they own or work for—have been addressing this inflation on their own, by turning toward health savings account-eligible health plans.

According to one survey, there are now 6.1 million people covered under health plans that are eligible for an HSA, including over 70,000 in my home state of Utah. This is a 35 percent increase over the previous year, and it is clear that businesses large and small see these plans as an innovative solution for their employees' health care needs.

In addition, because HSAs offer lower premiums, existing businesses find that they are able to maintain coverage, while new businesses are able to extend health insurance to their employees. And increasingly, these businesses are funding their employee's HSAs just as they would a 401(k) plan. At the same time, the financial burden on families generally decreases under these plans due to lower premiums and a cap on out-of-pocket expenditures.

Given these attractive features, HSA-eligible health plans will only expand over time. In fact, a recent report estimates that the number of Health Savings Accounts will double between January 2008 and January 2009. It is appropriate, therefore, to continue to make common sense reforms to improve these plans for the families and businesses that are choosing them.

That is what this bill is all about. Among other things, the bill I am introducing would allow a husband and wife to make catch-up contributions to the same HSA; clarify the use of prescription drugs as preventive care that will not be subject to the deductible; promote wellness by expanding the definition of qualified medical expenses to encourage more exercise and better diet; and establish a more equitable tax treatment of health insurance by allowing individuals and families without employer-sponsored insurance the ability to pay for their health insurance premiums with tax-deductible dollars.

This proposal is certainly not a substitute for broader health care reform. Instead, it seeks to improve an important and growing innovation that is a partial answer to the health care puzzle.

As the Senate prepares for a comprehensive health care debate in the coming months, it is important that we do what we can now to promote wellness, decrease costs, and increase coverage. By taking the intermediate steps proposed in this bill, we can facilitate broader reforms by decreasing costs and assisting businesses and families as they seek to make affordable health care choices.

I expect the popularity of HSAs will one day elevate the acronym to the level of IRAs, where no further clarification is required. Today, I ask my colleagues to join me in a bipartisan effort to accelerate that process by supporting this important legislation.

Mr. President, I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

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

FAMILY AND RETIREMENT HEALTH INVESTMENT ACT OF 2008

SECTION-BY-SECTION DESCRIPTION

This bill is designed to make certain enhancements and improvements to Health Savings Accounts (HSAs) by addressing some of the questions and concerns that have been raised since HSAs were first enacted in 2003 but were not addressed by the HOPE Act of 2006.

Section 1. Short Title.

Section 2. Catch-up Contributions by Spouses May Be Made to One Account.

Current law allows HSA-eligible individuals age 55 or older to make additional catch-up contributions each year. However, the contributions must be deposited into separate HSA accounts even if both spouses are eligible to make catch-up contributions. Section 2 would allow the spouse who is the HSA account holder to double their catch-up contribution to account for their eligible spouse.

Section 3. Provisions Relating to Medicare.

a. HSA-eligible seniors enrolled in Medicare Part A only may continue to contribute to their Health Savings Accounts.

Current law restricts HSA participation by Medicare beneficiaries, which means that once a person turns 65, they usually may no longer contribute to their HSA (although they may continue to spend money from an existing HSA). For most seniors, enrollment in Medicare Part A is automatic when receiving Social Security and is difficult to delay or decline enrollment. However, the current deductible for hospital coverage under Medicare Part A is very high, over $1,000 per admission, nearly equal to the minimum deductible required for HSA-qualified plans. Section 3(a) allows Medicare beneficiaries enrolled only in Part A to continue to contribute to their HSA accounts after turning 65 if they are otherwise eligible to contribute to an HSA.

b. Medicare enrollees may contribute their own money to their Medicare Medical Savings Accounts (MSAs).

Current law prohibits Medicare beneficiaries enrolled Medicare Medical Savings Account from contributing their own money to their MSAs. Although created in the 1997 Balanced Budget Act, Medicare MSAs are a relatively new type of plan under the Medicare Advantage program. MSA plans allow

seniors to enroll in a high-deductible plan and receive tax-free contributions from the federal government to HSA-like accounts. However, the government contribution is significantly lower than the plan deductible, and the beneficiary may not contribute any of their own money to fill in the gap. Section 3(b) allows Medicare beneficiaries participating in a Medicare MSA plan to contribute their own tax-deductible money to their MSAs to cover the annual shortfall.

Section 4. Expanded Opportunities for Veterans

Current law prohibits veterans from contributing to the their HSAs if they have utilized VA medical services in the past three months. The bill would remove those restrictions and allow veterans with a service-connected disability to contribute to their HSAs regardless of utilization of VA medical services.

Section 5. Expanded Opportunities for Native Americans

Current law prohibits Native Americans from contributing to their HSAs if they have utilized medical services of the Indian Health Service (IHS) or a tribal organization. The bill would remove those restriction and allow Native Americans to contribute to their HSAs regardless of utilization of IHS or tribal medical services.

Section 6. Improved Opportunities to Roll Over Funds From FSAs and HRAs to Fund HSAs.

The HOPE Act of 2006 (H.R. 6111) allowed employer that offered Flexible Spending Arrangements (FSAs) or Health Reimbursement Arrangements (HRAs) to roll over unused funds to an HSA as employees transitioned to an HSA for the first time. However, the unused FSA funds may not be rolled over the HSAs unless the employer offers a ''grace period'' that allow medical expenses to be reimbursed from an FSA through March 15 of the following year (instead of the usual ''use or lose'' by December 31). In addition, the amount that may be rolled over to the HSA cannot exceed the amount in such an account as of September 21, 2006. This provision effectively limits most employees from ever being able to use unused funds in an FSA or an HRA to help fund their HSAs. Section 6 clarifies current law to provide employers greater opportunity to roll over funds from employees' FSAs or HRAs to their HSAs in a future year in order to ease the transition from FSAs and HRAs to HSAs.

Section 7. Expanded Opportunity to Purchase Health Insurance with HSA Funds.

Under current law, people can only use their HSA account to pay for health insurance premiums when they are receiving federal or state unemployment benefits or are covered by a COBRA continuation policy from a former employer. In addition, HSA funds may not be used to pay for a spouse's Medicare premiums unless the HSA account holder is age 65 or older. Section 7 allows HSA account funds to be used to pay premiums for HSA-qualified policies regardless of their circumstances. This section also clarifies that Medicare premiums for a spouse on Medicare are reimbursable from an HSA even though the HSA account holder is not age 65.

Section 8. Greater Flexibility Using HSA Account to Pay Expenses.

When people enroll in an HSA-qualified plan, some let a few months elapse between the time when their coverage starts (e.g., January) and when the health savings bank account is set up and becomes operational (e.g., March). However, the IRS does not allow for medical expenses incurred in that gap (between January and March) to be reimbursed with HSA funds. Section 8 allows all ''qualified medical expenses'' (as defined under the tax code) incurred after HSA-qualified coverage begins to be reimbursed from an HSA account as long as the account is established by April 15 of the following year.

Section 9. Expanded Definition of ''Preventive'' Drugs

Current law allows ''preventive care'' services to be paid by HSA-qualified plans without being subject to the policy deductible. Although IRS guidance allows certain types of prescription drugs to be considered ''preventive care,'' the guidance generally does not permit plans to include drugs that prevent complications resulting from chronic conditions. Section 9 expands the definition of ''preventive care'' to include medications that prevent worsening of or complications from chronic conditions. This would provide additional flexibility to health plans that want to provide coverage for these medications and remove a perceived barrier to HSAs for people with chronic conditions.

Sections 10–12. Expanded Definition of ''Qualified Medical Expenses.''

With the increasing need to encourage Americans to take better care of their health and reduce the prevalence of obesity, Section 10 and 11 modify the definition of ''qualified medical expenses'' in Section 213(d) of the Internal Revenue Code to include the cost of:

Exercise and physical fitness programs, up to $1,000 per year (Sec. 10)

Nutritional and dietary supplements, including meal replacement products, up 7 to $1,000 per year (Sec. 11)

The modification would affect all health care programs using the definition, including HSAs, HRAs, FSAs and the medical expense deduction when taxpayers itemize.

Finally, the current definition of ''qualified medical expenses'' generally does not include fees charged by primary care physicians that offer pre-paid medical services on demand because there is no direct billing for individual services provided by the physician and the arrangement is not considered ''insurance.'' Section 12 would allow amounts paid by patients to their primary physician in advance for the right to receive medical services on an as-needed basis to be considered a ''qualified medical expense'' under the tax code. The modification would affect all health care programs using the definition, including HSAs, HRAs, FSAs, and the medical expense deduction when taxpayers itemize.

By Mr. HARKIN:

S. 3627. A bill to improve the calculation of, the reporting of, and the accountability for, secondary school graduation rates; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, this fall our Nation's high school graduation class of 2012 took their first steps into their local high school as freshmen. The best research based on data from all 50 states tells us that ⅓ of that class of freshmen will not walk across a stage and receive their diploma with their peers in four years.

Tragically we face a national high school drop out crisis. Every year an estimated 1.23 million students drop out of high school. To put that number in perspective, it is equivalent to the entire population of the ninth largest city in the country, Dallas.

What are the facts of the Nation's dropout epidemic? We know that if you are Black or Hispanic it's essentially a 50-50 chance that you will graduate in 4 years. This disparity exists even in my home State of Iowa, one of the best states in the Nation in terms of graduating kids in 4 years. According to data from the Editorial Projects in Education Research Center, 58 percent of African-American students in Iowa graduate in 4 years—almost 30 points lower than white students—while the graduation rate for Hispanic students is only 54 percent.

Just as the data on racial and ethnic minorities paints a grim picture, a look into the Nation's graduation rates for students with disabilities shows many students continue to be failed by the system. The most recent data indicates that slightly more than half of all students with disabilities graduated from high school with a regular diploma. Those rates go down when examining different categories of students with disabilities. For instance, only 43 percent of students with emotional disturbances graduate from high school with a regular diploma. Bear in mind that many of these students do not have a learning disability, and with the proper supports and interventions they can achieve at the same levels expected of their non-disabled peers.

But these statistics may not even tell the full story. Too few States use a ''cohort rate,'' which tracks students from high school entrance through exit. Because of the flexibility in No Child Left Behind, many States choose to employ a method of calculation that produces inflated reports due to undercounting dropouts. In 2005, the Government Accountability Office first documented troubling and inconsistent trends in graduation rate reporting. Unfortunately, because we lack of uniform measure of graduation rates, hundreds of thousands of children are unaccounted for each year.

We owe it to these students to do a better job of tracking their progress towards graduation, and ensuring that they receive their high school diploma in 4 years. Census Bureau data shows there is a $9,000 discrepancy between the average income of a high school graduate and a high school dropout. In the middle of an economic crisis that is affecting American families' savings, an extra $9,000 would go a long way.

But looking beyond the individual impact, an education system that properly educates its young people and graduates them in 4 years provides economic security for the country. Research by Cecilia Rouse, professor of economics and public affairs at Princeton University, shows that each drop out, over his or her lifetime, costs the Nation approximately $260,000. If more than 1 million students continue to dropout of high school each year, in 10 years that will amount to a cost of $3 trillion to our Nation.

Clearly, we have our work cut out for us. Today I introduce the Every Student Counts Act, legislation that directly addresses the nation's dropout

crisis through the creation of one consistent graduation rate across all 50 states and by setting meaningful graduation rate goals and targets for schools, districts and States.

As we roll up our sleeves and get down to the serious business of solving the dropout crisis, we cannot waste our energy and our time arguing over whose data is correct. As I noted above, today we have 50 States with 50 different ways of measuring dropouts. In addition, we have many well-meaning education organizations with their own figures on high school graduation. It should be no surprise that they do not match up.

Take for example the difference in the graduation rates between those compiled by the independent Editorial Projects in Education Research Center, whose data is employed in Education Week's ''Diplomas Count'' annual report, and those currently reported by the States. While I think most would expect those rates to be relatively similar, they are not. In some States the difference between the two graduation rates is as much as 30 percentage points.

That is why the first thing the Every Student Count Act will do is make graduation rate calculations uniform and accurate. The bill requires that all States calculate their graduation rates in the same manner, allowing for more consistency and transparency. This bill will bring all 50 States together by requiring each State to report both a 4-year graduation rate and a cumulative graduation rate. A cumulative graduation rate will give parents a clear picture of how many students are graduating, while acknowledging that not all children will graduate in 4 years.

But agreement on one graduation rate is only half the battle here. Schools, school districts and States that are not already graduating a high number of students must be required to make annual progress to high graduation rates. The Every Student Counts Act sets a graduation rate goal of 90 percent for all students and disadvantaged populations. Schools, districts and States with graduation rates below 90 percent, in the aggregate or for any subgroup, will be required to increase their graduation rates an average of 3 percentage points per year in order to make adequate yearly progress required under the No Child Left Behind Law.

Before I conclude my remarks, I would like to thank the growing list of organizations representing the interests of children across the country who have signed on to support the Every Student Counts Act. Specifically, I recognize the Alliance for Excellent Education and their President, former Governor of West Virginia Bob Wise, who have been champions in the movement to improve our high schools and turn back the dropout crisis.

I would also like to recognize the work of my colleague in the House, Representative BOBBY SCOTT of Virginia, who is the chief sponsor of the companion to this legislation and has long championed education for disadvantaged young people.

We have no more urgent educational challenge than bringing down the dropout rate, especially for minorities and children with disabilities. For reasons we all understand—poverty, poor nutrition, broken homes, disadvantaged childhoods—not all of our students come to school every day ready to learn. In some cases, it's as though they have been set up to fail. They grow frustrated. They drop out. As a result, they face a lifetime of fewer opportunities and lower earnings. Economically, our Nation cannot afford to lose one million students each year. Morally, we cannot allow children to continue to fall through the cracks. I believe the Every Student Counts Act puts us on the right track towards turning back the tide of high school dropouts and I ask my colleagues to support this legislation.

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

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

SEPTEMBER 26, 2008.

Senator TOM HARKIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HARKIN: We, the undersigned education, civil rights, and advocacy organizations thank you for introducing the Every Student Counts Act to ensure meaningful accountability for the graduation rates of our nation's students. As you know, educators and policymakers at all levels of government agree that change is necessary on this issue.

Only 70 percent of our nation's students graduate with a regular diploma. Worse, just over half of black and Hispanic students graduate on time. Special education students also have graduation rates of just over 50 percent. Such poor graduation rates are untenable in a global economy that demands an educated workforce. According to the Department of Labor, 90 percent of the fastest-growing and best-paying jobs in the United States require at least some postsecondary education. It is imperative that the nation's schools prepare their students to succeed in the twenty-first-century workforce.

The No Child Left Behind Act (NCLB) has focused the nation's attention on the unacceptable achievement gap and the need to improve outcomes for all students, particularly those of minority students, English language learners, and students with disabilities. However, NCLB does not place enough importance on graduating the nation's high school students. Furthermore, current federal policy on graduation rates permits the use of inconsistent and misleading graduation rate calculations that overestimate graduation rates, does not require meaningful increases in graduation rates over time, and does not require the graduation rates of student subgroups to increase as part of Adequate Yearly Progress (AYP) determinations.

As a response, the Secretary of Education has created proposed regulations to address these concerns. Although the proposed regulations are a laudable step in the right direction, we believe that the Every Student Counts Act is a better approach to ensuring that all students are treated equally in calculating graduation rates and for accountability purposes.

The Every Student Counts Act would do the following: require a consistent and accurate calculation of graduation rates across all fifty states to ensure comparability and transparency; require that graduation rate calculations be disaggregated for both accountability and reporting purposes to ensure that school improvement activities focus on all students and close achievement gaps; ensure that graduation rates and test scores are treated equally in AYP determinations; require aggressive, attainable, and uniform annual growth requirements as part of AYP to ensure consistent increases in graduation rates for all students; recognize that some small numbers of students take longer than four years to graduate and give credit to schools, school districts and states for graduating those students while maintaining the primacy of graduating the great preponderance of all students in four years; and provide incentives for schools, districts and states to create programs to serve students who have already dropped out and are over-age and undercredited.

Again, we thank you for introducing the Every Student Counts Act and for your leadership on this critical issue.

Sincerely,

Alliance for Excellent Education.
American Foundation for the Blind.
Association of University Center on Disabilities
Bazelon Center for Mental Health Law
Big Brothers Big Sisters
Children and Adults with Attention-Deficit/Hyperactivity Disorder (CHADD)
Council for Learning Disabilities
Disability Rights Education & Defense Fund
Easter Seals
First Focus
GLSEN—the Gay, Lesbian and Straight Education Network
Helen Keller National Center
Higher Education Consortium for Special Education
Learning Disabilities Association of America
League of United Latin American Citizens
Knowledge Alliance
National Association for the Education of Homeless Children and Youth
National Center for Learning Disabilities, Inc.
National Coalition on Deaf-Blindness
National Collaboration for Youth
National Forum to Accelerate Middle-Grades Reform
Project GRAD
Teacher Education Division of the Council for Exceptional Children
Teachers of English to Speakers of Other Languages, Inc. (TESOL)
The Advocacy Institute
The Arc of the U.S.
United Cerebral Palsy
United Way of America
YouthBuild USA
Joel Klein, Chancellor, New York City Public Schools
Joan L. Benson, President & CEO, Pennsylvania Partnerships for Children

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By Mr. KERRY:

S. 3628. A bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodations in employment, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, today I introduced a piece of legislation that

working on for over 10 years, the Workplace Religious Freedom Act.

Religious pluralism is a source of strength for this country. It always has been. That is why I support the Workplace Religious Freedom Act or WRFA, as I have ever since I first introduced it back in 1996.

My personal involvement with this issue goes back to two Catholic women working at a dog-racing track in Raynham, Massachusetts. They were fired from their jobs because they refused to work on Christmas Eve. They felt it was against their religion to do business that night. We need to pass WRFA to make it clear that here in America, living out your faith is not a reason to lose your job.

The bill is designed to protect people just like those two women: workers suffering from on-the-job discrimination because of their religious beliefs and practices. It requires employers to make a reasonable accommodation for an employee's religious practice or observance, such as time off or dress. It protects, within reason, time off for religious observances. And it protects Yarmulkes, Hijabs, Turbans, Mormon garments—all the distinctive marks of our religious practices. All the things that everyone should be proud of and nobody should ever be forced to hide.

All of us should have the freedom to abide by and to express our religious beliefs—they are crucial to our individual and communal identities, and collectively, they are a crucial part of our national identity as a diverse and tolerant country.

Writing religious freedom into law is by necessity a balancing act between universal values—such as religious tolerance and equal treatment—with the particulars that each of our faiths demand of us. Just as religious scholars wonder whether God can create an indestructible rock and then destroy it, scholars of religious pluralism have to answer a similar riddle: does a pluralism that's based on tolerance, tolerate intolerance?

Squaring this circle will always be a balancing act. Religious freedom in America doesn't mean the absolute right to impose your religion on others. With WRFA we have achieved that balance by protecting not only religious practices in the workplace but also by protecting those that don't share the same faith or choose not to practice at work.

I find that if you look at the vast, vast majority of actual cases, protecting religious freedom turns out to be a matter of common sense.

Consider the case of Jack Rosenberg, a 35-year-old Hasidic Jew from Rockland County, New York. Jack signed up for the Coast Guard and passed his training, only to .discover that he wasn't allowed to wear his yarmulke. ''As soon as I got sworn in and got ready to put on the uniform,'' Mr. Rosenberg said, ''the commander came to me and said it's going to be a problem.'' As Mr. Rosenberg said, ''If my religion requires it, ''there's not a choice.'' I agree: No American should raise his or religion with an employer and be told: ''it's going to be a problem.'' I am proud to say that the Coast Guard changed their regulations to allow for religious headgear. We fought for Jack Rosenberg and we won.

Another case involves a server at a Red Robin restaurant who belongs to the ancient Egyptian Kemetic religion, which doesn't allow him to hide his religious tattoos. Red Robin fired him for a wrist tattoo less than a quarter-inch wide. In the end, he won in court and Red Robin agreed to train managers to better understand religious discrimination.

This isn't about litigation. It is about protecting the right of free expression and ensuring that religious people feel comfortable in the workplace. We must never leave anyone with the idea that practicing one's religion and being American are in conflict. That is fundamental to how we live as Americans, and I will fight to make sure that our laws governing religious freedom are worthy of our values.

By Mr. DURBIN:

S. 3629. A bill to create a new Consumer Credit Safety Commission, to provide individual consumers of credit with better information and stronger protections, and to provide sellers of consumer credit with more regulatory certainty; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, we are in difficult times. The administration has informed us that the financial markets stand on the brink of collapse and that Congress must act quickly to allow the Treasury to intervene in the markets. We must not simply bail out the companies whose subprime mortgage practices put us in this situation in the first place. Many of us are working to include help for homeowners in any stabilization we consider.

But we must also look beyond the immediate crisis and take steps to prevent similar abuses and errors in the future. This crisis started when lenders sold too many faulty mortgages to families who had too little protection against such practices. Once this immediate crisis passes, Congress must act to ensure that this never happens again.

Our financial system requires a fundamental overhaul, so that the needs of American families stand above the interests of Wall Street.

To start that discussion, today I am introducing the Consumer Credit Safety Commission Act. This bill would put a single government agency in charge of ensuring that the offering of financial products to consumers is responsible, accountable, and transparent.

This new agency would look out for consumers first, so that the Fed, the FDIC, and the rest of the alphabet soup of financial regulators can focus more effectively on the safety and soundness of our financial system while not letting consumer protection fall by the wayside.

This agency would be able to move quickly to protect consumers from new predatory practices, much faster than Congress ever could. It would provide continuous oversight of the financial services market, and hold companies accountable when they abuse, deceive, or take advantage of the consumers they claim to be helping.

Let me put it this way, as Harvard professor Elizabeth Warren has done: why is it that 1 in 10 toasters do not catch fire in our homes, but 1 in 10 home mortgages are failing? The answer is that toasters are properly regulated and financial products are not.

I do not believe that the Government should regulate the freedom out of our markets, and I do not believe that we should eliminate prudent risk taking.

On the contrary: moderate, sensible, and targeted regulation creates an environment in which the entrepreneurial spirit of America can thrive, but without the unnecessary booms and busts of the Wild West.

The Consumer Credit Safety Commission will add consumer protection to the factors lenders must consider in creating and offering financial products. It will identify the practices that undermine sound markets and put a stop to them before they bring the entire financial market to its knees.

Starting early next year, Congress will try to establish the oversight and accountability mechanisms that will foster a dynamic and more responsible environment for financial products. This bill provides us with a good place to start. I urge my colleagues to join me in sponsoring this legislation and working to create an agency that truly puts consumers first.

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. 3629

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 ''Consumer Credit Safety Commission Act of 2008''.

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

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's multi-agency financial services regulatory structure has created a dispersion of regulatory responsibility, which in turn has led to an inadequate focus on protecting consumers from inappropriate consumer credit practices;

(2) the absence of appropriate oversight has allowed excessively costly or predatory consumer credit products to flourish; and

(3) the creation of a regulator whose sole focus is the safety of consumer credit products would help address this lack of consumer protection.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term ''consumer credit'' includes—

(A) any payment compensating a creditor or prospective creditor, or an agent or affiliate thereof, for an extension of credit or making available a line of credit;

(B) any fees connected with credit extension or availability, such as numerical periodic rates, late fees, creditor-imposed not sufficient funds fees charged when a borrower tenders payment on a debt with a check drawn on insufficient funds, over limit fees, annual fees, cash advance fees, or membership fees;

(C) any fees which constitute a finance charge;

(D) credit insurance premiums;

(E) all charges and costs for ancillary products sold in connection with or incidental to the credit transaction; and

(F) any direct or indirect fee, cost, or charge incurred in, in connection with, or ancillary to a consumer payment system, including but not exclusive to merchant discount fees, interchange fees, debit card fees, check-writing fees, automated clearinghouse fees, payment-by-phone fees, internet payment intermediary fees, and remote deposit capture fees;

(2) the term ''relevant congressional committees'' means the Committee on Banking, Housing, and Urban Affairs and the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the Senate, and the Committee on Financial Services and the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the House of Representatives, and any successor committees as may be constituted;

(3) the term ''creditor'' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(4) the term ''finance charge'' has the same meaning as in section 106 of the Truth in Lending Act (15 U.S.C. 1605); and

(5) the term ''consumer'' means any natural person and any small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 4. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT; CHAIRPERSON.—

(1) IN GENERAL.—An independent regulatory commission is hereby established, to be known as the ''Consumer Credit Safety Commission'' (in this Act referred to as the ''Commission''), consisting of 5 Commissioners appointed by the President, by and with the advice and consent of the Senate.

(2) MEMBERSHIP.—In making appointments to the Commission, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer credit, are qualified to serve as members of the Commission.

(3) CHAIRPERSON.—The Chairperson shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may serve as a member of the Commission and as Chairperson at the same time.

(4) REMOVAL.—Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

(b) TERM; VACANCIES.—

(1) IN GENERAL.—Except as provided in paragraph (2)—

(A) the Commissioners first appointed under this section shall be appointed for terms ending 3, 4, 5, 6, and 7 years, respectively, after the date of enactment of this Act, the term of each to be designated by the President at the time of nomination; and

(B) each of their successors shall be appointed for a term of 5 years from the date of the expiration of the term for which the predecessor was appointed.

(2) LIMITATIONS.—Any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A Commissioner may continue to serve after the expiration of this term until a successor has taken office, except that such Commissioner may not continue to serve more than 1 year after the date on which the term of that Commissioner would otherwise expire under this subsection.

(c) RESTRICTIONS ON OUTSIDE ACTIVITIES.—

(1) POLITICAL AFFILIATION.—Not more than 3 of the Commissioners shall be affiliated with the same political party.

(2) CONFLICTS OF INTEREST.—No individual may hold the office of Commissioner if that individual—

(A) is in the employ of, or holding any official relation to, or married to any person engaged in selling or devising consumer credit;

(B) owns stock or bonds of substantial value in a person so engaged;

(C) is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person; or

(D) engages in any other business, vocation, or employment.

(d) QUORUM; SEAL; VICE CHAIRPERSON.—

(1) QUORUM.—No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but 3 members of the Commission shall constitute a quorum for the transaction of business, except that if there are only 3 members serving on the Commission because of vacancies in the Commission, 2 members of the Commission shall constitute a quorum for the transaction of business, and if there are only 2 members serving on the Commission because of vacancies in the Commission, 2 members shall constitute a quorum for the 6-month period (or the 1-year period, if the 2 members are not affiliated with the same political party) beginning on the date of the vacancy which caused the number of Commission members to decline to 2.

(2) SEAL.—The Commission shall have an official seal of which judicial notice shall be taken.

(3) VICE CHAIRPERSON.—The Commission shall annually elect a Vice Chairperson to act in the absence or disability of the Chairperson or in case of a vacancy in the office of the Chairperson.

(e) OFFICES.—The Commission shall maintain a principal office and such field offices as it deems necessary, and may meet and exercise any of its powers at any other place.

(f) FUNCTIONS OF CHAIRPERSON; REQUEST FOR APPROPRIATIONS.—

(1) DUTIES.—The Chairperson of the Commission shall be the principal executive officer of the Commission, and shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to—

(A) the appointment and supervision of personnel employed under the Commission (and the Commission shall fix their compensation at a level comparable to that for employees of the Securities and Exchange Commission;

(B) the distribution of business among personnel appointed and supervised by the Chairperson and among administrative units of the Commission; and

(C) the use and expenditure of funds.

(2) GOVERNANCE.—In carrying out any of the functions of the Chairperson under this subsection, the Chairperson shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may, by law, be authorized to make.

(3) REQUESTS FOR APPROPRIATIONS.—Requests or estimates for regular, supplemental, or deficiency appropriations on behalf of the Commission may not be submitted by the Chairperson without the prior approval of the Commission.

(g) AGENDA AND PRIORITIES; ESTABLISHMENT AND COMMENTS.—At least 30 days before the beginning of each fiscal year, the Commission shall establish an agenda for Commission action under its jurisdiction and, to the extent feasible, shall establish priorities for such actions. Before establishing such agenda and priorities, the Commission shall conduct a public hearing on the agenda and priorities, and shall provide reasonable opportunity for the submission of comments.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for purposes of carrying out this Act such sums as may be necessary.

SEC. 6. OBJECTIVES AND RESPONSIBILITIES.

(a) OBJECTIVES.—The objectives of the Commission are—

(1) to minimize unreasonable consumer risk associated with buying and using consumer credit;

(2) to prevent and eliminate unfair practices that lead consumers to incur unreasonable, inappropriate, or excessive debt, or make it difficult for consumers to escape existing debt, including practices or product features that are abusive, fraudulent, unfair, deceptive, predatory, anticompetitive, or otherwise inconsistent with consumer protection;

(3) to promote practices that assist and encourage consumers to use credit responsibly, avoid excessive debt, and avoid unnecessary or excessive charges derived from or associated with credit products;

(4) to ensure that credit history is maintained, reported, and used fairly and accurately;

(5) to maintain strong privacy protections for consumer credit transactions, credit history, and other personal information associated with the use of consumer credit;

(6) to collect, investigate, resolve, and inform the public about consumer complaints regarding consumer credit;

(7) to ensure a fair system of consumer dispute resolution in consumer credit; and

(8) to take such other steps as are reasonable to protect consumers of credit products.

(b) RESPONSIBILITIES.—The Commission shall—

(1) promulgate consumer credit safety rules that—

(A) ban abusive, fraudulent, unfair, deceptive, predatory, anticompetitive, or otherwise anti-consumer practices or product features for creditors;

(B) place reasonable restrictions on consumer credit practices or product features to reduce the likelihood that they may be provided in a manner that is inconsistent with the objectives specified in subsection (a); and

(C) establish requirements for such clear and adequate warnings or other information,

and the form of such warnings or other information, as may be appropriate to advance the objectives specified in subsection (a);

(2) establish and maintain a best practices guide for all providers of consumer credit;

(3) conduct such continuing studies and investigations of consumer credit industry practices as it deems necessary;

(4) award grants or enter into contracts for the conduct of such studies and investigations with any person (including a governmental entity);

(5) following publication of an advance notice of proposed rulemaking, a notice of proposed rulemaking, or a rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of consumer credit providers, administratively and technically, in the development of consumer credit safety standards or guidelines that would assist such providers in complying with such rule; and

(6) establish and operate a consumer credit customer hotline which consumers can call to register complaints and receive information on how to combat anti-consumer consumer credit.

SEC. 7. COORDINATION OF ENFORCEMENT.

(a) IN GENERAL.—Notwithstanding any concurrent or similar authority of any other agency, the Commission shall enforce the requirements of this Act.

(b) RULE OF CONSTRUCTION.—The authority granted to the Commission to make and enforce rules under this Act shall not be construed to impair the authority of any other Federal agency to make and enforce rules under any other provision of law, provided that any portion of any rule promulgated by any other such agency that conflicts with a rule promulgated by the Commission and that is less protective of consumers than the rule promulgated by the Commission shall be superseded by the stronger rule promulgated by the Commission, to the extent of the conflict. Any portion of any rule promulgated by any other such agency that is not superseded by a rule promulgated by the Commission shall remain in force without regard to this Act.

(c) AGENCY AUTHORITY.—Any agency designated in subsection (d) may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any authority conferred on such agency by any other Act.

(d) DESIGNATED AGENCIES.—The agencies designated in this subsection are—

(1) the Board of Governors of the Federal Reserve System;

(2) the Federal Deposit Insurance Corporation;

(3) the Office of the Comptroller of the Currency;

(4) the Office of Thrift Supervision;

(5) the National Credit Union Administration;

(6) the Federal Housing Finance Authority;

(7) the Federal Housing Administration;

(8) the Secretary of Housing and Urban Development;

(9) the Federal Home Loan Bank Board; and

(10) the Federal Trade Commission.

SEC. 8. AUTHORITIES.

(a) AUTHORITY TO CONDUCT HEARINGS OR OTHER INQUIRIES.—The Commission may, by one or more of its members or by such agents or agency as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. A Commissioner who participates in such a hearing or other inquiry shall not be disqualified solely by reason of such participation from subsequently participating in a decision of the Commission in the same matter. The Commission shall publish notice of any proposed hearing in the Federal Register, and shall afford a reasonable opportunity for interested persons to present relevant testimony and data.

(b) COMMISSION POWERS; ORDERS.—The Commission shall have the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe to carry out a specific regulatory or enforcement function of the Commission, and such submission shall be made within such reasonable period and under oath or otherwise as the Commission may determine, and such order shall contain a complete statement of the reasons that the Commission requires the report or answers specified in the order to carry out a specific regulatory or enforcement function of the Commission, and shall be designed to place the least burden on the person subject to the order as is practicable, taking into account the purpose for which the order was issued;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

(6) to accept voluntary and uncompensated services relevant to the performance of the Commission's duties, notwithstanding the provisions of section 1342 of title 31, United States Code, and to accept voluntary and uncompensated services (but not gifts) relevant to the performance of the Commission's duties, provided that any such services shall not be from parties that have or are likely to have business before the Commission;

(7) to—

(A) initiate, prosecute, defend, intervene in, or appeal (other than to the Supreme Court of the United States), through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General of the United States for representation in such civil action and the Attorney General does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action; and

(B) whenever the Commission obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, including a violation of section 11 of this Act, transmit such evidence to the Attorney General of the United States, who may institute criminal proceedings under appropriate statutes; and

(8) to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3), to any officer or employee of the Commission.

(c) NONCOMPLIANCE WITH SUBPOENA OR COMMISSION ORDER; CONTEMPT.—Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission (subject to subsection (b)(7)) or by the Attorney General of the United States, in case of refusal to obey a subpoena or order of the Commission issued under subsection (b), issue an order requiring compliance therewith. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(d) DISCLOSURE OF INFORMATION.—No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information to the Commission.

(e) CUSTOMER AND REVENUE DATA.—The Commission may by rule require any provider of consumer credit to provide to the Commission such customer and revenue data as may be required to carry out the purposes of this Act.

(f) PURCHASE OF CONSUMER CREDIT BY COMMISSION.—For purposes of carrying out this Act, the Commission may purchase any consumer credit, and it may require any provider of consumer credit to sell the service to the Commission at cost.

(g) CONTRACT AUTHORITY.—The Commission is authorized to enter into contracts with governmental entities, private organizations, or individuals for the conduct of activities authorized by this Act.

(h) BUDGET ESTIMATES AND REQUESTS; LEGISLATIVE RECOMMENDATIONS; TESTIMONY; COMMENTS ON LEGISLATION.—

(1) BUDGET COPIES TO CONGRESS.—Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the relevant congressional committees.

(2) LEGISLATIVE RECOMMENDATION.—Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the relevant congressional committees. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the relevant congressional committees.

SEC. 9. COLLABORATION WITH FEDERAL AND STATE ENTITIES.

(a) PREEMPTION.—Nothing in this Act or any rule promulgated thereunder may be construed to preempt any provision of State law that provides equal or greater protection to consumers than is provided in this Act.

(b) PROGRAMS TO PROMOTE FEDERAL-STATE COOPERATION.—The Commission shall establish a program to promote Federal-State cooperation for the purposes of carrying out this Act. In implementing such program, the Commission may—

(1) accept from any State or local authority engaged in activities relating to consumer credit protection assistance in such functions as data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide and, if so agreed, may pay in advance or otherwise for the reasonable cost of such assistance; and

(2) commission any qualified officer or employee of any State or local agency as an officer of the Commission for the purpose of conducting investigations.

(c) COOPERATION OF FEDERAL DEPARTMENTS AND AGENCIES.—The Commission may obtain from any Federal department or agency such statistics, data, program reports, and other materials as it may deem necessary to carry out its functions under this Act. Each such department or agency shall cooperate with the Commission and, to the extent permitted by law, furnish such materials to it. The Commission and the heads of other departments and agencies engaged in administering programs related to consumer credit

safety shall, to the maximum extent practicable, cooperate and consult in order to ensure fully coordinated efforts.

SEC. 10. PROCEDURES AND RULEMAKING.

(a) COMMENCEMENT OF PROCEEDING; PUBLICATION OF PRESCRIBED NOTICE OF PROPOSED RULEMAKING; TRANSMITTAL OF NOTICE.—A proceeding for the development of a consumer credit safety rule shall be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking which shall—

(1) identify the objective or objectives specified in section 6(a) for the consumer credit safety rule;

(2) include a summary of each of the regulatory alternatives under consideration by the Commission;

(3) include information with respect to any existing voluntary standard known to the Commission which may be relevant to the proceedings, together with a summary of the reasons why the Commission believes preliminarily that such standard does not achieve an objective identified in paragraph (1);

(4) invite interested persons to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be shorter than 30 days or longer than 60 days after the date of publication of the notice), comments with respect to the proposed rulemaking, the regulatory alternatives being considered, and other possible alternatives for achieving the objective or objectives identified in paragraph (1); and

(5) invite any person (other than the Commission) to submit to the Commission, within such period as the Commission shall specify in the notice (which period shall not be less than 30 days after the date of publication of the notice), an existing voluntary standard or a portion of such a standard as a proposed consumer credit safety rule.

(b) TRANSMITTAL TO CONGRESS.—The Commission shall transmit such notice within 10 calendar days to the relevant congressional committees.

(c) VOLUNTARY STANDARD; PUBLICATION AS PROPOSED RULE; NOTICE OF RELIANCE OF COMMISSION ON STANDARD.—If the Commission determines that any standard submitted to it in response to an invitation in a notice published under subsection (a)(5) if promulgated (in whole, in part, or in combination with any other standard submitted to the Commission or any part of such a standard) as a consumer credit safety rule, would achieve the objective or objectives identified in paragraph (1), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer credit safety rule.

(d) PUBLICATION OF PROPOSED RULE; PRELIMINARY REGULATORY ANALYSIS; CONTENTS.—No consumer credit safety rule may be proposed by the Commission unless, not later than 60 days after the date of publication of the notice required in subsection (a), the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposes to promulgate, together with a preliminary regulatory analysis containing—

(1) a preliminary description of the potential benefits and potential costs of the proposed rule, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs;

(2) a discussion of the reasons any standard or portion of a standard submitted to the Commission under subsection (a)(5) was not published by the Commission as the proposed rule or part of the proposed rule; and

(3) a description of any reasonable alternatives to the proposed rule, together with a summary description of their potential costs and benefits, and a brief explanation of why such alternatives should not be published as a proposed rule.

(e) TRANSMITTAL OF NOTICE.—The Commission shall transmit such notice not later than 10 calendar days after the date of publication of the notice to the relevant congressional committees.

(f) FINAL ISSUANCE.—Any proposed consumer credit safety rule shall be issued within 12 months after the date of publication of an advance notice of proposed rulemaking under subsection (a) relating to the consumer credit involved, unless the Commission determines that such proposed rule is not a reasonable means of achieving the objective or objectives identified in subsection (a)(1) with respect to such proposed rule or an objective specified in section 6(a), or is not in the public interest. The Commission may extend that 12-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the relevant congressional committees. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish a notice of such extension and the information submitted to the Congress in the Federal Register.

(g) PROMULGATION OF RULE.—

(1) TIMING.—Not later than 60 days after the date of publication under subsection (c) of a proposed consumer credit safety rule, the Commission shall—

(A) promulgate a consumer credit safety rule, if it makes the findings required under subsection (h); or

(B) withdraw the applicable notice of proposed rulemaking if it determines that such rule is not—

(i) a reasonable means of achieving the objective or objectives identified in subsection (a)(1) with respect to such proposed rule or an objective specified in section 6(a); or

(ii) in the public interest.

(2) EXTENSION.—The Commission may extend such 60-day period in paragraph (1) for good cause shown (if it publishes its reasons therefor in the Federal Register).

(3) TITLE 5.—Consumer credit safety rules shall be promulgated in accordance with section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(h) EXPRESSION OF OBJECTIVE; CONSIDERATION OF AVAILABLE PRODUCT DATA; NEEDS OF ELDERLY AND HANDICAPPED.—

(1) OBJECTIVES.—A consumer credit safety rule shall express in the rule itself the objectives identified in subsection (a)(1) with respect to such rule.

(2) CONSIDERATIONS.—In promulgating such a rule, the Commission shall—

(A) consider relevant available data, including the results of investigation activities conducted generally and pursuant to this Act; and

(B) consider and take into account the special needs of elderly individuals and individuals with disabilities to determine the extent to which such persons may be affected by such rule.

(i) FINDINGS; FINAL REGULATORY ANALYSIS; JUDICIAL REVIEW OF RULE.—

(1) FINDINGS.—Prior to promulgating a consumer credit safety rule, the Commission shall consider, and shall make appropriate findings for inclusion in such rule with respect to—

(A) the degree and nature of the benefit to consumer protection that the rule is designed to achieve or promote;

(B) the approximate number of consumer credit products, or types or classes thereof, subject to such rule;

(C) the need of the public for the consumer credit product subject to such rule, and the probable effect of such rule upon the utility, cost, or availability of such services to meet such need; and

(D) any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of the provision of consumer credit.

(2) REGULATORY ANALYSIS.—The Commission shall not promulgate a consumer credit safety rule, unless it—

(A) has prepared, on the basis of the findings of the Commission under paragraph (1) and on other information before the Commission, a final regulatory analysis of the rule containing—

(i) a description of the potential benefits and potential costs of the rule, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs;

(ii) a description of any alternatives to the final rule which were considered by the Commission, together with a brief explanation of the reasons why these alternatives were not chosen; and

(iii) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues;

(B) finds (and includes such finding in the rule)—

(i) that the rule (including its effective date) is reasonably appropriate to achieve an objective identified in subsection (a)(1) with respect to such proposed rule or specified in section 6(a);

(ii) that the promulgation of the rule is in the public interest; and

(iii) that the benefits expected from the rule bear a reasonable relationship to its costs.

(3) PUBLICATION.—The Commission shall publish its final regulatory analysis with the rule.

(4) LIMIT ON JUDICIAL REVIEW.—Any preliminary or final regulatory analysis prepared under subsection (c) or (i)(2) shall not be subject to independent judicial review, except that when an action for judicial review of a rule is instituted, the contents of any such regulatory analysis shall constitute part of the whole rulemaking record of agency action in connection with such review. The provisions of this paragraph shall not be construed to alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

(j) EFFECTIVE DATE.—Each consumer credit safety rule shall specify the date on which such rule is to take effect, not to exceed 180 days from the date on which it is issued in final form, unless the Commission finds, for good cause shown, that a later effective date is in the public interest and publishes its reasons for such finding. The effective date of a consumer credit safety rule under this Act shall be set at a date that is at least 30 days after the date of issuance in final form, unless the Commission for good cause shown determines that an earlier effective date is in the public interest. In no case may the effective date be set at a date which is earlier than the date of issuance in final form.

(k) AMENDMENT OR REVOCATION OF RULE.—The Commission may, by rule, amend or revoke any consumer credit safety rule. Such amendment or revocation shall specify the

date on which it is to take effect, which shall not exceed 180 days from the date on which the amendment or revocation is published, unless the Commission finds for good cause shown that a later effective date is in the public interest and publishes its reasons for such finding. Where an amendment involves a material change in a consumer credit safety rule, subsections (a) through (h) shall apply. In order to revoke a consumer credit safety rule, the Commission shall publish a proposal to revoke such rule in the Federal Register, and allow oral and written presentations in accordance with subsection (d)(2). The Commission may revoke such rule only if it determines that the rule is not a reasonable means of achieving an objective identified in subsection (a)(1) with respect to such proposed rule or an objective specified in subsection 6(a).

(l) PETITION TO INITIATE RULEMAKING.—The Commission shall grant, in whole or in part, or deny any petition under section 553 (e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition.

SEC. 11. PROHIBITED ACTS.

It shall be unlawful for any person—

(1) to advertise for or offer for sale any consumer credit which is not in conformity with an applicable consumer credit safety rule under this Act;

(2) to advertise for or offer for sale any consumer credit—

(A) which has been declared a banned product by a rule under this Act;

(B) in a manner that does not comply with any requirements for the provision of any warnings or other information regarding such credit; or

(3) to fail or refuse to permit access to or copying of records, or fail or refuse to establish or maintain records, or fail or refuse to make reports or provide information to the Commission as required under this Act or any rule thereunder, other than section 9.

SEC. 12. PENALTIES FOR VIOLATIONS.

(a) CRIMINAL PENALTIES.—

(1) KNOWING AND WILLFUL VIOLATIONS.—Any person who knowingly and willfully violates section 11 after having received notice of noncompliance from the Commission shall be fined not more than $500,000 or be imprisoned not more than one year, or both.

(2) EXECUTIVES AND AGENTS.—Any individual director, officer, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of section 11, and who has knowledge of notice of noncompliance received by the corporation from the Commission, shall be subject to penalties under this section, without regard to any penalties to which that corporation may be otherwise subject.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who violates section 11 shall be subject to a civil penalty to be established at the discretion of the Commission. A violation of section 11 shall constitute a separate civil offense with respect to each consumer credit transaction involved.

(2) PUBLICATION OF SCHEDULE OF PENALTIES.—Not later than December 1, 2009, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

(3) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 11, the Commission shall consider the nature of the consumer credit product or service, the severity of the unreasonable risk to the consumer, the number of products or services sold or distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

(4) COMPROMISE OF PENALTY; DEDUCTIONS FROM PENALTY.—Any civil penalty under this section may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the person charged, the nature of the consumer credit, the severity of the unreasonable risk to the consumer, the occurrence or absence of consumer injury, and the number of offending products or services sold. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

(c) COLLECTION AND USE OF PENALTIES.—The Commission shall retain ownership over criminal and civil fees collected and shall apply these fees to defray the costs of the Commission's operation or, where appropriate, provide restitution for harmed consumers.

SEC. 13. REPORTS.

(a) REPORTS TO THE PUBLIC.—The Commission shall determine what reports should be produced and distributed to the public on a recurring and ad hoc basis, and shall prepare and publish such reports on a web site that provides free access to the general public.

(b) REPORT TO PRESIDENT AND CONGRESS.—The Commission shall prepare and submit to the President and the relevant congressional committees at the beginning of each regular session of Congress a comprehensive report on the administration of this Act for the preceding fiscal year. Such report shall include—

(1) a thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence and effects of practices associated with the provision of consumer credit that are inconsistent with the objectives specified in section 6(a), with a breakdown, insofar as practicable, among the various sources of injury as the Commission finds appropriate;

(2) a list of consumer credit safety rules prescribed or in effect during such year;

(3) an evaluation of the degree of observance of consumer credit safety rules, including a list of enforcement actions, court decisions, and compromises of civil penalties, by location and company name;

(4) a summary of outstanding problems confronting the administration of this Act in order of priority;

(5) an analysis and evaluation of public and private consumer credit safety research activities;

(6) a list, with a brief statement of the issues, of completed or pending judicial actions under this Act;

(7) the extent to which technical information was disseminated to the scientific and consumer credit communities and consumer information was made available to the public;

(8) the extent of cooperation between Commission officials and representatives of industry and other interested parties in the implementation of this Act, including a log or summary of meetings held between Commission officials and representatives of industry and other interested parties;

(9) an appraisal of significant actions of State and local governments relating to the responsibilities of the Commission;

(10) with respect to voluntary consumer credit safety standards promulgated as consumer safety rules under section 10(c), a description of—

(A) the number of such standards adopted as rules; and

(B) the nature and number of the consumer credit products and services which are the subject of such adopted rules and the approximate number of consumers affected;

(11) such recommendations for additional legislation as the Commission deems necessary to carry out the purposes of this Act; and

(12) the extent of cooperation with and the joint efforts undertaken by the Commission in conjunction with other regulators with whom the Commission shares responsibilities for consumer credit safety.

SEC. 14. EFFECTIVE DATE.

This Act shall be effective 120 days after the date of enactment of this Act.

By Mr. BROWN:

S. 3633. A bill to amend the Federal Food, Drug, and Cosmetic Act to require country of origin labeling on prescription and over-the-counter drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWN. Mr. President, in the past year, 149 Americans died after taking tainted Heparin, a widely used blood thinner. It was later learned—as reported in the New York Times—that the contaminant derived from pig intestines was produced in ''largely unregulated'' Chinese workshops. Unfortunately, Heparin is not the only drug that relies on this dangerous brand of outsourcing. More and more, drug companies are taking advantage of cheap labor and weak safety standards found outside of the U.S. to manufacture the pharmaceuticals later used in American hospitals and households. According to a Pfizer representative who testified before the Senate Committee on Health, Education, Labor and Pensions in April, Pfizer outsources the manufacture of 17 percent of its drug products.

Consumers have a right to know where their drugs are produced. That is why I am today introducing the Transparency in Drug Labeling Act. This bill would require country-of-origin labeling for both active and inactive ingredients on all pharmaceuticals, both prescription and over-the-counter. These new drug labels would list all the countries that played a role in the manufacturing of ingredients for the drug. The order of the list would be determined by the percentage of the drug produced in each country, with the largest contributors appearing at the top.

This bill would raise consumers' awareness of where their drugs are being produced. It would also allow companies who produce their drugs in the U.S. to advertise that fact. Drug companies that produce their drugs in the U.S. and follow the corresponding safety and regulatory standards should be rewarded with increased consumer confidence in their products.

This bill takes a proactive approach to keeping Americans safe in our global, interdependent economy. When we import from overseas, we are importing the health, labor and environmental standards of those countries as well. Consumers have a right to know where their medications originate. This bill would satisfy that reasonable demand.

By Mr. LAUTENBERG (for himself and Mr. MENENDEZ):

S. 3634. A bill to reduce gun trafficking by prohibiting bulk purchases of handguns; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, I rise to introduce the End Gun Trafficking Act of 2008. I am proud to be joined by my colleague from New Jersey, Senator MENENDEZ, in introducing this bill.

Trafficking in illegal guns is a serious problem that fuels crime, drug activity, and gang violence in our communities and on our streets.

Under current Federal law, gun purchasers are able to buy—and gun dealers are able to sell—unlimited numbers of handguns. All too frequently, these bulk handgun purchasers turn around and sell those handguns on the black market. The guns are sold to criminals and gang members—people who are barred under Federal law from buying guns themselves.

This pipeline of illegal guns threatens States' abilities to protect their own residents, as guns are often purchased in bulk in States with weak gun laws and sold to criminals in States with tougher gun laws.

My State of New Jersey has some of the strongest gun violence prevention laws in the country, including a ban on assault weapons, child access prevention requirements, and permitting requirements for gun ownership. Unfortunately, because of the gun trafficking pipeline, illegal weapons make their way onto New Jersey's streets and place all New Jerseyans in danger.

In 2007, 72 percent of the guns recovered from New Jersey crime scenes that were traced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives came from out of State. Just six States accounted for nearly 50 percent of those traced guns.

As these numbers make all too clear, we will only give full effect to New Jersey's and other State's effort protect their residents when we shut down the ''iron pipeline'' of gun trafficking. To stop gun trafficking, we must stop the bulk sales of handguns.

The legislation that I introduce today would do exactly that. The End Gun Trafficking Act of 2008 would limit gun buyers to one handgun every 30 days.

This ''one-handgun-a-month'' approach is proven. Today, States—Virginia, Maryland, and California—have such laws. Before enacting this law in 1993, Virginia was the supplier of choice for criminals up and down the East Coast. A 1995 study showed drastic reductions in the flow of Virginia guns to criminals in other States: the percentage of crime guns traced back to Virginia fell by 71 percent in New York and 72 percent in Massachusetts. Unfortunately, despite these results, Virginia significantly weakened its law in 2004.

I hope that New Jersey will be the fourth State to limit handgun purchases to one a month. In July, the New Jersey Assembly approved a one-handgun-a-month bill that is awaiting action in the State Senate. I strongly support this legislation, which will help cut down on the illegal gun trade within New Jersey.

But to really combat interstate gun trafficking, we need a national solution. The End Gun Trafficking Act is an important step in that direction. Specifically, this legislation would prohibit gun dealers from selling a handgun to an unlicensed person who they know or have reason to believe has purchased another handgun within the previous 30 days.

It would prohibit unlicensed individuals from purchasing more than one handgun during a 30-day period.

It would make exceptions for exchanges, Government, and law enforcement purchases and curios and relics.

It would ensure that the background check system checks whether a buyer has purchased a handgun within the last 30 days and block handgun sales to such buyers.

It would increase the maximum penalty from 1 year to 5 years for gun dealers who make false statements in their gun sale records.

It would require that background checks be kept for at least 180 days instead of the current 24 hours, to allow dealers to find out whether an individual has purchased another handgun within the previous 30 days and make unlicensed gun dealers who sell more than one handgun a month to an unlicensed individual subject to the same laws as licensed gun dealers.

I look forward to working with my Senate colleagues to pass this legislation and reduce gun violence.

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. 3634

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 ''End Gun Trafficking Act of 2008''.

SEC. 2. PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(aa) PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.—

''(1) SALE.—It shall be unlawful to sell or otherwise dispose of a handgun that has been shipped or transported in interstate or foreign commerce to any person who is not licensed under section 923 knowing or having reasonable cause to believe that such person purchased a handgun during the 30-day period ending on the date of such sale or disposition.

''(2) PURCHASE.—It shall be unlawful for any person who is not licensed under section 923 to purchase more than 1 handgun that has been shipped or transported in interstate or foreign commerce during any 30-day period.

''(3) EXCEPTIONS.—Paragraphs (1) and (2) shall not apply to—

''(A) exchange of 1 handgun for 1 handgun;

''(B) the transfer to or purchase by the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun;

''(C) the transfer to or purchase by a law enforcement officer employed by an entity referred to in subparagraph (B) of a handgun for law enforcement purposes (whether on or off duty);

''(D) the transfer to or purchase by a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for law enforcement purposes (whether on or off duty); or

''(E) the transfer or purchase of a handgun listed as a curio or relic by the Attorney General pursuant to section 921(a)(13).''.

(b) PENALTIES.—Section 924(a)(2) of title 18, United States Code, is amended by striking ''or (o)'' and inserting ''(o), or (aa)''.

(c) CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(1) in section 922(t)—

(A) in paragraph (1)(B)(ii), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)'';

(B) in paragraph (2), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)'';

(C) in paragraph (4), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)''; and

(D) in paragraph (5), by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)''; and

(2) in section 925A, by striking ''(g) or (n)'' and inserting ''(g), (n), or (aa)(2)''.

(d) ELIMINATE MULTIPLE SALES REPORTING REQUIREMENT.—Section 923(g) of title 18, United States Code, is amended by striking paragraph (3).

(e) AUTHORITY TO ISSUE RULES AND REGULATIONS.—The Attorney General shall prescribe any rules and regulations as are necessary to ensure that the national instant criminal background check system is able to identify whether receipt of a handgun by a prospective transferee would violate section 922(aa) of title 18, United States Code.

SEC. 3. INCREASED PENALTIES FOR MAKING KNOWINGLY FALSE STATEMENTS IN CONNECTION WITH FIREARMS.

Section 924(a)(3) of title 18, United States Code, is amended in the matter following subparagraph (B) by striking ''one year'' and inserting ''5 years''.

SEC. 4. RETENTION OF RECORDS.

(a) RETENTION OF RECORDS.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting ''not less than 180 days after the transfer is allowed,'' before ''destroy''.

(b) REPEALS.—

(1) FISCAL YEAR 2004.—Section 617 of division B of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 95) is amended—

(A) by striking ''(a)'';

(B) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(C) by striking ''; and'' and all that follows and inserting a period.

(2) FISCAL YEAR 2005.—Section 615 of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2915) is amended—

(A) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(B) by striking ''; and'' and all that follows and inserting a period.

(3) FISCAL YEAR 2006.—Section 611 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2336) is amended—

(A) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(B) by striking ''; and'' and all that follows and inserting a period.

(4) FISCAL YEAR 2008.—Section 512 of division B of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1926) is amended—

(A) by striking ''for—'' and all that follows through ''(1)'' and inserting ''for''; and

(B) by striking ''; and'' and all that follows and inserting a period.

SEC. 5. REVISED DEFINITION.

Section 921(a)(21)(C) of title 18, United States Code, is amended by inserting '', except that such term shall include any person who transfers more than 1 handgun in any 30-day period to a person who is not a licensed dealer'' before the semicolon.

By Mrs. CLINTON:

S. 3635. A bill to authorize a loan forgiveness program for students of institutions of higher education who volunteer to serve as mentors; to the Committee on health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I rise today to discuss an issue that is very near and dear to my heart: the importance of mentoring. A good mentor can make all the difference in the world, serving as friend, role-model and advocate for children who need it most. We should be rewarding those young people who commit to public service, including mentoring at-risk children, and offering incentives to encourage wider participation.

I am proud to introduce the Supporting Mentors, Supporting Our Youth Act, which would forgive $10 of student loans for every hour of mentoring with a minimum commitment of one year of service. I'm pleased that my friend and colleague, Congressman JIM CROWLEY, is introducing this legislation in the House of Representatives.

I have long been an advocate for mentoring and for supporting mentoring programs like the ones you run across the country. Last year, I joined my colleague Senator KERRY in introducing the Mentoring America's Children Act, which built upon the Mentoring Program in No Child Left Behind. This legislation will help reach the 15 million young adults who could use mentor—esspecially young people in foster care and other young adults who could benefit the most from a role model, advisor, and advocate. I've long been a champion for mentoring and for supporting mentoring programs like the ones you run across the country.

Public service is the lifeblood of our communities and mentoring at-risk children is particularly important. Tomorrow, September 27th, is the National Day of Action and I could not think of a better way of supporting the thousands of communities who will mobilize across the country then by introducing this legislation to encourage more people to serve.

Earlier this month, I joined Senators KENNEDY and HATCH in introducing the Serve America Act. The legislation would build a new service corps focused on addressing areas of national need such as education, energy and the environment. The bill would increase opportunities to participate in service for Americans of all ages by encourage students to make service a part of their lives, establishing tax incentives for employers who allow employees paid leave for service, and structuring service opportunities for seniors and retirees.

I look forward to continuing to work with my colleagues in the Senate and the House to stand up for our most vulnerable children, while making college more accessible and more affordable.

By Mr. NELSON, of Florida:

S. 3638. A bill to reauthorize the National Windstorm Impact Reduction Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I rise today to introduce legislation on a subject that is never far from the minds of citizens in my home State of Florida and others living along our coasts and in tornado alley: the threat of windstorms, and the havoc that these events can wreak on our communities.

We were all transfixed by the nonstop news coverage as Hurricanes Gustav and Ike grew into monster storms and crossed the Caribbean and Gulf of Mexico, leaving a trail of misery in their wake. In Florida this year, these storms, along with Tropical Storm Fay and Hurricane Hanna, reminded us of our vulnerability in the face of Mother Nature. We are not out of the woods yet. Hurricane season lasts for another two months, and other severe storms can generate damaging tornadoes at any time of year. In fact, more than 2,000 tornadoes had hit the United States by mid-September, causing more than 120 fatalities and making 2008 the deadliest year for windstorm-related fatalities in a decade.

Although windstorms are a perpetual hazard, particularly in Florida, we have learned a great deal from these events and have taken steps to make our homes, businesses, and infrastructure more resilient. In 1992, Hurricane Andrew devastated South Florida and revealed a number of problems with how we designed and constructed buildings in areas subject to high winds. The lessons learned from Andrew drove the adoption of stronger buiding codes in Miami-Dade and Broward counties in 1994, codes that still serve as models for the Nation. In 2001, Florida's State legislature adopted a statewide building code, which made building requirements stronger and more consistent across the state.

These actions have already started paying dividends. In 2004, when Hurricane Charley made landfall near Captiva Island as a Category 4 hurricane, communities across Southwest Florida suffered tremendous damage from high winds and floodwaters. In Charlotte County alone, the Federal Emergency Management Agency, FEMA, estimated that 80 percent of the buildings were damaged and all mobile homes were destroyed. Across the Florida peninsula, 30 deaths were linked to the storm and property damage was estimated at $14.6 billion. But there was some positive news to be found amongst the devastation. Government and private-sector experts who reviewed Charley's damage found that homes designed and constructed with the stronger, post-Andrew building codes performed well, even in Punta Gorda, one of the hardest-hit areas. There can be no doubt that many lives were saved and millions in additional damages were avoided as a direct consequence of earlier decisions to build stronger and safer.

While our experience in Charley shows that we are on the right track in antiipating and avoiding windstorm impacts, we cannot rest on our laurels. Millions in Florida and across our Nation live in structures built either before there was a building code in effect or before important wind-resistant materials and practices became required. Much work remains to find feasible and cost-effective ways to retrofit these older structures, and to educate our citizens on the need to take actions now to reduce their vulnerability to future windstorms.

To help address these outstanding needs, I am introducing the National Windstorm Impact Reduction Reauthorization Act of 2008. This legislation would extend and enhance the National Windstorm Impact Reduction program, the primary goal of which is to achieve major, measurable reductions in losses of life and property from windstorms.

This is a program that I have a long history of supporting. In July 2004—just weeks before four hurricanes, Charley, Frances, Ivan, and Jeanne struck my State—I introduced the National Windstorm Impact Reduction Act of 2004. This bill sought to focus the Federal efforts to identify wind hazards and assess and mitigate windstorm impacts. In the wake of the 2004 hurricanes, Congress saw the need to better coordinate and invest in wind-related research and mitigation, and passed separate legislation establishing NWIRP in October of that year. At that time, Congress's vision was for NWIRP to improve our understanding of windstorms and then mitigate potential impacts through nationwide data collection and analysis, risk assessment, outreach, technology transfer, and research and development.

Since its enactment in 2004, NWIRP has struggled to get off of the ground. The Bush Administration has not adequately supported the development and implementation of the program, failing to request any appropriations for

NWIRP activities at the primary agencies: the National Institute of Standards and Technology, the National Science Foundation, the National Oceanic and Atmospheric Administration and FEMA. Despite explicit language from Congress in its report accompanying the fiscal year 2008 omnibus appropriations bill, the Administration has refused to allocate the more than $11 million designated for NWIRP. I find this lack of cooperation on NWIRP, a program that can help save lives and avoid property damage, to be particularly troubling as millions of people on the Gulf Coast and in Florida struggle to recover from recent hurricanes.

While I will continue my efforts to obtain additional funding for NWIRP, Congress must help by extending the program past its expiration on September 30th of this year. My legislation would extend NWIRP through 2013, and make several other programmatic changes that are needed to put the program on a stronger footing moving forward.

I propose shifting primary authority and responsibility for managing NWIRP from the President's Office of Science and Technology Policy to NIST, an agency that has excelled in leading the National Earthquake Hazards Reduction Program since 2004. My legislation would also clarify the roles and responsibilities of all Federal agencies participating on NWIRP's Interagency Working Group on Windstorm Impact Reduction. Three Federal agencies with current missions that provide valuable data or expertise that support NWIRP's goals will be added to the program, namely the Department of Transportation, National Aeronautics and Space Administration, and U.S. Army Corps of Engineers. Lastly, the legislation would set a deadline for NIST to assemble the National Advisory Committee on Windstorm Impact Reduction, a group charged with providing guidance to NIST and the Interagency Working Group on windstorm-related research, mitigation, outreach, and other program priorities. The Advisory Committee will include representatives from a broad array of NWIRP stakeholders, including state and local governments and experts from the research, technology transfer, building design and construction, insurance, and finance communities.

I did not want to return to Florida this fall without taking action to keep us focused on reducing the impacts of windstorms on our citizens and our economy. That is why I felt it important to propose this legislation to extend, revamp, and revitalize the National Windstorm Impact Reduction Program.

In closing, I would like to recognize the efforts of Representative DENNIS MOORE of Kansas, who is introducing a companion measure in the U.S. House of Representatives today. Kansas is particularly vulnerable to the devastation that tornados and hailstorms can cause, so I know that he shares my desire to ensure that our constituents have innovative, effective, and affordable tools available to help reduce their vulnerability to windstorms. I also understand that three members of the Florida delegation in the House, Representatives ALCEE HASTINGS, ILEANA ROS-LEHTINEN, and MARIO DIAZ-BALART, are original cosponsors of Representative MOORE's bill. In addition to demonstrating how important this legislation is to the State of the Florida and the Nation, I welcome the bipartisan support that these cosponsors provide. I look forward to working with Chairman INOUYE, Ranking Member HUTCHISON and the other members of the Senate Committee on Commerce, Science, and Transportation to debate this important legislation.

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. 3638

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Windstorm Impact Reduction Reauthorization Act of 2008''.

SEC. 2. FINDINGS.

Section 202 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15701) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

''(3) Global climate variability and climate change may alter the frequency and intensity of severe windstorm events, but further research is needed to identify any such linkages and, if appropriate, to incorporate climate-related impacts into windstorm risk and vulnerability assessments and mitigation activities.''; and

(3) in paragraph (5), as redesignated, by striking ''interagency coordination'' and inserting ''coordination among Federal agencies and with State and local governments''.

SEC. 3. DEFINITIONS.

(a) DIRECTOR.—Section 203(1) of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15702(1)) is amended by striking ''Office of Science and Technology Policy'' and inserting ''National Institute of Standards and Technology''.

(b) INTERAGENCY WORKING GROUP.—Section 203 of such Act (42 U.S.C. 15702) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) INTERAGENCY WORKING GROUP.—The term 'Interagency Working Group' means the Interagency Working Group on Wind Impact Reduction established pursuant to section 204(f).''.

SEC. 4. NATIONAL WINDSTORM IMPACT REDUCTION PROGRAM.

(a) LEAD FEDERAL AGENCY.—Section 204 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15703) is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (d) as subsection (c); and

(3) by inserting after subsection (c), as redesignated, the following:

''(d) LEAD FEDERAL AGENCY.—The National Institute of Standards and Technology shall be the lead Federal agency for planning, management, and coordination of the Program. In carrying out this subsection, the Director shall—

''(1) establish a Program Office, which shall be under the direction of a full-time Program Director, to provide the planning, management, and coordination functions described in subsection (e);

''(2) in conjunction with other Program agencies, prepare an annual budget for the Program, which shall be submitted to the Office of Management and Budget and shall include, for each Program agency and for each major goal established for the Program components under subsection (c)—

''(A) the Program budget for the current fiscal year; and

''(B) the proposed Program budget for the subsequent fiscal year;

''(3) facilitate the preparation of the Interagency Working Group's biennial report to Congress and the National Science and Technology Council under subsection (j);

''(4) support research and development to improve building codes, standards, and practices for design and construction of buildings, structures, and lifelines;

''(5) in conjunction with the Federal Emergency Management Agency, work closely with national standards and model building code organizations to promote the implementation of research results;

''(6) in partnership with other Federal agencies, State and local governments, academia, and the private sector, support—

''(A) the organization and deployment of comprehensive, discipline-oriented interagency teams to investigate major windstorm events; and

''(B) the gathering, publishing, and archiving of collected data and analysis results; and

''(7) participate in, coordinate, or support, as needed, other Program mitigation activities authorized under subsection (c).''.

(b) PROGRAM OFFICE DUTIES.—Section 204 of such Act, as amended by subsection (a), is further amended—

(1) by striking subsection (e);

(2) by redesignating subsection (f) as subsection (j); and

(3) by inserting after subsection (d), as added by subsection (a)(3) of this Act, the following:

''(e) PROGRAM OFFICE.—The Program Office established under subsection (d)(1) shall—

''(1) ensure that all statutory requirements, including reporting requirements, are met in accordance with this Act;

''(2) ensure coordination and synergy across the Program agencies in meeting the strategic goals and objectives of the Program;

''(3) implement an outreach program to identify and build effective partnerships with stakeholders in the construction and insurance industries, Federal, State, and local governments, academic and research institutions, and non-governmental entities, such as standards, codes, and technical organizations;

''(4) conduct studies on cross-cutting planning issues, particularly those that are significant for the development and updating of the strategic plan required under subsection (i); and

''(5) conduct analysis and evaluation studies to measure the progress and results achieved in meeting the strategic goals and objectives of the Program.''.

(c) INTERAGENCY WORKING GROUP.—Section 204 of such Act (42 U.S.C. 15703) is further amended by inserting after subsection (e), as added by subsection (b)(3) of this Act, the following:

''(f) INTERAGENCY WORKING GROUP.—

''(1) IN GENERAL.—There is established an Interagency Working Group on Wind Impact Reduction, which shall report to the Director.

''(2) PURPOSE.—The primary purpose of the Interagency Working Group is to coordinate activities and facilitate better communication among the Program agencies in reducing the impacts of windstorms.

''(3) DUTIES.—The Interagency Working Group shall—

''(A) facilitate Program planning, analysis, and evaluation;

''(B) facilitate coordination and synergy among Program agencies in meeting the strategic goals and objectives of the Program;

''(C) prepare the coordinated interagency budget for the Program;

''(D) prepare the interim working plan required under subsection (h);

''(E) prepare the strategic plan with stakeholder input required under subsection (i);

''(F) prepare the biennial report to Congress and the National Science and Technology Council required under subsection (j);

''(G) work with States, local governments, non-governmental organizations, industry, academia, and research institutions, as appropriate; and

''(H) in partnership with State and local governments, academia, and the private sector, facilitate—

''(i) the organization and deployment of comprehensive discipline-oriented interagency teams to investigate major windstorm events; and

''(ii) the gathering, publishing, and archiving of collected data and analysis results.

''(4) MEMBERSHIP.—The Interagency Working Group shall be comprised of 1 representative from—

''(A) the National Institute of Standards and Technology;

''(B) the National Science Foundation;

''(C) the National Oceanic and Atmospheric Administration;

''(D) the Federal Emergency Management Agency;

''(E) the Department of Transportation;

''(F) the National Aeronautics and Space Administration;

''(G) the United States Army Corps of Engineers;

''(H) the Office of Science and Technology Policy; and

''(I) the Office of Management and Budget.

''(5) CHAIR.—The Program Director referred to in subsection (d)(1) shall chair the Interagency Working Group.

''(6) DUTIES OF THE CHAIR.—The Chair shall—

''(A) convene at least 4 Interagency Working Group meetings per year, the first of which shall be convened not later than 90 days after the date of the enactment of the National Windstorm Impact Reduction Reauthorization Act of 2008;

''(B) ensure the timely submission of the Interagency Working Group's biennial report to Congress and the National Science and Technology Council required under subsection (j); and

''(C) carry out such other duties as may be necessary to carry out this Act.''.

(d) PROGRAM AGENCIES.—Section 204 of such Act (42 U.S.C. 15703) is further amended by inserting after subsection (f), as added by subsection (c) of this Act, the following:

''(g) PROGRAM AGENCIES.—

''(1) NATIONAL SCIENCE FOUNDATION.—The National Science Foundation shall support research in engineering and the atmospheric sciences to improve the understanding of the behavior of windstorms and the impact of windstorms on buildings, structures, and lifelines.

''(2) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The National Oceanic and Atmospheric Administration shall support atmospheric sciences research to improve the understanding of the behavior of windstorms and the impact of windstorms on buildings, structures, and lifelines through wind observations, modeling, and analysis.

''(3) FEDERAL EMERGENCY MANAGEMENT AGENCY.—The Federal Emergency Management Agency shall support—

''(A) the development of risk assessment tools, effective mitigation techniques, and related guidance documents and products;

''(B) windstorm-related data collection and analysis;

''(C) evacuation planning;

''(D) public outreach and information dissemination; and

''(E) the implementation of mitigation measures consistent with the Federal Emergency Management Agency's all-hazards approach.

''(4) DEPARTMENT OF TRANSPORTATION.—The Department of Transportation shall—

''(A) support research aimed at understanding, measuring, predicting, and designing for wind effects on transportation infrastructure, including bridges; and

''(B) assist in evacuation planning.

''(5) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—The National Aeronautics and Space Administration shall support—

''(A) research to improve understanding of the regional and global behavior of windstorms; and

''(B) dissemination and utilization of observational data from existing satellites and sensors, forecasts, and other analytical products that can aid in reducing windstorm impacts.

''(6) UNITED STATES ARMY CORPS OF ENGINEERS.—The United States Army Corps of Engineers shall—

''(A) support research to improve understanding of wind effects on storm surge and other flooding; and

''(B) support the development of evacuation plans and other activities or tools to reduce the potential for loss of life or structure damage resulting from windstorms.''.

(e) INTERIM WORKING PLAN; STRATEGIC PLAN.—Section 204 of such Act (42 U.S.C. 15703) is further amended by inserting after subsection (g), as added by subsection (d) of this Act, the following:

''(h) INTERIM WORKING PLAN.—Not later than 6 months after the date of the enactment of this subsection, the Interagency Working Group shall submit to Congress an interim working plan that will guide the implementation of Program operations until the approval of the strategic plan under subsection (i).

''(i) STRATEGIC PLAN.—

''(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this subsection, the Interagency Working Group shall submit to Congress a strategic plan for achieving the objectives of the Program.

''(2) CONTENTS.—The strategic plan shall include—

''(A) strategic goals and objectives for each Program component area to be achieved in the areas of data collection and analysis, risk assessment, outreach, technology transfer, and research and development;

''(B) an assessment of the strategic priorities required to fill critical gaps in knowledge and practice to ensure reduction in future windstorm impacts based on a review of past and current public and private sector efforts, including windstorm mitigation activities supported by the Federal Government;

''(C) measurable outputs and outcomes to achieve the strategic goals and objectives;

''(D) a description of how the Program will achieve such goals and objectives including detailed responsibilities for each Program agency; and

''(E) plans for cooperation and coordination with interested public and private sector entities in each Program component area.

''(3) INITIAL DEVELOPMENT.—The strategic plan—

''(A) shall be developed with stakeholder input; and

''(B) shall not be initially required to be reviewed by the National Advisory Committee on Windstorm Impact Reduction.

''(4) REGULAR UPDATES.—Not less frequently than once every 3 years, the strategic plan—

''(A) shall be updated with stakeholder input; and

''(B) shall be reviewed by the National Advisory Committee on Windstorm Impact Reduction.''.

(f) BIENNIAL REPORT.—Section 204(j) of such Act, as redesignated by subsection (b)(2), is amended to read as follows:

''(j) BIENNIAL REPORT.—The Interagency Working Group, on a biennial basis, and not later than 90 days after the end of the preceding 2 fiscal years, shall—

''(1) after considering the recommendations of the advisory committee established under section 205, prepare a biennial report that describes the status of the Program, including—

''(A) Program activities and progress achieved during the preceding 2 fiscal years in meeting goals established for each Program component under subsection (c);

''(B) challenges and impediments to the fulfillment of the Program's objectives; and

''(C) any recommendations for legislative and other action the Interagency Working Group considers necessary and appropriate; and

''(2) submit the report prepared under paragraph (1) to Congress and the National Science and Technology Council.''.

SEC. 5. NATIONAL ADVISORY COMMITTEE ON WINDSTORM IMPACT REDUCTION.

(a) IN GENERAL.—Section 205(a) of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15704(a)) is amended by striking ''The Director'', and inserting ''Not later than 6 months after the date of the enactment of the National Windstorm Impact Reduction Reauthorization Act of 2008, the Director''.

(b) CONFORMING AMENDMENT.—Section 205(b)(2) of such Act (42 U.S.C. 15704(b)(2)) is amended by striking ''section 204(d)'' and inserting ''section 204(c)''.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 207 of the National Windstorm Impact Reduction Act of 2004 (42 U.S.C. 15706) is amended to read as follows:

''SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 2009 through 2013 to carry out this Act, of which not greater than—

''(1) $5,000,000 shall be allocated for the National Institute of Standards and Technology;

''(2) $9,400,000 shall be allocated for the National Science Foundation;

''(3) $2,200,000 shall be allocated for the National Oceanic and Atmospheric Administration;

''(4) $9,400,000 shall be allocated for the Federal Emergency Management Agency;

''(5) $1,333,333 shall be allocated for the Department of Transportation;

''(6) $1,333,333 shall be allocated for the National Aeronautics and Space Administration; and

''(7) $1,333,333 shall be allocated for the United States Army Corps of Engineers.

''(b) AUTHORIZATION FOR PROGRAM PLANNING, MANAGEMENT, AND COORDINATION.—

''(1) LEAD AGENCY.—From the amounts appropriated for the National Institute of Standards and Technology pursuant to subsection (a)(1)—

''(A) up to $1,000,000 may be allocated for carrying out the lead agency planning, management, and coordination functions assigned to the National Institute of Standards and Technology under section 204(d); and

''(B) not greater than 8 percent of such amounts may be allocated for managing the National Institute of Standards and Technology assigned research and development responsibilities.

''(2) OTHER PROGRAM AGENCIES.—From the amounts appropriated to each of the Program agencies under paragraphs (2) through (7) of subsection (a), not greater than 8 percent may be allocated to each such agency for carrying out planning, management, and coordination functions assigned to such agency under this Act, including participation in the Interagency Working Group.

''(c) REMAINDER AUTHORIZED FOR PROGRAM ACTIVITIES.—Any amounts appropriated pursuant to subsection (a) that are not allocated under subsection (b) shall be allocated to Program activities carried out in accordance with the objectives of the Program, including—

''(1) data collection and analysis;

''(2) risk assessment;

''(3) outreach;

''(4) technology transfer; and

''(5) research and development.''.

By Mr. FEINGOLD (For himself, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 3640. A bill to secure the Federal voting rights of persons who have been released from incarceration; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, in a democracy, no right is more important than the right to vote; in our democracy, no right has been so dearly won. This country was founded on the idea that a just government derives its power from the consent of the governed, a principle codified in the very first words of our Constitution: ''We the People of the United States.'' From the Civil War through the women's suffrage movement through the Voting Rights Act of 1965 through the 26th Amendment, the continuing expansion of the franchise, a broadening of who ''we the people'' are, is one of our great American stories.

So today I will introduce the Democracy Restoration Act of 2008. This bill will guarantee that citizens who are not incarcerated have the right to vote in Federal elections. I am pleased that the Senator from Rhode Island, Sen. WHITEHOUSE, and the Senator from Maryland, Sen. CARDIN, have agreed to be a cosponsor.

Once, only wealthy White men could vote in this country. Once, African Americans, ethnic minorities, women, young people, the poor, and the uneducated were all excluded. Today, we look back at those times and wonder how our country could have denied its citizens such a fundamental right for so long. And yet today, we continue to disenfranchise an estimated 4 million of our fellow citizens who were convicted of felonies but are no longer in prison. Two million of these people have fully served their sentences, and the other two million are on probation, parole, or supervised release. These people are living and working in the community, paying taxes, and contributing to society. But they cannot vote.

At this time, 10 states still strip people who have completed their sentence—who have paid their debt to society—of their right to vote. Some 35 States deny the vote to people on parole, and 30 of those States also deny the vote to people on probation. I believe that the practice of stripping our fellow citizens of their voting rights is un-American. It weakens our democracy. It is an anachronism, one of the last vestiges of a medieval jurisprudence that declared convicted criminals to be outlaws, irrevocably expelled from society.

This principle was called ''civil death'' and in medieval Europe, it was reserved for the worst crimes. Yet today, here, in the greatest democracy in the world, we continue to sentence 4 million people—people who have served their time, people who are contributing members of society—to civil death.

One might ask how something as undemocratic as civil death could have survived to the present day. Unfortunately, Mr. President, the practice of disenfranchising people with felony convictions has an explicitly racist history. Like the grandfather clause, the literacy test, and the poll tax, civil death became a tool of Jim Crow.

Across the country, 13 percent of African-American men are disenfranchised because of a felony conviction. As of 2004, in 14 states, felony disenfranchisement provisions had stripped more than 10 percent of the entire African-American voting-age population of the right to vote. In 4 states, they had disenfranchise more than 20 percent of eligible African-American voters.

The architects of Jim Crow would be proud of their handiwork, and how it has lasted long after the rest of their evil system was dismantled. The rest of us should be ashamed, and yes, outraged. If we believe in redemption, we should be outraged. Because civil death has denied 4 million Americans a chance at redemption. If we believe in progress, we should be outraged. Because civil death keeps this country chained to the worst moments of our past. If we believe in democracy, we should be outraged. Because civil death strikes at the heart of our democracy.

There is a growing movement across the country to expand the franchise and restore voting rights to people coming out of prison and reentering the community. In the last decade, 16 States have reformed their laws to expand the franchise or ease voting rights restoration procedures. This bill continues that movement. It provides that the right to vote for candidates for Federal office shall not be denied or abridged because a person has been convicted of a crime unless that person is actually in prison serving a felony sentence. It gives the Attorney General of the United States the power to obtain declaratory or injunctive relief to enforce that right. And it gives a person whose rights are being violated a right to go to court to get relief.

The bill also requires Federal and State officials to notify individuals of their right to vote once their sentences have been served. This is an important part of the bill, given the long history of these civil death provisions. Even after this bill passes, many ex-offenders may not know their rights, and we should take affirmative steps to make sure that they do. No one should be disenfranchised because of lack of information.

Upon signing the Voting Rights Act of 1965, President Johnson said:

> The vote is the powerful instrument ever devised by man for breaking down injustice and destroying the terrible walls which imprison men because they are different from other men.

When prisoners return to their communities after serving their sentences, we expect and hope that they will reintegrate themselves into society as productive citizens. Yet, without the right to vote, rehabilitated felons are already a step behind in regaining a sense of civic responsibility and commitment to their communities. If our country wants ex-offenders to succeed at becoming better citizens, who both abide by the law and act as responsible individuals, then we need to restore this most fundamental right. I urge my colleagues to support this important legislation.

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. 3640

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 ''Democracy Restoration Act of 2008''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The right to vote is the most basic constitutive act of citizenship. Regaining the right to vote reintegrates offenders into free society, helping to enhance public safety.

(2) Article I, section 4 of the Constitution of the United States grants Congress ultimate supervisory power over Federal elections, an authority which has repeatedly been upheld by the Supreme Court.

(3) Basic constitutional principles of fairness and equal protection require an equal opportunity for Americans to vote in Federal elections. The right to vote may not be abridged or denied by the United States or by any State on account of race, color, gender or previous condition of servitude. The 14th and 15th Amendments to the Constitution empower Congress to enact measures to protect the right to vote in Federal elections.

(4) There are three areas where discrepancies in State laws regarding felony convictions lead to unfairness in Federal elections:

(A) there is no uniform standard for voting in Federal elections which leads to an unfair disparity and unequal participation in Federal elections based solely on where a person lives; (B) laws governing the restoration of voting rights after a felony conviction are unequal throughout the country and persons in some States can easily regain their voting rights while in other States persons effectively lose their right to vote permanently; and (C) State disenfranchisement laws disproportionately impact racial ethnic minorities.

(5) Disenfranchisement results from varying State laws that restrict voting while under some form of criminal justice supervision or after the completion of a felony sentence in some States. Two States do not disenfranchise felons at all (Maine and Vermont). Forty-eight States and the District of Columbia have disenfranchisement laws that deprive convicted offenders of the right to vote while they are in prison. In thirty-five States, convicted offenders may not vote while they are on parole and thirty of these States disenfranchise felony probationers as well. In ten States, a conviction can result in lifetime disenfranchisement.

(6) An estimated 5,300,000 Americans, or about one in forty-one adults, currently cannot vote as a result of a felony conviction. Nearly 4,000,000 (74 percent) of the 5,300,000 disqualified voters are not in prison, but are on probation or parole, or are ex-offenders. Approximately 2,000,000 of those individuals are individuals who have completed their entire sentence, including probation and parole, yet remain disenfranchised.

(7) In those States that disenfranchise ex-offenders, the right to vote can be regained in theory, but in practice this possibility is often illusory. Offenders must either obtain a pardon or order from the Governor or action by the parole or pardon board, depending on the offense and State. Offenders convicted of a Federal offense often have additional barriers to regaining voting rights.

(8) In at least 16 States, Federal offenders cannot use the State procedure for restoring their civil rights. The only method provided by Federal law for restoring voting rights to ex-offenders is a Presidential pardon. Few persons who seek to have their right to vote restored have the financial and political resources needed to succeed.

(9) State disenfranchisement laws disproportionately impact ethnic minorities. Thirteen percent of the African American adult male population, or 1,400,000 African American men, are disenfranchised. Given current rates of incarceration, three in ten of the next generation of black men will be disenfranchised at some point during their lifetime. Hispanic citizens are also disproportionately disenfranchised since they are disproportionately represented in the criminal justice system.

(10) Disenfranchising citizens who have been convicted of a felony offense and who are living and working in the community serves no compelling State interest and hinders their rehabilitation and reintegration into society.

(11) State disenfranchisement laws suppress electoral participation among eligible voters and damage the integrity of the electoral process. State disenfranchisement laws significantly impact the rate of electoral participation among the children of disenfranchised parents.

(12) The United States in the only Western democracy that permits the permanent denial of voting rights to individuals with felony convictions.

SEC. 3. RIGHTS OF CITIZENS.

The right of an individual who is a citizen of the United States to vote in any election for Federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless such individual is serving a felony sentence in a correctional institution or facility at the time of the election.

SEC. 4. ENFORCEMENT.

(a) ATTORNEY GENERAL.—The Attorney General may, in a civil action, obtain such declaratory or injunctive relief as is necessary to remedy a violation of this Act.

(b) PRIVATE RIGHT OF ACTION.—

(1) A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) Except as provided in paragraph (3), if the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may, in a civil action obtain declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action to obtain declaratory or injunctive relief with respect to the violation.

SEC. 5. NOTIFICATION OF RESTORATION OF VOTING RIGHTS.

(a) STATE NOTIFICATION.—

(1) NOTIFICATION.—On the date determined under paragraph (2), each State shall notify in writing any individual who has been convicted of a criminal offense under the law of that State that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under paragraph (1) shall be given on the date on which the individual—

(i) is sentenced to serve only a term of probation; or

(ii) is released from the custody of that State (other than to the custody of another State or the Federal Government to serve a term of imprisonment for a felony conviction).

(B) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under paragraph (1) shall be given on the date on which such individual is sentenced by a State court.

(b) FEDERAL NOTIFICATION.—

(1) NOTIFICATION.—On the date determined under paragraph (2), the Director of the Bureau of Prisons shall notify in writing any individual who has been convicted of a criminal offense under Federal law that such individual has the right to vote in an election for Federal office pursuant to the Democracy Restoration Act and may register to vote in any such election.

(2) DATE OF NOTIFICATION.—

(A) FELONY CONVICTION.—In the case of such an individual who has been convicted of a felony, the notification required under paragraph (1) shall be given on the date on which the individual—

(i) is sentenced to serve only a term of probation by a court established by an Act of Congress; or

(ii) is released from the custody of the Bureau of Prisons (other than to the custody of a State to serve a term of imprisonment for a felony conviction).

(B) MISDEMEANOR CONVICTION.—In the case of such an individual who has been convicted of a misdemeanor, the notification required under paragraph (1) shall be given on the date on which such individual is sentenced by a State court.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) CORRECTIONAL INSTITUTION OR FACILITY.—The term ''correctional institution or facility'' means any prison, penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not include any residential community treatment center (or similar public or private facility).

(2) ELECTION.—The term ''election'' means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party held to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; or

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

(3) FEDERAL OFFICE.—The term ''Federal office'' means the office of President or Vice President of the United States, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(4) PROBATION.—The term ''probation'' means probation, imposed by a Federal, State, or local court, with or without a condition on the individual involved concerning—

(A) the individual's freedom of movement;

(B) the payment of damages by the individual;

(C) periodic reporting by the individual to an officer of the court; or

(D) supervision of the individual by an officer of the court.

SEC. 7. RELATION TO OTHER LAWS.

(a) STATE LAWS RELATING TO VOTING RIGHTS.—Nothing in this Act shall be construed to prohibit the States enacting any State law which affords the right to vote in any election for Federal office on terms less restrictive than those established by this Act.

(b) CERTAIN FEDERAL ACTS.—The rights and remedies established by this Act are in addition to all other rights and remedies provided by law, and neither rights and remedies established by this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) or the National Voter Registration Act (42 U.S.C. 1973–gg).

SEC. 8. FEDERAL PRISON FUNDS.

No State, unit of local government, or other person may receive or use, to construct or otherwise improve a prison, jail, or other place of incarceration, any Federal grant amounts unless that person has in effect a program under which each individual incarcerated in that person's jurisdiction who is a citizen of the United States is notified, upon release from such incarceration, of that individual's rights under section 3.

SEC. 9. EFFECTIVE DATE.

This Act shall apply to citizens of the United States voting in any election for Federal office held after the date of the enactment of this Act.