12, 2005, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 236

At the request of Mr. COLEMAN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Res. 236, a resolution recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes.

S. RES. 237

At the request of Mr. VOINOVICH, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Kansas (Mr. BROWNBACK), the Senator from California (Mrs. FEINSTEIN), the Senator from Virginia (Mr. ALLEN) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. Res. 237, a resolution expressing the sense of the Senate on reaching an agreement on the future status of Kosovo.

S. RES. 245

At the request of Mr. SCHUMER, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. Res. 245, a resolution recognizing the life and accomplishments of Simon Wiesenthal.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 1767. A bill to require the Federal Communications Commission to reevaluate the band plans for the upper 700 megaHertz band and the un-auctioned portions of the lower 700 megaHertz band and reconfigure them to include spectrum to be licensed for small geographic areas; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today with the support of many of my colleagues on the Committee on Commerce, Science and Transportation to introduce legislation to encourage the deployment of next generation wireless services in rural areas. Cell phones have become a vital part of so many lives. Today, there are over 194 million wireless subscribers in the United States—a subscribership that continues to grow. I want to be sure we foster an environment where this technology and future wireless technologies can flourish.

Along with mobility, convenience and safety, cell phones today also have benefits of information access and entertainment. While wireless phones have been rapidly adopted by the general public, wireless service is far from being without flaws. I myself become frustrated while home in Maine when I cannot get cell phone and blackberry service. Something must be done in order to improve the wireless services that so many people rely on.

Wireless services, such as cell phones, wireless handheld devices and some Internet services utilize frequencies on the radio spectrum to transfer voice and data from one user to another. It is the job of the service provider to turn these airwaves into the valuable services that consumers demand. The quality of service in a given place depends on how much investment the service provider has put into infrastructure. More urban locations tend to have better service because the return on investment is much higher due to the concentration of customers. This does not mean that rural areas are left without service. Viable business models exist that can sustain service in these more remote locations. Oftentimes smaller, local wireless companies can serve these areas better than nationwide service providers.

One of the greatest barriers to entry in the wireless industry is acquiring a spectrum license in which a service can be operated. Companies bid up to billions of dollars for rights to one of Nation's most important resources. The digital television transition will soon release new spectrum into the marketplace. Currently, the Federal Communications Commission is slated to auction off the spectrum in licenses that cover large geographic areas. While this may be the preferred size for national wireless carriers, smaller companies will be unable to compete in the bidding process.

The bill I introduce today aims to address this problem by directing the Federal Communications Commission to reevaluate its current bandplan for the 700 MHz spectrum that will be auctioned as a result of the digital television transition. In this reevaluation, the FCC must divide some of the frequency allocations into smaller area licenses so that local and regional wireless companies can have an opportunity to compete in the bidding process. The proper balance of large and small licenses will encourage the deployment of advanced services throughout all parts of the United States.

This bill is not meant to circumvent the expertise of the Federal Communications Commission. It merely directs the FCC to use its expertise to develop a plan that will benefit the entire nation. Rural America deserves the same benefits of wireless technologies that are available in urban areas. This Act gives those best able to serve remote areas the tools needed to deploy services.

By Mr. SPECTER (for himself, Mr. LEAHY, Mr. CORNYN, Mr. ALLEN, Mr. GRASSLEY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 1768. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to introduce legislation that will give the public greater access to our Supreme Court. This bill requires the high Court to permit television coverage of its open sessions unless it decides by a vote of the majority of Justices that allowing such coverage in a particular case would violate the due process rights of one or more of the parties involved in the matter.

The purpose of this legislation is to open the Supreme Court doors so that more Americans can see the process by which the Court reaches critical decisions of law that affect this country and everyday Americans. Because the Supreme Court of the United States holds power to decide cutting-edge questions on public policy, thereby effectively becoming a virtual ''super legislature,'' the public has a right to know what the Supreme Court is doing. And that right would be substantially enhanced by televising the oral arguments of the Court so that the public can see and hear the issues presented to the Court. With this information, the public would have insight into key issues and be better equipped to understand the impact of the Court's decisions.

In a very fundamental sense, televising the Supreme Court has been implicitly recognized—perhaps even sanctioned—in a 1980 decision by the Supreme Court of the United States entitled Richmond Newspapers v. Virginia. In this case, the Supreme Court noted that a public trial belongs not only to the accused, but to the public and the press as well; and that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, appears to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. I should note that the Court could, on its own motion, televise its proceedings but has chosen not to do so, which presents, in my view, the necessity for legislating on this subject.

When I argued the case of the Navy Yard, Dalton v. Specter, back in 1994, the Court proceedings were illustrated by an artist's drawings. Now, however, the public gets a substantial portion, if not most, of its information from television and the internet. While many court proceedings are broadcast routinely on television, the public has little access to the most important and highest court in this country. The public must either rely on the print media, or stand in long lines outside the Supreme Court in Washington DC in order to get a brief glimpse of the open session from the public gallery.

Justice Felix Frankfurter perhaps anticipated the day when Supreme Court arguments would be televised when he said that he longed for a day when: The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the

public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system.

When I spoke in favor of this legislation in September of 2000, I said, ''I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process.'' Today, I believe the time has come and that this legislation is crucial to the public's awareness of Supreme Court proceedings and their impact on the daily lives of all Americans.

I pause to note that it was not until 1955 that the Supreme Court, under the leadership of Chief Justice Warren, first began permitting audio recordings of oral arguments. Between 1955 and 1993, there were apparently over 5,000 recorded arguments before the Supreme Court. That roughly translates to an average of about one hundred thirty two (132) arguments annually. But audio recordings are simply ill suited to capture the nuance of oral arguments and the sustained attention of the American citizenry. Nor is it any response that people who wish to see open sessions of the Supreme Court should come to the Capital and attend oral arguments. For, according to one source: Several million people each year visit Washington, D.C., and many thousands tour the White House and the Capital. But few have the chance to sit in the Supreme Court chamber and witness an entire oral argument. Most tourists are given just three minutes before they are shuttled out and a new group shuttled in. In cases that attract headlines, seats for the public are scarce and waiting lines are long. And the Court sits in open session less than two hundred hours each year. Television cameras and radio microphones are still banned from the chamber, and only a few hundred people at most can actually witness oral arguments. Protected by a marble wall from public access, the Supreme Court has long been the least understood of the three branches of our federal government.

In light of the increasing public desire for information, it seems untenable to continue excluding cameras from the courtroom of the Nation's highest court. As one legal commentator observes: An effective and legitimate way to satisfy America's curiosity about the Supreme Court's holdings, Justices, and modus operandi is to permit broadcast coverage of oral arguments and decision announcements from the courtroom itself.

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there is, in the views of many, simply a difference of opinion to what is preferable public policy, but the Court determines novel issues such as whether AIDS is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. The current Court, like its predecessors, hands down decisions which vitally affect the lives of all Americans. Since the Court's historic 1803 decision, Marbury v. Madison, the Supreme Court has the final authority on issues of enormous importance from birth to death. In Roe v. Wade (1973), the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment. In the case of Washington v. Glucksberg (1997), the court refused to create a similar right to assisted suicide. Here the Court held that the Due Process Clause does not recognize a liberty interest that includes a right to commit suicide with another's assistance.

In the seventies, the Court first struck down then upheld state statutes imposing the death penalty for certain crimes. In Furman v. Georgia (1972), the Court struck down Georgia's death penalty statute under the cruel and unusual punishment clause of the Eighth Amendment and stated that no death penalty law could pass constitutional muster unless it took aggravating and mitigating circumstances into account. This decision led Georgia and many states to amend their death penalty statutes and, four years later, in Gregg v. Georgia (1976), the Supreme Court upheld Georgia's amended death penalty statute.

Over the years, the Court has also played a major role in issues of war and peace. In its opinion in Scott v. Sanford (1857)—better known as the Dredd Scott decision—the Supreme Court held that Dredd Scott, a slave who had been taken into ''free'' territory by his owner, was nevertheless still a slave. The Court further held that Congress lacked the power to abolish slavery in certain territories, thereby invalidating the careful balance that had been worked out between the North and the South on the issue. Historians have noted that this opinion fanned the flames that led to the Civil War.

The Supreme Court has also ensured adherence to the Constitution during more recent conflicts. Prominent opponents of the Vietnam War repeatedly petitioned the Court to declare the Presidential action unconstitutional on the grounds that Congress had never given the President a declaration of war. The Court decided to leave this conflict in the political arena and repeatedly refused to grant writs of certiorari to hear these cases. This prompted Justice Douglas, sometimes accompanied by Justices Stewart and Harlan, to take the unusual step of writing lengthy dissents to the denials of cert.

In New York Times Co. v. United States (1971)—the so called ''Pentagon Papers'' case—the Court refused to grant the government prior restraint to prevent the New York Times from publishing leaked Defense Department documents which revealed damaging information about the Johnson Administration and the war effort. The publication of these documents by the New York Times is believed to have helped move public opinion against the war.

In its landmark civil rights opinions, the Supreme Court took the lead in effecting needed social change, helping us to address fundamental questions about our society in the courts rather than in the streets. In Brown v. Board of Education, the Court struck down the principle of ''separate but equal'' education for blacks and whites and integrated public education in this country. This case was then followed by a series of civil rights cases which enforced the concept of integration and full equality for all citizens of this country, including Garner v. Louisiana, 1961, Burton v. Wilmington Parking Authority, 1961, and Peterson v. City of Greenville, 1963.

In recent years Marbury, Dred Scott, Furman, New York Times, and Roe, familiar names in the lexicon of lawyerly discussions concerning watershed Supreme Court precedents, have been joined with similarly important cases like Hamdi, Rasul and Roper all cases that affect fundamental individual rights. In Hamdi v. Rumsfeld, 2004, the Court concluded that although Congress authorized the detention of combatants, due process demands that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker. The Court reaffirmed the nation's commitment to constitutional principles even during times of war and uncertainty. Similarly, in Rasul v. Bush, 2004, the Court held that the federal habeas statute gave district courts jurisdiction to hear challenges of aliens held at Guantanamo Bay, Cuba in the U.S. War on Terrorism. Earlier this year in Roper v. Simmons, 2005, the Court held that executions of individuals who were under 18 years of age at the time of their capital crimes is prohibited by Eighth and Fourteenth Amendments.

In June of this year, the Supreme Court issued Kelo v. City of New London, 2005, a highly controversial opinion in which a majority of the justices held that a city's exercise of eminent domain power in furtherance of an economic development plan satisfied the Constitution's Fifth Amendment ''public use'' requirement despite the absence of any blight. Moreover, on June 27, 2005, the High Court issued two rulings regarding the public display of the Ten Commandments. Each opinion was backed by a different coalition of four, with Justice Breyer as the swing vote.

The only discernible rule seems to be that the Ten Commandments may be displayed outside a public courthouse, Van Orden v. Perry, but not inside (McCreary County v. American Civil Liberties Union) and may be displayed with other documents, but not alone. In Van Orden v. Perry, the Supreme Court permitted a display of the Ten Commandments to remain on the grounds outside the Texas State Capitol. However, in McCreary County v. ACLU, a bare majority of Supreme Court Justices ruled that two Kentucky counties violated the Establishment Clause by erecting displays of the Ten Commandments indoors for the purpose of advancing religion. While the multiple concurring and dissenting opinions in these cases serve to explain some of the confounding differences in outcomes, it would have been extraordinarily fruitful for the American public to watch the Justices as they grappled with these issues during oral arguments that, presumably, reveal much more of their deliberative processes than mere text.

Irrespective of ones view concerning the merits of these decisions, it is clear beyond cavil that they have a profound effect on the interplay between the government, on the one hand, and the individual on the other. So, it is with these watershed decisions in mind that I introduce legislation designed to make the Supreme Court less esoteric and more accessible to common men and women who are so clearly affected by its decisions.

When deciding issues of such great national import, the Supreme Court is rarely unanimous. In fact, a large number of seminal Supreme Court decisions have been reached through a vote of 5–4. Such a close margin reveals that these decisions are far from foregone conclusions distilled from the meaning of the Constitution and legal precedents. On the contrary, these major Supreme Court opinions embody critical decisions reached on the basis of the preferences and views of each individual justice. In a case that is decided by a vote of 5–4, an individual justice has the power by his or her vote to change the law of the land.

Some would argue that the Court has even played a significant role in deciding political contests as well. Who can forget the Court's dramatic decision in Bush v. Gore that enabled the country to move on from a bitterly fought presidential race. That decision, with its enormous repercussions for the Nation, cried out for greater public scrutiny of the process by which the Justices heard arguments and all but decided the fate of the 2000 presidential race.

Given the enormous significance of each vote cast by each Justice on the Supreme Court, televising the proceedings of the Supreme Court will allow sunlight to shine brightly on these proceedings and ensure greater public awareness and scrutiny.

In a democracy, the workings of the government at all levels should be open to public view. With respect to oral arguments, the more openness and the more real the opportunity for public observation the greater the understanding and trust. As the Supreme Court observed in the 1986 case of Press-Enterprise Co. v. Superior Court, ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''

It was in this spirit that the House of Representatives opened its deliberations to meaningful public observation by allowing C–SPAN to begin televising debates in the House chamber in 1979. The Senate followed the House's lead in 1986 by voting to allow television coverage of the Senate floor.

Beyond this general policy preference for openness, however, there is a strong argument that the Constitution requires that television cameras be permitted in the Supreme Court.

It is well established that the Constitution guarantees access to judicial proceedings to the press and the public. In 1980, the Supreme Court relied on this tradition when it held in Richmond Newspapers v. Virginia that the right of a public trial belongs not just to the accused, but to the public and the press as well. The Court noted that such openness has ''long been recognized as an indisputable attribute of an Anglo-American trial.''

Recognizing that in modern society most people cannot physically attend trials, the Court specifically addressed the need for access by members of the media: Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of acting as surrogates for the public. [Media presence] contributes to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system.

To be sure, a strong argument can be made that forbidding television cameras in the court, while permitting access to print and other media, constitutes an impermissible discrimination against one type of media over another. In recent years, the Supreme Court and lower courts have repeatedly held that differential treatment of different media is impermissible under the First Amendment absent an overriding governmental interest. For example, in 1983 the Court invalidated discriminatory tax schemes imposed only upon certain types of media in Minneapolis Star & Tribune Co. v. Minnesota Commissioner of Revenue. In the 1977 case of ABC v. Cuomo, the Second Circuit rejected the contention by the two candidates for mayor of New York that they could exclude some members of the media from their campaign headquarters by providing access through invitation only. The Court wrote that: Once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable.

In the 1965 case of Estes v. Texas, the Supreme Court rejected the argument that the denial of television coverage of trials violates the equal protection clause. In the same opinion, the Court held that the presence of television cameras in the Court had violated a Texas defendant's right to due process. Subsequent opinions have cast serious doubt upon the continuing relevance of both prongs of the Estes opinion.

In its 1981 opinion in Chandler v. Florida, the court recognized that Estes must be read narrowly in light of the state of television technology at that time. The television coverage of Estes' 1962 trial required cumbersome equipment, numerous additional microphones, yards of new cables, distracting lighting, and numerous technicians present in the courtroom. In contrast, the court noted, television coverage in 1980 can be achieved through the presence of one or two discreetly placed cameras without making any perceptible change in the atmosphere of the courtroom. Accordingly, the Court held that, despite Estes, the presence of television cameras in a Florida trial was not a violation of the rights of the defendants in that case. By the same logic, the holding in Estes that exclusion of television cameras from the courts did not violate the equal protection clause must be revisited in light of the dramatically different nature of television coverage today.

Given the strength of these arguments, it is not surprising that over the last two decades there has been a rapidly growing acceptance of cameras in American courtrooms which has reached almost every court except for the Supreme Court itself. Ironically, it was the Chandler decision which helped spur the spread of television cameras in the courts. Shortly after Chandler, the American Bar Association revised its canons to permit judges to authorize televising civil and criminal proceedings in their courts.

Following the green lights provided by the Supreme Court and the ABA, nearly all the States have decided to permit electronic coverage of at least some portion of their judicial proceedings. In 1990, the Federal Judicial Conference authorized a three-year pilot program allowing television coverage of civil proceedings in six federal district courts and two federal circuit courts. The program began in July, 1991, and ran through December 31, 1994. The Federal Judicial Center monitored the program and issued a positive final evaluation. In particular, the Judicial Center concluded that: Overall, attitudes of judges toward electronic media coverage of civil proceedings were initially neutral and became more favorable after experience under the pilot program.

The Judicial Center also concluded that: Judges and attorneys who had experience with electronic media coverage under the program generally reported observing small or no effects of camera presence on participants in the proceedings, courtroom decorum, or the administration of justice.

Despite this positive evaluation, the Judicial Conference voted in September 1994, to end the experiment and not to extend the camera coverage to all courts. This decision was made in the aftermath of the initial burst of television coverage of O.J. Simpson's pretrial hearing. Some have argued that the decision was unduly influenced by this outside event. In March 1996, the Judicial Conference revisited the issue of television cameras in the federal courts and voted to permit each Federal court of appeals to ''decide for itself whether to permit the taking of photographs and radio and television coverage of appellate arguments.'' Since that time, two circuit courts have enacted rules permitting television coverage of their arguments. It is significant to note that these two circuits were the two circuits which participated in the federal experiment with television cameras a few years earlier. It seems that once judges have an experience with cameras in their courtroom, they no longer oppose the idea.

On September 6, 2000, the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts held a hearing titled ''Allowing Cameras and Electronic Media in the Courtroom.'' The primary focus of the hearing was Senate bill S. 721, legislation introduced by Senators GRASSLEY and SCHUMER that would give Federal judges the discretion to allow television coverage of court proceedings. One of the witnesses at the hearing, Judge Edward Becker, Chief Judge U.S. Court of Appeals for the Third Circuit, spoke in opposition to the legislation and the presence of television cameras in the courtroom. The remaining five witnesses, however, including a Federal judge, a State judge, a law professor and other legal experts, all testified in favor of the legislation. They argued that cameras in the courts would not disrupt proceedings but would provide the kind of accountability and access that is fundamental to our system of government.

In my judgment, Congress, with the concurrence of the President, or overriding his veto, has the authority to require the Supreme Court to televise its proceedings. Such a conclusion is not free from doubt and is highly likely to be tested with the Supreme Court, as usual, having the final word. As I see it, there is clearly no constitutional prohibition against such legislation.

Article 3 of the Constitution states that the judicial power of the United States shall be vested ''in one Supreme Court and such inferior Courts as the Congress may from time to time ordain and establish.'' While the Constitution specifically creates the Supreme Court, it left it to Congress to determine how the Court would operate. For example, it was Congress that fixed the number of justices on the Supreme Court at nine. Likewise, it was Congress that decided that any six of these justices are sufficient to constitute a quorum of the Court. It was Congress that decided that the term of the Court shall commence on the first Monday in October of each year, and it was Congress that determined the procedures to be followed whenever the Chief Justice is unable to perform the duties of his office.

Beyond such basic structural and operational matters, Congress also controls more substantive aspects of the Supreme Court. Most importantly, it is Congress that in effect determines the appellate jurisdiction of the Supreme Court. Although the Constitution itself sets out the appellate jurisdiction of the Court, it provides that such jurisdiction exist ''with such exceptions and under such regulations as the Congress shall make.'' In the early days of the Supreme Court, Chief Justice Marshall, writing for the Court in Durousseau v. United States, recognized that the power to make exceptions to the Court's jurisdiction is the equivalent of the power to grant jurisdiction, since exceptions can be ''implied from the intent manifested by the affirmative description [of jurisdiction].''

The Supreme Court recognized the power of Congress to control its appellate jurisdiction in a dramatic way in the famous 1868 case of Ex Parte McCardle. In this case, McCardle, a newspaper editor, was being held in custody by the military for trial on charges stemming from the publication of articles alleged to be libelous and incendiary. McCardle petitioned the Supreme Court for a writ of habeas corpus. The Court heard his case but, before it rendered its opinion, Congress repealed the statute that gave the Supreme Court jurisdiction to hear the habeas appeal. In light of this Congressional action, the Supreme Court felt compelled to dismiss the case for lack of jurisdiction.

Some objections have been raised to televised proceedings of the Supreme Court on the ground that it would subject justices to undue security risks. My own view is such concerns are vastly overstated. Well-known members of Congress, walk on a regular basis in public view in the Capitol complex. Other very well-known personalities, presidents, vice presidents, cabinet officers, all are on public view with even incumbent presidents exposed to risks as they mingle with the public. Such risks are minimal in my view given the relatively minor exposure that Supreme Court justices would undertake through television appearances.

As I explained earlier, the Supreme Court could, of course, permit television through its own rule but has decided not to do so. Congress should be circumspect and even hesitant to impose a rule mandating the televising of Supreme Court proceedings and should do so only in the face of compelling public policy reasons. The Supreme Court has such a dominant role in key decision-making functions that their proceedings ought to be better known to the public; and, in the absence of Court rule, public policy would be best served by enactment of legislation requiring the televising of Supreme Court proceedings.

This legislation embodies sound policy and will prove valuable to the public. I urge my colleagues to support this bill.

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

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

S. 1768

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

SECTION 1. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''§ 678. Televising Supreme Court proceedings

''The Supreme Court shall permit television coverage of all open sessions of the Court unless the Court decides, by a vote of the majority of justices, that allowing such coverage in a particular case would constitute a violation of the due process rights of 1 or more of the parties before the Court.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 28, United States Code, is amended by inserting at the end the following:

''678. Televising Supreme Court proceedings.''.

Mr. LEAHY. I am pleased to join Senator SPECTER as a cosponsor of this bill that would require the televising of Supreme Court proceedings.

In the Senate Judiciary Committee, we recently conducted open hearings on the nomination of John G. Roberts to be Chief Justice of the United States. We raised this matter with Judge Roberts. I have long believed in sunshine in government. Our democracy works best when our citizens have access to their government. I have supported efforts to make all three branches of our Federal Government more accessible. Except for rare closed sessions, the proceedings Congress and its committees are open to the public and carried live on cable television and radio. In addition, Members and committees are using the Internet and Web sites to make their work available to their constituencies and the general public.

The work of executive branch agencies is subject to public scrutiny through the Freedom of Information Act, among other mechanisms. Despite the current administration's dramatic shift toward excessive secrecy, the Freedom of Information Act remains a cornerstone of democracy. It establishes the right of Americans to know what their government is doing—or not doing. As President Johnson said in

1966, when he signed the Freedom of Information Act into law:

This legislation springs from one of our most essential principles: A democracy works best when the people have all the information the security of the Nation permits.

Although most judicial proceedings are open to those who can travel to the courthouse and wait in line, emerging technology allows the opportunity to invite the rest of the country into the courtroom. All 50 States have allowed some form of audio or video coverage of court proceedings, but Federal courts lag behind. Previously, I have cosponsored several bills with Senator GRASSLEY to address this, including the Sunshine in the Courtroom Act of 2005.

The legislation I am cosponsoring today extends the tradition of openness to the Nation's highest Court and can help Americans be better informed about the important decisions that are made there and how they are made. This bill requires the Supreme Court to permit television coverage of all open sessions of the Court. At the same time, it protects the parties from violation of their due process rights by permitting a majority of the Justices to suspend this coverage for a particular session if due process requires.

In 1994, the Judicial Conference concluded that the time was not ripe to permit cameras in the Federal courts, and rejected a recommendation of the Court Administration and Case Management Committee to authorize the photographing, recording, and broadcasting of civil proceedings in Federal trial and appellate courts.

The Supreme Court is often the final arbiter of constitutional questions and represents the ultimate protection of individual rights and liberties. Allowing the public greater access to its public proceedings will allow Americans to evaluate for themselves the quality of justice in this country, and deepen their understanding of the work that goes on in the Court.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Mr. BURR, Ms. MIKULSKI, Mr. DEWINE, and Mrs. CLINTON):

S. 1769. A bill to provide relief to individuals and businesses affected by Hurricane Katrina related to healthcare and health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce a bill to provide solutions to the health care challenges wrought by Hurricane Katrina. As chairman of the Committee on Health, Education, Labor, and Pensions, I am proud to be joined by my friend Senator KENNEDY, the ranking minority member of the committee, in introducing this legislation. I am also honored that several fellow committee members are sponsoring this bill as well, including Senators ALEXANDER, DODD, BURR, MIKULSKI, DEWINE, and CLINTON. This bill is truly committee product in the best sense of the term.

We are introducing this legislation in response to the information that has been shared with us from a variety of sources. Some of the provisions of this bill were added as a result of the testimony that we received during a roundtable discussion before the Committee on Health, Education, Labor and Pensions. Others spring from the suggestions that were forwarded to us or were posted on our committee's Web site. Others came from our discussions with local, State and Federal officials who shared their firsthand knowledge and experience with us. Still others were added as a result of our visit to the area. This legislation will not accomplish everything that must be done, but it will provide another valuable step in the effort to provide a comprehensive package to address the needs of those whose lives were forever changed by the wrath of Hurricane Katrina.

Just a few days ago, several of my colleagues and I traveled to the New Orleans area to see the damage that was done by the storm for ourselves. I don't think any of us were fully prepared for what we saw. As startling as the images were that we had seen in the paper and on television, they didn't fully portray what had happened and the reality that confronted us on the ground. The devastation that the storm had brought to the lives of those who lived there was readily apparent. It was a tragedy that was even worse than any of us had thought was possible. It will not be easy to use the limited resources we have at our disposal to meet the almost unlimited need, but we are all determined to try.

Nationwide, there are people from the gulf coast region spread throughout the country who have had to rely on the kindness and goodwill of people they have never met before. Wyoming and so many other States have welcomed these people with open arms and open hearts. Seeing so many Americans, from all walks of life, respond as they have and reach out to other Americans in need, gives me a clearer picture than I have ever seen before of what is right with America. It is a scene that gives me confidence that we will be able to rebuild what was lost and breathe new life into the communities that were devastated by the storm.

Now, here in Congress, we will continue to do our part, and one of the most important things we can do is to assure mothers and fathers all over the country that the health care needs of their family will be met, that they will not have to go without or navigate through a complex bureaucracy to get the care they need, and that their Federal Government has the necessary authority to respond to this crisis.

The Public Health and Health Insurance Emergency Response Act of 2005 will strengthen and improve America's ability to address the ongoing public health and mental health needs faced by the hundreds of thousands of people displaced by Hurricane Katrina. It will also help those evacuees and their employers continue to afford their health insurance premiums as they put their lives and their businesses back together.

As we know, the public health emergency created by Hurricane Katrina will take months to resolve. That means we need to cut whatever Federal redtape might stand in the way of a long-term public health recovery effort.

In this legislation, therefore, we strengthen the authority of the Secretary of Health and Human Services to waive laws that hinder the fullest possible response to a major disaster like Hurricane Katrina. These laws include vaccination eligibility laws and requirements related to State and local matching funds, as well laws that limit the Secretary's flexibility in designating health professional shortage areas.

To ensure a comprehensive public health response in the months ahead, this critical legislation facilitates long-term Federal-State cooperation and coordination in a public health emergency, and assists with expanding and strengthening the health care safety net by increasing access to and resources for sites at which people displaced by Hurricane Katrina can receive primary and preventive care. It ensures immediate availability of mental health funding in the event of major disasters by directing special emergency mental health funding to affected areas, and directs additional outreach and assistance to individuals with disabilities, including funds to States during an emergency to ensure that individuals with disabilities have access to advocacy and support services.

Additionally, the bill we are introducing today clarifies appropriate protocols for emergency response by requiring additional data collection and analysis for use in this and future responses to major disasters.

Finally, my committee has also worked diligently to create a solution to another crisis created by Hurricane Katrina. This devastating natural disaster has changed lives and disrupted businesses all across the gulf coast of Louisiana, Mississippi, and Alabama. Families and employers are going to need our help getting the basic necessities of food, water, shelter, and clothing while they decide how to move forward and rebuild their lives and livelihoods.

Hundreds of thousands of the gulf coast evacuees have health insurance that they purchased on their own or that their employer provided and funded. Many of these people are now without a job, and many of these businesses are hanging on as they clean up and wait for their customers to return to the region. Some people have lost almost everything they owned, and now

they are in danger of losing their health insurance if they can't pay their premiums.

Congress can and will help them. The bill we are introducing will provide short-term premium relief to people displaced by Hurricane Katrina so they can keep their private health insurance.

Under this bill, the Department of Health and Human Services, in consultation with State insurance commissioners, will administer a program to provide 3 months of health insurance premium relief to individuals who have purchased their own policies, and to small businesses and their employees. Such individuals and businesses will be eligible if, as of the date of the hurricane, they held health insurance in counties federally designated major disaster areas and their ability to pay premiums has been severely disrupted. Enrollment in the program will occur automatically upon either nonpayment of premiums or if communication to an insurer or policyholder indicates distress.

To facilitate swift enrollment, there is no prospective application process. However, the program does provide for a retrospective randomized audit process, whereby HHS may retroactively seek collection of premium assistance if such assistance was made in error.

To complete this short-term protection for those individuals and businesses affected by Hurricane Katrina, the bill will prohibit insurers from canceling policies or raising rates during the 3-month emergency period.

The Public Health and Health Insurance Emergency Response Act of 2005 will provide immediate health insurance premium relief for individuals and businesses affected by Hurricane Katrina, and provide the Federal Government the authority it needs to respond effectively to the public health needs of people displaced by this terrible disaster.

After we pass this bill, our work in response to Hurricane Katrina is not over. This is our emergency response. In the upcoming months, working with Senator BURR, the chairman of our Subcommittee on Bioterrorism and Public Health Preparedness, and my other committee colleagues, I want to examine fully our preparedness and response capabilities as they relate to public health, mental health, and health care. I also want to focus on how best to rebuild the critical health care and public health infrastructure that was destroyed as a result of Hurricane Katrina.

These are some of the long-term challenges we must tackle. But in the short term, we must address the immediate needs and emergent challenges imposed by Hurricane Katrina. I urge my colleagues to join me as sponsors of the Public Health and Health Insurance Emergency Response Act of 2005, and I look forward to seeing the Senate pass this bill in the very near future.

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

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

S. 1769

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 ''Public Health and Health Insurance Emergency Response Act of 2005''.

TITLE I—CLARIFICATION OF A PUBLIC HEALTH EMERGENCY

SEC. 101. MODIFICATION TO THE DEFINITION OF PUBLIC HEALTH EMERGENCY.

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

(1) in subsection (a), by inserting before the last sentence, the following: ''Any determination under this section shall specify the geographic area with respect to which such determination applies.''; and

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

''(d) STATUTORY WAIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, if the Secretary declares a public health emergency pursuant to subsection (a), the Secretary may waive the following statutory requirements:

''(A) REPORTING OR ADMINISTRATIVE REQUIREMENTS.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data, reports, or other materials, or for the completion of other administrative tasks required under any law administered by the Secretary, the Secretary may grant such extensions of such deadlines as the circumstances may reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply.

''(B) VACCINATIONS.—With respect to section 317 of this Act and section 1928 of the Social Security Act, the Secretary may waive requirements related to the eligibility of adults and children for participation in the program for those in an area with respect to which the Secretary has declared a public health emergency during the period of such declaration.

''(C) EXTENSION OF AVAILABILITY OF FUNDS.—If, as a result of a public health emergency declared pursuant to subsection (a), the Secretary determines that the Secretary is unable to obligate funds for a particular fiscal year, such funds shall remain available for an additional 180 days.

''(D) MATCHING REQUIREMENTS.—In any case in which the Secretary determines that an entity in an area with respect to which the Secretary has declared a public health emergency pursuant to subsection (a) is unable to provide funds required as a condition of Federal matching under any provision of the Public Health Service Act, the Secretary may grant a waiver of such funding requirement for the fiscal years covered by such emergency declaration. To the extent that additional amounts have been appropriated for programs that have received a waiver under this subparagraph as a result of Hurricane Katrina, the Secretary may make such additional amounts available to entities on a pro rata basis.

''(E) MOBILIZING RESOURCES TO PROVIDE ACCESS.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may deem such area as a health professional shortage area (as defined under section 332(a)), a medically underserved population (as defined under section 330(b)(3)), or a medically underserved area or community during the period of such declaration.

''(e) LICENSING AND LIABILITY PROVISIONS.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may waive the application of licensing requirements applicable to physicians and other health care professionals who are volunteering to provide medical services (within their scope of practice) within such area as part of a coordinated emergency response if such physicians or health care professionals have equivalent licensing in good standing in another State and are not affirmatively excluded from practice in that State or in any State a part of which is included in the designated public health emergency area. A physician or other health care professional described in section 2811(d)(1) shall be covered by the provisions of section 2811(d)(2), including with respect to liability.

''(f) FDA WAIVER AUTHORITY.—If the Secretary declares a public health emergency pursuant to subsection (a) with respect to an area, the Secretary may—

''(1) waive the requirements in the second sentence of section 304(h)(1)(B) of the Federal Food, Drug, and Cosmetic Act;

''(2) waive the requirement of section 304(h)(2) of such Act that limits the administrative detention of foods to not more than 30 days; and

''(3) waive the requirement of section 304(h)(4)(A) of such Act relating to the timing of an opportunity for an informal hearing upon the appeal of a detention order.

Under paragraph (1), the Secretary may not waive the requirements of sections 1.392 or 1.393 of title 21, Code of Federal Regulations, or any successor regulations thereto.

''(g) REPORT.—Not later than 2 days after granting any waiver under subsection (d), (e), or (f), the Secretary shall notify the appropriate committees of Congress of such action. The Secretary shall publish in the Federal Register a notice of such waiver in a timely manner. Such notification shall include, if applicable—

''(1) the specific provisions of law to be waived or modified;

''(2) the rationale for such waiver or modification;

''(3) the geographic area in which the waiver or modification will apply; and

''(4) the period of time, not to exceed the period of the emergency, for which the waiver or modification will be in effect.

''(h) AUTHORITY FOR RETROACTIVE APPLICATION.—A waiver or modification described in subsections (d), (e), and (f), at the discretion of the Secretary, may be made retroactive to the beginning of the emergency period or any subsequent date in such period as specified by the Secretary.''.

SEC. 102. SENSE OF CONGRESS CONCERNING THE HURRICANE KATRINA-RELATED PUBLIC HEALTH EMERGENCY.

It is the sense of Congress that—

(1) with respect to the public health emergency declared under section 319 of the Public Health Service Act (42 U.S.C. 247d) resulting from Hurricane Katrina, the Secretary of Health and Human Services, in coordination with other Federal entities (including the Federal Emergency Management Association, the Department of Defense, the Department of Veterans' Affairs, Environmental Protection Agency, and the National Disaster Medical System), State and local governments, and public and private sector entities, where appropriate, should ensure the following:

(A) grants and funding should be provided to address ongoing emergency responses and recovery;

(B) the provision of health services including medical specialty services, health-related social services including protection and advocacy services, other appropriate human services, and appropriate auxiliary services to respond to the needs of the survivors of the public health emergency;

(C) clinicians deployed as part of the emergency response efforts who are licensed and certified within their respective State and in good standing within their State should be afforded appropriate liability protections;

(D) clinicians deployed as part of the emergency response who are licensed or otherwise certified in their respective State and in good standing within their State should not need to fulfill additional licensure or certification requirements in areas declared to be part of a public health emergency;

(E) individuals within the public health emergency areas should be able to access quality mental health and substance abuse services including services to reduce and identify individuals at risk of suicide and post-traumatic stress disorder and provide appropriate interventions;

(F) environmental teams should be deployed to provide assessments and environmental controls for areas within the public health emergency;

(G) social services, including protection and advocacy services and access to domestic violence shelters, should be extended to those within the public health emergency areas;

(H) communication resources should be available to those displaced by the hurricane including access to 2-1-1 call centers;

(I) support services including supports, equipment, supplies, medications, and other types of assistance (such as those provided through the Developmental Disabilities Assistance and Bill of Rights Act of 2000) should be available to vulnerable populations including the elderly and individuals with disabilities;

(J) real time electronic surveillance, diagnosis, and treatment of epidemic, re-emerging, and emerging diseases, including a functioning diagnostic laboratory, should be provided for those dislocated as a result of Hurricane Katrina and first-responders;

(K) funding should be provided to help healthcare facilities, medical research facilities, community health centers, and other essential public health and health care infrastructure components to assist them in the ongoing response efforts, to clean up their facilities, or to rebuild;

(L) coordination and minimizing the duplication of Federal, State, and local response and recovery efforts;

(M) funding should be provided to ensure that the Strategic National Stockpile is able to provide and appropriately deploy the necessary drugs, vaccines, and other biological products, medical devices, and other supplies needed to address acute exacerbations of chronic illness as well as acute injuries and illness resulting from Hurricane Katrina;

(N) funding should be provided to the Centers for Disease Control and Prevention and the National Institutes of Health to pay for needed communications, including public service announcements on radio and television, to provide for additional personnel, and to provide needed health and safety training and resources to affected workers and employers;

(O) none of the funds provided by the Secretary of Health and Human Services in response to Hurricane Katrina should made available to entities that have been indicted for abandoning patients during the disaster period; and

(P) the Department of Health and Human Services should conduct an effective ongoing program to monitor the health of survivors of Hurricane Katrina and of workers and volunteers involved in rescue, response, and rebuilding efforts due to Hurricane Katrina, and that such a program should include screening for health conditions (including mental health conditions) and appropriate referrals; and

(2) the current public health emergency declared by Secretary Leavitt relating to Hurricane Katrina under such section 319 should be extended beyond 90 days.

TITLE II—HEALTHCARE RESPONSE

SEC. 201. ASSISTANCE TO STATES IN A PUBLIC HEALTH EMERGENCY.

Section 311(c)(2) of the Public Health Service Act (42 U.S.C. 243(c)(2)) is amended—

(1) by striking ''(2) The'' and inserting the following:

''(2)(A) Except as provided in subparagraph (B), the''; and

(2) by adding at the end the following:

''(B) If the Secretary declares a public health emergency under section 319, the 6 month period described in the first sentence of subparagraph (A) may be extended for a period of not to exceed 18 months with respect to assistance to geographic areas that are the subject of such declaration.''.

SEC. 202. STRENGTHENING THE HEALTHCARE SAFETY NET.

Notwithstanding any other provision of law, the Secretary of Health and Human Services may temporarily provide (for the period for which a determination of public health emergency is in effect under section 319 of the Public Health Service Act (42 U.S.C. 247d)) with respect to Hurricane Katrina that any health center or facility providing primary and preventive care that—

(1) is located in an area to which such determination applies, and

(2) treats individuals displaced by Hurricane Katrina;

shall receive reimbursement for such treatment from Federal health programs at the same rate at which a Federally qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1596d(l)(2)(B))) would receive such reimbursement and shall be eligible to receive funds under section 330 of the Public Health Service Act (42 U.S.C. 245b) with respect to services furnished to individuals displaced by Hurricane Katrina if additional funds are made available under such section for Hurricane Katrina response efforts.

SEC. 203. MENTAL HEALTH NEEDS.

(a) ENSURING FUNDING FOR MENTAL HEALTH IN TIMES OF NATIONAL CRISIS.—Section 501(m) of the Public Health Service Act (42 U.S.C. 290aa(m)) is amended by adding at the end the following:

''(4) EXISTING FUNDING.—For purposes of carrying out this subsection, amounts appropriated under this title for emergency response, as provided for in this section, for fiscal years 2005 and 2006 shall remain available until expended or until a public health emergency as declared by the Secretary no longer exists.''.

(b) STRENGTHENING ACCESS TO MENTAL HEALTH SERVICES IN AN EMERGENCY.—Section 520F of the Public Health Service Act (42 U.S.C. 290bb-37) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) HEALTH CENTER.—In this section, the term 'health center' has the meaning given such term in section 330, and includes community health centers and community mental health centers.'';

(2) in subsection (c), by adding at the end the following: ''With respect to a declaration of a public health emergency under section 319, the Secretary shall, in awarding such grants, ensure that priority is given to States and localities that are most affected by such emergency.'';

(3) in subsection (e)(2)—

(A) in clause (i), by striking ''individuals'' and all that follows through the semicolon and inserting ''individuals, including children, who may be in need of emergency mental health services, including individuals at risk of developing a mental illness, including Post Traumatic Stress Disorder;''; and

(B) in clause (iii), by inserting ''or at risk of developing'' after ''individual with''; and

(4) in subsection (g), by striking ''2003'' and inserting ''2006''.

SEC. 204. ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES.

(a) ASSESSMENT AND RESPONSE.—

(1) DEFINITIONS.—

(A) EMERGENCY SHELTER.—The term ''emergency shelter'' means an emergency shelter for persons described in subparagraph (C)(ii).

(B) INDIVIDUAL WITH A DISABILITY.—The term ''individual with a disability'' has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(C) INDIVIDUAL AFFECTED BY HURRICANE KATRINA.—The term ''individual with a disability affected by Hurricane Katrina'' means a person who is—

(i) an individual with a disability, or a family member of an individual with a disability; and

(ii) a person who resided on August 22, 2005, in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(2) ASSISTANCE.—An entity that receives financial assistance under title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) may use a portion of such financial assistance to—

(A) determine the location and status of individuals affected by Hurricane Katrina, who are transferred from emergency shelters to long-term care facilities (including nursing homes and group homes), intermediate care facilities for individuals with mental retardation, hospitals, correctional institutions, and other similar locations; and

(B) assess and respond to the needs of individuals affected by Hurricane Katrina to ensure that the individuals receive necessary services, supports, and other types of assistance.

(b) OVERSIGHT AND DISASTER ASSISTANCE.—Subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.) is amended by inserting after section 144 the following:

''SEC. 144A. OVERSIGHT AND DISASTER ASSISTANCE.

''(a) DEFINITIONS.—In this section:

''(1) EMERGENCY SHELTER.—The term 'emergency shelter' means an emergency shelter for persons described in paragraph (3)(B).

''(2) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

''(3) INDIVIDUAL AFFECTED BY A MAJOR DISASTER.—The term 'individual affected by a major disaster' means a person who is—

''(A) an individual with a disability; and

''(B) a person who resided in an area in which the Secretary has declared a public health emergency under section 319 of the Public Health Service Act, 7 days before the declaration.

''(4) PUBLIC HEALTH EMERGENCY.—The term 'public health emergency' means a public health emergency as designated under section 319 of the Public Health Service Act.

''(b) OVERSIGHT.—

''(1) GRANTS.—

''(A) IN GENERAL.—In a case in which the Secretary of Health and Human Services has declared that a public health emergency exists for a geographic area, and as a result individuals affected by a major disaster are placed in an emergency shelter in a State, the Secretary may make a grant to the system for that State.

''(B) USE OF FUNDS.—A system that receives a grant under subparagraph (A) shall use the funds made available through the grant to—

''(i) establish a registry to identify and maintain information about such individuals who are in such emergency shelter;

''(ii) track the transfers of such individuals from such emergency shelter to community and non-community settings; and

''(iii) provide oversight at such emergency shelter to assure that such individuals are receiving necessary services, supports, and other types of assistance.

''(2) COORDINATION.—In carrying out activities under paragraph (1), the system shall coordinate the activities with the Under Secretary for Emergency Preparedness and Response in the Department of Homeland Security, and with any nonprofit agency (such as the American Red Cross) providing assistance through an emergency shelter described in paragraph (1).

''(c) ACCESS.—As soon as practicable after the Secretary of Health and Human Services has declared a public health emergency for an area, and as a result individuals affected by the emergency are placed in an emergency shelter in a State, the Commissioner of the Administration on Developmental Disabilities shall notify each emergency shelter in the State receiving such individuals that staff of the system for the State shall have authority to enter the shelter, and shall have access to the individuals affected by the emergency residing in that shelter, to provide information related to services, supports, and other types of assistance for, and to protect the human, service, and legal rights of, individuals affected by the emergency residing in that shelter.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (b) $2,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal year 2007.''.

SEC. 205. LIABILITY AND LICENSURE AWARENESS PROMOTION FOR HEALTH VOLUNTEERS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall utilize the Internet and other appropriate means to disseminate to the public information on health professional liability coverage and licensure requirements for intermittent disaster response personnel (as described in section 2811(d)(1) of the Public Health Service Act (42 U.S.C. 300hh–11(d)(1))) in areas in which a public health emergency have been declared under section 319 of such Act (42 U.S.C. 247d).

(b) TYPE OF INFORMATION.—The information to be provided under subsection (a) shall, in the case of a State where health professional licensure requirements have been waived, include—

(1) whether and how intermittent disaster response personnel may be able to receive certain liability protections as described in section 2811(d)(2) of the Public Health Service Act (42 U.S.C. 300hh–(d)(2)), or under applicable provisions of State law;

(2) the possible limitations of such coverage and protections; and

(3) other information needed to enable health professionals to make an informed decision about providing volunteer health services.

TITLE III—RESEARCH AND REPORTS

SEC. 301. MONITORING THE HEALTHCARE, MENTAL HEALTH, AND PUBLIC HEALTH RESPONSE.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through a public service non-profit research and analysis firm, shall provide for an immediate and independent review (through the immediate collection of data and conduct of analyses) of the lessons learned from the Federal, State and local public health, mental health, and medical care planning, preparedness, and response to Hurricane Katrina.

(b) PURPOSE.—The purpose of the study under subsection (a) is to collect available relevant data, through site visits, reviews of medical and epidemiological records, interviews with individuals residing in an area in which a public health emergency has been declared under section 319 of the Public Health Service Act as a result of Hurricane Katrina, and interviews with Federal, State, and local public health, mental health services, and medical officials. Such interviews shall be conducted in a manner that, to the extent practicable, does not interfere with the delivery of patient care and services.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Emergency and Commerce of the House of Representatives, a report concerning the lessons learned (as described in subsection (a)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out this section.

SEC. 302. REPORT ON REGULATORY REQUIREMENTS AND FUNDING FORMULAS.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the specific regulatory requirements and funding formulas under the Public Health Service Act (42 U.S.C. 201 et seq.) that would assist the Secretary in responding to a public health emergency (as declared under section 319 of such Act (42 U.S.C. 247d)).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 303. DEPARTMENT OF HEALTH AND HUMAN SERVICES INSPECTOR GENERAL AUDIT AND REPORT.

(a) IN GENERAL.—The Inspector General of the Department of Health and Human Services (referred to in this section as the ''Inspector General'') shall conduct an audit and investigation of each program carried out by the Department of Health and Human Services that includes response and recovery activities related to Hurricane Katrina.

(b) WEEKLY REPORT.—Not less frequently than once a week, the Inspector General shall provide a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives listing the audits and investigations initiated pursuant to subsection (a).

(c) STATUS REPORT.—Not later than 6 months after the date of enactment of this section, and biannually thereafter until the audits and investigations described in subsection (a) are complete, the Inspector General shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the full status of the activities of the Inspector General under this section.

(d) COOPERATIVE VENTURES.—In carrying out this section, the Inspector General is encouraged to enter into cooperative ventures with Inspectors General of other Federal agencies.

TITLE IV—HEALTH INSURANCE COVERAGE

SEC. 401. TEMPORARY EMERGENCY HEALTH COVERAGE ASSISTANCE FOR BUSINESS AND INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in consultation with the insurance commissioners of those States contained in whole or in part in the Hurricane Katrina disaster area, shall establish a program to provide emergency health coverage continuation relief through the provision of direct payments of health insurance premiums or continuation assistance on behalf of eligible businesses and their employees and purchasers of individual health insurance coverage.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE INDIVIDUALS.—The term ''eligible individual'' means an individual (and the family dependents of such individual as may be covered under the health insurance coverage in which such individual is enrolled)—

(A) who is a citizen, national, or qualified alien as defined in section 431(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(b));

(B) whose permanent residence as of August 29, 2005 was located in a Hurricane Katrina disaster area;

(C) who was covered under individual (non-group) health insurance coverage, including a policy operated pursuant to a qualified high risk pool (as defined in section 2744 of the Public Health Service Act (42 U.S.C. 300gg-44)), on August 29, 2005; and

(D) whose ability to continue such coverage was severely impaired as a result of hurricane-related disruption in a Hurricane Katrina disaster area.

(2) ELIGIBLE BUSINESSES.—The term ''eligible business'' means a corporation, sole proprietorship, or partnership that employs not more than 50 employees and that—

(A) operated as of August 29, 2005 in a Hurricane Katrina disaster area;

(B) offered coverage under a group health plan (as defined in section 733(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a)(1))) on August 29, 2005 to employees in a Hurricane Katrina disaster area; and

(C) had its ability to continue coverage under such plan severely impaired as a result of disruption of the sponsor's business activity in the Hurricane Katrina disaster area.

(3) CONTINUATION ASSISTANCE.—The term ''continuation assistance'' means, in the case of an eligible business that offers health insurance coverage under a self-insured arrangement, assistance in paying administrative services fees, claims costs, stop-loss premiums, and any amounts required to be paid by employees to participate in the arrangement.

(4) HURRICANE KATRINA DISASTER AREA.—The term ''Hurricane Katrina disaster area'' means a parish in the State of Louisiana, a county in the State of Mississippi, or a county in the State of Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 11, 2005, warrants both individual and public assistance from the Federal Government under such Act.

(c) HEALTH COVERAGE CONTINUATION RELIEF.—

(1) IN GENERAL.—The Secretary shall design and implement the program under subsection (a) in a manner that enables eligible individuals and eligible businesses to be eligible for direct premium reimbursement or continuation assistance to be paid by the Secretary on behalf of such individual or business directly to the health insurance issuer or administrative services provider involved. In the case of an eligible business, premium reimbursement shall include the premium shares of both the employer and employees, as applicable.

(2) LIMITATION.—Subject to paragraph (3), in no case shall the value of the assistance provided under the program under this section, with respect to an individual or business, exceed 100 percent of the applicable premium for coverage or continuation assistance for the period of coverage involved, including, with respect to employer coverage, the employer and employees' share of premiums, if applicable.

(3) ENROLLMENT.—

(A) IN GENERAL.—The Secretary shall establish an expedited process for the enrollment of eligible individuals and eligible businesses in the program under this section.

(B) DUTY OF SECRETARY UPON RECEIPT OF NOTICE.—The Secretary, upon receipt of a notice under subsection (f)(2), shall enroll the eligible individual or eligible business involved in the program under this section.

(C) DUTY OF ISSUER.—A group health plan, or health insurance insurer with respect to such a plan, shall make a reasonable effort to notify an eligible individual or eligible business—

(i) of the automatic enrollment of such individual or business in the program under subparagraph (B);

(ii) that, if it is later determined that the means of support of such individual, or the ability of such business to continue health insurance coverage, was not severely disrupted (as determined subject to a randomized retrospective audit process), such individual or business may be required at a later date to repay the program for the amount of premiums or continuation assistance paid on its behalf; and

(iii) that such individual or business may elect to decline enrollment, or cancel enrollment, in the program by notifying the health insurance issuer or administrative service provider involved.

(d) RETROSPECTIVE AUDIT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall provide for the application of a randomized retrospective auditing process to the program under this section by a date that is not earlier than November 1, 2005.

(2) REPAYMENT OF FUNDS.—If the Secretary determines, pursuant to the audit process under paragraph (1), that an individual or business that was enrolled in the program under this section did not meet the disruption or other eligibility requirements provided for in paragraph (1) or (2) of subsection (b), the Secretary shall seek the repayment of funds paid on behalf of such individual or business. Such repayments shall be made with no interest or late penalty to accrue prior to the commencement of a repayment period which shall begin not earlier than the date that is 3 months after the date on which a determination and notice of non-eligibility is provided.

(3) NO DOUBLE PAYMENTS.—The Secretary shall take appropriate actions to ensure that health insurance issuers do not retain double payments in instances where businesses or individuals pay premiums for any period for which payments have already been made under the program under this section.

(e) EMERGENCY PERIOD.—Payments under the program under this section shall be made only for premiums due during the period beginning on August 29, 2005 and expiring 3 months after such date. Prior to the expiration of such period, the Secretary may make recommendations to Congress regarding any reasonably determined need to extend such emergency period.

(f) NON-CANCELLATION OF HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—During the 3-month emergency period described in subsection (e), health insurance issuers that accept payments under the program under this section shall be prohibited from canceling or terminating health insurance coverage or, in the case of administrative services providers, refusing to process claims under a self-insured arrangement. Such health insurance issuers and administrative service providers shall be prohibited during such period from increasing any amounts due pursuant to such coverage or arrangements that were not previously scheduled pursuant to a contract prior to August 29, 2005.

(2) NOTIFICATION.—To be eligible to receive payments under ths program under this section, a health insurance issuer or administrative services provider shall notify the Secretary—

(A) not earlier than 31 days following the nonpayment of a scheduled premium payment from an individual or business policyholder in a Hurricane Katrina disaster area, of the fact of such nonpayment (or nonreimbursement of claims under a self-insured arrangement); or

(B) following a communication to the health insurance insurer or administrative service provider by an individual or business reasonably indicating eligibility for assistance under such program, of the fact of such communication.

(g) EXPEDITED RULEMAKING.—The Secretary shall utilize expedited rulemaking procedures to carry out this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000,000 for fiscal year 2006.

SEC. 402. AUTHORITY TO POSTPONE CERTAIN DEADLINES RELATED TO INDIVIDUAL HEALTH COVERAGE BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTION.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following:

"SEC. 2793. AUTHORITY TO POSTPONE CERTAIN DEADLINES BY REASON OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTION.

''In the case of a plan offered through the individual market, or any health insurance issuer, participant, beneficiary, or other person with respect to such plan, affected by a Presidentially declared disaster (as defined in section 1033(h)(3) of the Internal Revenue Code of 1986) or a terroristic or military action (as defined in section 692(c)(2) of such Code), the Secretary may, notwithstanding any other provision of law, prescribe, by notice or otherwise, a period of up to 1 year which may be disregarded in determining the date by which any action is required or permitted to be completed under this title. No plan shall be treated as failing to be operated in accordance with the terms of the plan solely as a result of disregarding any period by reason of the preceding sentence.''.

(b) APPLICATION OF AMENDMENT.—The Secretary of Health and Human Services shall implement the amendment made by subsection (a) in the same manner in which the Secretary of Labor implements section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) with respect to group health plans.

TITLE V—EMERGENCY DESIGNATION

SEC. 501. EMERGENCY DESIGNATION.

Any amount provided under this Act is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

Mr. KENNEDY. Mr. President, today, I join Senator ENZI in introducing a relief bill that will bring aid to hundreds of thousands of people affected by Hurricane Katrina. I commend Chairman ENZI and our colleagues on the Committee for moving so quickly to meet the many urgent health needs of the victims.

We have all seen the images of despair of those who felt so abandoned by their government in their time of need. We have also seen hope reborn in the faces of families reunited after surviving this massive catastrophe. We have seen great heroism too, not only in the spectacular images of rescues by helicopter, but in the quiet courage of neighbors helping neighbors survive the heavy winds and rising waters.

It's been three weeks since Hurricane Katrina brought havoc to the Gulf Coast. Every day, we have a clearer picture of physical destruction of beloved American communities, and a deeper understanding of what our fellow citizens have lost. Survivors have begun the slow and difficult process of rebuilding their lives. Most have , only the clothing they wore as they tried to cope with the hurricane.

Another picture is also emerging—a report card filled with failing grades for government at every level in the preparations and response for such an emergency. The natural disaster was compounded many fold by the inadequate response, despite the bravery and sacrifice of relief workers, rescue personnel, and the hurricane survivors themselves.

With new destruction in Texas and Louisiana from Hurricane Rita, we had little time to learn from these past lessons. Already, we responded sooner by insisting on the evacuation of people in flood-prone areas and shipping food and supplies quickly into the hard hit areas. Unfortunately, this means that many Hurricane Katrina evacuees had to relocate again. They halted their individual rebuilding processes, and once again, now find themselves in unfamiliar surroundings dealing with anguish, fear, loss, and uncertainty.

The recent evacuations reveal additional lessons to be learned. Massive gridlock on evacuation routes, gasoline shortages, and overwhelmed airports are just the beginning of many challenges that lie ahead. We need to learn faster and learn better, so that we can prepare more effectively before disasters happen, react more effectively as they take place, and respond more effectively in the aftermath.

I commend Chairman ENZI for convening two roundtable discussions that provided impressive expertise about what can be done immediately to protect the health of those affected by the hurricane and help them begin to rebuild their lives.

Our committee listened carefully and prepared a relief package to address the immediate health needs of the survivors for the next 90 days. We have a long road ahead of us, but this bill is an important start. As the aftermath of Hurricanes Katrina and Rita continues to unfold, we will learn of additional needs, and be reminded again and again that we have much more to do to improve the nation's ability to respond to disasters, whether man-made or natural.

In this legislation, we are focusing on what we can do to immediately remove the perennial red tape and make sure that each and every survivor has access to good health care. For those with health insurance, the bill provides temporary assistance on premiums, so that individuals and small businesses affected by the hurricanes maintain their existing coverage. I'm hopeful we can work together to extend similar help to persons in larger firms who need temporary assistance.

We also authorize the Secretary of Health and Human Services to extend insurance deadlines, so that hurricane survivors have time to make important decisions about their coverage.

In preventing disease outbreaks and epidemics, time is of the essence. The bill removes barriers to existing public health programs, such as by allowing the Vaccines for Children Program to contribute to the vaccination campaign already under way, in order to prevent outbreaks of disease in responders and in persons relying on the same shelter.

It is especially urgent to monitor the survivors and responders, in order to identify both the short-term and the long-term risks they face. I will continue to work with my colleagues to authorize the Secretary of Health and Human Services to work closely with other agencies, including the Environmental Protection Agency, to begin monitoring health outcomes and exposure to environmental toxins, and to develop a registry of people screened, so that we can identify long-term consequences.

As we focus on preventing and treating physical illness, we must not ignore the emotional challenges ahead for both survivors and responders. Thousands are facing the silent battle of coping with bereavement and catastrophe. All are at risk for post-traumatic stress disorder. Today, we are reauthorizing the emergency mental health services program of the Substance Abuse and Mental Health Services Administration's and giving priority to awarding its grants to states and areas most affected by the hurricanes.

This measure is only the beginning. It ends restrictions on existing Federal programs, so that we can help immediately with the relief efforts and expand access to health care for the survivors.

I'm encouraged by how well our colleagues have worked together to rapidly develop this relief package, and I urge the Majority Leader and the full Senate to make passing this legislation a priority and bring help to the thousands affected by the hurricane.

I'm also optimistic that our bipartisan cooperation here will lead to further relief measures that fully address the longer term health needs of the victims, and prevent the kind of mistakes that happened in connection with Katrina and Rita from happening again.

Congress has a major responsibility to help the survivors of this tragic ordeal rebuild their communities and their lives. Today, we make a clear commitment to the survivors. Our promise to them should not simply be to turn back the clock a month or two—it should be to fulfill the true promise of the American Dream by committing ourselves to better health, better education and better job opportunities for survivors, and for all Americans as well.

By Mr. OBAMA (for himself, Mrs. MURRAY, Mr. CORZINE, Mr. KERRY, and Mr. LEVIN):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies; to the Committee on Finance.

Mr. OBAMA. Mr. President, I rise to speak in support of the ''Hurricane Katrina Fast-Track Refunds for Working Families Act of 2005,'' a bill I am introducing with Senators MURRAY, CORZINE, KERRY, and LEVIN to accelerate the Earned Income Tax Credit and the Child Tax Credit for some of the neediest victims of Hurricane Katrina.

A few weeks ago, I visited some of the victims who had been evacuated to the Reliant Center in Houston. These families have nothing left. Imagine having nothing left. All their belongings have been destroyed or washed away and most of their jobs have simply vanished.

We have done a lot of good work here in the Senate so far to bring tax relief and emergency support to these families. And many of us are hard at work now developing strategies for the long-term rebuilding of the Gulf Coast in such a way that doesn't re-create the poverty and inequality of the past but instead builds a more hopeful region with greater opportunity for all of its residents.

But there is more we can do quickly to help affected families reestablish and resettle their lives and also to stimulate their local economies. In the past we have accelerated tax refunds with the goal of economic stimulus. In 2001, Congress directed the IRS to provide an ''advance tax rebate'' of 2001 taxes, and, in 2003, Congress accelerated the Child Credit. Now, with the dual goals of economic stimulus and support for needy Americans, we should do it again.

Fast-tracking refunds will put money into the hands of parents that they can use for food, clothing, housing, transportation, medical services—whatever they need. How they spend the money is up to them. But it's up to us to make sure they get it as soon as possible. It's up to us to make sure the necessary outreach, systems, and delivery mechanisms are in place.

And that's what this legislation does. It directs the Secretary of the Treasury to refund or credit eligible taxpayers from the affected region as rapidly as possible and to take the steps necessary to get the funds into the hands of eligible recipients. Companion legislation has been introduced by Reps. EMANUEL, MELANCON, TAYLOR, and LEWIS in the House of Representatives.

I urge my colleagues in the Senate to join me in supporting this bill now so we can quickly bring relief and support to those who have nothing left. The Earned Income Tax Credit and Child Tax Credit are designed to support working families with children. Let's fast track this support to help these families get back on their feet and help their communities rebuild themselves even stronger than before.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1771. A bill to express the sense of Congress and to improve reporting with respect to the safety of workers in the response and recovery activities related to Hurricane Katrina, and for other purposes; read the first time.

Mr. ENZI. Mr. President, I rise today to introduce The Katrina Worker Safety and Filing Flexibility Act of 2005.

In the wake of Hurricane Katrina we face a nearly unprecedented recovery and reconstruction process along our Gulf Coast. This is a challenge that we will meet. We are a people that always act with strength and purposefulness when circumstances such as this demand.

While we undertake this massive effort, we must bear in mind the safety of the men and women who will be on the front lines of recovery and reconstruction. These individuals will face numerous and uncommon worksite hazards; and ones with which they will have little training and experience.

To address this situation, the Occupational Safety and Health Administration has deployed its safety and health professionals to the affected areas to provide necessary technical assistance. Their efforts in this regard are being guided by the Worker Health and Safety Annex contained in the National Response Plan as adopted by the Department of Homeland Security.

I am pleased today to be introducing this legislation with my distinguished colleague and ranking member of the Committee, Senator KENNEDY. He and I share a commitment to protecting the health and safety of all workers, including those engaged in the hurricane recovery effort.

The legislation we are introducing today not only encourages the implementation of all aspects of the Worker Safety Annex, it encourages OSHA to play a central role in communicating the nature of these unique worksite hazards, and in cooperating with State, local and tribal governments, as well as other Federal agencies to enhance the safety of recovery and reconstruction personnel. In addition, the legislation grants the Secretary of Labor authority to extend the deadline for filing certain forms with the Department until March of 2006 in light of the difficulties in meeting any earlier deadlines as a result of the hurricane.

We believe the bill is an important step in providing the necessary protection to recovery and reconstruction workers; and providing the necessary degree of flexibility with regard to required Federal filings.

Mr. KENNEDY. Mr. President, today Senator ENZI and I are introducing legislation to protect the workers who are laboring to clean up the Gulf Coast after its recent disasters.

The heroism of America's workers in the wake of Hurricane Katrina is unparalleled. As they did in response to our national disaster on September 11, thousands of men and women have been working around the clock to find and rescue families, to provide them with food and shelter, and to evacuate them from the area. In the coming days thousands more will be on the ground reestablishing communications, cleaning up debris, restoring services, and rebuilding infrastructure. They are now facing additional challenges because of the new damage and flooding from Hurricane Rita, but they continue to make progress in cleaning and rebuilding New Orleans and the entire disaster area.

This work is critical, but it is also dangerous. Many of these tasks pose significant safety and health threats: conditions in New Orleans are of particular concern, where the widespread flooding has led to widespread biological and chemical contamination. We learn more each day about the oil spills, the Superfund sites, and exposure to E. coli that these workers are facing. It is imperative that workers and volunteers be protected from these serious hazards.

That is why our legislation includes language to protect the health and safety of workers. It urges OSHA and other health and safety agencies to follow the Worker Health and Safety Annex protections of our National Response Plan. This includes keeping track of workers who are being exposed, coordinating health and safety training for workers and volunteers, and monitoring the hazards that workers and volunteers are facing. It also authorizes funds to be spent for additional personnel, enforcement of health and safety standards, critical safety information for workers and employers, and safety and health training. I hope that as Congress continues to allocate money for disaster relief that we also provide money to protect our workers and volunteers.

We need to track how our efforts are working, and so we have provided for Congressional oversight. OSHA will be required to brief the HELP Committee in six months, and provide a written report within nine months, so we can see what progress has been made and what still needs to be done. We have also mandated oversight by the Executive Branch. The Inspector General of the Department of Labor will audit and investigate the Department's efforts to implement the protections established in this bill, and will report back to both Houses of Congress on the success of these response and recovery efforts.

Finally, the bill also provides temporary relief to many companies, unions and individuals who are required to meet financial and other reporting obligations during the next few months, but cannot satisfy these obligations due to record destruction and other problems associated with Katrina.

By Mr. INHOFE (for himself, Mr. DEMINT, Ms. MURKOWSKI, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, and Mr. BOND):

S. 1772. A bill to streamline the refinery permitting process, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, by design, politicians are largely a reactive bunch—our constituents voted us in to our offices to represent their interests, and when they are unhappy we too are unhappy. One issue that certainly makes all constituents unhappy or even angry is high fuel prices. Therefore, policymakers at all levels of government have been struggling with ways to address high prices—some have advocated for repealing fuel taxes, the Administration reacted in many critically important and helpful ways such as releasing oil from the Strategic Petroleum Reserve. After Hurricane Katrina disabled a large portion of our refining capacity and Rita threatened an additional 27.5 percent, several members have talked about the need to build new refineries.

In May 2004—Before the hurricanes, and before EPACT 2005 (The Energy Policy Act of 2005), the Environment & Public Works Committee, which I chair, considered the challenges facing the refining industry. At that hearing, we learned how the industry has been struggling to balance the public's increasing demand for cheap transportation fuels while also meeting legal and regulatory requirements to produce cleaner fuels.

Federal Reserve Chairman Alan Greenspan stated in a May 2005 speech that, ''the status of world refining capacity has become worrisome. Of special concern is the need to add adequate coking and desulphurization capacity to convert the average gravity and sulphur content of much of the world's crude oil to the lighter and sweeter needs of product markets, which are increasingly dominated by transportation fuels that must meet ever-more stringent environmental requirements.''

Make no mistake, significant investments have been made to achieving environmental objectives—however, investments into increasing capacity have been inadequate to meet demand, and no new domestic refinery has been built since 1976.

A critical hurdle to constructing anything these days, especially refineries, is overcoming the ''Not-In-My-Backyard'' or NIMBY interests. The President recognized the need to build new refineries while overcoming local opposition when he recommended that policymakers consider constructing on BRAC sites.

Building upon what we learned in our hearing while balancing potential local opposition to refineries and answering the President and the public's call, I rise today to introduce the Gas Petroleum Refiner Improvement and Community Empowerment Act or Gas PRICE Act. This Gas PRICE Act seeks to address fuels challenges in the short, mid and long-term range in several key ways.

First, the bill encourages communities who are about to lose jobs as a result of BRAC to consider building refineries on those properties. The legislation directs the Economic Development Administration to provide additional resources to communities considering new refineries on those sites. Refineries are not just a good source of high paying jobs, but they are an area of national interest so those communities acting in that interest should be benefited.

Second, States have a significant if not dominant role in permitting existing or new refineries. Yet, States face particular technical and financial constraints when faced with these extremely complex facilities. Therefore, the Gas PRICE Act establishes a Governor opt-in program that requires the Administrator to coordinate and concurrently review all permits with the relevant State agencies to permit refineries. This program does not waive or modify any environmental law, but seeks to assist States and consumers by providing greater certainty in the permitting process.

Third, the Gas PRICE Act answers the call for increasing efficiency. Today's recent reports show that natural gas prices this winter are projected to increase 75 percent. This bill requires the EPA's Natural Gas Star Program to provide grants to identify and use methane emission reduction technologies.

Further, it requires the Administrator to conduct a series of methane emission reduction workshops with the Interstate Oil and Gas Compact Commission to officials in the oil and gas producing states.

Fourth, the supply disruptions caused by hurricane Katrina required

EPA to issue fuel waivers to allow the use of conventional fuel in special or boutique fuel areas. The bill provides that States acting pursuant to an emergency will be held harmless under the law. Additionally, some members have called for the reduction of the total number of fuels used to increase the overall fungibility. In principle, I agree with my colleagues, however the special or boutique fuel blends address environmental and health needs of each region. Therefore, I have proposed a more cautious approach that will allow for the reduction of fuel blends pursuant to the environmental and consumer preferences in each State.

Fifth, policymakers, businesses, and the public have struggled to balance increased demand for transportation fuels against preferences for ever more stringent environmental quality all while preserving low prices at the pump. Most ''solutions'' have focused on technologies that may not be realized for decades or other measures that would hurt U.S. manufacturers.

Fischer-Tropsche fuels are the likely answer. F–T fuels use petroleum coke, a waste product from the refining process, or domestic coal to produce ultra-clean, virtually sulfur free diesel or jet fuel, and are price competitive at $38/barrel of oil.

The Gas PRICE Act requires EPA to establish a demonstration project to use Fischer-Tropsche, diesel and jet, as an emission control strategy; and authorizes EPA to issue up to two loan guarantees to demonstrate commercial scale F—T fuels production facilities using domestic petroleum coke or coal.

Of course, Congress should have taken many actions in anticipation of the current refining capacity crunch over last several years. Yet, as I indicated earlier, elected officials in large measure react to the will of their constituents. The good news is that we are not too late to make sure that the economy-wide stifling high prices are only temporary.

The Gas PRICE Act that we are introducing today can go a long way in addressing the nation's short, mid, and long-term fuels challenges. Furthermore, it does so by empowering local communities and States, establishing greater regulatory certainty without changing any environmental law, improving efficiency, and establishing a future for the use of ultra clean transportation fuels derived from abundant domestic resources.

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

S. 1773. A bill to resolve certain Native American claims in New Mexico, and for other purposes; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator BINGAMAN, to introduce a historic piece of legislation. I call this bill historic because its purpose is to implement the final settlement to be entered into under the Indian Claims Commission Act of 1946. I understand that passage of this legislation will complete the final chapter in the history of that act.

The Indian Claims Commission Act of 1946 was enacted to allow the Indian Claims Commission to hear certain tribal claims filed between 1946 and 1951. Nationally, the act has involved more than 600 claims by tribes. With the passage of this legislation, we will complete the process begun in almost sixty years ago.

The specific claim being resolved by the Pueblo de San Ildefonso Claims Settlement Act of 2005 involves the San Ildefonso Pueblo's 7,700-acre ancestral land claim against the Federal Government. This bill marks the successful culmination of a long-awaited settlement agreement between the San Ildefonso Pueblo and the United States and involved much hard work by all of the parties involved. The introduction of this legislation marks an important day for the San Ildefonso Pueblo and others in my home state of New Mexico. This is a necessary bill, and I hope that my colleagues will act quickly to resolve the final claim filed under the Indian Claims Commission Act of 1946.

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

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

S. 1773

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 ''Pueblo de San Ildefonso Claims Settlement Act of 2005''.

SEC. 2. DEFINITIONS AND PURPOSES.

(a) DEFINITIONS.—In this Act:

(1) ADMINISTRATIVE ACCESS.—The term ''administrative access'' means the unrestricted use of land and interests in land for ingress and egress by an agency of the United States (including a permittee, contractor, agent, or assignee of the United States) in order to carry out an activity authorized by law or regulation, or otherwise in furtherance of the management of Federally-owned land and resources.

(2) COUNTY.—The term ''County'' means the incorporated county of Los Alamos, New Mexico.

(3) LOS ALAMOS AGREEMENT.—The term ''Los Alamos Agreement'' means the agreement among the County, the Pueblo, the Department of Agriculture Forest Service, and the Bureau of Indian Affairs dated January, 22, 2004.

(4) LOS ALAMOS TOWNSITE LAND.—''Los Alamos Townsite Land'' means the land identified as Attachment B (dated December 12, 2003) to the Los Alamos Agreement.

(5) NORTHERN TIER LAND.—''Northern Tier Land'' means the land comprising approximately 739.71 acres and identified as ''Northern Tier Lands'' in Appendix B (dated August 3, 2004) to the Settlement Agreement.

(6) PENDING LITIGATION.—The term ''Pending Litigation'' means the case styled Pueblo of San Ildefonso v. United States, Docket Number 354, originally filed with the Indian Claims Commission and pending in the United States Court of Federal Claims on the date of enactment of this Act.

(7) PUEBLO.—The term ''Pueblo'' means the Pueblo de San Ildefonso, a Federally recognized Indian tribe (also known as the ''Pueblo of San Ildefonso'').

(8) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the agreement entitled ''Settlement Agreement between the United States and the Pueblo de San Ildefonso to Resolve All of the Pueblo's Land Title and Trespass Claims'' and dated June 7, 2005.

(9) SETTLEMENT AREA LAND.—The term ''Settlement Area Land'' means the National Forest System land located within the Santa Fe National Forest, as described in Appendix B to the Settlement Agreement, that is available for purchase by the Pueblo under section 9(a) of the Settlement Agreement.

(10) SETTLEMENT FUND.—The term ''Settlement Fund'' means the Pueblo de San Ildefonso Land Claims Settlement Fund established by section 6.

(11) SISK ACT.—The term ''Sisk Act'' means Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a).

(12) WATER SYSTEM LAND.—The term ''Water System Land'' means the Federally-owned land located within the Santa Fe National Forest to be conveyed to the County under the Los Alamos Agreement.

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

(1) to finally dispose, as set forth in sections 4 and 5, of all rights, claims, or demands that the Pueblo has asserted or could have asserted against the United States with respect to any and all claims in the Pending Litigation;

(2) to extinguish claims based on aboriginal title, Indian title, or recognized title, or any other title claims under section 5;

(3) to authorize the Pueblo to acquire the Settlement Area Land, and to authorize the Secretary of Agriculture to convey the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land for market value consideration, and for such consideration to be paid to the Secretary of Agriculture for the acquisition of replacement National Forest land elsewhere in New Mexico;

(4) to provide that the Settlement Area Land acquired by the Pueblo shall be held by the Secretary of the Interior in trust for the benefit of the Pueblo;

(5) to facilitate government-to-government relations between the United States and the Pueblo regarding cooperation in the management of certain land administered by the National Park Service and the Bureau of Land Management as described in sections 7 and 8 of the Settlement Agreement;

(6) to ratify the Settlement Agreement; and,

(7) to ratify the Los Alamos Agreement.

SEC. 3. RATIFICATION OF AGREEMENTS.

(a) RATIFICATION.—The Settlement Agreement and Los Alamos Agreement are ratified under Federal law, and the parties to those agreements are authorized to carry out the provisions of the agreements.

(b) CORRECTIONS AND MODIFICATIONS.—The respective parties to the Settlement Agreement and the Los Alamos Agreement are authorized, by mutual agreement, to correct errors in any legal description or maps, and to make minor modifications to those agreements.

SEC. 4. JUDGMENT AND DISMISSAL OF LITIGATION.

(a) DISMISSAL.—Not later than 90 days after the date of enactment of this Act, the United States and the Pueblo shall execute and file with the United States Court of Federal Claims in the Pending Litigation a motion for entry of final judgment in accordance with section 5 of the Settlement Agreement.

(b) COMPENSATION.—Upon entry of the final judgment under subsection (a), $6,900,000

shall be paid into the Settlement Fund as compensation to the Pueblo in accordance with section 1304 of title 31, United States Code.

SEC. 5. RESOLUTION OF CLAIMS.

(a) EXTINGUISHMENTS.—Except as provided in subsection (b), in consideration of the benefits of the Settlement Agreement, and in recognition of the agreement of the Pueblo to the Settlement Agreement, all claims of the Pueblo against the United States (including any claim against an agency, officer, or instrumentality of the United States) are relinquished and extinguished, including—

(1) any claim to land based on aboriginal title, Indian title, or recognized title;

(2) any claim for damages or other judicial relief or for administrative remedies that were brought, or that were knowable and could have been brought, on or before the date of the Settlement Agreement;

(3) any claim relating to—

(A) any federally-administered land, including National Park System land, National Forest System land, Public land administered by the Bureau of Land Management, the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land; and

(B) any land owned by, or held for the benefit of, any Indian tribe other than the Pueblo; and

(4) any claim that was, or that could have been, asserted in the Pending Litigation.

(b) EXCEPTIONS.—Nothing in this Act or the Settlement Agreement shall in any way extinguish or otherwise impair—

(1) the title of record of the Pueblo to land held by or for the benefit of the Pueblo, as identified in Appendix D to the Settlement Agreement, on or before the date of enactment of this Act; and,

(2) the title of the Pueblo to the Pueblo de San Ildefonso Grant, including, as identified in Appendix D to the Settlement Agreement—

(A) the title found by the United States District Court for the District of New Mexico in the case styled United States v. Apodoca (Number 2031, equity: December 5, 1930) not to have been extinguished; and

(B) title to any land that has been reacquired by the Pueblo pursuant to the Act entitled ''An Act to quiet the title to lands within Pueblo Indian land grants, and for other purposes'', approved June 7, 1924 (43 Stat. 636, chapter 331);

(3) the water rights of the Pueblo appurtenant to the land described in paragraphs (1) and (2); and

(4) any rights of the Pueblo or a member of the Pueblo under Federal law relating to religious or cultural access to, and use of, Federal land.

(c) PREVIOUS EXTINGUISHMENTS UNIMPAIRED.—Nothing in this Act affects any prior extinguishments of rights or claims of the Pueblo which may have occurred by operation of law.

(d) BOUNDARIES AND TITLE UNAFFECTED.—

(1) BOUNDARIES.—Nothing in this Act affects the location of the boundaries of the Pueblo de San Ildefonso Grant.

(2) RIGHTS, TITLE, AND INTEREST.—Nothing in this Act affects, ratifies, or confirms the right, title, or interest of the Pueblo in the land held by, or for the benefit of, the Pueblo, including the land described in Appendix D of the Settlement Agreement.

SEC. 6. SETTLEMENT FUND.

(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the ''Pueblo de San Ildefonso Land Claims Settlement Fund''.

(b) CONDITIONS.—Monies deposited in the Settlement Fund shall be subject to the following conditions:

(1) MAINTENANCE AND INVESTMENT.—The Settlement Fund shall be maintained and invested by the Secretary of the Interior pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(2) USE OF FUNDS.—Subject to paragraph (3), monies deposited into the Settlement Fund shall be expended by the Pueblo—

(A) to acquire the Federally administered Settlement Area Land;

(B) to pay for the acquisition of the Water System Land, as provided in the Los Alamos Agreement; and

(C) at the option of the Pueblo, to acquire other land.

(3) EFFECT OF WITHDRAWAL.—If the Pueblo withdraws monies from the Settlement Fund, neither the Secretary of the Interior nor the Secretary of the Treasury shall retain any oversight over, or liability for, the accounting, disbursement, or investment of the withdrawn funds.

(4) PER CAPITA DISTRIBUTION.—No portion of the funds in the Settlement Fund may be paid to Pueblo members on a per capita basis.

(5) ACQUISITION OF LAND.—The acquisition of land with funds from the Settlement Fund shall be on a willing-seller, willing-buyer basis, and no eminent domain authority may be exercised for purposes of acquiring land for the benefit of the Pueblo under this Act.

(6) EFFECT OF OTHER LAWS.—The Act of October 19, 1973 (Public Law 93–134; 87 Stat. 466) and section 203 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4023) shall not apply to the Settlement Fund.

SEC. 7. LAND OWNERSHIP ADJUSTMENTS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Agriculture may sell the Settlement Area Land, Water System Land, and Los Alamos Townsite Land, on such terms and conditions as are agreed upon and described in the Settlement Agreement and the Los Alamos Agreement, including reservations for administrative access and other access as shown on Appendix B of the Settlement Agreement.

(2) EFFECT OF CLAIMS AND CAUSE OF ACTION.—Consideration for any land authorized for sale by the Secretary of Agriculture shall not be offset or reduced by any claim or cause of action by any party to whom the land is conveyed.

(b) CONSIDERATION.—The consideration to be paid for the Federal land authorized for sale in subsection (a) shall be—

(1) for the Settlement Area Land and Water System Land, the consideration agreed upon in the Settlement Agreement; and

(2) for the Los Alamos Townsite Land, the current market value based on an appraisal approved by the Forest Service as being in conformity with the latest edition of the Uniform Appraisal Standards for Federal Land Acquisitions.

(c) DISPOSITION OF RECEIPTS.—

(1) IN GENERAL.—All monies received by the Secretary of Agriculture from the sale of National Forest System land as authorized by this Act, including receipts from the Northern Tier Land, shall be deposited into the fund established in the Treasury of the United States pursuant to the Sisk Act and shall be available, without further appropriation, authorization, or administrative apportionment for the purchase of land by the Secretary of Agriculture for National Forest System purposes in the State of New Mexico.

(2) USE OF FUNDS.—Funds deposited in a Sisk Act fund pursuant to this Act shall not be subject to transfer or reprogramming for wildlands fire management or any other emergency purposes, or used to reimburse any other account.

(3) ACQUISITIONS OF LAND.—In expending funds to exercise its rights under the Settlement Agreement and the Los Alamos Agreement with respect to the acquisition of the Settlement Area Land, the County's acquisitions of the Water System Land, and the Northern Tier Land (if the Pueblo exercises an option to purchase the Northern Tier Land as provided in section 12(b)(2)(A), the Pueblo shall use only funds in the Settlement Fund and shall not augment those funds from any other source.

(d) VALID EXISTING RIGHTS AND RESERVATIONS.—

(1) IN GENERAL.—The Settlement Area Land acquired by the Pueblo shall be subject to all valid existing rights on the date of enactment of this Act, including rights of administrative access.

(2) WATER RIGHTS.—No water rights shall be conveyed by the United States.

(3) SPECIAL USE AUTHORIZATION.—

(A) IN GENERAL.—Nothing in this Act shall affect the validity of any special use authorization issued by the Forest Service within the Settlement Area Land, except that such authorizations shall not be renewed upon expiration.

(B) REASONABLE ACCESS.—For access to valid occupancies within the Settlement Area Land, the Pueblo and the Secretary of the Interior shall afford rights of reasonable access commensurate with that provided by the Secretary of Agriculture on or before the date of enactment of this Act.

(4) WATER SYSTEM LAND AND LOS ALAMOS TOWNSITE LAND.—The Water System Land and Los Alamos Townsite Land acquired by the County shall be subject to—

(A) all valid existing rights; and

(B) the rights reserved by the United States under the Los Alamos Agreement.

(5) PRIVATE LANDOWNERS.—

(A) IN GENERAL.—Upon acquisition by the Pueblo of the Settlement Area Land, the Secretary of the Interior, acting on behalf of the Pueblo and the United States, shall execute easements in accordance with any right reserved by the United States for the benefit of private landowners owning property that requires the use of Forest Development Road 416 (as in existence on the date of enactment of this Act) and other roads that may be necessary to provide legal access into the property of the landowners, as the property is used on the date of this Act.

(B) MAINTENANCE OF ROADS.—Neither the Pueblo nor the United States shall be required to maintain roads for the benefit of private landowners.

(C) EASEMENTS.—Easements shall be granted, without consideration, to private landowners only upon application of such landowners to the Secretary.

(e) FOREST DEVELOPMENT ROADS.—

(1) UNITED STATES RIGHT TO USE.—Subject to any right-of-way to use, cross, and recross a road, the United States shall reserve and have free and unrestricted rights to use, operate, maintain, and reconstruct (at the same level of development, as in existence on the date of the Settlement Agreement), those sections of Forest Development Roads 57, 442, 416, 416v, 445 and 445ca referenced in Appendix B of the Settlement Agreement for any and all public and administrative access and other Federal governmental purposes, including access by Federal employees, their agents, contractors, and assigns (including those holding Forest Service permits).

(2) CERTAIN ROADS.—Notwithstanding paragraph (1), the United States—

(A) may improve Forest Development Road 416v beyond the existing condition of that road to a high clearance standard road (level 2); and

(B) shall have unrestricted administrative access and non-motorized public trail access

to the portion of Forest Development Road 442 depicted in Appendix B to the Settlement Agreement.

(f) PRIVATE MINING OPERATIONS.—

(1) COPAR PUMICE MINE.—The United States and the Pueblo shall allow the COPAR Pumice Mine to continue to operate as provided in the Contract For The Sale Of Mineral Materials dated May 4, 1994, and for COPAR to use portions of Forest Development Roads 57, 442, 416, and other designated roads within the area described in the contract, for the period of the contract and thereafter for a period necessary to reclaim the site.

(2) CONTINUING JURISDICTION.—

(A) ADMINISTRATION.—Continuing jurisdiction of the United States over the contract for the sale of mineral materials shall be administered by the Secretary of the Interior.

(B) EXPIRATION OF CONTRACT.—Upon expiration of the contract described in subparagraph (A), jurisdiction over reclamation shall be assumed by the Secretary of the Interior.

(3) EFFECT ON EXISTING RIGHTS.—Nothing in this Act limits or enhances the rights of COPAR under the Contract For The Sale Of Mineral Materials dated May 4, 1994.

SEC. 8. CONVEYANCES.

(a) AUTHORIZATION.—

(1) CONSIDERATION FROM PUEBLO.—Upon receipt of the consideration from the Pueblo for the Settlement Area Land and the Water System Land, the Secretary of Agriculture shall execute and deliver—

(A) to the Pueblo, a quitclaim deed to the Settlement Area Land; and

(B) to the County, a quitclaim deed to the Water System Land, reserving—

(i) a contingent remainder in the United States in trust for the benefit of the Pueblo in accordance with the Los Alamos Agreement; and

(ii) a right of access for the United States for the Pueblo for ceremonial and other cultural purposes.

(2) CONSIDERATION FROM COUNTY.—Upon receipt of the consideration from the County for all or a portion of the Los Alamos Townsite Land, the Secretary of Agriculture shall execute and deliver to the County a quitclaim deed to all or portions of such land, as appropriate.

(3) EXECUTION.—An easement or deed of conveyance by the Secretary of Agriculture under this Act shall be executed by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(b) AUTHORIZATION FOR PUEBLO TO CONVEY IN TRUST.—Upon receipt by the Pueblo of the quitclaim deed to the Settlement Land under subsection (a)(1), the Pueblo may quitclaim the Settlement Land to the United States, in trust for the Pueblo.

(c) ADEQUACY OF CONVEYANCE INSTRUMENTS.—Notwithstanding the status of the Federal land as public domain or acquired land, no instrument of conveyance other than a quitclaim deed shall be required to convey the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land under this Act.

(d) SURVEYS.—The Secretary of Agriculture is authorized to perform and approve any required cadastral survey.

(e) CONTRIBUTIONS.—Notwithstanding section 3302 of title 31, United States Code, or any other provision of law, the Secretary of Agriculture may accept and use contributions of cash or services from the Pueblo, other governmental entities, or other persons—

(1) to perform and complete required cadastral surveys for the Settlement Area Land, the Water System Land, the Northern Tier Land, or the Los Alamos Townsite Land, as described in the Settlement Agreement or the Los Alamos Agreement; and

(2) to carry out any other project or activity under—

(A) this Act;

(B) the Settlement Agreement; or

(C) the Los Alamos Agreement.

SEC. 9. TRUST STATUS AND NATIONAL FOREST BOUNDARIES.

(a) OPERATION OF LAW.—Without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior—

(1) on recording the quitclaim deed or deeds from the Pueblo to the United States in trust for the Pueblo under section 8(b) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs—

(A) the Settlement Area Land shall be held in trust by the United States for the benefit of the Pueblo; and

(B) the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Settlement Area Land; and

(2) on recording the quitclaim deed or deeds from the Secretary of Agriculture to the County of the Water System Land in the county land records, the boundaries of the Santa Fe National Forest shall be deemed to be modified to exclude from the National Forest System the Water System Land.

(b) FUTURE INTERESTS.—If fee title to the Water System Land vests in the Pueblo by conveyance or operation of law, the Water System Land shall be deemed to be held in trust by the United States for the benefit of the Pueblo, without further administrative procedures or environmental or other analyses.

(c) NONINTERCOURSE ACT.—Any land conveyed to the Secretary of the Interior in trust for the Pueblo or any other tribe in accordance with this Act shall be—

(1) subject to the Act of June 30, 1834 (25 U.S.C. 177); and

(2) treated as reservation land.

SEC. 10. INTERIM MANAGEMENT.

Subject to valid existing rights, prior to the conveyance under section 9, the Secretary of Agriculture, with respect to the Settlement Area Land, the Water System Land, the Northern Tier Land, and the Los Alamos Townsite Land—

(1) shall not encumber or dispose of the land by sale, exchange, or special use authorization, in such a manner as to substantially reduce the market value of the land;

(2) shall take any action that the Secretary determines to be necessary or desirable—

(A) to protect the land from fire, disease, or insect infestation; or

(B) to protect lives or property; and

(3) may, in consultation with the Pueblo or the County, as appropriate, authorize a special use of the Settlement Area Land, not to exceed 1 year in duration.

SEC. 11. WITHDRAWAL.

Subject to valid existing rights, the land referenced in the notices of withdrawal of land in New Mexico (67 Fed. Reg. 7193; 68 Fed. Reg. 75628) is withdrawn from all location, entry, and patent under the public land laws and mining and mineral leasing laws of the United States, including geothermal leasing laws.

SEC. 12. CONVEYANCE OF THE NORTHERN TIER LAND.

(a) CONVEYANCE AUTHORIZATION.—

(1) IN GENERAL.—Subject to valid existing rights, including reservations in the United States and any right under this section, the Secretary of Agriculture shall sell the Northern Tier Land on such terms and conditions as the Secretary may prescribe as being in the public interest and in accordance with this section.

(2) EFFECT OF PARAGRAPH.—The authorization under paragraph (1) is solely for the purpose of consolidating Federal and non-Federal land to increase management efficiency and is not in settlement or compromise of any claim of title by any Pueblo, Indian tribe, or other entity.

(b) RIGHTS OF REFUSAL.—

(1) PUEBLO OF SANTA CLARA.—

(A) IN GENERAL.—In consideration for an easement under subsection (e)(2), the Pueblo of Santa Clara shall have an exclusive option to purchase the Northern Tier Land for the period beginning on the date of enactment of this Act and ending 90 days thereafter.

(B) RESOLUTION.—Within the period prescribed in subparagraph (A), the Pueblo of Santa Clara may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture, a resolution of the Santa Clara Tribal Council expressing the unqualified intent of the Pueblo of Santa Clara to purchase the land at the offered price.

(C) FAILURE TO ACT.—If the Pueblo of Santa Clara does not exercise its option to purchase the Northern Tier Land within the 90-day period under subparagraph (A), or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised, the Secretary of Agriculture shall offer the Northern Tier Land for sale to the Pueblo.

(2) OFFER TO PUEBLO.—

(A) IN GENERAL.—Not later than 90 days after receiving a written offer from the Secretary of Agriculture under paragraph (1)(C), the Pueblo may exercise its option to acquire the Northern Tier Land by delivering to the Regional Director of Lands and Minerals, Forest Service, Southwestern Region, a resolution of the Pueblo Tribal Council expressing the unqualified intent of the Pueblo to purchase the land at the offered price.

(B) FAILURE OF PUEBLO TO ACT.—If the Pueblo fails to exercise its option to purchase the Northern Tier Land within 90 days after receiving an offer from the Secretary of Agriculture, or fails to close on the purchase of such land within 1 year of the date on which the option to purchase was exercised under subparagraph (A), the Secretary of Agriculture may sell or exchange the land to any third party in such manner and on such terms and conditions as the Secretary determines to be in the public interest, including by a competitive process.

(3) EXTENSION OF TIME PERIOD.—The Secretary of Agriculture may extend the time period for closing beyond the 1 year prescribed in subsection (b), if the Secretary determines that additional time is required to meet the administrative processing requirements of the Federal Government, or for other reasons beyond the control of either party.

(c) TERMS AND CONDITIONS OF SALE.—

(1) PURCHASE PRICE.—Subject to valid existing rights and reservations, the purchase price for the Northern Tier Land sold to the Pueblo of Santa Clara or the Pueblo under subsection (b) shall be the consideration agreed to by the Pueblo of Santa Clara pursuant to that certain Pueblo of Santa Clara Tribal Council Resolution No. 05–01 ''Approving Proposed San Ildefonso Claims Settlement Act of 2005, and Terms for Purchase of Northern Tier Lands'' that was signed by Governor J. Bruce Tafoya in January 2005.

(2) RESERVED RIGHTS.—On the Northern Tier Land, the United States shall reserve the right to operate, maintain, reconstruct (at standards in existence on the date of the Settlement Agreement), replace, and use the

stream gauge, and to have unrestricted administrative access over the associated roads to the gauge (as depicted in Appendix B of the Settlement Agreement).

(3) CONVEYANCE BY QUITCLAIM DEED.—The conveyance of the Northern Tier Land shall be by quitclaim deed executed on behalf of the United States by the Director of Lands and Minerals, Forest Service, Southwestern Region, Department of Agriculture.

(d) TRUST STATUS AND FOREST BOUNDARIES.—

(1) ACQUISITION OF LAND BY INDIAN TRIBE.—If the Northern Tier Land is acquired by an Indian tribe (including a Pueblo tribe), the land may be reconveyed by quitclaim deed or deeds back to the United States to be held in trust by the Secretary of the Interior for the benefit of the tribe, and the Secretary of the Interior shall accept the conveyance without any additional administrative action by the Secretary of Agriculture or the Secretary of the Interior.

(2) LAND HELD IN TRUST.—On recording a quitclaim deed described in paragraph (1) in the Land Titles and Records Office, Southwest Region, Bureau of Indian Affairs, the Northern Tier Land shall be deemed to be held in trust by the United States for the benefit of the Indian tribe.

(3) BOUNDARIES OF SANTA FE NATIONAL FOREST.—Effective on the date of a deed described in paragraph (1), the boundaries of the Santa Fe National Forest shall be deemed modified to exclude from the National Forest System the land conveyed by the deed.

(e) INHOLDER AND ADMINISTRATIVE ACCESS.—

(1) FAILURE OF PUEBLO OF SANTA CLARA TO ACT.—

(A) IN GENERAL.—If the Pueblo of Santa Clara does not exercise its option to acquire the Northern Tier Land, the Secretary of Agriculture or the Secretary of the Interior, as appropriate, shall by deed reservations or grants on land under their respective jurisdiction provide for inholder and public access across the Northern Tier Land in order to provide reasonable ingress and egress to private and Federal land as shown in Appendix B of the Settlement Agreement.

(B) ADMINISTRATION OF RESERVATIONS.—The Secretary of the Interior shall administer any such reservations on land acquired by any Indian tribe.

(2) EFFECT OF ACCEPTANCE.—If the Pueblo of Santa Clara exercises its option to acquire all of the Northern Tier Land, the following shall apply:

(A) EASEMENTS TO UNITED STATES.—

(i) DEFINITION OF ADMINISTRATIVE ACCESS.—In this subparagraph, the term ''administrative access'' means access to Federal land by Federal employees acting in the course of their official capacities in carrying out activities on Federal land authorized by law or regulation, and by agents and contractors of Federal agencies who have been engaged to perform services necessary or desirable for fire management and the health of forest resources, including the cutting and removal of vegetation, and for the health and safety of persons on the Federal land.

(ii) EASEMENTS.—

(I) IN GENERAL.—The Pueblo of Santa Clara shall grant and convey at closing perpetual easements over the existing roads to the United States that are acceptable to the Secretary of Agriculture for administrative access over the Santa Clara Reservation Highway 601 (the Puye Road), from its intersection with New Mexico State Highway 30, westerly to its intersection with the Sawyer Canyon Road (also known as Forest Development Road 445), thence southwesterly on the Sawyer Canyon Road to the point at which it exits the Santa Clara Reservation.

(II) MAINTENANCE OF ROADWAY.—An easement under this subparagraph shall provide that the United States shall be obligated to contribute to maintenance of the roadway commensurate with actual use.

(B) EASEMENTS TO PRIVATE LANDOWNERS.—Not later than 180 days after the date of enactment of this Act, the Pueblo of Santa Clara, in consultation with private landowners, shall grant and convey a perpetual easement to the private owners of land within the Northern Tier Land for private access over Santa Clara Reservation Highway 601 (Puye Road) across the Santa Clara Indian Reservation from its intersection with New Mexico State Highway 30, or other designated public road, on Forest Development Roads 416, 445 and other roads that may be necessary to provide access to each individually owned private tract.

(3) APPROVAL.—The Secretary of the Interior shall approve the conveyance of an easement under paragraph (2) upon receipt of written approval of the terms of the easement by the Secretary of Agriculture.

(4) ADEQUATE ACCESS PROVIDED BY PUEBLO OF SANTA CLARA.—If adequate administrative and inholder access is provided over the Santa Clara Indian Reservation under paragraph (2), the Secretary of the Interior—

(A) shall vacate the inholder access over that portion of Forest Development Road 416 referenced in section 7(e)(5); but

(B) shall not vacate the reservations over the Northern Tier Land for administrative access under subsection (c)(2).

SEC. 13. INTER-PUEBLO COOPERATION.

(a) DEMARCATION OF BOUNDARY.—The Pueblo of Santa Clara and the Pueblo may, by agreement, demarcate a boundary between their respective tribal land within Township 20 North, Range 7 East, in Rio Arriba County, New Mexico, and may exchange or otherwise convey land between them in that township.

(b) ACTION BY SECRETARY OF THE INTERIOR.—In accordance with any agreement under subsection (a), the Secretary of the Interior shall, without further administrative procedures or environmental or other analyses—

(1) recognize a boundary between the Pueblo of Santa Clara and the Pueblo;

(2) provide for a boundary survey;

(3) approve land exchanges and conveyances as agreed upon by the Pueblo of Santa Clara and the Pueblo; and

(4) accept conveyances of exchanged lands into trust for the benefit of the grantee tribe.

SEC. 14. DISTRIBUTION OF FUNDS PLAN.

Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall act in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) with respect to the award entered in the compromise and settlement of claims under the case styled Pueblo of San Ildefonso v. United States, No. 660–87L, United States Court of Federal Claims.

SEC. 15. RULE OF CONSTRUCTION AND JUDICIAL REVIEW.

Notwithstanding any provision of State law, the Settlement Agreement and the Los Alamos Agreement (including any real property conveyance under the agreements) shall be interpreted and implemented as matters of Federal law.

SEC. 16. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

SEC. 17. TIMING OF ACTIONS.

It is the intent of Congress that the land conveyances and adjustments contemplated in this Act shall be completed not later than 180 days after the date of enactment of this Act.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

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

Mr. BINGAMAN. Mr. President, I am pleased to join Senator DOMENICI in introducing the Pueblo de San Ildefonso Claims Settlement Act. This claim, the last one pending before the Indian Claims Commission, has gone unresolved for over 50 years and it is certainly long past time to bring an end to this dispute. I'd particularly like to commend the Pueblo de San Ildefonso for their diligent work on this settlement. It is testament to the Pueblo's fortitude and open-minded approach to this issue that they have been able find consensus with the many parties to this settlement and produce this compromise legislation.

As with any settlement of a lawsuit, it's unlikely that everyone will be completely happy with the terms of the deal but I am pleased to note that all of the local governments, tribal and municipal, have expressed their support. I hope that the introduction of this bill begins a productive process in the Indian Affairs Committee and, once the final product is signed into law, with the public that will definitively settle the issues of land ownership in this area and allow all of the local communities to move forward cooperatively.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 251—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD ENSURE THAT FEDERAL RESPONSE AND RECOVERY EFFORTS FOR HURRICANE KATRINA INCLUDE CONSIDERATION FOR ANIMAL RESCUE AND CARE

Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 251

Resolved, That it is the sense of the Senate that, in order to efficiently coordinate and respond to the growing crisis represented by the large number of animals left behind in the Gulf Coast region, the President should ensure that the Federal response and recovery efforts for Hurricane Katrina include consideration for animal rescue and care.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs has postponed the oversight hearing scheduled for Wednesday, September 28, 2005, at 2:30 p.m. in Room 485 of the Russell Senate Office Building. Those wishing additional information may contact the Indian Affairs Committee.