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

S. 1787

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

S. 1798

At the request of Mr. CORZINE, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1798, a bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act.

S. 1804

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

S. 1808

At the request of Mr. BINGAMAN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Washington (Mrs. MURRAY), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1808, a bill to amend title XIX of the Social Security Act to improve the qualified medicare beneficiary (OMB) and specified low-income medicare beneficiary (SLMB) programs within the medicaid program.

S.J. RES. 25

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

S. RES. 180

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

AMENDMENT NO. 1881

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 1881 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1911

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 1911 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1929

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

AMENDMENT NO. 2047

At the request of Mr. NELSON of Florida, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Nebraska (Mr. HAGEL), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 2047 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

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

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

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

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

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

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

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

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

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

Fourth, as GAO has found, job training programs are often discouraged

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

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

We face an historic challenge, and with it, an historic opportunity. We need a 21st century workplace that is a win-win for both older workers and their employers—and an effective strategy for retaining our competitive advantage against other countries facing the same demographic tidal wave. We need to usher in a new age of work and retirement in which seniors are not limited to a choice between one or the other. We need to empower seniors to make the continued contributions we all know they can to our economy and our communities.

Many older Americans and employers have already begun to pave the way. More older Americans are willing and able to continue making a contribution to the workplace and our economy, and more employers are beginning to recognize the value of older workers. We must incorporate this new mindset into our national culture, and develop policies that reflect this reality. Our seniors deserve it, and our economic future may well depend on it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, and that the attached letters of endorsement also be printed in the RECORD.

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

S. 1826

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Older Worker Opportunity Act''.

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

TITLE I—TAX INCENTIVES

SEC. 101. TAX CREDIT FOR OLDER WORKERS IN FLEXIBLE AND PHASED WORK PROGRAMS.

(a) Congress finds that—

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

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

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

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

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

(b) FLEXIBLE AND PHASED WORK CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45N. FLEXIBLE AND PHASED WORK CREDIT.

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

''(b) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means an employer which—

''(1) maintains a qualified trust (within the meaning of section 401(a)), and

''(2) provides health insurance coverage (as defined in section 9832(b)(1)(A)) to employees and pays no less than 60 percent of the cost of such health insurance coverage with respect to each full-time employee receiving such coverage.

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

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

''(A) have attained the age of 59½, and

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

''(2) WAGES.—

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

''(B) OTHER RULES.—Rules similar to the rules of paragraph (2) and (3) of section 51(c) shall apply for purposes of this section.

''(C) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual after December 31, 2010.

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

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

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

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

''(B) under which core time does not exceed—

''(i) 20 hours per week,

''(ii) 3 days per week, or

''(iii) 1,000 hours per year, and

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

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

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

''(B) which is determined by the employer.

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

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

''(B) which is determined at the election of the employee.

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

''(1) a program of an eligible employer—

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

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

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

''(A) is authorized by the Secretary, and

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

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

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

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

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

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

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

''(3) NO REDUCTION IN PENSION BENEFITS.—

''(A) DEFINED BENEFIT PLANS.—

''(i) A participant shall be entitled to participate in a defined benefit plan (within the meaning of section 414(j)) of the employer in the same manner as a similarly situated full-time employee.

''(ii) Service credited to a participant under the plan for any plan year shall be equal to the ratio of the participant's work

schedule during such year to the work schedule of a similarly situated full-time employee during such year.

''(iii) If the plan uses final average earnings to determine benefits, final average earnings of the participant shall be no less than such earnings were before the participant entered the program.

''(B) DEFINED CONTRIBUTION PLANS.—A participant shall be entitled to participate in a defined contribution plan (within the meaning of section 414(i)) of the employer in the same manner as a similarly situated full-time employee, and the employer shall match the participant's contributions at the same rate that the employer would match the contributions of a similarly situated full-time employee.

''(C) NO FORFEITURE OF PENSION BENEFITS.—The pension benefits of a participant shall not be forfeited under the rules of section 411(a)(3)(B) or section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 with respect to a participant who has attained normal retirement age as of the end of the plan year.

''(4) NONDISCRIMINATION RULE.—Eligibility to participate in the program shall not discriminate in favor of highly compensated employees (within the meaning of section 414(q)).

''(g) CERTAIN INDIVIDUALS INELIGIBLE.—For purposes of this section, rules similar to the rules of paragraphs (1) and (2) of section 51(i) and section 52 shall apply.

''(h) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the purposes of this section, including simplified rules to satisfy the requirements of subsection (f)(3)(C) taking into account the requirements of section 411 and section 203 of the Employee Retirement Income Security Act of 1974.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting '', plus'', and by adding at the end the following new paragraph:

''(27) the flexible and phased work credit determined under section 45N(a).''.

(d) NO DOUBLE BENEFIT.—Subsection (a) of section 280C of the Internal Revenue Code of 1986 is amended by inserting ''45N(a),'' after ''45A(a),''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45N. Flexible and phased work credit.''.

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

SEC. 102. EXPANSION OF DEPENDENT CARE CREDIT TO ELDERCARE EXPENSES.

(a) IN GENERAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 (relating to qualifying individual) is amended by striking ''or'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', or'', and by adding at the end the following new subparagraph:

''(D) an individual who—

''(i) has attained retirement age (as defined in section 216(l)(1) of the Social Security Act) before the end of the taxable year of the taxpayer,

''(ii) is the spouse of the taxpayer or has a relationship to the taxpayer described in subparagraph (B), (C), (D), (F), or (G) of section 152(d)(2), and

''(iii) is a chronically ill individual (within the meaning of section 7702B(c)(2)).''.

(b) EXPENSES FOR CARE OUTSIDE OF HOUSEHOLD.—

(1) IN GENERAL.—Subparagraph (B) of section 21(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) a qualifying individual described in paragraph (1)(D), or''.

(2) CONFORMING AMENDMENT.—Clause (iii) of section 21(b)(2)(B), as redesignated by paragraph (1), is amended by striking ''paragraph (1)(A)'' and inserting ''subparagraph (A) or (D) of paragraph (1)''.

(c) CONFORMING AMENDMENTS.—

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

(2) The item relating to section 21 in the table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended striking ''and dependent care services'' and inserting '', dependent care, and eldercare services''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

TITLE II—COBRA CONTINUATION COVERAGE

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

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

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

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

''(I) IN GENERAL.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in section 603(2) relating to a reduction of hours of an employee described in subclause (II), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

''(II) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age.''; and

(2) in paragraph (3), by adding at the end the following: ''In the case of an individual described in paragraph (2)(A)(vi), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '120 percent' for any month after the 18th month of continuation coverage provided for under such paragraph (2)(A)(vi).''.

(b) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—Section 2202 of the Public Health Service Act (42 U.S.C. 300bb–2) is amended—

(1) in paragraph (2)(A), by inserting after clause (iv) the following:

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

''(I) IN GENERAL.—Notwithstanding any other provision of this subparagraph, in the case of a qualifying event described in section 2203(2) relating to a reduction of hours of an employee described in subclause (II), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

''(II) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age.''; and

(2) in paragraph (3), by adding at the end the following: ''In the case of an individual described in paragraph (2)(A)(v), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '120 percent' for any month after the 18th month of continuation coverage provided for under such paragraph (2)(A)(v).''.

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 4980B(f) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (2)(B)(i), by inserting after subclause (V) the following:

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

''(aa) IN GENERAL.—Notwithstanding any other provision of this clause, in the case of a qualifying event described in paragraph (3)(B) relating to a reduction of hours of an employee described in item (bb), the date which is 36 months after the date of the qualifying event, except that the period of coverage under this clause shall end on the date on which the employee becomes entitled to benefits under title XVIII of the Social Security Act based on age.

''(bb) EMPLOYEE DESCRIBED.—An employee is described in this subclause if such employee, on the date of the qualifying event, is at least the early retirement age (as defined in section 216(l)(2) of the Social Security Act) but not yet entitled to benefits under title XVIII of the Social Security Act based on age.''; and

(2) in paragraph (2)(C) by adding at the end the following: ''In the case of an individual described in subparagraph (B)(i)(VI), any reference in clause (i) of this subparagraph to '102 percent' is deemed a reference to '120 percent' for any month after the 18th month of continuation coverage provided for under such subparagraph (B)(i)(VI).''.

TITLE III—EMPLOYMENT AND TRAINING

SEC. 301. DEFINITIONS.

Section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) is amended—

(1) by redesignating paragraphs (17) through (53) as paragraphs (18) through (54), respectively; and

(2) by inserting after paragraph (16) the following:

''(17) HARD-TO-SERVE POPULATIONS.—The term 'hard-to-serve populations' means populations of individuals who are hard to serve, including displaced homemakers, low-income individuals, Native Americans, individuals with disabilities, older individuals, ex-offenders, homeless individuals, individuals with limited English proficiency, individuals who do not meet the definition of literacy in section 203, individuals facing substantial cultural barriers, migrant and seasonal farmworkers, individuals within 2 years of exhausting lifetime eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), single parents (including single pregnant women), and such other groups as the Governor determines to be hard to serve.''.

SEC. 302. STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.

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

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

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

(3) by inserting after clause (vi) the following:

''(vii) developing strategies for effectively serving hard-to-serve populations and for coordinating programs and services among one-stop partners; and''.

SEC. 303. LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.

(a) INTENSIVE SERVICES.—Section 134(d)(3) of such Act (29 U.S.C. 2864(d)(3)) is amended by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (iii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide intensive services to adults and dislocated workers, respectively—

''(I) who are unemployed and who, after an interview, evaluation, or assessment, have been determined by a one-stop operator or one-stop partner to be—

''(aa) unlikely or unable to obtain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through core services described in paragraph (2); and

''(bb) in need of intensive services to obtain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; or

''(II) who are employed, but who, after an interview, evaluation, or assessment, are determined by a one-stop operator or one-stop partner to be in need of intensive services to obtain or retain employment that leads to self-sufficiency.

''(ii) CONSIDERATION.—For purposes of determining whether an adult or dislocated worker meets the requirements of clause (i)(I)(aa), a one-stop operator or one-stop partner shall consider whether the adult or dislocated worker is a member of a hard-to-serve population.

''(iii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.''.

(b) TRAINING SERVICES.—Section 134(d)(4) of such Act (29 U.S.C. 2864(d)(4)) is amended by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—

''(i) ELIGIBILITY.—Except as provided in clause (iii), funds allocated to a local area for adults under paragraph (2)(A) or (3), as appropriate, of section 133(b), and funds allocated to the local area for dislocated workers under section 133(b)(2)(B), shall be used to provide training services to adults and dislocated workers, respectively—

''(I) who, after an interview, evaluation, or assessment, and case management, have been determined by a one-stop operator or one-stop partner, as appropriate, to—

''(aa) be unlikely or unable to obtain or retain employment, that leads to self-sufficiency or wages comparable to or higher than previous employment, through the intensive services described in paragraph (3);

''(bb) be in need of training services to obtain or retain employment that leads to self-sufficiency or wages comparable to or higher than previous employment; and

''(cc) have the skills and qualifications to successfully participate in the selected program of training services;

''(II) who select programs of training services that are directly linked to the employment opportunities in the local area or region involved or in another area to which the adults or dislocated workers are willing to commute or relocate;

''(III) who meet the requirements of subparagraph (B); and

''(IV) who are determined to be eligible in accordance with the priority system in effect under subparagraph (E).

''(ii) CONSIDERATION.—For purposes of determining whether an adult or dislocated worker meets the requirements of clause (i)(I)(aa), a one-stop operator or one-stop partner shall consider whether the adult or dislocated worker is a member of a hard-to-serve population.

''(iii) SPECIAL RULE.—A new interview, evaluation, or assessment of a participant is not required under clause (i) if the one-stop operator or one-stop partner determines that it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.''.

(c) LOCAL EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(e)(1)(A) of such Act (29 U.S.C. 2864(e)(1)(A)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) customer support to enable members of hard-to-serve populations, including individuals with disabilities, to navigate among multiple services and activities for such populations.''.

SEC. 304. PERFORMANCE MEASURES.

(a) STATE PERFORMANCE MEASURES.—Section 136(b)(3)(A)(iv)(II) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(3)(A)(iv)(II)) is amended—

(1) by striking ''taking into account'' and inserting ''and shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(2) by inserting ''(such as differences in unemployment rates and job losses or gains in particular industries)'' after ''economic conditions''; and

(3) by inserting ''(such as indicators of poor work history, lack of work experience, lack of educational or occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, older individual status, homelessness, ex-offender status, and welfare dependency)'' after ''program''.

(b) LOCAL PERFORMANCE MEASURES.—Section 136(c)(3) (29 U.S.C. 2871(c)(3))—

(1) by striking ''shall take into account'' and inserting ''shall ensure that the levels involved are adjusted, using objective statistical methods, based on'';

(2) by inserting ''(characteristics such as unemployment rates and job losses or gains in particular industries)'' after ''economic''; and

(3) by inserting ''(characteristics such as indicators of poor work history, lack of work experience, lack of educational and occupational skills attainment, dislocation from high-wage and benefit employment, low levels of literacy or English proficiency, disability status, older individual status, homelessness, ex-offender status, and welfare dependency)'' after ''demographic''.

(c) WAGE RECORDS AND DOCUMENTED DATA.—Section 136(f)(2) of such Act (29 U.S.C. 2871(f)(2)) is amended—

(1) by striking ''(2)'' and all that follows through ''In'' and inserting the following:

''(2) WAGE RECORDS AND DOCUMENTED DATA.—

''(A) WAGE RECORDS.—In''; and

(2) by adding at the end the following:

''(B) DOCUMENTED DATA.—In measuring the progress of the State with respect to older individuals on State and local performance measures relating to earnings, a State may use documented data other than quarterly wage records to determine the work schedule of the older individuals, and may impute full-time earnings to part-time workers who are older individuals.''.

SEC. 305. REPORTING.

Section 136(d)(2) of such Act (29 U.S.C. 2871(d)(2)) is amended—

(1) in subparagraph (E), by striking ''(excluding participants who received only self-service and informational activities)''; and

(2) in subparagraph (F)—

(A) by striking ''(F)'' and inserting ''(F)(i)'';

(B) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(ii) the number of participants in each of the groups described in clause (i) who have received services authorized under this title, in the form of core services described in section 134(d)(2), intensive services described in section 134(d)(3), training services described in section 134(d)(4), and followup services, respectively;''.

SEC. 306. INCENTIVE GRANTS.

(a) USE OF FUNDS FOR STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES.—Section 134(a)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(B)) is amended—

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

(2) in clause (vi), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(vii) providing incentive grants to local areas, in accordance with section 136(j).''.

(b) INCENTIVE GRANTS FOR LOCAL AREAS.—Section 136 of such Act is amended by adding at the end the following:

''(j) INCENTIVE GRANTS FOR LOCAL AREAS.—

''(1) IN GENERAL.—From funds reserved under sections 128(a) and 133(a)(1), the Governor involved shall award incentive grants to local areas for performance described in paragraph (2) in carrying out programs under chapters 4 and 5.

''(2) BASIS.—The Governor shall award the grants on the basis that the local areas—

''(A) have exceeded the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); or

''(B) have—

''(i) met the performance measures established under subsection (c)(2) relating to indicators described in subsection (b)(3)(A)(iii); and

''(ii) demonstrated exemplary performance in the State in serving hard-to-serve populations.

''(3) USE OF FUNDS.—The funds awarded to a local area under this subsection may be used to carry out activities authorized for local areas and such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations, as may be approved by the Governor.''.

(c) INCENTIVE GRANTS FOR STATES.—Section 503 of the Workforce Investment Act of 1998 (20 U.S.C. 9273) is amended—

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

''(a) IN GENERAL.—

''(1) TIMELINE.—

''(A) PRIOR TO JULY 1, 2006.—Prior to July 1, 2006, the Secretary shall award a grant to each State in accordance with the provisions of this section as this section was in effect on July 1, 2003.

''(B) BEGINNING JULY 1, 2006.—Beginning on July 1, 2006, the Secretary shall award incentive grants to States for performance described in paragraph (2) in carrying out innovative programs consistent with the programs under chapters 4 and 5 of subtitle B of

title I, to implement or enhance innovative and coordinated programs consistent with the statewide economic, workforce, and educational interests of the State.

''(2) BASIS.—The Secretary shall award the grants on the basis that States—

''(A) have exceeded the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); or

''(B) have—

''(i) met the State adjusted levels of performance for title I, the adjusted levels of performance for title II, and the levels of performance under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.); and

''(ii) demonstrated exemplary performance in serving hard-to-serve populations.

''(3) USE OF FUNDS.—The funds awarded to a State under this section may be used to carry out activities authorized for States under chapters 4 and 5 of subtitle B of title I, title II, and the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), including demonstration projects, and for such innovative projects or programs that increase coordination and enhance service to program participants, particularly hard-to-serve populations.''; and

(2) in subsection (b)(2), by striking subparagraph (C) and inserting the following:

''(C) the State meets the requirements of subparagraph (A) or (B) of subsection (a)(2).''.

TITLE IV—FEDERAL TASK FORCE ON OLDER WORKERS

SEC. 401. FEDERAL TASK FORCE ON OLDER WORKERS.

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

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

(c) ACTIVITIES.—

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

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

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

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

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

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

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

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

(d) CONSULTATION.—In carrying out activities pursuant to this section, the Task Force shall consult with senior, business, labor, and other interested organizations.

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

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force established pursuant to this Act.

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

INTERFAITH,
Milwaukee, WI, September 29, 2005.

Hon. HERB KOHL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: It is a privilege to support Senator Kohl's proposed ''Older Worker Opportunity Act of 2005.'' As an agency that has been providing employment services to older workers for over 25 years, Interfaith Older Adult Programs has first hand knowledge of the value of retaining older workers in the workplace. As stated in the Act, our country is facing a great labor shortage. Terry Ludeman, Chief Economist for the State of Wisconsin, has estimated that in our State by 2017 there will not be enough 18-year-olds to replace workers turning 65.

The proposed tax credit would provide incentive to encourage employers to offer more flexibility in the workplace and encourage support for older individuals who want to stay in the workforce longer. It will also allow work/life balance that is a very important value to individuals as they age.

Extended COBRA coverage would also be a great encouragement to mature workers wanting to cut back but not leave the workforce. Providing the extended COBRA might be just the incentive a 62-year-old needs to continue working part time. The extended COBRA could help employers and older workers transition gradually to full retirement at a later age.

A tax credit for eldercare would be a wonderful benefit to seniors that are balancing the responsibilities of work and taking care of a non-dependent individual with significant health issues. Employers will benefit from having employees that are more productive because they are worrying less about family responsibilities of direct caregiving.

Interfaith strongly supports the creation of a separate set of performance measures for the older worker under the Workforce Investment Act. Statistically, mature workers stay with an employer longer than their younger co-workers, take fewer sick days, and are less likely to have an on the job injury. This results in increased productivity and decreased cost to employers. Retention outcomes should actually be enhanced because of the older workers' work ethic, the pride they take in their work and their loyalty to their employer.

We are faced with the unique opportunity to expand the use of the Senior Community Service Employment Program (SCSEP) through a strong attachment to the Older Worker Opportunity Act.

A Federal Task Force on Older Workers could be very helpful, especially one that would include private sector employers, governmental agencies, older worker service providers and older workers themselves.

Sincerely,

CAROL ESCHNER,
Executive Director.

PATRICIA DELMENHORST,
Employment Services Director.

GOODWILL INDUSTRIES
OF SOUTHEASTERN WISCONSIN, INC.,
Milwaukee, WI, September 29, 2005.

Hon. HERB KOHL,
U.S. Senate
Washington, DC.

DEAR SENATOR KOHL: Goodwill Industries of Southeastern Wisconsin, Inc. (Goodwill) is pleased to support your Older Workers Act of 2005.

As you may know, Goodwill has a long history of supporting and promoting older workers. Our designation as an ''Elder Friendly Workplace'' with the Wisconsin Department of Workforce Development, demonstrates our commitment to this remarkable group of workers.

Goodwill, as a leader in the area of workforce development and training, recognizes that the nation's workforce is about to experience a major change. As the ''boomers'' move closer to retirement, employers across the nation will need to find creative ways to keep these individuals engaged. Your proposed legislation offers many viable solutions that would encourage both employers and older workers to continue their relationship well past the customary retirement age.

Thank you for recognizing and supporting the tremendous value of the older worker. Goodwill is pleased to support you in this effort.

Sincerely,

JOHN L. MILLER,
President and C.E.O.

AGEADVANTAGE, INC.,
Madison, WI, October 1, 2005.

Hon. HERB KOHL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: AgeAdvantAge, Inc. would like to extend our full support of your proposed legislation; The Older Worker Opportunity Act of 2005.

AgeAdvantAge is an Area Agency on Aging overseeing the provision of services funded by the Older Americans Act (OAA) throughout southern and western Wisconsin. We welcome any effort to improve the lives of older people, be it through expansion of aging services, or the opportunity for those we serve to achieve economic self-sufficiency through employment.

We recognize with a rapidly aging population, efforts must be made to keep America's older workers on the job. The potential loss of workers, as Baby Boomers begin to retire, has frightening implications for business, government and the economy.

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

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

We also know that older people who remain active, both physically and mentally, live longer and healthier lives. Healthier individuals are in less need of publicly funded health care services. Older people who are employed are also less likely to need assistance from other social service programs such

as meal programs, food pantries, subsidized housing, food stamps, and energy assistance.

These programs are already faced with rising demand and shrinking budgets, and extending employment for older Americans can help delay, or at least reduce, the need for these services.

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

EMPLOYER TAX CREDITS

The Baby Boom generation will have a significant impact on both the workforce and the workplace as they continue to age. Employers will need to accommodate the unique needs of this cohort, with a key issue being flexibility.

When an older worker leaves their job, they take with them years of knowledge and experience. This sudden loss of expertise negatively impacts an organization's productivity, and therefore their bottom line. To prevent this, older workers need to be offered incentives to remain in their jobs.

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

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

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

EXTENSION OF COBRA COVERAGE

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

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

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

ELDERCARE TAX CREDIT

Today, employees of any age are often times faced with choosing between working and the needs of someone dependent upon them for care. This is increasingly true for the older worker.

Many older workers find they are not able to remain productive at work because the demands of caretaking have become so great. Often times they will leave their job to devote their time to the care of another. At times, their loss of productivity could result in their termination. In either instance, their employer has lost the benefit of their knowledge and experience, and they have lost the many benefits of being engaged in gainful and meaningful employment.

However, studies show older workers who receive assistance with their caretaking responsibilities, can maintain their productivity, and therefore remain employed. A tax credit to help offset the cost for adult day care, in-home care or respite, will help the older worker balance their life and work needs.

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

ACCESS TO THE WORKFORCE INVESTMENT ACT (WIA)

As a provider of employment services to older adults, we can attest to the fact that older job seekers are routinely excluded from participation in programs funded by the WIA. WIA service providers often view the older job seeker as a potential threat to program performance, as they may only be seeking part-time employment.

Though more than 60% of our current customers are between the ages of 55 and 64, and seeking full-time employment with benefits, a separate set of performance measures for older job seekers, may alleviate WIA provider's fears, and result in improved access to WIA services.

Performance measures in the WIA, particularly those regarding full-time employment and earnings increase, need to be modified for an older job seeker. Placement into employment, whether full- or part-time, should be considered a positive outcome, and the earnings increase measure should be removed altogether.

This legislation should also consider an often overlooked employment and training program serving older job seekers, the Senior Community Service Employment Program (SCSEP). The SCSEP is funded under Title V of the Older Americans Act of 1965 (OAA). Administered jointly by the Administration on Aging (AoA) and the Department of Labor (DOL), this unique program provides a lower-income, older adult with the opportunity to learn new skills, and build the experience necessary to transition into employment.

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

The SCSEP is also unique in that it takes a ''whole person'' approach in providing assistance. As a SCSEP operator. we understand that an older person often times has needs other than, or in addition to, employment. Being part of the aging network, we are able to link our customers with the programs and services they need to address non-employment issues.

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

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

TASK FORCE ON OLDER WORKERS

Finally, the creation of a task force to address the on-going needs of the aging workforce will be vital in assisting business and government in implementing the changes necessary to keep older workers working.

A task force comprised not only of governmental units, but also of business, service providers, and older workers themselves, will prove a great asset as we face the challenges and opportunities presented by an aging workforce, and the need to keep them employed.

Senator Kohl, thank you for the opportunity to comment on, and support The Older Worker Opportunity Act of 2005. We also thank you for your support of the older worker as is evidenced in this progressive and forward-thinking proposal.

If we can be of any further assistance, please do not hesitate to call.

Sincerely,

ROBERT KELLERMAN,
Executive Director.
MICHAEL KRAUSS,
Older Worker Program Coordinator.

COMMITTEE FOR ECONOMIC DEVELOPMENT,
Washington, DC, September 28, 2005.

Hon. HERB KOHL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: on behalf of the Committee for Economic Development (CED), I commend you for your leadership in addressing issues related to the aging of the American workforce with your bill, the Older Worker Opportunity Act.

CED stated several years ago that expanding opportunities for older workers would be crucial to continued prosperity. Our 1999 policy statement, ''New Opportunities for Older Workers,'' argued that demographic change would reduce the growth of our labor force well below current rates, absent significant changes in behavior and policy. We noted that many workers retire totally and abruptly because they have no viable option to continue working, perhaps at reduced hours that would be more suitable and would provide a phased beginning to retirement. We urged that the business sector and the federal government change perceptions and attitudes, and where necessary laws and rules, to make it easier and more attractive for older workers to achieve a gradual rather than an immediate retirement.

We are gratified to see that your bill would address many of the problems that we identified in our 1999 statement. We believe that your recommended changes in law would allow workers to phase into retirement without the financial penalties, in retirement income and health coverage, that now can force people into unwilling retirement. With such an improved incentive to work, our economy might suffer less of a loss of labor-force growth, and might make the transition to the retirement of the baby-boom generation more easily.

We appreciate your efforts on this important issue, and stand ready to help in building public understanding of the vital and growing role of older workers.

Sincerely,

CHARLES E.M. KOLB,
President.

By Mr. DEMINT (for himself, Mr. DURBIN, and Mr. CORNYN):

S. 1827. A bill to amend the Public Health Service Act to provide for the public disclosure of charges for certain hospital services and drugs; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to offer a bill that would require hospitals to disclose their charges for the most common procedures and drugs.

This bill recognizes that consumers seeking routine hospital services need to know what they are paying so they can make educated decisions about their own health care. This legislation aims to give Americans that information in a user friendly format.

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

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

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

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

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

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

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

S. 1827

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hospital Price Reporting and Disclosure Act of 2005''.

SEC. 2. PUBLIC DISCLOSURE OF HOSPITAL DATA.

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

''DATA REPORTING BY HOSPITALS AND PUBLIC POSTING

''SEC. 249. (a) SEMIANNUAL REPORTING REQUIREMENT.—Not later than 80 days after the end of each semiannual period beginning January 1 or July 1 (beginning more than one year after the date of the enactment of this section), a hospital shall report to the Secretary the following data:

''(1) The frequency with which the hospital performed each service selected under subparagraph (A) or (B) of subsection (c)(1) in an inpatient or outpatient setting, respectively, during such period.

''(2) The frequency with which the hospital administered a drug selected under subparagraph (C) of such subsection in an inpatient setting during such period.

''(3) If the service was so performed or the drug was so administered during such period, the average charge and the medium charge by the hospital for such service or drug during such period.

''(b) PUBLIC AVAILABILITY OF DATA.—

''(1) PUBLIC POSTING OF DATA.—The Secretary shall promptly post, on the official public Internet site of the Department of Health and Human Services, the data reported under subsection (a). Such data shall be set forth in a manner that promotes charge comparison among hospitals.

''(2) NOTICE OF AVAILABILITY.—A hospital shall prominently post at each admission site of the hospital a notice of the availability of the data reported under subsection (a) on the official public Internet site under paragraph (1).

''(c) SELECTION OF SERVICES AND DRUGS.—For purposes of this section:

''(1) INITIAL SELECTION.—Based on national data, the Secretary shall select the following:

''(A) The 25 most frequently performed services in a hospital inpatient setting.

''(B) The 25 most frequently performed services in a hospital outpatient setting.

''(C) The 50 most frequently administered drugs in a hospital inpatient setting.

''(2) UPDATING SELECTION.—The Secretary shall periodically update the services and drugs selected under paragraph (1).

''(d) CIVIL MONEY PENALTY.—The Secretary may impose a civil money penalty of not more than $10,000 for each knowing violation of subsection (a) or (b)(2) by a hospital. The provisions of subsection (i)(2) of section 351A shall apply with respect to civil money penalties under this subsection in the same manner as such provisions apply to civil money penalties under subsection (i)(1) of such section.

''(e) ADMINISTRATIVE PROVISIONS.—

''(1) IN GENERAL.—The Secretary shall prescribe such regulations and issue such guidelines as may be required to carry out this section.

''(2) CLASSIFICATION OF SERVICES.—The regulations and guidelines under paragraph (1) shall include rules on the classification of different services and the assignment of items and procedures to those services (including inpatient diagnostic related groups (DRGs), outpatient procedures, and tests) and classification of drugs. For purposes of the preceding sentence, classification of drugs may include unit, strength, and dosage information.

''(3) COMPUTATION OF AVERAGE AND MEDIAN CHARGES.—

''(A) IN GENERAL.—The regulations and guidelines under paragraph (1) shall include a methodology for computing an average charge and a median charge for a service or drug, in accordance with subparagraph (B).

''(B) METHODOLOGY.—The methodology prescribed by the Secretary under subparagraph (A) shall ensure that the average charge and the median charge for a service or drug reflect the amount charged before any adjustment based on a rate negotiated with a third party.

''(4) FORM OF REPORT AND NOTICE.—The regulations and guidelines under paragraph (1) shall specify the electronic form and manner by which a hospital shall report data under subsection (a) and the form for posting of notices under subsection (b)(2).

''(f) RULES OF CONSTRUCTION.—

''(1) NON-PREEMPTION OF STATE LAWS.—Nothing in this section shall be construed as preempting or otherwise affecting any provision of State law relating to the disclosure of charges or other information for a hospital.

''(2) CHARGES.—Nothing in this section shall be construed to regulate or set hospital charges.

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

''(1) HOSPITAL.—The term 'hospital' has the meaning given such term by the Secretary.

''(2) DRUG.—The term 'drug' includes a biological and a non-prescription drug, such as an ointment.''.

By Mrs. CLINTON (for herself and Mr. ROBERTS):

S. 1828. A bill to amend the Public Health Service Act to improve and secure an adequate supply of influenza vaccine; to the Committee on Health, Education, Labor, and Pensions.

Mrs. Clinton. Mr. President, today, I am pleased to introduce the Influenza Vaccine Security Act with Senator Roberts.

In recent months, our public health professionals have been sounding the alarm about the increasing incidence of avian influenza. Since December 2004, 70 cases of avian influenza have been confirmed in Indonesia, Vietnam, Thailand and Cambodia—and 27 of these cases have been fatal. In countries across Asia and Europe, farmers have been culling their poultry stocks because of fears of infection.

Various agencies—from the Department of State to the Department of Health and Human Services—have begun to mobilize in preparation for when—not if, but when—avian influenza hits our shores.

What is particularly worrisome to me, when thinking about our Nation's ability to face the threat posed by pandemic or avian influenza, is the fact that we aren't even prepared to deal with the seasonal influenza epidemic that we face every year.

Last fall, we witnessed senior citizens lining up for hours to obtain flu vaccine, unscrupulous distributors attempting to sell scarce vaccine to the highest bidder, and millions of Americans delaying or deferring necessary flu shots.

This wasn't the first time that our vaccine production and distribution system has failed. Since 2000, our Nation has experienced three shortages of influenza vaccine.

Fortunately, we had a relatively mild influenza season this past year, but we cannot count on such luck to save us every time we have a flu vaccine shortage.

Approximately 36,000 Americans die of the flu each year, and these deaths are largely preventable—we could stop them if we increased immunizations, if we had a secure vaccine market, and if we made sure that everyone understood the importance of vaccines.

For several years now, I've been asking the Secretary of Health and Human Services to undertake reforms to fix our flu vaccine supply problems, and the legislation I'm introducing with Senator ROBERTS today provides a mechanism through which we can develop a stable supply and distribution system for our seasonal flu vaccine.

There is a great deal of risk involved with developing an annual flu vaccine. Because the dominant strain changes from year to year, manufacturers must develop doses on an annual basis, without being able to store or resell any excess vaccine the following year. There's also no steady demand for a flu vaccine, largely because shortages have confused so many of us as to when we should or shouldn't get vaccinated.

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

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

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

Although we've got to rely on this technology for the time being, we need to increase research into safer, faster, and more reliable methods of vaccine production. This legislation would provide the National Institutes of Health with increased funding for research into alternative forms of vaccine development.

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

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

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

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

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

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

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

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

Unlike the seasonal flu, humans have no natural immunity to avian flu. A routine flu shot for more common influenza viruses won't protect against the deadly avian flu. The Department of Health and Human Services is working with vaccine manufacturers to develop a vaccine, but it is unclear when and how many doses will be ready.

Other than a vaccine, the only defense against a new flu strain such as avian flu is an antiviral medication such as Tamiflu. Currently, the United States currently only has enough pills to treat less than one percent, or about 2.3 million people.

This is why experts believe the effects of avian flu in the U.S. and around the world could be devastating. Some have predicted the loss of life could reach as high as 160–200 million. A pandemic might infect a third of the U.S. population and cost more than $100 billion alone in medical treatments. A pandemic of this sort could also have catastrophic economic or social effects.

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

Our legislation also encourages improved technologies for influenza vaccine development by providing additional funding for NIH research into alternative methods of vaccine development, such as cell-based cultures and a permanent flu vaccine. Currently, flu vaccine production is a strenuous process and takes several months, leaving us extremely vulnerable in the event of a large-scale outbreak and a subsequent need for a mass production of vaccines.

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

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

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

I am pleased to introduce the Influenza Vaccine Security Act with Senator CLINTON today. We need to fix our seasonal flu vaccine production and distribution problems not only to prevent future shortages, but also to strengthen our public health infrastructure in case of pandemic.

As Senator CLINTON knows, the HELP Committee will soon be considering legislation to develop countermeasures to protect the U.S. from deliberate and natural public health threats. This legislation, known as Bioshield II, will present a great opportunity to build on the first steps we take in this legislation to protect against pandemic flu. I look forward to working with Senator CLINTON and my other colleagues on the committee to deliver a comprehensive package to ensure we are prepared and can respond to all types of public health threats.

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

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

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

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

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

S. 1831. A bill to convey certain submerged land to the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, today I join my colleague, the Ranking member of the Committee on Energy and Natural Resources, Senator BINGAMAN, in introducing three bills, by request, to make necessary changes to law regarding the U.S.-affiliated islands.

Briefly, the bills include: First, legislation requested by the Attorney General of the Commonwealth of the Northern Mariana Islands (CNMI). This bill accomplishes two objectives—to provide the Commonwealth with the same ownership and jurisdiction over offshore submerged lands as has been provided to other United States territories and to provide a less formal mechanism for the Governor of the CNMI to raise issues with the Federal Government than the procedures under section 902 of the Covenant that established the Commonwealth in political union with the United States.

The legislation also provides a general authorization for the Commonwealth to raise issues arising under provisions of the Covenant with the Secretary and for the Secretary to resolve those issues with assistance from other agencies as appropriate. This would provide a less formal approach than the more elaborate procedures for issue resolution set forth under section 902 of the Covenant which require, among other items, the formal appointment of negotiators. Section 902 is unique to the Commonwealth and legislative approval of a less formal approach may serve to improve Federal-commonwealth relations and the ability of both sides to reach agreements. As with the submerged lands issue, further legislation may be required, but such legislation will likely be easier to achieve if both sides are not either tied up in the processes of 902 or at opposite sides in court.

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

Finally, the last bill would make several changes to the Compact of Free Association Amendments Act (CFAAA) of 2003 P.L. 108–188, which was enacted in December, 2003. Because of the 2003 deadline on the term of the original Compact assistance, several issues were left unresolved. One of these unresolved issues was whether the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM) would continue to receive disaster assistance from FEMA. Since the passage of P.L. 108–188, the Administration has transmitted language to Congress that would provide authority for the RMI and FSM to obtain disaster assistance. In addition to this new authority, the bill makes several technical changes to P.L. 108–188

I look forward to working with my colleagues, the Administration, and officials from the RMI, FSM, and the U.S. Virgin Islands to move these bills through the process.

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

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

S. 1829

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

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

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

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on July 22, 1954.

S. 1830

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Compacts of Free Association Amendments Act of 2005''.

SEC. 2. APPROVAL OF AGREEMENTS.

Section 101 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921) is amended—

(1) in the first sentence of subsection (a), by inserting before the period at the end the following: '', including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Federated States of Micronesia, as amended under the Agreement to Amend Article X that was signed by those 2 Governments on June 30, 2004, which shall serve as the authority to implement the provisions thereof''; and

(2) in the first sentence of subsection (b), by inserting before the period at the end the following: '', including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands, as amended under the Agreement to Amend Article X that was signed by those 2 Governments on June 18, 2004, which shall serve as the authority to implement the provisions thereof''.

SEC. 3. CONFORMING AMENDMENT.

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

''(A) EMERGENCY AND DISASTER ASSISTANCE.—

''(i) IN GENERAL.—Subject to clause (ii), section 221(a)(6) of the U.S.-FSM Compact and section 221(a)(5) of the U.S.-RMI Compact shall each be construed and applied in accordance with the 2 Agreements to Amend Article X of the Federal Programs and Service Agreements signed on June 30, 2004, and on June 18, 2004, respectively.

''(ii) DEFINITION OF WILL PROVIDE FUNDING.—In the second sentence of paragraph 12 of each of the Agreements described in clause (i), the term 'will provide funding' means will provide funding through a transfer of funds using Standard Form 1151 or a similar document or through an interagency, reimbursable agreement.''.

SEC. 4. CLARIFICATIONS REGARDING PALAU.

Section 105(f)(1)(B) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)) is amended—

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

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

(3) in clause (ix)—

(A) by striking ''Republic'' both places it appears and inserting ''government, institutions, and people''; and

(B) by striking ''was'' and inserting ''were''.

SEC. 5. AVAILABILITY OF LEGAL SERVICES.

Section 105(f)(1)(C) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(C)) is amended by inserting before the period at the end the following: '', which shall also continue to be available to the citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands who reside in the United States (including territories and possessions)''.

SEC. 6. TECHNICAL AMENDMENTS.

(a) TITLE I.—

(1) SECTION 177 AGREEMENT.—Section 103(c)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(c)(1)) is amended by striking ''section 177'' and inserting ''Section 177''.

(2) INTERPRETATION AND UNITED STATES POLICY.—Section 104 of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921c) is amended—

(A) in subsection (b)(1), by inserting ''the'' before ''U.S.-RMI Compact,'';

(B) in subsection (e)—

(i) in the matter preceding subparagraph (A) of paragraph (8) , by striking ''to include'' and inserting ''and include'';

(ii) in paragraph (9)(A), by inserting a comma after ''may''; and

(iii) in paragraph (10), by striking ''related to service'' and inserting ''related to such services''; and

(C) in the first sentence of subsection (j), by inserting ''the'' before ''Interior''.

(3) SUPPLEMENTAL PROVISIONS.—Section 105(b)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(b)(1)) is amended by striking ''Trust Fund'' and inserting ''Trust Funds''.

(b) TITLE II.—

(1) U.S.-FSM COMPACT.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia (as provided in section 201(a) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2757)) is amended—

(A) in section 174—

(i) in subsection (a), by striking ''courts'' and inserting ''court''; and

(ii) in subsection (b)(2), by striking ''the'' before ''November'';

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

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

(D) in section 211—

(i) in the fifth sentence of subsection (a), by striking ''Trust Fund Agreement,'' and inserting ''Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund (Trust Fund Agreement),'';

(ii) in subsection (b)—

(I) in the first sentence, by striking ''Government of the'' before ''Federated''; and

(II) in the second sentence, by striking ''Sections 321 and 323 of the Compact'' and inserting ''Sections 211(b), 321, and 323. The Compact, as amended,''; and

(iii) in the last sentence of subsection (d), by inserting before the period at the end the following: ''and the Federal Programs and Services Agreement referred to in section 231'';

(E) in the first sentence of section 215(b), by striking ''subsection(a)'' and inserting ''subsection (a)'';

(F) in section 221—

(i) in subsection (a)(6), by inserting ''(Federal Emergency Management Agency)'' after ''Homeland Security''; and

(ii) in the first sentence of subsection (c), by striking ''agreements'' and inserting ''agreement'';

(G) in the second sentence of section 222, by inserting ''in'' after ''referred to'';

(H) in the second sentence of the first undesignated paragraph of section 232, by striking ''sections 102 (c)'' and all that follows through ''January 14, 1986)'' and inserting ''section 102(b) of Public Law 108-188, 117 Stat. 2726, December 17, 2003'';

(I) in the second sentence of section 252, by inserting '', as amended,'' after ''Compact'';

(J) in the first sentence of the first undesignated paragraph of section 341, by striking ''Section 141'' and inserting ''section 141'';

(K) in section 342—

(i) in subsection (a), by striking ''14 U.S.C. 195'' and inserting ''section 195 of title 14, United States Code''; and

(ii) in subsection (b)—

(I) by striking ''46 U.S.C. 1295(b)(6)'' and inserting ''section 1303(b)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(b)(6))''; and

(II) by striking ''46 U.S.C. 1295b(b)(6)(C)'' and inserting ''section 1303(b)(6)(C) of that Act'';

(L) in the third sentence of section 354(a), by striking ''section 442 and 452'' and inserting ''sections 442 and 452'';

(M) in section 461(h), by striking ''Telecommunications'' and inserting ''Telecommunication'';

(N) in section 462(b)(4), by striking ''of Free Association'' the second place it appears; and

(O) in section 463(b), by striking ''Articles IV'' and inserting ''Article IV''.

(2) U.S.-RMI COMPACT.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands (as provided in section 201(b) of the Compact of Free Association Amendments Act of 2003 (117 Stat. 2795)) is amended—

(A) in section 174(a), by striking ''court'' and inserting ''courts'';

(B) in section 177(a), by striking the comma before ''(or Palau)'';

(C) in section 179(b), by striking ''amended Compact,'' and inserting ''Compact, as amended,'';

(D) in section 211—

(i) in the first sentence of subsection (b), by striking ''Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Miliary Use and Operating Rights'' and inserting ''Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended (Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights)''; and

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

(E) in section 221(a)—

(i) in the matter preceding paragraph (1), by striking ''Section 231'' and inserting ''section 231''; and

(ii) in paragraph (5), by inserting ''(Federal Emergency Management Agency)'' after ''Homeland Security'';

(F) in the second sentence of section 232, by striking ''sections 103(m)'' and all that follows through ''(January 14, 1986)'' and inserting ''section 103(k) of Public Law 108-188, 117 Stat. 2734, December 17, 2003'';

(G) in the first sentence of section 341, by striking ''Section 141'' and inserting ''section 141'';

(H) in section 342—

(i) in subsection (a), by striking ''14 U.S.C. 195'' and inserting ''section 195 of title 14, United States Code''; and

(ii) in subsection (b)—

(I) by striking ''46 U.S.C. 1295(b)(6)'' and inserting ''section 1303(b)(6) of the Merchant Marine Act, 1936 (46 U.S.C. 1295b(b)(6))''; and

(II) by striking ''46 U.S.C. 1295b(b)(6)(C)'' and inserting ''section 1303(b)(6)(C) of that Act'';

(I) in the third sentence of section 354(a), by striking ''section 442 and 452'' and inserting ''sections 442 and 452'';

(J) in the first sentence of section 443, by inserting '', as amended,'' after ''the Compact'';

(K) in the matter preceding paragraph (1) of section 461(h)—

(i) by striking ''1978'' and inserting ''1998''; and

(ii) by striking ''Telecommunications'' and inserting ''Telecommunication''; and

(L) in section 463(b), by striking ''Article'' and inserting ''Articles''.

S. 1831

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

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

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

(1) in the second sentence of subsection (b), by inserting ''Commonwealth of the Northern Mariana Islands,'' after ''Guam,''; and

(2) by adding at the end the following:

''(e)(1) Subject to valid existing rights, all right, title, and interest of the United States in land permanently or periodically covered by tidal water up to but not above the line of mean high tide and seaward to a line 3 geographical miles distant from the coastline of the territory of the Commonwealth of the Northern Mariana Islands (as modified before, on, or after the date of enactment of this subsection by accretion, erosion, or reliction, or in artificially made, filled in, or reclaimed land that was formerly permanently or periodically covered by tidal water) are conveyed to the Government of the Commonwealth of the Northern Mariana Islands to be administered in trust for the benefit of the people of the Commonwealth.

''(2) The conveyance shall be subject to clauses (ii), (iv), (v), (vii), (viii), and (ix) of subsection (b) and subsection (c), except that each reference to the 'date of enactment of this Act' in those clauses shall (for the purposes of this subsection) be considered to be a reference to the date of enactment of this subsection.''.

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

(a) IN GENERAL.—On the request of the Governor of the Commonwealth of the Northern Mariana Islands, the Secretary of the Interior may settle any claim of the Commonwealth arising pursuant to any provision of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by the first section of Public Law 94–241 (48 U.S.C. 1801 note).

(b) ASSISTANCE.—

(1) REQUEST.—The Secretary may request assistance from the head of any other Federal agency in order to expeditiously resolve any claim described in subsection (a).

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

(c) AUTHORIZATION OF APPROPRIATIONS.—

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

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

Mr. BINGAMAN. Mr. President, today I join my colleague and the chairman of the Committee on Energy and Natural Resources, Senator DOMENICI, in introducing three bills, by request, to make necessary changes to law regarding the U.S.-affiliated islands. As chairman and ranking minority member of this committee, Senator DOMENICI and I have a special responsibility for matters relating to our fellow U.S. citizens who live in the territories of the United States. While the people

of the territories are U.S. citizen or nationals, they lack full voting representation in the U.S. Congress. Their problems and concerns are just as deserving of attention as are those of U.S. citizens who live in the 50 States, and it is the committee on Energy and Natural Resources which has the responsibility for considering island issues that are brought to our attention, and for making recommendations, as appropriate, to the full Senate.

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

The first bill being introduced, the Compacts of Free Association Amendments Act of 2005, would make several changes to the Compact of Free Association Amendments Act, CFAAA, of 2003, (Public Law 108–188) which was enacted in December 2003. That law continued the close relationships that were established in 1986 between the U.S. and the Federated States of Micronesia, FSM, and between the U.S. and the Republic of the Marshall Islands, RMI by revising and extending U.S. financial and program assistance until 2023. Final consensus was not reached in 2003, however, on continuation of U.S. disaster assistance programs and services to the FSM and RMI. Instead, section 105(f)(1)(A) of the CFAAA directed the Secretary of State, in consultation with FEMA, to negotiate disaster assistance agreements with the FSM and RMI, report to Congress on the outcome of the negotiations, and make recommendations to Congress on any necessary changes to law.

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

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

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

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

The third bill being introduced today is requested by the delegate from the United States Virgin Islands, USVI, Donna Christensen, on behalf of herself and the Governor of the USVI. This bill would repeal sections of the United States Code that were enacted in 1936 to determine how real property taxes would be assessed in the USVI. These sections were thought to have been effectively repealed in 1954 with enactment of the Virgin Islands Organic Act—a law that substantially expanded the scope of local self-government. Last year, however, the Third Circuit Court of Appeals ruled that the 1936 law remains in effect. The court ruling has, therefore, effectively overturned 50 years of local tax law. The simple solution to this situation, which this bill proposes, is to repeal the 1936 provisions as soon as possible. This approach is consistent with the intent of the 1954 law, and it is consistent with our general Federal territorial policy of delegating local real property tax policy to the local government.

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

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

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

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

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

In 1948 the U.S. Army turned its lands and buildings, at Fort Reno, over to the U.S. Department of Agriculture. Today, the original site remains intact as a complete frontier post. Dozens of buildings constructed by the military, as early as the 1880's, still stand around the Historic District.

The Agricultural Research Service administers the fort site which includes the Grazinglands Research Facility, the Fort Reno Historic District, and the Fort Reno Science Park.

Many of the historic buildings are in desperate need of restoration. A small agency like the Agricultural Research Service is not financially able to keep up with the continued costs of maintenance of so much aged infrastructure. Independent studies show that over $18 million is now needed to restore the most important of the many old officers' quarters and other key buildings.

I have been an active supporter of Fort Reno and its facilities. For instance, several years ago I helped secure a Save America's Treasures Grant of $300,000 to assist a local historical organization with the costs of stabilization of exteriors on those deteriorating buildings that are most in need of renovation. In fiscal year 2004, I arranged for an appropriation of $2.1 million for construction of two greenhouses for use in research on forage grasses that is conducted by the Agricultural Research Service at the Fort Reno site.

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

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

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

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

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

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

CITY OF EL RENO,
El Reno, OK, September 29, 2005.

Hon. JAMES INHOFE,
U.S. Senate, Russell Building,
Washington, DC.

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

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

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

Sincerely,

DEBBIE HARRISON,
Vice Mayor, City of El Reno.

CITY OF EL RENO,
OFFICE OF THE CITY MANAGER,
El Reno, OK, September 29, 2005.

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

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

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

Sincerely,

DOUGLAS D. HENLEY,
City Manager.

OKLAHOMA STATE SENATE,
Oklahoma City, OK, September 29, 2005.

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

DEAR SENATOR INHOFE. On behalf of my constituents and all citizens of Oklahoma, I wish to thank you for assisting with efforts to obtain funding for restoration of historic buildings at Fort Reno. When they learn of it, many people in my district will be grateful for your support. I and others in the Legislature have worked hard to assist those who operate the Fort Reno Visitors Center, but the level of funding required to rescue and maintain these old structures and other historical resources at the Fort is beyond our abilities.

Restoration and continued maintenance of the Fort's buildings are of critical importance to all Oklahomans. Fort Reno is a primary historic site in our area, and it attracts over 9,000 visitors annually. It has great potential for tourism and economic development, and that potential cannot be realized until it is properly restored. I admire and appreciate your willingness to introduce legislation that will insure that Fort Reno's historic buildings are preserved and maintained for future generations of Oklahomans.

Please let me know if I can assist with this important effort in any way.

Sincerely,

MIKE JOHNSON,
Oklahoma State Senate, District 22.

EL RENO CHAMBER OF COMMERCE
AND DEVELOPMENT CORP.,
El Reno, OK, September 29, 2005.

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

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

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

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

Sincerely,

KAREN NIX,
Executive Director.

OKLAHOMA FARM BUREAU,
Oklahoma City, OK, October 4, 2005.

Hon. JIM INHOFE,
U.S. Senate, Russell Building,
Washington, DC.

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

I appreciate that you have an interest in helping the citizens of Oklahoma to preserve the historical buildings of Fort Reno. Funding is badly needed to restore and maintain these buildings, many of which were built as early as the 1880s. I understand you are willing to introduce legislation that will ensure that these historic buildings are not lost, but are preserved and maintained and made available for viewing and use by future generations of Oklahomans.

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

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

Thank you for your consideration in this matter.

Sincerely,

STEVE KOUPLEN,
President.

OKLAHOMA FARMERS UNION,
Oklahoma City, OK, September 30, 2005.

Hon. JAMES INHOFE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INHOFE: On behalf of Oklahoma Farmers Union and the 100,000 family

farmers, ranchers and rural citizens our organization represents, we appreciate your dedication to Oklahoma and your current efforts to preserve, restore and maintain Fort Reno here in the heart of our great state. This historical location and buildings, built in the 1800s, remains an attraction to thousands of Oklahomans and out-of-state tourists each year.

Thank you for your interest, and more importantly, your efforts to ensure much needed funding for this project. The legislation you are currently working on in regards to Fort Reno will ensure these buildings and this historic site will not be lost, but instead will be available for generations to come. We sincerely appreciate the revenue-neutral approach to financing the restoration of Fort Reno, without increasing our tax burden.

Again, thank you for your active role in preservation of Fort Reno and all your efforts on behalf of our great state.

Sincerely,

RAY L. WULF,
President & CEO.

By Mr. JEFFORDS (for himself, Mr. SARBANES and Mr. DAYTON):

S. 1834. A bill to authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JEFFORDS. Mr. President, over the past several weeks, in the wake of two hurricanes, we have felt the heartbreak of Americans forced from their homes with no return in sight. Safe and affordable housing is not something we should take for granted.

Today I am introducing the Affordable Housing Preservation Act of 2005. I am proud to be joined by my colleagues, Senators PAUL SARBANES and MARK DAYTON. This bill provides federal matching funds for the acquisition and rehabilitation of existing federally-assisted or -insured affordable housing properties that are in danger of being lost from the affordable housing inventory.

There is a great need for affordable housing. All across the country, housing is becoming less attainable for more and more families. In my own State of Vermont, renting—let alone owning—a home is becoming difficult if not impossible for many families. The minimum wage in Vermont is seven dollars. However, a family must earn almost $28,000 in yearly income to afford a two-bedroom apartment, which requires a wage of over $13 per hour. For example, in Vermont, a two-bedroom apartment costs about $698 per month, and a minimum wage earner can afford no more than $364 for rent. This trend is not unique to Vermont. Nationwide, the wage needed to afford a two-bedroom apartment is over $15 an hour. Approximately one-quarter of the U.S. earns less than $10 per hour. There are some communities where affordable housing was never a concern before, but are now facing a shortage growing ever more severe. I ask unanimous consent to have a chart compiled by the National Low Income Housing Coalition (NLIHC), ''State Ranks Based on Two Bedroom Housing Wage'', inserted in the RECORD. As my colleagues read this chart, I encourage them to refer to the NLIHC report issued last year, ''Out of Reach'', for a more comprehensive overview of housing prices and diminishing affordability. I found this report particularly alarming and eye-opening.

There are several strategies to consider in combating the affordable housing crisis. A comprehensive plan of economic and community development and revitalization—from public and private sector sources—is one strategy that has proved successful. Some of the increasing need for affordable housing is met with the construction of new units. But in many communities, a stock of affordable housing already exists, and there is a desire among local leaders to preserve it. My bill helps States, localities, and other entities do just that.

The bill I am introducing today, the Affordable Housing Preservation Act of 2005, represents an effort to complement the good work being done throughout the country on Section 8 initiatives, and it strives to preserve existing affordable housing. Specifically, this legislation would conserve federally-subsidized housing units by providing matching grants to states and localities, who then may work with other housing entities, seeking to preserve privately owned, affordable housing.

The Secretary of Housing and Urban Development, HUD, would make determinations for the grants based on a number of factors, including the number of affordable housing units at risk of being lost and the local market conditions in which displaced residents would have to find comparable new housing options. States and localities could use the funds to acquire or rehabilitate housing, which may be done by working with established not-for-profit organizations that specialize in providing affordable housing. They could use the funds, in part, for administrative and operating expenses. Properties with mortgages insured by HUD, Section 8 project-based assisted housing, and properties that are being purchased by residents would all be eligible for the matching grant funds. I believe that flexibility with the funding would make this program more efficient and cost effective, and, most importantly, more helpful to the recipients themselves.

What's more important to a family than a place to call home? Affordable, quality, and safe housing is the foundation, literally and figuratively, that communities are built upon. As the Senate crafts a comprehensive federal response to the housing crisis, including emergency housing assistance for those affected by the hurricanes Katrina and Rita, I am eager to work with my colleagues to integrate the principles of housing preservation into affordable housing, economic and community development and revitalization initiatives.

STATE RANKS BASED ON TWO BEDROOM HOUSING WAGE

[Higher Rank = Less Affordable]

Rank	State	Housing wage for two bedroom FRM
52	District of Columbia	$22.83
51	California	21.24
50	Massachusetts	20.93
49	New Jersey	20.35
48	Maryland	18.25
47	New York	18.18
46	Connecticut	17.90
45	Hawaii	17.60
44	Alaska	17.07
43	Nevada	16.92
42	New Hampshire	16.79
41	Colorado	16.64
40	Rhode Island	16.29
39	Virginia	16.05
38	Illinois	15.44
37	Florida	15.37
36	Minnesota	15.07
35	Arizona	14.93
34	Washington	14.32
33	Delaware	14.16
32	Georgia	14.12
31	Texas	13.84
30	Pennsylvania	13.82
29	Michigan	13.58
28	Vermont	13.42
27	Utah	13.36
26	Oregon	12.89
25	Maine	12.82
24	Wisconsin	12.22
23	Ohio	12.08
22	North Carolina	11.98
21	Missouri	11.85
20	Indiana	11.77
19	New Mexico	11.58
18	Kansas	11.22
17	Idaho	11.20
16	Nebraska	11.08
15	South Carolina	11.04
14	Tennessee	11.04
13	Louisiana	10.95
12	Iowa	10.74
11	Montana	10.50
10	Oklahoma	10.40
9	Kentucky	10.23
8	South Dakota	10.18
7	Wyoming	10.06
6	Alabama	9.84
5	Mississippi	9.79
4	Arkansas	9.63
3	North Dakota	9.48
2	West Virginia	9.31
1	Puerto Rico	7.22

By Mr. JEFFORDS (for himself, Mrs. BOXER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. CARPER, Mr. LAUTENBERG, Mr. OBAMA, and Mr. BAUCUS):

S. 1836. A bill to provide for reconstruction, replacement, and improvement of infrastructure in the Gulf Coast Region; to the Committee on Environment and Public Works.

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

But, we feel that the breadth and the magnitude of the damage after Hurricane Katrina demands a more significant response. As I look at the pictures of the damage in the areas hit hardest by Hurricane Katrina, I think of the visitors from Terrebonne Parish that visited me in my office to seek support for flood control projects in Louisiana. At the time, I was struck by the vulnerability of this community to the effects of nature. Today, we are seeing those effects firsthand. I have thought

often in the past month of the strong spirit shown by those who visited my office, and I know, that while it is almost unimaginable today, in a few years, there will be thriving communities in Louisiana, Mississippi, and Alabama once again.

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

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

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

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

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

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

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

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

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

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

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

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

I want to help the people of Louisiana, Mississippi, and Alabama. The people of my home State of Vermont are appalled at the state of affairs there and want to help. But, I cannot accept a proposal this broad which will put human health and the environment throughout the Nation at the mercy of one President or appointed official with no time limits, no consideration of human health or the environment, no public participation, and no guidance. Such as effort will only hurt the people of an already devastated region in the long run, not help them.

We must not just act to help the victims of Katrina. We must act in a thoughtful, meaningful, positive way.

The Gulf Coast Infrastructure Redevelopment and Recovery Act of 2005 meets that test. I urge my colleagues to co-sponsor this legislation.

By Mr. REED:

S. 1837. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to add Rhode Island to the Mid-Atlantic Fishery Management Council; to the Committee on Commerce, Science, and Transportation.

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

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

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

If Rhode Island fishermen are responsible for a large percentage of overall MAFMC landings, these species make up an even larger proportion of landings within Rhode Island every year. Between 1995 and 2003, MAFMC species represented between 32 percent and 56 percent of all finfish landed in Rhode Island annually, for an average of 44 percent of total landings by weight. In eight of the years between 1990 and 2003, squid, Illex and loligo, was the number one marine species landed in Rhode Island, with a value of between $11.6 million and $20.1 million annually.

Yet Rhode Island has no voice in the management of these species.

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

There is a precedent for this proposed legislation. In 1996, North Carolina's representatives in Congress succeeded in adding that state to the MAFMC through an amendment to the Sustainable Fisheries Act. Like Rhode Island, a significant proportion of North Carolina's landed fish species were managed by the MAFMC, yet the State had no vote on the council. Today, Rhode Island's share of total landings for species managed by the MAFMC is more than six times greater than that of North Carolina.

I look forward to working with my colleagues to restore a measure of equity to the fisheries management process by passing the Rhode Island Fishermen's Fairness Act. I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1837

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 ''Rhode Island Fishermen's Fairness Act''.

SEC. 2. ADDITION OF RHODE ISLAND TO THE MID-ATLANTIC FISHERY MANAGEMENT COUNCIL.

Section 302(a)(1)(B) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(B)) is amended—

(1) by inserting ''Rhode Island,'' after ''States of'';

(2) by inserting ''Rhode Island,'' after ''except North Carolina,'';

(3) by striking ''21'' and inserting ''23''; and

(4) by striking ''13'' and inserting ''14''.

By Mr. VOINOVICH (for himself and Ms. COLLINS):

S. 1838. A bill to provide for the sale, acquisition, conveyance, and exchange of certain real property in the District of Columbia to facilitate the utilization, development, and redevelopment of such property, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. VOINOVICH. Mr. President, today I rise to introduce the ''Federal and District of Columbia Government Real Property Act of 2005,'' a bill to authorize the exchange of certain land parcels between the Federal Government and the District of Columbia. This proposal was submitted to Congress by the administration with support of the District.

As Chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, I understand the special relationship shared with the Federal Government and the District. Because of this relationship, Congress shares in the responsibility of ensuring that the Nation's capital remains a socially, economically, and culturally vibrant city.

Under this legislation, the Federal properties to be transferred to the District of Columbia will be put to better use. This will free up tax dollars being used to maintain the underutilized land to be spent on more important needs facing our Nation. The vast majority of the conveyance is contained in three large properties at or near the Anacostia River: Popular Point, Reservation 13, and several acres of National Park Service land near Robert F. Kennedy Stadium. The bill also would transfer buildings and property located on the west campus of St. Elizabeth's Hospital and several smaller properties from the District of Columbia to the Federal Government.

Conveying these properties will allow the Federal Government to better manage its properties. Additionally, the District gains the ability to spur economic development in Southeast Washington, better address the needs of its citizens, and increase the local tax base. I urge all of my colleagues to support this legislation and I am confident that it can be enacted this year.

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. 1838

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 ''Federal and District of Columbia Government Real Property Act of 2005''.

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

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

(a) CONVEYANCE OF PROPERTIES.—

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

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

(B) Old Naval Hospital.

(2) PROPERTIES DEFINED.—In this section—

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

(B) the term ''Old Naval Hospital'' means the property in the District of Columbia consisting of Square 948 in its entirety, together with all the improvements thereon.

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

(1) to set aside a portion of the property for the extension of Massachusetts Avenue Southeast and the placement of a potential commemorative work to be established pursuant to chapter 89 of title 40, United States Code, at the terminus of Massachusetts Avenue Southeast (as so extended) at the Anacostia River;

(2) to convey all right, title, and interest of the District of Columbia in the portion set aside under paragraph (1) to the Secretary of the Interior (acting through the Director of the National Park Service) at such time as the Secretary may require, if a commemorative work is established in the manner described in paragraph (1); and

(3) to permit the Court Services and Offender Supervision Agency for the District of Columbia to continue to occupy a portion of the property consistent with the requirements of the District of Columbia Appropriations Act, 2002 (Public Law 107–96; 115 Stat. 931).

(c) DISTRICT OF COLUMBIA PROPERTY TO BE CONVEYED TO THE ADMINISTRATOR.—The property described in this subsection is the real property consisting of Building Nos. 16, 37, 38, 118, and 118–A and related improvements, together with the real property underlying those buildings and improvements, on the West Campus of Saint Elizabeths Hospital, as described in the quitclaim deed of September 30, 1987, by and between the United States and the District of Columbia and recorded in the Office of the Recorder of Deeds of the District of Columbia on October 7, 1987.

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

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

(2) all environmental liability, responsibility, remediation, damages, costs, and expenses as required by applicable Federal, State and local law, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (known as Clean Water Act) (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Rivers and Harbors Act (33 U.S.C. 540 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), and the Oil Pollution Act (33 U.S.C. 2701 et seq.) for such property shall be borne by the United States, which shall conduct all environmental activity with respect to such properties, and bear any and all costs and expenses of any such activity.

SEC. 102. TERMINATION OF CLAIMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the United States is not required to perform, or to reimburse the District of Columbia for the cost of performing, any of the following services:

(1) Repairs or renovations pursuant to section 4(f) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225b(f); sec. 44–903(f), D.C. Official Code).

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

(3) Mental health diagnostic and treatment services for referrals as described in section 9(b) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (24 U.S.C. 225g(b); sec. 44–908(b), D.C. Official Code), but only with respect to services provided on or before the date of the enactment of this Act.

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

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

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

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

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

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

(B) An unimproved portion of Barnaby Street Northwest, north of Aberfoyle Place Northwest, that abuts U.S. Reservation 545 (National Park Service property).

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

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

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

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

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

(H) Subject to paragraph (2), lands over I–395 at Washington Avenue Southwest.

(I) A portion of U.S. Reservation 357 at Whitehaven Parkway Northwest, previously transferred to the District of Columbia in conjunction with the former proposal for a residence for the Mayor of the District of Columbia.

(2) USE OF CERTAIN PROPERTY FOR MEMORIAL.—In the case of the property for which administrative jurisdiction is transferred under paragraph (1)(H), the property shall be used as the site for the establishment of a memorial to honor disabled veterans of the United States Armed Forces authorized to be established by the Disabled Veterans' LIFE Memorial Foundation by Public Law 106–348 (114 Stat. 1358; 40 U.S.C. 8903 note), except that the District of Columbia shall retain administrative jurisdiction over the subsurface area beneath the site for the tunnel, walls, footings, and related facilities.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION FROM UNITED STATES TO DISTRICT OF COLUMBIA.—Administrative jurisdiction over the following property owned by the United States and depicted on the Map is hereby transferred from the Secretary to the District of Columbia for administration by the District of Columbia:

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

(2) A portion of U.S. Reservation 404.

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

(4) U.S. Reservation 251.

(5) U.S. Reservation 8.

(6) U.S. Reservations 277A and 277C.

(7) Portions of U.S. Reservation 470.

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

SEC. 202. EXCHANGE OF TITLE OVER CERTAIN PROPERTIES.

(a) CONVEYANCE OF TITLE.—

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

(2) ADMINISTRATION BY NATIONAL PARK SERVICE.—The properties conveyed by the District of Columbia to the Secretary under this section shall be administered by the Director upon conveyance.

(b) PROPERTIES TO BE CONVEYED TO THE SECRETARY; USE.—The properties described in this subsection and their uses are as follows (as depicted on the Map):

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

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

(c) PROPERTIES TO BE CONVEYED TO THE DISTRICT OF COLUMBIA.—The properties described in this subsection are as follows (as depicted on the Map):

(1) U.S. Reservation 17A.

(2) U.S. Reservation 484.

(3) U.S. Reservations 243, 244, 245, and 247.

(4) U.S. Reservations 128, 129, 130, 298, and 299.

(5) Portions of U.S. Reservations 343D and 343E.

(6) U.S. Reservations 721, 722, and 723.

SEC. 203. CONVEYANCE OF UNITED STATES RESERVATION 174.

(a) CONVEYANCE; USE.—If the District of Columbia enacts a final plan for the development of the former Convention Center Site which meets the requirements of subsection (b)—

(1) the Secretary shall convey all right, title, and interest of the United States in U.S. Reservation 174 (as depicted on the Map) to the District of Columbia upon the enactment of such plan; and

(2) the District shall use the property so conveyed in accordance with such plan.

(b) REQUIREMENTS FOR DEVELOPMENT PLAN.—The plan for the development of the former Convention Center Site meets the requirements of this subsection if—

(1) the plan is developed through a public process;

(2) during the process for the development of the plan, the District of Columbia considers at least one version of the plan under which the entire portion of U.S. Reservation 174 which is set aside as open space as of the date of the enactment of this Act shall continue to be set aside as open space (including a version under which facilities are built under the surface of such portion); and

(3) not less than 1¼ acres of the former Convention Center Site are set aside for open space under the plan.

(c) FORMER CONVENTION CENTER SITE DEFINED.—In this section, the ''former Convention Center Site'' means the parcel of land in the District of Columbia which is bounded on the east by 9th Street Northwest, on the north by New York Avenue Northwest, on the west by 11th Street Northwest, and on the south by H Street Northwest.

SEC. 204. CONVEYANCE OF PORTION OF RFK STADIUM SITE FOR EDUCATIONAL PURPOSES.

Section 7 of the District of Columbia Stadium Act of 1957 (sec. 3–326, D.C. Official Code) is amended by adding at the end the following new subsection:

''(e)(1) Upon receipt of a written description from the District of Columbia of a parcel of land consisting of not more than 15 contiguous acres (hereafter in this subsection referred to as 'the described parcel'), with the longest side of the described parcel abutting one of the roads bounding the property, within the area designated 'D' on the revised map entitled 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District' and bound by Oklahoma Avenue Northeast, Benning Road Northeast, the Metro line, and Constitution Avenue Northeast, and a long-term lease executed by the District of Columbia that is contingent upon the Secretary's conveyance of the described parcel and for the purpose consistent with this paragraph, the Secretary shall convey all right, title, and interest in the described parcel to the District of Columbia for the purpose of siting, developing, and operating an educational institution for the public welfare, with first preference given to a pre-collegiate public boarding school.

''(2) Upon conveyance under paragraph (1), the portion of the stadium lease that affects the described parcel and all the conditions associated therewith shall terminate, the described parcel shall be removed from the 'Map to Designate Transfer of Stadium and Lease of Parking Lots to the District', and the long-term lease described in paragraph (1) shall take effect immediately.''.

TITLE III—POPLAR POINT

SEC. 301. CONVEYANCE OF POPLAR POINT TO DISTRICT OF COLUMBIA.

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

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

SEC. 302. REQUIREMENTS FOR POPLAR POINT LAND-USE PLAN.

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

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

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

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

(4) To the greatest extent practicable, the plan is consistent with the Anacostia Waterfront Framework Plan referred to in section 103 of the Anacostia Waterfront Corporation Act of 2004 (sec. 2–1223.03, D.C. Official Code).

(b) RESERVATION OF AREAS FOR PARK PURPOSES.—The plan shall identify a portion of Poplar Point consisting of not fewer than 70 acres (including wetlands) which shall be reserved for park purposes and shall require such portion to be reserved for such purposes

in perpetuity, and shall provide that any person (including an individual or a public entity) shall have standing to enforce the requirement.

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

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

(2) RELOCATION TO REPLACEMENT FACILITIES.—

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

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

(ii) provide that the District of Columbia shall take such actions as may be required to carry out the relocation, including preparing the new facilities and properties and providing for the transfer of such fixtures and equipment as the Director may require; and

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

(B) RESTRICTION ON USE OF PROPERTY RESERVED FOR PARK PURPOSES.—The plan may not identify any facility or property for purposes of this paragraph which is located on any portion of Poplar Point which is reserved for park purposes in accordance with subsection (b).

(3) CONSULTATION REQUIRED.—In developing each of the elements of the plan which are required under this subsection, the District of Columbia shall consult with the Director.

SEC. 303. CONVEYANCE OF REPLACEMENT FACILITIES AND PROPERTIES FOR NATIONAL PARK SERVICE.

(a) CONVEYANCE OF FACILITIES AND RELATED PROPERTIES.—Upon certification by the Director that the facilities and related property to which the National Park Service is to be relocated under the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied or used by the National Park Service—

(1) the District of Columbia shall convey to the Director all right, title, and interest in the facilities and related property (including necessary easements and utilities related thereto) to which the National Park Service is to be relocated (without regard to whether such facilities are located in Poplar Point); and

(2) the Director shall convey to the District of Columbia all, right, title, and interest in the facilities and related property which were withheld from the conveyance of Poplar Point under section 301(b) and from which the National Park Service is to be relocated.

(b) RESTRICTION ON CONSTRUCTION PROJECTS PENDING CERTIFICATION OF FACILITIES.—

(1) IN GENERAL.—The District of Columbia may not initiate any construction project with respect to Poplar Point until the Director makes the certification referred to in subsection (a).

(2) EXCEPTION FOR PROJECTS REQUIRED TO PREPARE FACILITIES FOR OCCUPATION BY NATIONAL PARK SERVICE.—Paragraph (1) shall not apply with respect to any construction project required to ensure that the facilities and related property to which the National Park Service is to be relocated under the land-use plan under this title (in accordance with section 302(c)) are ready to be occupied by the National Park Service.

SEC. 304. POPLAR POINT DEFINED.

In this title, ''Poplar Point'' means the parcel of land in the District of Columbia which is owned by the United States and which is under the administrative jurisdiction of the District of Columbia or the Director on the day before the date of enactment of this Act, and which is bounded on the north by the Anacostia River, on the northeast by and inclusive of the southeast approaches to the 11th Street bridges, on the southeast by and inclusive of Route 295, and on the northwest by and inclusive of the Frederick Douglass Memorial Bridge approaches to Suitland Parkway, as depicted on the Map.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

In this Act, the following definitions apply:

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

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

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

(4) The term ''Secretary'' means the Secretary of the Interior.

SEC. 402. LIMITATION ON ENVIRONMENTAL LIABILITY.

Notwithstanding any other provision of law—

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

(2) all environmental liability, responsibility, remediation, damages, costs, and expenses as required by applicable Federal, state and local law, including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (known as Clean Water Act) (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Rivers and Harbors Act (33 U.S.C. 540 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), and the Oil Pollution Act (33 U.S.C. 2701 et seq.) for any such property shall be borne by the District of Columbia, which shall conduct all environmental activity with respect to such properties, and bear any and all costs and expenses of any such activity.

SEC. 403. LIMITATION ON COSTS.

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

SEC. 404. DEADLINE FOR PROVISION OF DEEDS AND RELATED DOCUMENTS.

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

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

S. 1840. A bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals; to the Committee on Finance.

Mr. THUNE. Mr. President, the rising cost of prescription drugs has squeezed not only the budgets of American consumers but also the budgets of America's health care providers. The rural hospitals in my State of South Dakota serve as a lifeline to thousands of constituents living in medically underserved areas. They cannot afford to have the cost of their inpatient and outpatient drugs rising faster than the rate of inflation.

In 1992, Congress created the 340B program to lower the cost of drugs purchased by a limited number of entities serving a high number of low-income and uninsured individuals, such as federally qualified health care centers and nonprofit hospitals providing care to a disproportionate share of Medicaid patients.

Under the 340B program, pharmaceutical manufacturers are required to provide eligible 340B entities discounts on outpatient drugs as part of the manufacturers' Medicaid participation agreement. The rising cost of prescription drugs has created the need to modify the 340B program and extend these discounts to the inpatient side of disproportionate share hospitals, as well as to critical access hospitals.

Today, I and my colleague from New Mexico, Mr. BINGAMAN, are providing relief on the cost of drugs purchased by America's health care providers by introducing the Safety Net Inpatient Drug Affordability Act.

Our bill extends the 340B discounted drug prices to inpatient drug purchases of disproportionate share hospitals and allows critical access hospitals to participate in the 340B program. This not only saves hospitals money on the cost of drugs, it relieves them from the burden of carrying two different inventories for inpatient and outpatient drugs.

Our legislation also generates savings for the Medicaid program by requiring hospitals that participate in the 340B program to rebate Medicaid a percentage of their 340B savings on inpatient drugs administered to Medicaid patients. Specifically, the Safety Net Inpatient Drug Affordability Act would require disproportionate share and critical access hospitals to determine the acquisition cost of drugs used on Medicaid patients and apply the minimum Medicaid rebate percentages applicable to outpatient-dispensed brand name and generic drugs.

Extending the 340B program to critical access hospitals also helps reduce expenditures in the Medicare Program. Critical access hospitals are a vital part of the rural health care delivery

system. They provide emergency outpatient and limited inpatient care to individuals in remote rural areas. Out of the 61 hospitals in my State of South Dakota, 37 qualify as critical access hospitals.

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

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

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

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

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleagues and cosponsors Senators STABENOW and HARKIN as we introduce the Medicare Informed Choice Act of 2005. This bill provides additional essential protections for Medicare beneficiaries during the first year of implementation of the new Medicare prescription drug benefit.

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

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

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

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

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

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

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

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

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

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

S. 1841

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''The Medicare Informed Choice Act of 2005''.

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

Section 1851(e)(3)(B) of the Social Security Act (42 U.S.C. 1395w–21(e)(3)(B)) is amended—

(1) in clause (iii), by striking ''May 15, 2006'' and inserting ''December 31, 2006''; and

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

''An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).''.

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

(a) APPLICATION TO MA–PD PLANS.—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w–21(e)) is amended—

(1) in paragraph (2)(B)—

(A) in the heading, by striking ''FOR FIRST 6 MONTHS'';

(B) in clause (i)—

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

(ii) by striking ''the first 6 months during 2006'' and inserting ''2006'';

(C) in clause (ii), by inserting ''(other than during 2006)'' after ''paragraph (3)''; and

(D) in clause (iii), by striking ''2006'' and inserting ''2007''; and

(2) in paragraph (4), by striking ''2006'' and inserting ''2007'' each place it appears.

(b) CONFORMING AMENDMENT TO PART D.—Section 1860D–1(b)(1)(B)(iii) of such Act (42 U.S.C. 1395w–101(b)(1)(B)(iii)) is amended by striking ''subparagraphs (B) and (C) of paragraph (2)'' and inserting ''paragraph (2)(C)''.

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

Section 1860D–22(a)(2) (42 U.S.C. 1395w–132(a)(2)) is amended by adding at the end the following new subparagraph:

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

SEC. 5. EFFECTIVE DATE.

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

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

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

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

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

S. 1845

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''The Circuit Court of Appeals Restructuring and Modernization Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

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

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

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

SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

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

(1) in the matter preceding the table, by striking ''thirteen'' and inserting ''fourteen''; and

(2) in the table—

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

''Ninth	California, Guam, Hawaii, Northern Mariana Islands.'';

and

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

''Twelfth	Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington.''.

SEC. 4. JUDGESHIPS.

(a) NEW JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 5 additional circuit judges for the new ninth circuit court of appeals, whose official duty station shall be in California.

(b) TEMPORARY JUDGESHIPS.—

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

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the new ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

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

SEC. 5. NUMBER OF CIRCUIT JUDGES.

The table contained in section 44(a) of title 28, United States Code, is amended—

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

''Ninth ..... 20'';

and

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

''Twelfth ..... 14''.

SEC. 6. PLACES OF CIRCUIT COURT.

The table contained in section 48(a) of title 28, United States Code, is amended—

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

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

and

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

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

SEC. 7. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

The offices of the Circuit Executive of the Twelfth Circuit and the Clerk of the Court of the Twelfth Circuit shall be located in Phoenix, Arizona.

SEC. 8. ASSIGNMENT OF CIRCUIT JUDGES.

Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this Act—

(1) is in California, Guam, Hawaii, or the Northern Mariana Islands shall be a circuit judge of the new ninth circuit as of such effective date; and

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

SEC. 9. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or the twelfth circuit as of such effective date and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 10. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 8, or

(2) who elects to be assigned under section 9,

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 11. APPLICATION TO CASES.

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

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

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

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

SEC. 12. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.

Section 291 of title 28, United States Code, is amended by adding at the end the following:

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

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

SEC. 13. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.

Section 292 of title 28, United States Code, is amended by adding at the end the following:

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

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

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

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

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

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

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

SEC. 14. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act and the amendments made by this Act. Such court shall cease to exist for administrative purposes 2 years after the date of enactment of this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

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

SEC. 16. EFFECTIVE DATE.

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

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. 1848. A bill to promote remediation of inactive and abandoned mines, and for other purposes; to the Committee on Environment and Public Works.

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

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

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

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

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

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

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

My bill is designed to fix this problem. It is written to encourage meritorious projects to proceed provided they have the full approval of the governments involved and full participation by the public—all to benefit the environment.

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

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

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

The bill encourages Good Samaritans to clean pollution by freeing them from the large environmental liabilities that ordinarily burden anyone who acts to fix the pollution.

The bill applies to the cleanup of non-coal inactive and abandoned mines anywhere in the United States.

Its approach—which wraps all environmental requirements for a Good Samaritan project into a single permit that must be agreed to first by the Federal Government, the affected State, and local communities—is straightforward.

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

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

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

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

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

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

S. 1848

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Cleanup of Inactive and Abandoned Mines Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

(13) Good Samaritan remediation activities may—

(A) vary in size and complexity;

(B) reflect the myriad ways that mine residue may be cleaned up; and

(C) include, among other activities—

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

(ii) passive or active water treatment;

(iii) runoff or run-on controls; and

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

(14) the potential environmental liabilities that may attach to those Good Samaritans as a result of the remediation can dissuade those Good Samaritans from acting for the public good;

(15) it is in the interest of the United States, the States, and local communities to remediate historic mine sites, in appropriate circumstances and to the maximum extent practicable, so that the environmental impacts of the sites are lessened into the future; and

(16) if appropriate protections are provided for Good Samaritans, Good Samaritans will have a greater incentive to remediate those sites for the public good.

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

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

(2) to provide appropriate protections for Good Samaritans under applicable environmental laws;

(3) to ensure that remediation performed by Good Samaritans creates actual and significant environmental benefits;

(4) to ensure that remediation by Good Samaritans is carried out—

(A) with the approval and agreement, and in the discretion, of affected Federal, State, and local authorities and with review by the public; and

(B) in a manner that is beneficial to the environment and all affected communities; and

(5) to create an efficient permit process under which the cost and complexity of obtaining a permit are commensurate with the scope of remediation work to be completed and the environmental benefits from the work;

(6) to avoid permitting for ongoing, for-profit businesses that specialize in multiple Good Samaritan projects that are designed to be permitted outside otherwise applicable Federal, State, and local environmental laws; and

(7) to ensure that the protections for Good Samaritans provided in this Act are interpreted in accordance with the purposes of this Act and to enhance the public good.

SEC. 3. REMEDIATION OF INACTIVE OR ABANDONED MINES BY GOOD SAMARITANS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COOPERATING AGENCY.—The term ''cooperating agency'' means any Federal, State, or local agency or other person (other than the Administrator) that—

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

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

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

(A) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

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

(C) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

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

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

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

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

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

(I) applicable environmental laws of a State; and

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

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

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

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

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

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

(5) HISTORIC MINE RESIDUE.—

(A) IN GENERAL.—The term ''historic mine residue'' means mine residue or conditions at an inactive or abandoned mine site that pollute the environment.

(B) INCLUSIONS.—The term ''historic mine residue'' may include, among other materials—

(i) ores;

(ii) minerals;

(iii) equipment (or materials in equipment);

(iv) wastes from extractions, beneficiation, or other processing; and

(v) acidic or otherwise polluted flows in surface or ground water.

(6) INACTIVE OR ABANDONED MINE SITE; MINE SITE.—The terms ''inactive or abandoned mine site'' and ''mine site'' mean the site of a mine and associated facilities that—

(A) were used for the production of a mineral other than coal;

(B) have historic mine residue; and

(C) are abandoned or inactive as of the date on which an application is submitted for a permit under this section.

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

(8) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a firm;

(C) a corporation;

(D) an association;

(E) a partnership;

(F) a consortium;

(G) a joint venture;

(H) a commercial entity;

(I) a nonprofit organization;

(J) the Federal Government;

(K) a State;

(L) a political subdivision of a State;

(M) an interstate entity; and

(N) a commission.

(9) STATE.—The term ''State'' means—

(A) a State; and

(B) an Indian tribe.

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

(c) ELIGIBILITY FOR PERMITS.—

(1) IN GENERAL.—To be eligible for a permit to carry out a project to remediate an inactive or abandoned mine site in a State under this section—

(A) the mine site shall be located in the United States;

(B) the principal purpose of the project shall be the reduction of pollution caused by historic mine residue;

(C) the mine site may not be a mine site included on the national priorities list under section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)) except in a case in which the Administrator determines, on a case-by-case basis, that—

(i) the remediation project proposed to be carried out at the mine site is minor as compared to all remediation activity needed at the listed mine site;

(ii) the conduct of the proposed remediation project at the listed mine site will not interfere with any other remediation at the mine site that is reasonably likely to occur; and

(iii) except for the remediation project proposed by the Good Samaritan at the mine site under this Act, there is not likely to be remediation of the historic mine residue that is the subject of the project at the listed mine site in the reasonably foreseeable future;

(D) the permit shall authorize only those activities that are directly required for the remediation of historic mine residue at the mine site;

(E) the person obtaining the permit shall be a Good Samaritan; and

(F) a State remediation program described in subsection (d) shall be in effect for remediation of the mine site.

(2) OTHER ACTIVITIES.—Any activity other than the activities described in paragraph (1)(D) conducted by the permittee or any other person at the mine site (including, without limitation, any mining or processing in addition to that required for the remediation of historic mine residue for the public good)—

(A) shall not be authorized under a permit issued under this section; and

(B) may be authorized under other applicable laws, including environmental laws.

(d) STATE REMEDIATION PROGRAM.—

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

(2) REQUIREMENTS.—To meet the requirements of this subsection, under the State remediation program, the State shall—

(A) agree to participate, as a signatory, in each project for a which a permit for remediation in the State is issued under this section;

(B) agree that a permittee shall comply with the terms and conditions of the permit in lieu of compliance with applicable environmental laws specifically described in the permit in accordance with subsection (h)(1)(B);

(C) authorize State agencies and political subdivisions of the State to participate in the permit process under this section, as appropriate, and assist in providing the resources to enable that participation; and

(D) designate a lead State agency that is responsible to carry out permitting responsibilities of the State under this section.

(e) APPLICATION FOR PERMITS.—To obtain a permit to carry out a project to remediate an inactive or abandoned mine site under this section, an applicant shall submit to the Administrator an application, signed by the applicant, that provides—

(1) a description of the mine site (including the boundaries of the mine site);

(2) an identification of—

(A) any current owner or operator of the mine site; and

(B) any person with a legal right to exclude other persons from the mine site or affect activities on the mine site, with a description of those legal rights;

(3) evidence satisfactory to the Administrator that the applicant has or will acquire all legal rights necessary to enter the mine site and to perform the remediation described in the application;

(4) a description, based on the conduct of an inquiry that is reasonable under the circumstances, of—

(A) all persons that may be legally responsible for the remediation of the mine site; and

(B) any relationship between those persons and the applicant;

(5) a certification that the applicant knows of no other person that (as of the date of submission of the application)—

(A) is potentially legally responsible for the remediation of the mine site; and

(B) has sufficient resources to complete the remediation;

(6) a detailed description of the historic mine residue to be remediated;

(7) a description of the baseline conditions (as of the date of submission of the application) of the environment affected by the historic mine residue to be remediated;

(8) a description of—

(A) the nature and scope of the proposed remediation; and

(B) detailed engineering plans for the project;

(9) a description of the manner in which the remediation will assist the mine site in meeting, to the maximum extent reasonable and practicable under the circumstances, water quality standards;

(10) a schedule for the work to be carried out under the project;

(11) a budget for the work to be carried out under the project;

(12) a description of financial assurances, if any, to be provided by the permittee to ensure that the permitted work, including any operation and maintenance, will be completed;

(13) a description of a monitoring program following remediation (if any) that will be implemented to evaluate the effects of the remediation on the environment;

(14) a detailed plan for the required operation and maintenance of any remediation; and

(15) a list of all environmental laws for which the applicant seeks the protection described in paragraphs (1) and (2) of subsection (g).

(f) PERMIT ISSUANCE.—

(1) IN GENERAL.—The Administrator may issue a permit under this section to carry out a project for the remediation of an inactive or abandoned mine site in a State only if—

(A) the Administrator determines that—

(i) the project will improve the environment on or in the area of the mine site to a significant degree, as determined by the Administrator;

(ii) the project will not degrade any aspect of the environment in any area to a significant degree;

(iii) the project will meet applicable water quality standards, to the maximum extent reasonable and practicable under the circumstances;

(iv) the permittee has the financial and other resources to complete, and will complete, the permitted work; and

(v) the project meets the requirements of this section;

(B) the State concurs with the issuance of, and signs, the permit;

(C) if the permit provides protection for the permittee under an environmental law of a political subdivision of a State in accordance with paragraphs (1) and (2) of subsection (g), the political subdivision concurs with the issuance of, and signs, the permit; and

(D) if the proposed project is to be carried out on Federal land, each State (or political subdivision) within which the Federal land is located meets the requirements of subparagraphs (B) and (C).

(2) DISCRETIONARY ACTIONS.—The issuance of a permit by the Administrator, and the concurrence of the affected State and political subdivisions of a State to participate in the permit process, shall be discretionary actions and shall be taken in the public interest.

(3) FUNCTIONAL EQUIVALENCY.—No action of the Administrator or any other person pursuant to this section shall constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(4) DEADLINE.—

(A) IN GENERAL.—The Administrator shall issue or deny a permit for the remediation of a mine site not later than—

(i) the date that is 180 days after the date of receipt by the Administrator of an application for the permit that, as determined by the Administrator, is complete; or

(ii) such later date as may be determined by the Administrator with the agreement of the applicant.

(B) CONSTRUCTIVE DENIAL.—If the Administrator fails to issue or deny the permit in accordance with subparagraph (A), the application shall be considered to be denied by the Administrator.

(5) REVIEW FOR CERTAIN PROJECTS.—A project that, as determined by the Administrator, would be less complex, or pose less risk, than other projects under review by the Administrator for a permit under this section, may be reviewed, at the discretion of the Administrator, under a more simple and rapid review process under this subsection.

(g) EFFECT OF PERMITS.—

(1) IN GENERAL.—A permit issued under this section to carry out a project for the remediation of an inactive or abandoned mine site—

(A) authorizes the permittee to carry out the activities described in the permit;

(B) authorizes enforcement under this section; and

(C) provides to the permittee, in carrying out the activities authorized under the permit, protection from actions taken, obligations, and liabilities arising under the environmental laws specified in the permit.

(2) CROSS-COMPLIANCE.—A permittee shall comply with the terms and conditions of a permit issued under this section in lieu of compliance with the environmental laws specified in the permit with respect to the work authorized under the permit.

(h) CONTENT OF PERMITS.—

(1) IN GENERAL.—A permit issued under this section shall contain—

(A) a detailed description of the engineering and other work that is authorized under the permit;

(B) a specific list of environmental laws, or selected provisions of environmental laws, with respect to which compliance with the permit will operate in lieu of compliance with the laws;

(C) a provision that states that the permittee is responsible for securing, for all activities authorized under the permit, all authorizations, licenses, and permits that are required under applicable law, other than the environmental laws described in subsection (g)(2); and

(D) any other terms and conditions that are determined to be appropriate by the Administrator.

(2) INVESTIGATIVE SAMPLING.—

(A) IN GENERAL.—A permit may identify an appropriate program of investigative sampling to be completed prior to remediation, as determined by the Administrator upon application.

(B) OPTION TO DECLINE REMEDIATION.—In the event that investigative sampling is authorized, the permit may allow the permittee to decline to undertake remediation based upon sampling results.

(C) PERMIT MODIFICATION.—Based upon sampling results, a permittee may apply for a permit modification using the permit procedures in this Act.

(3) TIMING.—Work authorized under a permit shall—

(A) commence not later than the date that is 18 months after the date of issuance of the permit; and

(B) continue until completed, with temporary suspensions permitted during adverse weather or other conditions specified in the permit.

(4) SIGNATURE BY PERMITTEE.—The signature of the permittee on the permit shall be considered to be an acknowledgment by the permittee that the permittee accepts the terms and conditions of the permit.

(5) TRANSFER OF PERMITS.—A permit may be transferred to another person only if—

(A) the Administrator determines that the transferee will satisfy all of the requirements of the permit;

(B) the transferee signs the permit; and

(C) the Administrator includes in the transferred permit any additional conditions necessary to meet the goals of this section.

(6) TERMINATION OF PERMIT.—The authority to carry out work under a permit issued under this section shall terminate if the work does not commence by the date that is 18 months after the date of issuance of the permit.

(i) ROLE OF ADMINISTRATOR.—In carrying out this section, the Administrator shall—

(1) consult with prospective applicants;

(2) accept permit applications under this section;

(3) convene, coordinate, and lead the application review process;

(4) maintain all records relating to the permit and the permit process;

(5) provide an opportunity for cooperating agencies and the public to participate in the permit process;

(6) issue the permit under this section, if appropriate; and

(7) enforce and otherwise carry out this section.

(j) COOPERATING AGENCIES.—If the Administrator learns that an application for the remediation of a mine site under this section will be submitted to the Administrator, the Administrator shall (as soon as practicable) provide a notice of the application to—

(1) the lead State agency designated under subsection (d)(2)(D);

(2) each local government located within a radius of 20 miles of the mine site; and

(3) each Federal and State agency that may have an interest in the application.

(k) PUBLIC PARTICIPATION.—

(1) POTENTIAL SUBMISSION OF APPLICATIONS.—If the Administrator learns that an application for the remediation of a mine site under this section will be submitted to the Administrator, the Administrator shall (as soon as practicable) provide to the public a notice that describes—

(A) the location of the mine site;

(B) the scope and nature of the proposed remediation; and

(C) the name of the Good Samaritan that will be carrying out the proposed remediation.

(2) RECEIPT OF APPLICATION.—If the Administrator receives an application for the remediation of a mine site under this section, the Administrator shall (as soon as practicable) provide to the public a notice that provides the information described in paragraph (1).

(3) HEARING.—

(A) IN GENERAL.—Not later than 45 days after the date of receipt of a complete application for the remediation of a mine site under this section, the Administrator shall hold a hearing in the vicinity of the mine site to be remediated.

(B) COMMENTS.—At the hearing, the Administrator shall provide the applicant, the public, and cooperating agencies with the opportunity to comment on the application.

(4) NOTICE OF PENDING ISSUANCE.—Not less than 14 days before the date of issuance of a permit for the remediation of a mine site under this section, the Administrator shall provide to the public and each cooperating agency notice of the pending issuance of the permit.

(5) PUBLIC RECORDS.—All records relating to the permit and the permit process shall be considered to be public records, except to the extent the records are subject to a legal privilege.

(l) MONITORING.—

(1) IN GENERAL.—The permittee shall take such actions as the Administrator determines are necessary to ensure appropriate baseline and post-remediation monitoring of the environment under paragraphs (7) and (13) of subsection (e).

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

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

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

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

(m) ENFORCEMENT.—

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

(2) INJUNCTIONS.—

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

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

(ii) prohibiting a person from violating a permit.

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

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

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

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

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

(o) SAVINGS PROVISIONS.—

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

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

(p) REGULATIONS.—

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

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

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

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

S. 1850

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

SECTION 1. SHORT TITLE.

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

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

Sections 1333(c), 1335(c), 1336(e), 1337(d), 1341(c), and 1342(c) of the Energy Policy Act of 2005 are each amended by striking ''December 31, 2005'' and inserting ''the date of the enactment of the Rapid Efficiency Credit Act of 2005''.

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

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

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

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

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

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

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

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

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

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

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

(c) DEFINITION.—Section 25D(d) of such Code is amended by adding at the end the following new paragraph:

''(4) QUALIFIED COMPACT FLUORESCENT LIGHT EXPENDITURE.—The term 'qualified compact fluorescent light expenditure' means an expenditure for Energy Star compliant compact fluorescent light bulbs for use in a dwelling unit located in the United States and used as a residence by the taxpayer.''.

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

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

S. 1851

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

SECTION 1. FUEL ECONOMY STANDARDS.

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

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

''(2) Nothing in this section shall apply to—

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

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

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

''(D) a motorcycle tire; or

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

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

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

(2) does not adversely affect tire safety;

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

(4) establishes minimum fuel economy standards for tires.

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

S. 1852

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reducing the Incentives to Guzzle Gas Act''.

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

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

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

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

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

(2) by striking ''clause (ii)'' in the second sentence and inserting ''clause (ii)(I)''.

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

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

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

SEC. 3. UPDATED DEPRECIATION DEDUCTION LIMITS.

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

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

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

''(I) described in subsection (d)(5)(A)(ii)(I), $4,000,

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

''(III) described in subsection (d)(5)(A)(ii)(II), $6,000,

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

''(I) described in subsection (d)(5)(A)(ii)(I), $6,400,

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

''(III) described in subsection (d)(5)(A)(ii)(II), $9,600,

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

''(I) described in subsection (d)(5)(A)(ii)(I), $3,850,

''(II) described in the second sentence of subsection (d)(5)(A), $4,800, and

''(III) described in subsection (d)(5)(A)(ii)(II), $5,775, and

''(iv) for each succeeding taxable year in the recovery period—

''(I) described in subsection (d)(5)(A)(ii)(I), $2,325,

''(II) described in the second sentence of subsection (d)(5)(A), $2,900, and

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

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

''(ii) LIMITATION.—The amount treated as an expense under clause (i) for any taxable year shall not exceed for any passenger automobile—

''(I) described in subsection (d)(5)(A)(ii)(I), $2,325,

''(II) described in the second sentence of subsection (d)(5)(A), $2,900, and

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

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

(1) by striking ''after 1988'' in subparagraph (A) and inserting ''after 2006'', and

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

''(B) AUTOMOBILE PRICE INFLATION ADJUSTMENT.—For purposes of this paragraph—

''(i) IN GENERAL.—The automobile price inflation adjustment for any calendar year is the percentage (if any) by which—

''(I) the average wage index for the preceding calendar year, exceeds

''(II) the average wage index for 2005.

''(ii) AVERAGE WAGE INDEX.—The term 'average wage index' means the average wage index published by the Social Security Administration.''.

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

SEC. 4. EXPENSING LIMITATION FOR FARM VEHICLES.

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

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

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

S. 1853

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reduce Government Fuel Consumption Act of 2005''.

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

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

''(f) REDUCTION OF EMPLOYEE VEHICLE FUEL CONSUMPTION BY FEDERAL AGENCIES.—

''(1) IN GENERAL.—Each agency shall take such actions as are necessary to reduce the level of fuel consumed by vehicles of employees of the agency (other than fuel used for military purposes), in connection with the employment of the employees, by (to the maximum extent practicable) at least 10 percent during the 1-year period beginning on the date of enactment of this subsection.

''(2) METHODS.—An agency may use such methods as the agency determines are appropriate to achieve the target established by paragraph (1), including—

''(A) telework;

''(B) carpooling;

''(C) bicycling and walking to work;

''(D) fuel-efficient trip planning;

''(E) public transportation use; and

''(F) limiting travel days for vehicle travel outside the office.

''(3) MEASUREMENT.—An agency may use such measures as the agency determines are appropriate to determine whether the agency has achieved the target established by paragraph (1), including—

''(A) a reduction in travel vehicle travel miles reimbursed by the agency; and

''(B) certification of the methods described in paragraph (2).''.

S. 1854

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Treat Emergency Victims Fairly Act of 2005''.

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) Emergencies place great strains on commercial and consumer relationships in the areas affected.

(3) Emergencies can strain commercial and consumer relationships in areas beyond those directly damaged or affected by the emergency.

(4) It is an unfortunate truth that some will try to take advantage of others in emergency situations by price gouging for consumer and other commercial goods or services.

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

(6) Price gouging in commercial and consumer settings affects interstate commerce.

(7) Price gouging—

(A) distorts markets without regard to State lines;

(B) disturbs and interferes with the flow of commodities and services across State lines; and

(C) creates or exacerbates shortages and interruptions of supplies of materials across State lines.

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

SEC. 3. DEFINITIONS.

In this Act:

(1) EMERGENCY.—The term ''emergency'' means a natural disaster or other circumstance or event that is formally declared to be an emergency by Federal or State authorities. An emergency may be associated with a designated area.

(2) GOODS OR SERVICES.—The term ''goods or services'' means goods or services of any type, including food, transportation, housing, and energy supplies.

(3) PERSON.—The term ''person'' means a natural person, corporation, governmental body, or other entity.

(4) PRICE GOUGING.—

(A) IN GENERAL.—The term ''price gouging'' means charging an unreasonable and unconscionable price for a good or service immediately prior to, during, or following an emergency.

(B) PRESUMPTION.—

(i) AFFIRMATIVE.—A price for a good or service is presumed to be unreasonable and unconscionable—

(I) in the designated area of an emergency if it reflects a price increase at least 10 percent greater than the average price for the good or service charged by the seller in the designated area during the 30 days prior to the formal declaration of the emergency; and

(II) outside the designated area of an emergency if the price is affected by the emergency and if the price reflects a price increase at least 10 percent greater than the average price for the good or service charged by the seller in the area of the sale during the 30 days prior to the formal declaration of an emergency.

For purposes of subclause (II), a price is presumed to be affected by the emergency if, within 30 days following the declaration of the emergency, the price is at least 25 percent greater than the average price for the good or service charged by the seller in the area of the sale during the 30 days prior to the formal declaration of the emergency.

(ii) NEGATIVE.—A price for a good or service is not unreasonable and unconscionable if it reflects only the cost of the good or service to the seller prior to the emergency, the average profit margin of the seller during the 30 days prior to the formal declaration of an emergency, and the increased costs actually incurred by the seller to sell the good or service during or following the emergency.

SEC. 4. CAUSE OF ACTION.

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

(b) LITIGATION.—A cause of action under this section may be brought—

(1) in Federal or State court; and

(2) by the Federal Government, through the Attorney General, or a State Government acting through its attorney general.

(c) VENUE AND PROCEDURE.—

(1) FEDERAL COURT.—An action in Federal court under this section may be brought in any court whose jurisdiction includes—

(A) the geographic area in which price gouging is alleged to have occurred; or

(B) the State which is a plaintiff in the action.

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

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

(e) INVESTIGATIONS.—

(1) IN GENERAL.—During the course of an investigation under this section by the Attorney General of the United States or a State attorney general, whether prior to filing an action or during such an action, the investigating attorney general may—

(A) order any person to file a statement, report in writing, or answer questions in writing, under oath or otherwise, concerning facts or circumstances reasonably related to alleged price gouging;

(B) order any person to provide data or information the attorney general reasonably deems to be necessary to an investigation; and

(C) issue subpoenas to require the attendance of witnesses or the production of relevant documents, administer oaths, and conduct hearings in aid of the investigation.

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

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

(f) LIMITATION.—An action under this section shall be brought not later than 3 years of the date of the sale of the goods or services at issue.

SEC. 5. DAMAGES AND PENALTIES.

(a) IN GENERAL.—A prevailing plaintiff shall be entitled to—

(1) plaintiff's damages incurred as a result of the price gouging, including without limitation a refund of all prices paid by the plaintiff in excess of conscionable and reasonable prices;

(2) injunctive relief prohibiting the defendant from price gouging or mandating action; and

(3) attorneys fees and costs incurred by the plaintiff.

(b) RESTITUTION.—The Attorney General of the United States and a State attorney general, in an action brought on behalf of the citizens of the United States or a State, respectively, may recover restitution or disgorgement of excess profits on behalf of those citizens.

(c) CIVIL PENALTIES.—

(1) IN GENERAL.—A person who violates section 4(a) shall be subject to civil penalties of up to $10,000 per incident.

(2) DISPOSITION OF PENALTIES.—Civil penalties collected through an action by the United States Attorney General shall be deposited in the United States Treasury. Civil penalties collected through an action by an attorney general of a State shall be deposited in the State's treasury. The court may apportion the deposit of civil penalties as appropriate in the circumstances.

SEC. 6. ATTORNEY GENERAL AUTHORITIES.

The Attorney General of the United States shall—

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

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

(3) provide grants to offices of the State attorneys general of not greater than $50,000 in order to support the pursuit of price gouging investigations and other activities.

SEC. 7. SAVINGS PROVISION.

This Act shall not preempt or otherwise affect any State or local law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 268—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR SCULPTOR KORCZAK ZIOLKOWSKI

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

S. RES. 268

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

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

Whereas Korczak Ziolkowski's marble sculpture of composer and Polish leader Ignace Jan Paderewski won first prize at the 1939 New York World's Fair and prompted Lakota Indian Chiefs to invite Ziolkowski to carve a memorial for Native Americans;

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

Whereas in 1939, Korczak Ziolkowski assisted Gutzon Borglum for a brief time in carving Mount Rushmore;