

## ADDITIONAL COSPONSORS

S. 5

At the request of Mr. SPECTER, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 5, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 8

At the request of Mr. ENSIGN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 37

At the request of Mrs. FEINSTEIN, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Colorado (Mr. SALAZAR) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 39

At the request of Mr. STEVENS, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 39, a bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration.

S. 119

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 119, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 183

At the request of Mr. GRASSLEY, the names of the Senator from Utah (Mr. HATCH), the Senator from Montana (Mr. BAUCUS), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Oregon (Mr. SMITH), the Senator from North Dakota (Mr. CONRAD), the Senator from Missouri (Mr. TALENT), the Senator from Vermont (Mr. JEFFORDS), the Senator from Utah (Mr. BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Massachusetts (Mr. KERRY), the Senator from Indiana (Mr. LUGAR), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Missouri (Mr. BOND), the Senator from New York (Mr. SCHUMER), the Senator from Ohio (Mr. DEWINE), the Senator from Nevada (Mr. REID), the Senator from Maine (Ms. COLLINS), the Senator from Washington (Mrs. MURRAY), the Senator from South Carolina (Mr. GRAHAM), the Senator from South Dakota (Mr. JOHNSON), the Senator from

Nebraska (Mr. HAGEL), the Senator from Michigan (Ms. STABENOW), the Senator from New Jersey (Mr. CORZINE), the Senator from Connecticut (Mr. DODD), the Senator from Iowa (Mr. HARKIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Rhode Island (Mr. REED), the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from Washington (Ms. CANTWELL), the Senator from Minnesota (Mr. DAYTON), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Hawaii (Mr. INOUE), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from New York (Mrs. CLINTON), the Senator from North Dakota (Mr. DORGAN), the Senator from Maryland (Mr. SARBANES), the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 183, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 239

At the request of Mr. WYDEN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 239, a bill to reduce the costs of prescription drugs for medicare beneficiaries, and for other purposes.

S. 266

At the request of Mr. LAUTENBERG, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 266, a bill to stop taxpayer funded Government propaganda.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 320

At the request of Mr. ALLARD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 320, a bill to require the Secretary of the Army to carry out a pilot project on compatible use buffers on real property bordering Fort Carson, Colorado, and for other purposes.

S. 336

At the request of Mr. SARBANES, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 336, a bill to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail.

S. RES. 44

At the request of Mr. ALEXANDER, the names of the Senator from New York

(Mrs. CLINTON), the Senator from Oklahoma (Mr. COBURN), the Senator from Mississippi (Mr. COCHRAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Arkansas (Mr. PRYOR) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. Res. 44, a resolution celebrating Black History Month.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mrs. CLINTON, Mr. DEWINE, Mr. LEAHY, Mr. ALLEN, Ms. CANTWELL, and Mr. REID):

S. 337. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes; to the Committee on Armed Services.

Mr. REID. Mr. President, we have long recognized that our country has an obligation to take care of the brave men and women who wear the uniform of the United States—and their families.

Sixty years ago we passed the GI Bill of Rights for the 16 million veterans who served in World War II. By providing new opportunities in housing and education, we helped them return to civilian life.

Our military forces have changed dramatically since then—but the benefits we offer to military families haven't kept pace with the changes.

Today our military relies on volunteers, and our security depends on recruiting and retaining good troops—including members of the National Guard and Reserves.

The Guard and Reserves serve at the command of State governors, but members are also available to be called to active duty by the President. And over the last 10 years, the role of the National Guard and Reserves in our military has steadily increased.

Today, reports indicate that almost half of the forces deployed in support of Operation Enduring Freedom and Operation Iraqi Freedom come from the National Guard and the Reserves.

These Guardsmen and Reservists are not only providing much-needed "boots on the ground." They bring specific skills that our regular active military cannot duplicate.

For example, in my home state of Nevada, half of the pilots in the Nevada Air National Guard are civilian pilots.

A majority of the Nevada National Guard military police, who are in the 72nd MP Company that just returned from Iraq, work as law enforcement officers in Las Vegas.

And the Nevada Army Guard's 126th Medical Company an air ambulance

unit, which flew more than 174 traumatic medical evacuations in Afghanistan, is made up entirely of men and women who work as civilian paramedics.

So the National Guard and Reserves are strengthened by the fact that members hold civilian jobs as pilots, police officers and paramedics.

The Guard and Reserves also provide the primary service—or the only service—in several crucial areas of national security, including: port security; airport security; civil support teams; and reconnaissance and Drug Air Interdiction.

Since we rely more than ever on members of our National Guard and Reserves, we need to modernize the benefits that are available to them—especially in the areas of retirement and health care.

Let's start with health care.

It's true that service in the Guard and Reserve is a part time obligation—but it is unlike any other part-time job that a person might hold.

When the Guard and Reserves call, members must put their duty above their regular jobs and even their families. That means taking time off from their regular jobs . . . and forgoing many family activities because they are busy fulfilling their Guard or reserve duties.

And it means being ready for deployment at any time.

In short, we expect members to make the Guard and Reserves a top priority in their lives.

In return for that commitment . . . for the sacrifices they make at their regular jobs . . . we owe them the peace of mind of knowing that their families will receive quality medical care.

We need to offer medical care that leverages the existing military health care system. That is why TRICARE should be an option for all members of the National Guard and Reserves.

The lack of health care benefits for Guard and Reserve members is a serious problem. Currently, about 40 percent of the enlisted members don't have any health care coverage.

This affects troop readiness. In recent mobilizations, 10 to 15 percent of the Guard and Reserve members could not be deployed due to health-related issues.

It also affects the state of mind of those who are training for dangerous deployments. A Reservist in training on the weekend shouldn't be worried about whether his or her sick child will be able to see a doctor.

Providing better health care benefits to members of the Guard and Reserve is not only the right thing to do—it's a matter of national security.

We just also upgrade the retirement benefits available to those who choose to serve for long periods of time.

A person who serves in the Guard or Reserve for 20 years is subject to being

called up to active duty numerous times, disrupting his or her civilian career and retirement planning.

We must take this into account, and improve the retirement benefits for Guard and Reserve members.

The current reserve retirement system is 50 years old, and it doesn't reflect the extent to which our nation now depends on the National Guard and Reserves.

This outdated system doesn't allow members to receive retired pay or retiree health benefits until they are 60 years old. We must update the system so those who serve can receive benefits at age 55, if they meet all the other requirements.

This change would recognize the importance of the Guard and Reserves in today's military . . . and it would recognize the sacrifices that members make in their civilian careers in order to serve their country.

Once again, this is not only the right thing to do—it will make our country stronger and safer by encouraging and rewarding service in the National Guard and Reserves.

By Mr. DURBIN (for himself, Mr. BUNNING, Mr. OBAMA, Mr. BAYH, and Mr. LUGAR):

S. 341. A bill to provide for the redesign of the reverse of the Lincoln 1-cent coin in 2009 in commemoration of the 200th anniversary of the birth of President Abraham Lincoln; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, today I am introducing a bill to honor Abraham Lincoln in 2009, the bicentennial of his birth, by issuing a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of his life, in Kentucky, Indiana, Illinois, and Washington, D.C. The bill would also provide for a longer-term redesign of the reverse of 1-cent coins so that after 2009 they will bear an image emblematic of Lincoln's preservation of the United States as a single and united country.

Abraham Lincoln was one of our greatest leaders, demonstrating enormous courage and strength of character during the Civil War, perhaps the greatest crisis in our Nation's history. Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the Nation in Washington, DC. He rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

Adhering to the belief that all men are created equal, Lincoln led the effort to free all slaves in the United States. Despite the great passions aroused by the Civil War, Lincoln had a generous heart and acted with malice toward none and with charity for all. Lincoln made the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865. All Americans could benefit from studying the life of Abraham Lincoln.

The "Lincoln cent" was introduced in 1909 on the 100th anniversary of Lincoln's birth, making the front design by sculptor Victor David Brenner the most enduring image on the Nation's coinage. President Theodore Roosevelt was so impressed by Brenner's talent that he was chosen to design the likeness of Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier. In the nearly 100 years of production of the "Lincoln cent," there have been only two designs on the reverse: the original, featuring two wheat-heads, and the current representation of the Lincoln Memorial in Washington, DC.

On the occasion of the bicentennial of Lincoln's birth and the 100th anniversary of the production of the Lincoln cent, we should recognize his great achievement in ensuring that the United States remained one Nation, united and inseparable.

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. 341

*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 "Abraham Lincoln Bicentennial 1-Cent Coin Redesign Act".

#### SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Abraham Lincoln, the 16th President, was one of the Nation's greatest leaders, demonstrating true courage during the Civil War, one of the greatest crises in the Nation's history.

(2) Born of humble roots in Hardin County, Kentucky, on February 12, 1809, Abraham Lincoln rose to the Presidency through a combination of honesty, integrity, intelligence, and commitment to the United States.

(3) With the belief that all men are created equal, Abraham Lincoln led the effort to free all slaves in the United States.

(4) Abraham Lincoln had a generous heart, with malice toward none and with charity for all.

(5) Abraham Lincoln gave the ultimate sacrifice for the country he loved, dying from an assassin's bullet on April 15, 1865.

(6) All Americans could benefit from studying the life of Abraham Lincoln, for Lincoln's life is a model for accomplishing the "American dream" through honesty, integrity, loyalty, and a lifetime of education.

(7) The year 2009 will be the bicentennial anniversary of the birth of Abraham Lincoln.

(8) Abraham Lincoln was born in Kentucky, grew to adulthood in Indiana, achieved fame in Illinois, and led the nation in Washington, D.C.

(9) The so-called "Lincoln cent" was introduced in 1909 on the 100th anniversary of Lincoln's birth, making the obverse design the most enduring on the nation's coinage.

(10) President Theodore Roosevelt was so impressed by the talent of Victor David

Brenner that the sculptor was chosen to design the likeness of President Lincoln for the coin, adapting a design from a plaque Brenner had prepared earlier.

(11) In the nearly 100 years of production of the "Lincoln cent", there have been only 2 designs on the reverse: the original, featuring 2 wheat-heads in memorial style enclosing mottoes, and the current representation of the Lincoln Memorial in Washington, D.C.

(12) On the occasion of the bicentennial of President Lincoln's birth and the 100th anniversary of the production of the Lincoln cent, it is entirely fitting to issue a series of 1-cent coins with designs on the reverse that are emblematic of the 4 major periods of President Lincoln's life.

### SEC. 3. REDESIGN OF LINCOLN CENT FOR 2009.

(a) IN GENERAL.—During the year 2009, the Secretary of the Treasury shall issue 1-cent coins in accordance with the following design specifications:

(1) OBTVERSE.—The obverse of the 1-cent coin shall continue to bear the Victor David Brenner likeness of President Abraham Lincoln.

(2) REVERSE.—The reverse of the coins shall bear 4 different designs each representing a different aspect of the life of Abraham Lincoln, such as—

(A) his birth and early childhood in Kentucky;

(B) his formative years in Indiana;

(C) his professional life in Illinois; and

(D) his presidency, in Washington, D.C.

(b) ISSUANCE OF REDESIGNED LINCOLN CENTS IN 2009.—

(1) ORDER.—The 1-cent coins to which this section applies shall be issued with 1 of the 4 designs referred to in subsection (a)(2) beginning at the start of each calendar quarter of 2009.

(2) NUMBER.—The Secretary shall prescribe, on the basis of such factors as the Secretary determines to be appropriate, the number of 1-cent coins that shall be issued with each of the designs selected for each calendar quarter of 2009.

(c) DESIGN SELECTION.—The designs for the coins specified in this section shall be chosen by the Secretary—

(1) after consultation with the Abraham Lincoln Bicentennial Commission and the Commission of Fine Arts; and

(2) after review by the Citizens Coinage Advisory Committee.

### SEC. 4. REDESIGN OF REVERSE OF 1-CENT COINS AFTER 2009.

The design on the reverse of the 1-cent coins issued after December 31, 2009, shall bear an image emblematic of President Lincoln's preservation of the United States of America as a single and united country.

### SEC. 5. NUMISMATIC PENNIES WITH THE SAME METALLIC CONTENT AS THE 1909 PENNY.

The Secretary of the Treasury shall issue 1-cent coins in 2009 with the exact metallic content as the 1-cent coin contained in 1909 in such number as the Secretary determines to be appropriate for numismatic purposes.

### SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that the original Victor David Brenner design for the 1-cent coin was a dramatic departure from previous American coinage that should be reproduced, using the original form and relief of the likeness of Abraham Lincoln, on the 1-cent coins issued in 2009.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, Ms. SNOWE, Mrs. FEINSTEIN, Mr. CHAFFEE, Mr. DURBIN, Mr. LAUTENBERG, Mrs. MURRAY, Mr. NELSON of Florida, Mr. CORZINE, Ms. CANT-

WELL, Mr. KERRY, and Mr. DAYTON):

S. 342. A bill to provide for a program of scientific research on abrupt climate change, to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, and ensure benefits to consumers from the trading in such allowances; to the Committee on Environment and Public Works.

Mr. MCCAIN. Mr. President, I am pleased today to be joined with Senator LIEBERMAN in introducing the Climate Stewardship Act of 2005. This bill is nearly identical to a proposal we offered during the 108th Congress. It is designed to begin a meaningful and shared effort among the emission-producing sectors of our country to address the world's greatest environmental challenge—climate change.

The National Academy of Sciences reported:

Greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities.

Again, "temperatures are, in fact, rising." Those are the words of the National Academy of Sciences, a body created by the Congress in 1863 to provide advice to the Federal Government on scientific and technical matters. These comments were written after much thoughtful deliberation and should not be taken lightly. The Academy has a 140-year history and a strong reputation of service to the people of this great country.

In October 2003, in response to the alarming changes in the climate that are being reported worldwide, we were joined by a number of other Senators in the first offering of our proposal for addressing climate change for Senate consideration. We had a hard-fought debate and found ourselves eight votes short of achieving a majority in passage. Today, we resume what we finally can consider a worthy and necessary cause.

I state at the outset that this issue is not going away. This issue is one of transcendent importance outside the boundaries of the United States of America. If you travel to Europe today and visit with our European friends, you will find that climate change/Kyoto treaty are major sources of dissatisfaction on that side of the Atlantic with the United States of America and its policies. But far more important than that, the overwhelming body of scientific evidence shows that climate change is real, that it is happening as we speak. The Arctic and Antarctic are the "miner's canary" of climate change, and profound and terrible things are happening at the poles,

not to mention other parts of the world.

Democracies usually respond to crises when they are faced with them and, at least in the case of this Nation, we address problems and crises that confront us and we move on. We are not very good at long-term planning and long-term addressing of issues that face us in the future. The divisions concerning the issue of Social Security are clearly an example of what I just said.

If we do not move on this issue, our children and grandchildren are going to pay an incredibly heavy price because this crisis is upon us, only we do not see its visible aspects in all of its enormity.

Prime Minister Tony Blair, assuming the stewardship of the G-8, has made it his highest priority. He has very aptly pointed out: Suppose that all of the scientific opinion is wrong; suppose that the ice that is breaking up in the Antarctic in huge chunks is just something which is temporary; suppose that the glaciers receding in the Arctic at a higher rate than at any time in history is something that is a one-time deal; suppose that the melting of the permafrost in Alaska and the Inuit villages collapsing into the ocean is a one-time thing; suppose these increases in violent climate occurrences are all something that are just temporary aberrations; suppose that happens to be true and we have acted. Then the world and the Nation will be better off because we would have developed technologies which are cleaner. We would have taken actions to reduce what everybody agrees is harmful, and that is excess greenhouse gases. And the Nation and the world would be better off.

But suppose the scientists are right. Suppose that the National Academy of Sciences report that says, "Greenhouse gases are accumulating in the Earth's atmosphere as a result of human activities. Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities[ . . . ]" is right; suppose that Dr. Robert Corell, chair of the Arctic Climate Impact Assessment, assessing the economic impacts and consequences of the changing Arctic, and the Arctic Council, composed of the senior officials from the eight Arctic countries that reached the conclusion that the Arctic climate is changing rapidly; that over the past 50 years, temperatures across Alaska, Canada, and much of Russia have increased 3 to 5 degrees Fahrenheit, with winter temperatures in these areas increasing by up to 7 degrees Fahrenheit; that in the past 30 years, the Arctic has lost an area of annual average sea ice larger than all of Arizona and Texas combined, with even stronger declines observed in summer sea ice; that mountain glaciers have also receded dramatically, and the snow cover season

has been shrinking; that greenhouse gas concentration continues to rise; and even larger changes in climate are projected for the next 100 years; suppose they are right.

The observed warming is already having significant impacts on Arctic people and ecosystems. Much larger projected climate changes will result in even greater impacts on the people in the Arctic and beyond. Increasing coastal erosion threatens many Alaskan villages. Warming is also affecting the oil industry. The number of days in which oil exploration and extraction activities on the tundra are allowed under Alaska Department of Natural Resources standards has been halved over the past 30 years.

The projected changes in Arctic climate will also have global implications. Amplified global warming, rising sea levels, and potential alterations in ocean circulation patterns that can have large-scale climatic effects are among the global concerns. Melting Arctic snow and ice cause additional absorption of solar energy by the darker land surface, amplifying the warming trend at the global scale.

Recently, the Australians have predicted that the Great Barrier Reef will be dead by 2050. What is the impact of coral reefs around the world being bleached and dying on the food chain?

Dr. William Fraser, president of Polar Oceans Research Group, testified that mountain ranges flanking the southeastern boundary of the glacier, not visible 30 years ago, are emerging into full view. The amount of ice-free land along the entire southwest coast of Anver Island has been redefined by glacier retreat. Populations of the ice-avoiding Chinstrap and Gentoo penguins have increased by 55 to 90 percent.

The coral reefs are the most biologically diverse ecosystem of the ocean, as we all know. Almost 1,000 coral species currently exist. With the majority of human populations living in coastal regions, many people depend on living coral reef for food and protection from storm surges.

Dr. Lara Hansen stated:

While the Great Barrier Reef is widely considered to be one of the best managed reef systems in the world, local conservation actions will not be sufficient to protect coral reefs from the effects of climate change. To date, studies indicate that the best chance for successful conservation in the face of climate change is to limit the temperature increase. . . .

ADM James Watkins, who was chairman of the U.S. Commission on Ocean Policy, testified that climate change impacts every topic in the report from the health and safety of humans, the health of environment and fisheries to the distribution of marine organisms, including pathogens. Admiral Watkins, former Chief of Naval Operations and former Secretary of Energy, not a renowned environmentalist, went on to say climate change is a serious problem, and it could affect all of the recommendations from the report.

There will be people who will come to this floor and say that climate change is a myth; it is not serious. They will find a scientist, they will find some study group, some of them funded by people with special interests here, but I hope that we will pay attention to Prime Minister Tony Blair, who has made climate change one of the two issues he hopes to address during his presidency of the G-8. This issue I believe is very well understood by a majority of scientists in America.

I have a couple of pictures I will show. I see my colleague from Connecticut is in the Chamber.

Recently, Dr. Rajendra Pachauri, the chairman of the U.N.'s Intergovernmental Panel on Climate Change, stated that he personally believes that the world has "already reached the level of dangerous concentrations of carbon dioxide in the atmosphere."

He went on to say:

Climate change is for real. We have just a small window of opportunity, and it is closing rapidly. There is not a moment to lose.

The International Climate Change Task Force, chaired by Senator SNOWE and the Right Honorable Stephen Byers, Member of Parliament of the United Kingdom, stated in 1 of its 10 recommendations concerning climate change that "all developed countries introduce mandatory cap-and-trade systems for carbon emissions and construct them to allow for future integration into a single global market." That is already being done in Europe as we speak, which is the substance of Senator LIEBERMAN's and my legislation.

States are acting. Nine States in the East have signed on as full participants in this initiative to elevate climate mitigation strategies from voluntary initiatives to a regulatory program. The State of California has approved a new State regulation aimed at decreasing carbon dioxide emissions from vehicles. The States are way ahead of us. I believe one of the reasons for that is because special interests are less active in the States.

This is a chart that shows that the CO<sub>2</sub> data has gone up from, as we can see, 1860 to 2001.

This is a picture of the Arctic sea ice loss. The red outline is 1979. This was the Arctic sea ice, which is outlined in red. We can see the size of the Arctic sea ice today. I made a visit with some of my colleagues to the Arctic. We took a ship and stopped at where this glacier was 5 years ago, traveling a number of miles and saw where that glacier is today.

I want to emphasize again, the Arctic and the Antarctic are the miner's canary of global warming because of the thinness of the atmosphere there.

This chart is sea level changes in areas of Florida that would be inundated with a sea level rise.

I usually have—it is probably not here—I usually have a picture of Mount Kilimanjaro, which is known to many of us.

This is a chart of coral bleaching which is taking place as we speak.

If I can add a little parochialism, if I can show a picture of Lake Powell in Arizona, it has been drying up since 1999, draining Lake Powell to well below its high watermark. It is at an alltime low in its seventh year. The lake has shrunk to 10 percent of its capacity.

The signs of climate change are all around us. We need to act. We need to develop technologies and make it economically attractive for industry to find it in their interest to develop technology which will reduce and bring into check the greenhouse gas emissions in the world.

We need to do a lot of things, but a cap and trade, which would put an end to the increase of greenhouse gases and a gradual reduction, is an integral part.

Finally, I would like to return to my other argument in closing.

Suppose the Senator from Connecticut and I are deluded, that all of this scientific evidence, all these opinions, people such as Admiral Watkins in the oceans report, the National Academy of Sciences, the literally hundreds of people in the scientific community with whom Senator LIEBERMAN and I have met and talked are wrong.

Here is the picture of Kilimanjaro in 1912, 1970, and 2000.

Suppose we are deluded, that we are tree-hugging environmentalists who have taken leave of our senses and are sounding a false alarm to the world, and we go ahead and put in a cap and trade, we encourage technologies to be developed and funded, some by the Federal Government in the form of pure research, and we do put a cap on the greenhouse gases, we negotiate an alternate Kyoto Treaty with our friends throughout the world—140 nations are signatories to the Kyoto Treaty—and we join on the provision India and China have to be included and other provisions which we have every right to demand, and we start moving forward on this issue and we are wrong, that the year after next, everything is fine in the world? Then we will have made probably a significant contribution to the betterment of the world and the Earth by reducing greenhouse gases, by developing cleaner technologies, by doing good things, and then Senator LIEBERMAN and I will come to the floor and apologize for sounding this alarm.

But suppose, Mr. President, that we are right. Suppose the National Academy of Sciences is right. Suppose the eight-nation research council that is deeply alarmed at these effects in both the Arctic and Antarctic is wrong; suppose Admiral Watkins is wrong; suppose the Australian Government is wrong when it says the Great Barrier Reef is going to be dead by 2050, and we have done nothing? We have done relatively nothing besides gather additional data and make reports. That is what the U.S. national policy is today: gather information and make reports. I

would argue that is a pretty heavy burden to lay on future generations of Americans.

I welcome the participation, friendship, and commitment of my friend from Connecticut.

Mr. President, I ask unanimous consent to print in the RECORD an article entitled "Arid Arizona Points to Global Warming as Culprit," and a response to Senator INHOFE's floor statement on January 4, 2005.

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

[From the Washington Post, Feb. 6, 2005]

ARID ARIZONA POINTS TO GLOBAL WARMING AS CULPRIT

(By Juliet Eilperin)

TUCSON.—Reese Woodling remembers the mornings when he would walk the grounds of his ranch and come back with his clothes soaked with dew, moisture that fostered enough grass to feed 500 cows and their calves.

But by 1993, he says, the dew was disappearing around Cascabel—his 2,700-acre ranch in the Malpai borderlands straddling New Mexico and Arizona—and shrubs were taking over the grassland. Five years later Woodling had sold off half his cows, and by 2004 he abandoned the ranch.

Reese Woodling, in white, used to own a 2,700-acre ranch, but lack of rain reduced the grassland—his main source of cattle feed.

"How do you respond when the grass is dying? You hope to hell it starts to rain next year," he says.

When the rain stopped coming in the 1990s, he and other Southwest ranchers began to suspect there was a larger weather pattern afoot. "People started talking about how we've got some major problems out here," he said in an interview. "Do I believe in global warming? Absolutely."

Dramatic weather changes in the West—whether it is Arizona's decade-long drought or this winter's torrential rains in Southern California—have pushed some former skeptics to reevaluate their views on climate change. A number of scientists, and some Westerners, are now convinced that global warming is the best explanation for the higher temperatures, rapid precipitation shifts, and accelerated blooming and breeding patterns that are changing the Southwest, one of the nation's most vulnerable ecosystems.

In the face of shrinking water reservoirs, massive forest fires and temperature-related disease outbreaks, several said they now believe that warming is transforming their daily lives. Although it has rained some during the past three months, the state is still struggling with a persistent drought that has hurt its economy, costing cattle-related industries \$2.8 billion in 2002.

"Everyone's from Missouri: When they see it, they believe it," said Gregg Garfin, who has assessed the Southwest's climate for the federal government since 1998. "When we used to talk about climate, eyes would glaze over. . . . Then the drought came. The phone started ringing off the hook."

Jonathan Overpeck, who directs the university- and government-funded Institute for the Study of Planet Earth at the University of Arizona, said current drought and weather disruptions signal what is to come over the next century. Twenty-five years ago, he said, scientists produced computer models of the drought that Arizona is now experiencing.

"It's going to get warmer, we're going to have more people, and we're going to have more droughts more frequently and in harsh-

er terms," Overpeck said. "We should be at the forefront of demanding action on global warming because we're at the forefront of the impacts of global warming. . . . In the West we're seeing what's happening now."

There are dissenters who say it is impossible to attribute the recent drought and higher temperatures to global warming. Sherwood Idso, president of the Tempe, Ariz.-based Center for the Study of Carbon Dioxide and Global Change, said he does not believe the state's drought "has anything to do with CO<sub>2</sub> or global warming," because the region experienced more-severe droughts between 1600 and 1800. Idso, who also said he did not believe there is a link between human-generated carbon dioxide emissions and climate change, declined to say who funds his center.

The stakes are enormous for Arizona, which is growing six times faster than the national average and must meet mounting demands for water and space with scarce resources. Gov. Janet Napolitano (D) is urging Arizonans to embrace "a culture of conservation" with water, but some conservationists and scientists wonder whether that will be enough.

Dale Turner of the Nature Conservancy tracks changes in the state's mountaintop "sky islands"—a region east and south of Tucson that hosts a bevy of rare plants and animals. Human activities over the past century have degraded local habitats, Turner said, and now climate change threatens to push these populations "over the edge."

The Mount Graham red squirrel, on the federal endangered species list since 1987, has been at the center of a long-running fight between environmentalists and development-minded Arizonans. Forest fires and rising temperatures have worsened the animals' plight as they depend on Douglas firs at the top of a 10,720-foot mountain for food and nest-building materials. The population has dipped from about 562 animals in spring 1999 to 264 last fall.

"They are so on the downhill slide," said Thetis Gamberg, a U.S. Fish and Wildlife biologist who has an image of the endangered squirrel on her business card. Atop Mount Graham, the squirrels' predicament is readily visible. Mixed conifers are replacing Douglas firs at higher altitudes, and recent fires have destroyed other parts of the forest, depriving the animals of the cones they need.

Environmentalists such as Turner worry about the disappearance of the Mount Graham squirrel, the long-tailed, mouse-like vole and native wet meadows known as cienegas, but many lawmakers and state officials are more focused on the practical question of water supply.

Reese Woodling, in white, used to own a 2,700-acre ranch, but lack of rain reduced the grassland—his main source of cattle feed.

Arizona gets its water from groundwater and rivers such as the massive Colorado, a 1,450-mile waterway that supplies water to seven states: Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming.

The recent drought and changing weather patterns have shrunk the western snowpack and drained the region's two biggest reservoirs, lakes Mead and Powell, to half their capacity. More precipitation is falling as rain instead of snow, and it is coming earlier in the year, which leads to rapid runoff that disappears quickly.

Scientists at Scripps Institution of Oceanography predict that by 2090 global warming will reduce the Sierra Nevada snowpack, which accounts for half of California's water reserves, by 30 percent to 90 percent. "It makes water management more challenging," said Kathy Jacobs, who spent two decades managing state water resources before joining the University of Arizona's

Water Resources Research Center. "You can either reduce demand or increase supply."

Water managers have just begun to consider climate change in their long-term planning. Forest managers have also started asking for climate briefings, now that scientists have documented that short, wet periods followed by drought lead to the kind of giant forest fires that have been devastating the West.

This month, scientists at the National Center for Atmospheric Research in Boulder, Colo., published a study showing that worldwide, regions suffering from serious drought more than doubled in area from the early 1970s to the early 2000s, with much of the change attributed to global warming. A separate recent report in the journal *Science* concluded that higher temperatures could cause serious long-term drought over western North America.

C. Mark Eakin, a paleoclimatologist at the National Oceanic and Atmospheric Administration who co-wrote the study in *Science*, said historical climate records suggest the current drought could just be the beginning.

"When you've got an increased tendency toward drought in a region that's already stressed, then you're just looking for trouble," Eakin said. "Weather is like rolling the dice, and climate change is like loading the dice."

Still, Arizona politicians remain divided on how to address global warming. Sen. John McCain (R-Ariz.) has led the national fight to impose mandatory limits on industrial carbon dioxide emissions that are linked to warming, though his bill remains stalled.

"We'll win on this issue because the evidence continues to accumulate," McCain said in an interview. "The question is how much damage will be done until we do prevail."

But other Arizona Republicans are resistant. State Sen. Robert Blendu, who opposed a bill last year to establish a climate change study committee, said he wants to make sure politicians "avoid the public knee-jerk reaction before we get sound science."

That mind-set frustrates ranchers such as Woodling, who is raising 10 grass-fed cows on a leased pasture. At age 69, he will never be able to rebuild his herd, he said, but he believes politicians have an obligation to help restore the environment.

"Man has been a great cause of this, and man needs to address it," he said.

USCAN REBUTTAL TO KEY POINTS IN SENATOR INHOFE'S FLOOR STATEMENT, JANUARY 4, 2005

The following individuals contributed to this response: U.S. Delegation at COP10, Debbie Reed, National Environmental Trust; EU Targets: Jeff Fiedler, Natural Resources Defense Council; Scientific Consensus: Brenda Ekwurzel, Julie Anderson Union of Concerned Scientists; and Costs: Ansje Miller, Environmental Justice and Climate Change Initiative.

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U.S. DELEGATION AT COP10

Senator Inhofe's characterization of Under Secretary Paula Dobriansky's rebuff at attempts to "drag the U.S. into discussions concerning post-Kyoto climate change commitments" at the recent UNFCCC conference in Buenos Aires is only partially accurate. Ms. Dobriansky did, indeed make clear the fact that the Bush administration believes that post-2012 talks are "premature." Some countries, including the E.U., were indeed hopeful that the U.S., the world's largest emitter of greenhouse gas pollution, would join post-2012 discussions, having previously

withdrawn from the Kyoto Protocol, and having proclaimed domestic action to reduce GHG emissions, despite the fact that U.S. emissions continue to increase unabated. Senator Inhofe's material omission from this statement, however, is illustrative of his and the Bush administration's true goals: to prevent the rest of the world from making progress on reducing global GHG emissions. What Senator Inhofe failed to mention in his diatribe was that the Bush administration in Buenos Aires not only demurred from participating in these discussions, but also acted to prevent the rest of the world's countries from beginning those discussions even in the absence of U.S. participation. Without objections from the United States, the post-2012 discussions could have begun, and would have allowed some ideas and suggestions for the post-2012 period to be presented to the next meeting of the UNFCCC in November, 2005. But Under Secretary Dobriansky and the Bush administration objected and threw up every possible obstacle to allowing other countries to have those discussions, with or without the U.S. The result is that one multiple-day meeting, with a narrowly defined agenda to discuss post-2012 strategies was agreed to—but the exact nature of the discussions, and the ability of the meeting's participants to report to the UNFCCC in November 2005 was a matter of disagreement even as the agreement was made. It is highly likely that the meeting itself will be contentious, for these reasons. But the real question is why the U.S. insists on blocking the rest of the world from moving on, even if it chooses not to? Senator Inhofe would better serve his constituents and his colleagues to accurately and completely report the Administration's actions at the meeting.

Similarly, the Senator reported that there was discussion but no resolution at the meeting on how to address emissions from developing countries. He claimed that developing countries, "most notably China, remained adamant in Buenos Aires in opposing any mandatory greenhouse gas reductions, now or in the future." Again, his material omission is significant. The United States remained adamant in Buenos Aires in opposing any mandatory greenhouse gas reductions, now or in the future. And the United States urged China and India to do the same. The Bush administration's duplicity—claiming that they will not act until China and India do, and then visibly and vocally urging China and India not to act—is unconscionable, as is Senator Inhofe's. And the Senator perhaps should acknowledge the fact that, since the Senate passed the Byrd-Hagel resolution in 1997, it has passed three additional resolutions on climate change—all of which clearly state that climate change is happening and that the United States should take a credible, leadership role in combating global warming—including by re-engaging in the international climate change negotiations. Paula Dobriansky, when asked whether the Bush administration knew of these resolutions, and if so, whether they intended to comply, said "yes," they were fully aware of resolutions, but "no," they had no intention of complying. If that is the case, so be it—but let's be honest and open about it, Senator Inhofe.

#### EU TARGETS

In contrast to Senator Inhofe's contention that "most EU member states will not meet their Kyoto targets and have no real intentions of doing so," a recent analysis by the European Environment Agency (EEA) concluded that the EU is in fact on track to meet its Kyoto targets. This analysis examined existing and planned policies, as well as the use of the Kyoto emissions trading measures.

Looking only at policies that were being implemented at the time of the analysis, EEA projected that the EU would indeed fall short of its targets (with emissions 1% below 1990 instead of 8%). However, looking at planned policies, the EU is on track to exceed its -8% target. Domestic EU policies alone are projected to achieve a 7.7% reduction. The small remaining gap is covered by international emission reduction projects for which funds have already been budgeted.

The effect of "planned policies" cannot be dismissed as wishful thinking. Included in the list of "planned policies" is the EU Emissions Trading Scheme, a mandatory cap-and-trade policy for large stationary sources, which started operation this year. Many other EU-wide policies have been adopted by the EU Council and Parliament, and are now being incorporated into law by EU member states. These policies include measures to promote renewable electricity production, increase building efficiency, and restructure energy taxes. A complete list of future policies that are in advanced stages is available in EEA 2004, at page 21.

The EEA projections cited above exclude two additional means of meeting the targets. First, activities in the forest and agriculture sectors are projected to contribute an additional 0.7% emission reduction. Second, the EU can make up any shortfall in existing and planned policies by using the Kyoto Protocol's International Emissions Trading system, ironically an element of the protocol designed by the US. Under this system EU countries will be able to purchase emissions allowances from other Kyoto countries. This includes Russia, which by most projections will have significant excess allowances. Therefore, although it is environmentally preferable for the EU to meet its Kyoto targets solely through domestic policies, it is almost inconceivable that the EU would not be able to achieve compliance through the purchase of Russian allowances.

#### HOCKEY STICK

Senator Inhofe made the following statements regarding research that reconstructs northern hemisphere temperature over the past millennium. "The conclusion inferred from the hockey stick is that industrialization, which spawned widespread use of fossil fuels, is causing the planet to warm. I spent considerable time examining this work in my 2003 speech. Because Mann effectively erased the well-known phenomena of the Medieval Warming Period—when, by the way, it was warmer than it is today—and the Little Ice Age, I didn't find it very credible. I find it even less credible now." Senator Inhofe went on to state, "In other words, in obliterating the Medieval Warming Period and the Little Ice Age, Mann's hockey stick just doesn't pass muster."

Recent warming trends are confirmed by many independent and reinforcing indicators. Direct temperature measurements from the past 140 years, combined with past temperature measurements inferred from tree rings, ice cores, and annual sediment layers, show that average northern hemisphere temperatures in the late 20th century are higher than they have been in the last 1,000 years. More recent publications push the temperature reconstruction back to 1,800 years. Indeed, the last 10 years (1995-2004), excluding 1996, are the warmest in the instrumental record from 1861 to the present. This unprecedented recent warming trend is one of many pieces of evidence that ties global warming to human-caused emissions of heat-trapping gases from land-use change and fossil fuel burning.

Heat-trapping gases such as carbon dioxide (CO<sub>2</sub>) absorb energy emitted from the earth's surface and radiate it back downward to

warm the lower atmosphere and the surface. The general correlation between temperature and atmospheric CO<sub>2</sub> concentration is apparent in ice core records at many locations at the poles and in the temperate and tropical regions throughout the world. The Antarctic ice core records vividly illustrate that current atmospheric carbon dioxide levels are unmatched during the past 420,000 years. Furthermore, CO<sub>2</sub> concentration has risen a dramatic 30 percent in the last 150 years. When scientists compare the timing of the recent rise in atmospheric carbon dioxide concentrations with the magnitude of other factors that influence climate—solar variation, volcanic eruptions, and pollutant emissions such as sulfur dioxide—the link between recent warming and human activities is unmistakable.

(2) Debate over the "hockey stick" temperature reconstruction is largely irrelevant to our current policy choices. The shape of the sharp rise in northern hemisphere average temperature, at the end of the last millennium, led to the common practice of referring to the plot as the "hockey stick" figure. Projections of future climate changes, however, are based on the well-known physics linking increasing heat-trapping gas concentrations to conditions at the earth's surface, and these projections do not depend on details of the earth's temperature hundreds of years ago. Thus, debate over the "hockey stick" temperature reconstruction is largely irrelevant to our current policy choices. Nevertheless, because the scientific debate on this issue has been misinterpreted, most recently in Senator Inhofe's January 4, 2005 speech, it is worth clarifying a few points.

The hockey stick analysis is one of many independent reinforcing indicators of the recent warming. For example, glacier melting is increasing, sea level is rising, and many species' ranges are shifting.

The hockey stick reconstruction represents the average temperature across the entire northern hemisphere—an average of many measurements taken from locations north of the equator. This averaging is important because local temperatures can vary considerably for many climatological reasons, and so a hemispheric average gives a truer picture of a warming climate. Therefore, looking at regional data in isolation, such as temperatures from the "Medieval Warm Period" in the North Atlantic area, and to therefore claim that the hockey stick temperature reconstruction is invalid, is inaccurate.

#### Additional Remarks

In criticizing the "hockey stick" temperature record, Senator Inhofe charges that the Mann analysis has been criticized in the pages of *Geophysical Research Letters* (GRL), a respected, peer-reviewed journal, as "just bad science." This quote does actually appear in GRL in a commentary by Chapman et al. (2004), but Inhofe's citation is quite misleading.

The criticism leveled by Chapman et al did not apply to the "hockey stick"—that is, the 1000-year temperature reconstruction by Mann and others. Rather, the Chapman et al. criticism was leveled at a totally different, much more narrow and technical modeling study by Mann and Schmidt in 2003 about borehole reconstructions.

#### ARCTIC

Senator Inhofe asserted, using the words of Dr. George Taylor from Oregon, that the Arctic Climate Impact Assessment "appears to be guilty of selective use of data. Many of the trends described in the document begin in the 1960s or 1970s. . . . Yet data are readily available for the 1930s and early 1940s, when temperatures were comparable to (and probably higher than) those observed today."

(1) Temperature trends and sea ice trends shown in the Arctic report are century long trends, from 1900–2000. Therefore, Senator Inhofe's attack on the scientific integrity of the Arctic impact assessment is inappropriate.

(2) Arctic researchers concluded that the recent warming, in contrast to the earlier warming during the 1930s and 1940s, is in response to human activities. No one disputes that Arctic temperatures were almost as high in the 1930s and 1940s as they are now, least of all the scientists involved in the Arctic Climate Impact Assessment. The conclusion that the Arctic is now experiencing a stronger, longer, and more widespread warming trend is based on a robust combination of temperature measurements, sea ice retreat, glacial melting, and increasing permafrost temperatures. For example, the century-long sea ice record clearly shows a strong retreat in sea ice extent in recent decades, whereas no such trend is evident during the earlier warm period.

Scientists have employed observations and models to analyze these two pronounced twentieth-century warming events, both amplified in the Arctic, and found that the earlier warming was due to natural internal climate-system variability and was not as widespread as today's, whereas the recent warming is in response to human activities.

Furthermore, earlier periods of warming either this century or in past centuries do not preclude a human influence on the current warming trend. By way of analogy, just because wildfires are often caused by lightning does not mean that they cannot also be caused by a careless camper. The same can be said for carbon dioxide—just because it has natural sources does not mean that humans do not also contribute to atmospheric carbon dioxide levels and thereby contribute to the resulting warming.

#### SEA LEVEL RISE

##### *Sea level talking points*

Senator Inhofe stated: "But in a study published this year in *Global and Planetary Change*, Dr. Nils-Axel Mörner of Sweden found that sea level rise hysteria is overblown. In his study, which relied not only on observational records, but also on satellites, he concluded: 'There is a total absence of any recent 'acceleration in sea level rise' as often claimed by IPCC and related groups.' Yet we still hear of a future world overwhelmed by floods due to global warming. Such claims are completely out of touch with science. As Sweden's Mörner puts it, 'there is no fear of massive future flooding as claimed in most global warming scenarios.'"

(1) Research and observation has solidly established that sea level is rising. Our longest historical records come from tide gauge measurements taken along the world's coastlines. These measurements indicate that the globally averaged coastal sea level rose at a rate of about 3.5 inches over 50 years (or 0.7 inch per decade since 1950). Since 1993, satellites have continuously measured sea level over the entire ocean, not just along the shoreline as do tide gauges. Satellite measurements can monitor global sea level with a greater accuracy, and they record a higher global sea-level rise rate of about 1 inch per decade. Given the short record of these satellite measurements, scientists cannot yet conclude if the last decade was unusually high or if it represents an acceleration of sea level rise.

(2) Global sea-level rise is primarily the result of expansion of seawater as it warms plus meltwater from land-based ice sheets and land-based mountain glaciers. Many factors contribute to sea level rise, and scientific efforts continue to refine our understanding of the relative contribution of each

to the observed sea-level rise. As the climate warms, we expect to see two different effects in the ocean. First, sea level rises as the ocean temperature increases. Just as a gas expands when it is heated, water also expands as its temperature rises. Second, the amount of water entering the ocean increases as land-based ice sheets and glaciers melt. Increased meltwater adds more freshwater to the ocean and increases sea level, just like adding water to a bathtub. This influx of freshwater also lowers the oceans' salinity. Recent research suggests that all continental sources added the equivalent of about 2.7 inches of fresh water over 50 years to the ocean.

(3) Rising sea levels increase the impacts from coastal hazards. Because of the steadily rising seas we can expect increased damage to coastal communities around the world. Sea-level rise increases coastal erosion, further inundates coastal wetlands, increases the salinity in estuaries and pushes saltwater further landward in coastal rivers, contaminates coastal freshwater aquifers with saltwater, and increases the risks from flooding. Coastal storms of the same intensity as in the past will create greater damage in the future simply because the baseline sea level is higher. Low-lying coastlands such as Louisiana, Florida, Bangladesh, and the Maldives will be impacted most acutely.

#### COSTS

Senator Inhofe claimed that Kyoto-like policies harm Americans, especially the poor and minorities. This statement is a false scare tactic directed at our most vulnerable communities. The well-documented truth is that not taking action to slow global warming harms Americans, especially the poor and minorities.

Global warming is already hurting Americans, especially the poor, its Indigenous Peoples, and people of color, and is projected to get worse if we don't act now.

People of color communities—already burdened with poor air quality and twice as likely to be uninsured as whites will become even more vulnerable to climate change related respiratory ailments, heat-related illness and death, and illness from insect-carried diseases.

Scientists have determined that the ice in Alaska and the Arctic region is melting so rapidly that much of it could be gone by the end of the century. The results could be catastrophic for polar-region Indigenous peoples and animals, while low-lying lands as far away as Florida could be inundated by rising sea levels.

"We found that scientific observations and those of Indigenous people over many generations are meshing . . . Sea ice is retreating, glaciers are reducing in size, permafrost is thawing, all [these indicators] provide strong evidence that it has been warming rapidly in the Arctic in recent decades."—Susan Joy Hassol, global warming analyst and author of the Arctic Climate Impact Assessment (ACIA) synthesis report *Impacts of a Warming Arctic*.

Flooding and erosion affects 184 out of 213, or 86 percent, of Alaska Native Villages to some extent. While many of the problems are long-standing, various studies indicate that coastal villages are becoming more susceptible to flooding and erosion caused in part by rising temperatures. Four villages—Kivalina, Koyukuk, Newtok, and Shismaref—are in imminent danger and are planning to relocate. Costs for relocation could be high—from \$100–\$400 million per village.

"Everything is under threat. Our homes are threatened by storms and melting permafrost, our livelihoods are threatened by changes to the plants and animals we har-

vest. Even our lives are threatened, as traditional travel routes become dangerous."—Alaska Chickaloon Village Chief Gary Harrison of the Arctic Athabaskan Council

A recent study in Los Angeles found that if we don't act now to slow global warming, L.A. residents will face significant heat-related mortality increases. Under a high emissions scenario, heat-related mortality rates could increase sixteen-fold for Blacks, fourteen-fold for Asians, twelve-fold for Hispanics, and eight-fold for Whites, by 2090.

Climate change will likely raise food and energy prices, which already represent a large proportion of a low-income family's budget. Integrated Assessment models indicate that the annual cost of gradual climate change with no adaptation may be as high as 1.0 to 1.5 percent of GDP (roughly \$80 to \$120 billion per year). People of color and the poor may be disproportionately impacted by these changes, due to the higher fraction of incomes spent on food and energy.

"We are long past the point where global warming is considered a myth. We are seeing its effects all around us—especially in my hometown of New Orleans, Louisiana, which is expected to experience an increased incidence of flooding that could potentially destabilize its economy and endanger its populace. We must be realistic about longterm solutions to global warming."—Rep. William Jefferson, (D-LA)

"African Americans and other vulnerable populations live disproportionately in areas that are exposed to toxic waste, air pollution and other environmental hazards. Now we learn, through this report, that global warming will expose these communities to further environmental hazards that will continue to have a devastating impact on their health and economic conditions. We must involve all of the various stakeholders and continue to use forward-thinking, comprehensive principals when developing transportation, energy and environmental policies because of their enormous effect on vulnerable populations."—Rep. James E. Clyburn, (D-TX)

Taking action to slow global warming protects low-income, people of color, and Indigenous communities, and is good for all Americans by boosting job growth, saving money for consumers, and strengthening national security.

Studies have found that the benefits of reducing carbon emissions, such as lower air pollution, new jobs, and reduced oil imports, would prove helpful to all Americans. The best policies for the health of people of color and the poor involve a substantial decrease in emissions of carbon dioxide and associated pollutants, and encourage international cooperation in mitigating climate change.

Policies to reduce global warming can boost job growth, save money for consumers, and strengthen national security (Hoerner and Barrett). How America benefits:

1.4 million additional new jobs created;  
Average household saving on energy bills of \$1,275 per year; and

Reduced dependence on foreign oil, strengthening national and economic security for all Americans.

"It is a travesty that we live in a country where African Americans expend more of their income on energy costs yet are the most negatively impacted by energy byproducts such as carbon emissions. In the current scenario, African Americans are paying a premium for poor health resulting from air pollution and climate change. We must mobilize and energize our policymakers to enact legislation that will mitigate the unjust effects of global warming."—Rev. Jesse L. Jackson, Sr., Rainbow Push Coalition

Mr. McCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am honored to rise with my friend and colleague from Arizona, Senator MCCAIN, to introduce the Climate Stewardship Act. It is an urgent matter. I was thinking of one clause that I could remove from Senator MCCAIN's comments. He said: Suppose Senator LIEBERMAN and I are deluded.

It struck me that probably many times in the battles that we have fought together or individually, people have thought we were deluded. If I was going to be deluded, I would rather be deluded in the company of JOHN MCCAIN than anybody else I can think of. But let me say this: We are not deluded in our battle to get the U.S. Government to assume a leadership role in stopping this planet of ours from warming, with disastrous consequences for the way we and certainly our children and grandchildren will be forced to live if we do not do something.

When Senator MCCAIN and I first started to work with people in the field, the scientists, the businesspeople, the environmentalists, we had a pretty clear picture of what was coming, but very often we had to rely on scientific models and assume their accuracy in terms of the worst consequences. That is over.

As Senator MCCAIN's charts and pictures show, we can see with our eyes the effects of global warming already. The planet is warming. The polar ice caps are melting. One can see that with their own eyes. The sea level is rising in coastal areas already, and in other areas the water is diminishing, declining, as in the great State of my cosponsor, Arizona, and the State of the distinguished occupant of the Chair, Nevada. Forest fires are increasing. The evidence is clear that the problem is here, and that is why we have to do something about it.

Doing nothing is no longer an option. We have reached a point where the intractable must yield to the inevitable. The evidence that climate change is real and dangerous keeps pouring in and piling up. What this legislation is all about is pushing, cajoling, and convincing the politics to catch up with the science.

I will give real market-based evidence to back up what Senator MCCAIN and I are saying about how compelling the science is. The leading insurance companies in the world—we are not talking about environmentalists—are now predicting that climate-driven disasters will cost global financial centers an additional \$150 billion a year within the next 10 years. That is \$150 billion of additional costs for the world as a result of climate-driven disasters.

Just a couple of weeks ago, at an international conference, the head of the United Nations Intergovernmental Panel on Climate Change, Dr. R. K. Pachauri, said that we are already at "a dangerous point" when it comes to global warming, and "immediate and

very deep cuts in greenhouse gases are needed if humanity is to survive." Let me repeat those last words: "If humanity is to survive."

It should be noted that Dr. Pachauri is no wild-eyed environmental radical. In fact, the administration lobbied heavily for Dr. Pachauri's appointment to the IPCC leadership because it considered him a more cautious and pragmatic scientist than the other leading candidate.

To call global warming simply an environmental challenge is almost to diminish it or demean it with a kind of simplicity that puts it alongside a host of other environmental challenges that we face. Global warming is both a moral and an economic security challenge, as well as an environmental challenge.

I start with what I mean by calling it a moral challenge. Greenhouse gases stay in the atmosphere for about 100 years, so failure to take the prudent actions that our bill calls for—market-based, moderate, with caps—will force children still unborn to take far more drastic action to save their world as they know it and want to live in it. There is just no excuse for this.

We know it is real. I cited the melting glaciers, the coastal communities damage, the increased rate of forest fires. Previously, on this floor I have talked about the fact that a robin appeared in the north of Alaska and Canada among the Inuits native tribe, and they had no word in their 10,000-year-old civilization and vocabulary for robin.

Robins now linger longer into the winter in Connecticut, my State. Why? Because it is getting warmer.

Polar bears may soon be listed as an endangered species. Let me put it another way. We know that a petition will be filed soon to ask that polar bears be listed as an endangered species. Why? Because global warming is removing their habitat. It is wreaking havoc in the arctic climates where they live and grow. So to spoil the Earth for generations to come when we knew what we were doing and could have stopped it would be a moral failing of enormous and, I might add, Biblical proportions.

This time, it would be mankind that condemned itself, if I may put it again this way, to no longer living in the garden.

The challenge of solving global warming also presents our Nation with untold opportunities to reshape our world and assert our moral, economic, and environmental leadership. There is always opportunity in change. The world will transition to a world with limited greenhouse gas emissions, and the United States needs a program like the one we offer today to seize the new markets, as well as the environmental challenge.

In particular, Senator MCCAIN and I are seeking now to develop additional provisions to this legislation that will provide American innovators and

businesspeople with the technological incentives they need to make our bill work for them.

Looking at the recommendations of the International Climate Change Task Force, the National Commission on Energy Policy, and the Pew Center Workshop on Technologies and Policies for a Low Carbon Future, there are a number of consensus provisions that could help the U.S. transition to these technologies of the future.

These technologies are here. A recent paper in Science magazine showed that the scientific, technological, and industrial know-how already exists to limit carbon dioxide emissions substantially in the next 50 years. So we do not have to invent them. We just need the incentives and the motivation for industry, innovators, and individuals to deploy this knowledge and start us on the path toward a healthier, more sustainable future.

That is what the Climate Stewardship Act that Senator MCCAIN and I are introducing today will do. It will provide the incentives. It will create a cap and let the market do the rest of the work, a real opportunity for change.

I am very pleased that one study being released today by the NRDC applying a method of evaluating which is advocated by the Energy Information Administration of our own Government says the Climate Stewardship Act will add 800,000 jobs to our economy by the year 2025. So it will not cost jobs, it will add them.

Over the last few years, we have seen our colleagues grappling with the challenge of global warming. So many of them seem to be of the same mind, feeling that something needs to be done but still unsure what should be done and how. Senator MCCAIN and I want our legislation to work for them so they can come forward and join us in this effort. This is an opportunity to invest in our future to face this challenge, an opportunity to enhance our energy security, and therefore our national security, by placing a price on greenhouse gas emissions, which is what our legislation will do.

Our Nation's best energy options will become more cost competitive with foreign oil. It will make economic sense for dramatic growth in clean coal, alternative energy, and energy efficiency. It will be an opportunity for economic development in rural communities. By placing a price on carbon, it will create new value for range lands, farms, and forests by compensating landowners for the carbon they can store. It is an opportunity to innovate clean energy technologies for a growing global market. By placing this price that the cap and market will do on greenhouse gases, we will push demand for clean technologies, promoting innovation through both public and private enterprise and making that innovation profitable. It is an opportunity for our country to control the development of our own carbon market that will inevitably become part of a



global market someday soon. It is an opportunity, as Senator MCCAIN said, to improve our relations with our allies and the rest of the world and gain a stronger voice and ability to bring in developing nations.

Without a price for carbon, these opportunities disappear. Our bill provides that price for carbon and other greenhouse gas emissions. We know it is not the entire answer. A lot of people think it is too moderate and holds greenhouse gas emissions at today's levels.

By the end of the decade, it is less demanding than the Kyoto Protocol, which goes into effect as a result of Russia's ratification next week, but it is a cap that major utilities have told us they could meet. It may not be strong enough to reduce U.S. emissions as much as some would like, but it will be strong enough to start turning America around in the direction of dealing with global warming, reasserting our world environmental leadership, and moving our economy in the right direction. We cannot afford to be as shortsighted as we have been up until now. We cannot afford anymore to allow the special interests, who will also resist change because change is unnerving and sometimes more costly, to prevail.

We have to assert the public interest of ourselves and all those who will follow us on this Earth and in this great country to do something about global warming while we still can, before its consequences are disastrous. This is an enormous political challenge.

I go back to where I began. When we started, we had just models, so we were trying to portray what might happen over the horizon and ask our colleagues to join us in doing something now. It is not easy to do that because the crisis always seems further away than the immediacy of the changes a solution requires, but now we can see it. Shame on us if we do not do something about it.

I begin this battle today with Senator MCCAIN and other cosponsors with not only a sense of commitment but a sense of encouragement and optimism that people ultimately are too reasonable and responsible to ignore the facts and do nothing about this looming disaster for humankind.

Senator MCCAIN and I begin this battle again, and we are not going to stop until it is won.

I ask unanimous consent that several articles on climate be printed in the RECORD.

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

[From the Brookings Institution, Jan. 28, 2005.]

MICHAEL CRICHTON AND GLOBAL WARMING  
(By David B. Sandalow)

How do people learn about global warming? That—more than the merits of any scientific argument—is the most interesting question posed by Michael Crichton's *State of Fear*.

The plot of Crichton's 14th novel is notable mainly for its nuttiness—an MIT professor

fighters a well-funded network of eco-terrorists trying to kill thousands by creating spectacular "natural" disasters. But Crichton uses his book as a vehicle for making two substantive arguments. In light of Crichton's high profile and ability to command media attention, these arguments deserve scrutiny.

First, Crichton argues, the scientific evidence for global warming is weak. Crichton rejects many of the conclusions reached by the National Academy of Sciences and Intergovernmental Panel Change—for example, he does not believe that global temperature increases in recent decades are most likely the result of human activities. In challenging the scientific consensus, Crichton refreshes points familiar to those who follow such issues. These points are unpersuasive, as explained below.

Second, Crichton argues that concern about global warming is best understood as a fad. In particular, he argues that many people concerned about global warming follow a herd mentality, failing critically to examine the data. Crichton is especially harsh in his portrayal of other members of the Hollywood elite, though his critique extends more broadly to the news media, intelligentsia and general public. This argument is more interesting and provocative, though ultimately unpersuasive as well.

#### 1. *Climate Science*

Crichton makes several attempts to cast doubt on scientific evidence regarding global warming. First, he highlights the "urban heat island effect." Crichton explains that cities are often warmer than the surrounding countryside and implies that observed temperature increases during the past century are the result of urban growth, not rising greenhouse gas concentrations.

This issue has been examined extensively in the peer-reviewed scientific literature and dismissed by the vast majority of earth scientists as an inadequate explanation of observed temperature rise. Ocean temperatures have climbed steadily during the past century, for example—yet this data is not affected by "urban heat islands." Most land glaciers around the world are melting, far away from urban centers. The Intergovernmental Panel on Climate Change, using only peer-reviewed data, concluded that urban heat islands caused "at most" 0.05°C of the increase in global average temperatures during the period 1900–1990—roughly one-tenth of the increase during this period. In contrast, as one source reports, "there are no known scientific peer-reviewed papers" to support the view that "the heat island effect accounts for much or nearly all warming recorded by land-based thermometers."

Second, Crichton argues that global temperatures declines from 1940–1970 disprove, or at least cast doubt on, scientific conclusions with respect to global warming. Since concentrations of greenhouse gases were rising during this period, says Crichton, the fact that global temperatures were falling calls into question the link between greenhouse gas concentrations and temperatures.

Crichton is correct that average temperatures declined, at least in the Northern Hemisphere, from 1940–1970. Temperature is the result of many factors, including the warming effects of greenhouse gases, the cooling effects of volcanic eruptions, changes in solar radiation and more. (Think of a game of tug-of-war, in which the number of players on each team changes frequently.) The fall in Northern Hemisphere temperatures from 1940–1970 reflects the relative weight of cooling factors during that period, not the absence of a warming effect from man-made greenhouse gases.

Should we at least be encouraged, recalling the decades from 1940–1970 in the hope that

cooling factors will outweigh greenhouse warming in the decades ahead? Hardly. Greenhouse gas concentrations are now well outside levels previously experienced in human history and climbing sharply. Unless we change course, the relatively minor warming caused by man-made greenhouse gases in the last century will be dwarfed by much greater warming from such gases in the next century. There is no basis for believing that cooling factors such as those that dominated the temperature record from 1940–1970 will be sufficient to counteract greenhouse warming in the decades ahead.

Third, Crichton offers graph after graph showing temperature declines during the past century in places such as Puenta Arenas (Chile), Greenville (South Carolina), Ann Arbor (Michigan), Syracuse (New York) and Navacerrada (Spain). But global warming is an increase in global average temperatures. Nothing about specific local temperature declines is inconsistent with the conclusion that the planet as a whole has warmed during the past century, or that it will warm more in the next century if greenhouse gas concentrations continue to climb.

Crichton makes other arguments but a point-by-point rebuttal is beyond the scope of this paper. (A thoughtful rebuttal of that kind can be found at [www.realclimate.org](http://www.realclimate.org).) Climate change science is a complex topic, not easily reduced to short summaries. But a useful contrast with Crichton's science-argument-within-an-action-novel is the sober prose of the U.S. National Academy of Sciences. The opening paragraph of a 2001 National Academy report responding to a request from the Bush White House read:

"Greenhouse gases are accumulating in Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities, but we cannot rule out that some significant part of these changes is also a reflection of natural variability. Human-induced warming and associated sea level rises are expected to continue through the 21st century. Secondary effects are suggested by computer model simulations and basic physical reasoning. These include increases in rainfall rates and increased susceptibility of semi-arid regions to drought. The impacts of these changes will be critically dependent on the magnitude of the warming and the rate with which it occurs."

Climate Change Science: An Analysis of Some Key Questions, National Academies Press (2001).

Time will tell whether this report or Crichton's novel will have a greater impact on public understanding of global warming.

#### 2. *Climate Fad*

This raises the second, more interesting argument in Crichton's novel. Crichton argues that concern about global warming has become a fad embraced by media elites, entertainment moguls, the scientific establishment and general public. In Crichton's view, many assertions are accepted as fact without critical analysis by the vast majority of those who have views on this issue.

On the last point, fair enough. There are indeed fewer people who have sorted through the minutiae of climate change science than have opinions on the topic. In this regard, global warming is like Social Security reform, health care finance, the military budget and many other complex public policy issues. As Nelson Polsby and Aaron Wildavsky once wrote, "Most people don't think about most issues most of the time." When forming opinions on such matters, we all apply certain predispositions or instincts

and rely on others whose judgment or expertise we trust.

Of course this observation applies as well to the economics of climate change. The perception is widespread in many circles that reducing greenhouse gas emissions will be ruinously expensive. How many of those who hold this view have subjected their opinions to critical analysis? Crichton never musters outrage on this topic.

Crichton's complaints are particularly striking in light of the highly successful efforts to provide policymakers and the public with analytically rigorous, non-political advice on climate science. Since 1988, the Intergovernmental Panel on Climate Change has convened thousands of scientists, economists, engineers and other experts to review and distill the peer-reviewed literature on the science on global warming. The IPCC has produced three reports and is now at work on the fourth. In addition, the National Academy of Sciences has provided advice to the U.S. government on this topic, including the report cited above.

Crichton's view that the American media provides a steady drumbeat of scary news on global warming is especially hard to fathom. Solid data are scarce, but one 1996 analysis found that the rock star Madonna was mentioned roughly 80 times more often than global warming in the Lexis-Nexis database. Certainly one could watch the evening news for weeks on end without ever seeing a global warming story.

Furthermore, the print media's "on the one hand, on the other hand" convention tilts many global warming stories strongly toward Crichton's point of view. As Crichton would concede, the vast majority of the world's scientists believe that global warming is happening as a result of human activities and that the consequences of rising greenhouse gas emissions could be very serious. Still, many news stories on global warming include not just this mainstream view but also the "contrarian" views of a very small minority of climate change skeptics, giving roughly equal weight to each. As a result, public perceptions of the controversy surrounding these issues may be greatly exaggerated.

Crichton's most serious charge is that "open and frank discussion of the data, and of the issues, is being suppressed" in the scientific community. As "proof," he offers the assertion that many critics of global warming are retired professors no longer seeking grants. Whether there is any basis for these assertions is unclear, but if so Crichton should back up his claims with more than mere assertions in the appendix to an action novel.

Indeed Crichton should hold himself to a higher standard with regard to all the arguments in his book. He is plainly a very bright guy and, famously, a Harvard Medical School graduate. A millionaire many times over, he doesn't need to be seeking grants. If he has something serious to say on the science of climate change, he should say so in a work of nonfiction and submit his work for peer review. The result could be instructive—for him and us all.

#### ARCTIC TEMPERATURE CHANGE—OVER THE PAST 100 YEARS

This note has been prepared in response to questions and comments that have arisen since the publication of the Arctic Climate Impact Assessment overview document—"Impacts of a Warming Arctic". It is intended to provide clarity regarding some aspects relative to the material from Chapter 2 Arctic Climate—Past and Present that will appear in full with the publication of the ACIA scientific report in 2005 and has now been posted on the ACIA website.

There are several possible definitions of the Arctic depending on, for example, tree line, continuous permafrost, and other factors. It was decided for purposes of this analysis that the latitude 60° N would be defined as the southern boundary. Although somewhat arbitrary, this is no more arbitrary than choosing 62° N, 67° N or any other latitude. Since the marine data in the Arctic are very limited in geographical and temporal coverage, it was decided, for consistency, to only use data from land stations. The Global Historical Climatology Network (GHCN) database (updated from Peterson and Vose, 1997) and the Climatic Research Unit (CRU) database (Jones and Moberg, 2003) were selected for this analysis.

The analysis showed that the annual land-surface air temperature variations in the Arctic (north of 60° N) from 1900 to 2002 using the GHCN and the CRU datasets led to virtually identical time series, and both documented a statistically significant warming trend of 0.09 C/decade during that period. In view of the high correlation between the GHCN and CRU datasets, it was decided to focus the presentation in Chapter 2 on analyses of the GHCN dataset.

It needs to be stressed that the spatial coverage of the region north of 60° N is quite varied. During the period (1900–1945), there were few observing stations in the Alaska/Canadian Arctic/West Greenland sector and more in the North Atlantic (East Greenland/Iceland/Scandinavia) and Russian sectors. The coverage for periods since 1945 is more uniform. Based on the analyses of the GHCN and CRU datasets, the annual land-surface air temperature from 60–90° N, smoothed with a 21-point binomial filter giving near decadal averages, was warmer in the most recent decade (1990s) than it was in the 1930–1940s period. It should be noted that other analyses (e.g., Przybylak 2000; Polyakov et al. 2002; and Lugina et al. 2004) give comparable estimates of Arctic warming for these two decades that, however, lay within the error margins of possible accuracy of the zonal mean estimates (Vinnikov et al. 1990; Vinnikov et al. 1987). The major source of this uncertainty is the data deficiency in the North American sector prior to 1950s in all databases.

Least-squares linear trends in annual anomalies of Arctic (60° to 90° N) land-surface air temperature from the GHCN (updated from Peterson and Vose, 1997) and CRU (Jones and Moberg, 2003) datasets for the period 1966–2003 both gave warming rates of 0.38 (°C/decade). This is consistent with the analysis of Polyakov et al. (2002) and confirmed with satellite observations over the whole Arctic, for the past 2 decades (Comiso, 2003).

Chapter 3 of the ACIA report, entitled "The Changing Arctic: Indigenous Perspectives" documents the traditional knowledge of Arctic residents and indicates that substantial changes have already occurred in the Arctic and supports the evidence that the most recent decade is different from those of earlier in the 20th century.

The modeling studies of Johannessen et al. (2004) showed the importance of anthropogenic forcing over the past half century for modeling the arctic climate. "It is suggested strongly that whereas the earlier warming was natural internal climate-system variability, the recent SAT (surface air temperature) changes are a response to anthropogenic forcing".

In the context of this report, the authors agreed on the following terminology. A conclusion termed as "very probable" is to be interpreted that the authors were 90–99% confident in the conclusion. The term "probable" conveys a 66–90% confidence.

The conclusions of Chapter 2 were that: "Based on the analysis of the climate of the

20th century, it is very probable that the Arctic has warmed over the past century, although the warming has not been uniform. Land stations north of 60° N indicate that the average surface temperature increased by approximately 0.09 °C/decade during the past century, which is greater than the 0.06 °C/decade increase averaged over the Northern Hemisphere. It is not possible to be certain of the variation in mean landstation temperature over the first half of the 20th century because of a scarcity of observations across the Arctic before about 1950. However, it is probable that the past decade was warmer than any other in the period of the instrumental record."

Polar amplification refers to the relative rates of warming in the Arctic versus other latitude bands. The conclusions of Chapter 2 were that: "Evidence of polar amplification depends on the timescale of examination. Over the past 100 years, it is possible that there has been polar amplification, however, over the past 50 years it is probable that polar amplification has occurred."

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## DISTORT REFORM

A REVIEW OF THE DISTORTED SCIENCE IN  
MICHAEL CRICHTON'S STATE OF FEAR

(By Gavin Schmidt)

Michael Crichton's new novel *State of Fear* is about global-warming hysteria ginned up by a self-important NGO on behalf of evil eco-terrorists . . . or by evil eco-terrorists on behalf of a self-important NGO. It's not quite clear. Regardless, the message of the book is that global warming is a non-problem. A lesson for our times? Sadly, no.

In between car chases, shoot-outs, cannibalistic rites, and other assorted derring-doo-doo, the novel addresses scientific issues, but is selective (and occasionally mistaken) about the basic science involved. Some of the issues Crichton raises are real and already well-appreciated, while others are red herrings used to confuse rather than enlighten.

The fictional champion of Crichton's climate skepticism is John Kenner, an MIT academic-turned-undercover operative who runs intellectual rings around two other characters—the actor (a rather dim-witted chap) and the lawyer (a duped innocent), neither of whom know much about science.

So, for the benefit of actors and lawyers everywhere, I will try to help out.

## FORCINGS MAJEURE

Early in *State of Fear*, a skeptical character points out that while carbon dioxide was rising between 1940 and 1970, the globe was cooling. What, then, makes us so certain rising CO<sub>2</sub> is behind recent warming?

Good question. Northern-hemisphere mean temperatures do appear to have fallen over that 30-year period, despite a rise in CO<sub>2</sub>, which if all else had been equal should have led to warming. But were all things equal? Actually, no.

In the real world, climate is affected both by internal variability (natural internal processes within the climate system) and forcings (external forces, either natural or human-induced, acting on the climate system). Some forcings—sulfate and nitrate aerosols, land-use changes, solar irradiance, and volcanic aerosols, for instance—can cause cooling.

Matching up what really happened with what we might have expected to happen requires taking into consideration all the forcings, as best as we can. Even then, any discrepancy might be due to internal variability (related principally to the ocean on multi-decadal time scales). Our current "best guess" is that the global mean changes in temperature, including the 1940-1970 cooling, are quite closely related to the forcings. Regional patterns of change appear to be linked more closely to internal variability, particularly during the 1930s.

No model that does not include a sharp rise in greenhouse gases (GHGs), principally CO<sub>2</sub>, is able to match up with recent warming. Thus the conclusion that GHGs are driving warming.

The book also shows, through the selective use of weather-station data, a number of single-station records with long-term cooling trends. In particular, characters visit Punta Arenas, at the tip of South America, where the station record posted on the wall shows a long-term cooling trend (though slight warming since the 1970s). "There's your global warming," one of Crichton's good guys declares dismissively.

Well, not exactly. Global warming is defined by the global mean surface temperature. No one has or would claim that the whole globe is warming uniformly. Had the characters visited the nearby station of Santa Cruz Aeropuerto, the poster on the wall would have shown a positive trend.

Would that have been proof of global warming? No. Only by amalgamating all available records can we have an idea what the regional, hemispheric, or global means are doing. That's way they call it global warming.

## TALL, DARK, AND HANSEN

Even more troubling is some misleading commentary regarding climate-science pioneer (and my boss) James Hansen's testimony to Congress in 1988. "Dr. Hansen overestimated [global warming] by 300 percent," says our hero Kenner.

Hansen's testimony did indeed spread awareness of global warming, but not because he exaggerated the problem by 300 percent. In a paper published soon after that testimony, Hansen and colleagues presented three model simulations, each following a different scenario for the growth in CO<sub>2</sub> and other trace gases and forcings. Scenario A had exponentially increasing CO<sub>2</sub>, scenario B had a more modest business-as-usual assumption, and scenario C had no further increase in CO<sub>2</sub> after the year 2000. Both B and C assumed a large volcanic eruption in 1995.

Rightly, the authors did not assume they knew what path CO<sub>2</sub> emissions would take, and presented a spectrum of possibilities. The scenario that turned out to be closest to the real path of forcings growth was scenario B, with the difference that Mt. Pinatubo erupted in 1991, not 1995. The temperature change for the '90s predicted under this scenario was very close to the actual 0.11 degree-Celsius change observed.

So, given a good estimate of the forcings, the model did a reasonable job. In fact, in his congressional testimony Hansen only showed results from scenario B, and stated clearly that it was the most probable scenario.

The claim of a "300 percent" error comes from noted climate skeptic Patrick Michaels, who in testimony before Congress in 1998 deleted scenarios B and C from the chart he used in order to give the impression that the models were unreliable. Thus a significant success for climate modeling was presented as a complete failure—a willful distortion that Crichton adopts uncritically.

The well-known and exhaustively studied "urban heat island effect"—the tendency for cities to be warmer than the surrounding countryside due to the built-up surroundings and intensive energy use—is also raised several times in the book. Most recently, a study by David Parker published last year in the journal *Nature* found no residual effect in the surface temperature record once corrections were made for this undisputed phenomenon. Though Crichton makes much of it, there's no there there.

## AUTHORIAL INATTENTION

At the end of the book, Crichton offers a somber author's note. In it, he reiterates the main points of his thesis: that there are some who push claims beyond what is scientifically supported in order to drum up support (and I have some sympathy with this), and that because we don't know everything, we actually know nothing (here, I beg to differ).

He gives us his back-of-a-napkin estimate for the global warming that will occur over the next century—an increase of approximately 0.8 degrees Celsius—and claims that his guess is as good as any model's. He suggests that most of the warming will be due to land-use changes—extremely unlikely, as globally speaking, land-use change has a cooling effect. As his faulty assumptions painfully demonstrate, simulations based on physics are better than just guessing.

Finally, in an appendix, Crichton uses a rather curious train of logic to compare global warming to the 19th century eugenics movement. Eugenics, he notes, was studied

in prestigious universities and supported by charitable foundations. Today, global warming is studied in prestigious universities and supported by charitable foundations. Aha!

Presumably Crichton doesn't actually believe that foundation-supported academic research is ipso facto misguided, even evil, but that is certainly the impression left by this peculiar linkage.

In summary, I am disappointed, not least because while researching his book, Crichton visited our lab at the NASA Goddard Institute and discussed some of these issues with me and a few of my colleagues. I suppose we didn't do a very good job of explaining matters. Judging from his bibliography, the rather dry prose of reports by the Intergovernmental Panel on Climate Change did not stir his senses quite like some of the racier contrarian texts. Unsurprisingly, perhaps, Crichton picked fiction over fact.

Scientifically curious readers can find a more detailed version of this review on RealClimate.org.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I ask unanimous consent that the following Senators be added as cosponsors: Senators FEINSTEIN, SNOWE, DURBIN, CHAFEE, LAUTENBERG, MURRAY, NELSON, CORZINE, DAYTON, CANTWELL, and KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I thank my friend, Senator LIEBERMAN, again, and I would like to quote again from Prime Minister Blair, who announced that action on global warming will be his first priority as Chair of the G-8. He has taken a leadership role, choosing to take action and not to hide behind the uncertainties that the science community will soon resolve.

The Prime Minister made it clear in a recent speech at the World Economic Forum in Davos as to his intentions when he said:

. . . if America wants the rest of the world to be part of the agenda it has set, it must be part of their agenda too. . . .

It is past time for our country to show leadership in addressing the world's greatest environmental challenge, climate change.

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

S. 343. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Qualified Withdrawal Act of 2005. My friend and colleague, Senator SMITH, joins me in introducing this important bill.

In January of 2000, a fishery disaster was declared by the Secretary of Commerce for the West Coast groundfish fishery. Due to major declines in fish population, the Pacific Fisheries Management Council decreased groundfish catch quotas by 90 percent. Today, the groundfish fishery in Oregon and adjoining States in the Pacific Northwest

continues to face daunting challenges as a result of this disaster. Fishery income has dropped 55 percent and over a thousand fishers face bankruptcy. This legislation helps by reforming the Capital Construction Fund in a way that will ease the transition by groundfishers and other fishers in economic peril away from fishing.

The Capital Construction Fund, CCF, Merchant Marine Act of 1936, amended 1969, 46 U.S.C. 1177, has been a way for fishers to accumulate funds, free from taxes, solely for the purpose of buying or refitting fishing vessels. It was conceived at a time when the Federal Government wanted to help capitalize and expand American fishing fleets. The program was a success: it led to a larger U.S. fishing fleet. However, fish populations declined and the U.S. commercial fishing fleet is now over-capitalized. The CCF's restrictions have not kept up with the times, and now it exacerbates some problems facing U.S. fisheries.

Now is the time to help those fishers who wish to do so to leave the fleet.

In Oregon, the amounts in CCF accounts range from \$10,000 to over \$200,000. This legislation changes current law to allow fishers to remove money from their CCF for purposes other than buying new vessels or upgrading current vessels, without losing up to 70 percent of their CCF funds in taxes and penalties. This legislation changes the CCF so fishers who want to opt out of fishing are not penalized for doing so.

This bill takes a significant step towards making the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other type of retirement account, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders. This bill will also encourage innovation and conservation by allowing fishers to use funds deposited in a CCF to develop or purchase new gear that reduces bycatch.

I look forward to working with my colleagues to pass this legislation.

By Mr. DURBIN:

S. 345. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I would speak for a moment, if I could, on an issue which is near and dear to not just seniors but their families.

Last night, CMS Administrator Mark McClellan acknowledged the cumulative cost of the Medicare prescription drug program between 2006 and 2015 will reach \$1.2 trillion. Although Mr. McClellan said the number would be re-

duced to \$724 billion after seniors pay their premiums and the Federal Government is reimbursed by States for coverage of their Medicaid populations, it is still much higher than originally thought. As recently as September, Mr. McClellan said this program would only cost \$534 billion.

Remember this program? This was President Bush's Medicare prescription drug program.

Now, we all understand that Medicare did not cover prescription drugs. Seniors need that coverage because drugs are so expensive, and drugs are essential for them to maintain their health and stay independent and strong for a long period of time. But when we got into this debate on the floor of the Senate about creating this program, the pharmaceutical companies lined the hallways around the Senate with men in expensive three-piece suits and Gucci loafers and said: Whatever you do, don't touch the profits of the pharmaceutical companies.

Too many Senators on both sides of the aisle decided that the profits of the pharmaceutical companies were more important than the cost of the drugs for seniors. So, in the bill we included a provision that prohibits Medicare from negotiating with the pharmaceutical companies to get lower prices for drugs for seniors.

What does it mean? It means every single year the cost of prescription drugs under this Medicare program will inflate like the cost of prescription drugs for people across the United States.

Take a look at the drug price comparisons, just for the years 2005 and 2016, on some common drugs listed on this chart—what we anticipate, using the Bush Administration's calculations for the rate of increase for prescription drugs, will happen to their costs.

Look at Norvasc. It will go from \$170 to \$525 in 2016; Plavix, \$230 to \$710; Prevacid, \$120 to \$374; and Zocor, \$124 to \$383.

So in this period of time, if you want to know why the prescription drug program's costs are going through the roof, it is because the cost of the drugs is going through the roof. Unless and until Medicare can negotiate the price of these drugs, and keep them reasonable for seniors, there is no way in the world this program is going to be cost-effective. It is interesting to me that when this estimate of cost came out, Senator JUDD GREGG of New Hampshire, the Republican chairman of the Budget Committee, said \$400 billion was the original cost of this program, and we have to cut the benefits back to hit that cost, instead of saying, why don't we find a way to reduce the pharmaceutical company profits so we can keep the drugs seniors across America are buying at reasonable prices.

Drug prices are going to continue to rise. The price of 26 drugs most commonly used by seniors increased 21.6 percent, on average, over the last 3 years, and they will continue to increase in the future.

I have gone through some basic drugs on this chart, but I want to tell my friends who are following this debate, this is no surprise. Those of us who voted against the bill said exactly this would happen: If you do not contain the cost of drugs, you cannot afford this program. It will explode in the outyears, and future Members of Congress and Presidents will decide to cut back on the benefits under the program rather than face the reality of what we did in passing this legislation.

Medicare actuaries estimate the prescription drug benefit premium will increase from \$35 a month under the President's plan in 2006 to \$68 a month in 2015. Deductibles will increase. I think we are at a point where we have to acknowledge the obvious.

Let me say a word about pharmaceutical companies. We want the pharmaceutical industry to be strong and profitable because in their profits is the money for research for new drugs. That is essential for America's health and the world's health. But what we find now is that pharmaceutical companies in America are spending more money on advertising than they are on research. You cannot turn on the television without finding another ad for another drug. Why? Because they want the consuming public to walk into their doctor's office and say: Doctor, I beg you, give me the little purple pill. And doctors do. It is an expensive pill. It may not be the necessary and required pill, but doctors do it. And if you sell more of those little purple pills, the pharmaceutical companies do quite well.

Take a look at the profitability of the Fortune 500 drug companies versus the profits of all Fortune 500 companies in the year 2002. When you take a look at the drug companies on these red bars, and the other companies on the yellow bars, you can see exactly the difference. Profits as revenues: 17 percent for drug companies, 3.1 percent for other companies. Profits as a percentage of equity: 27.6 percent for pharmaceutical companies, 10.2 percent for the rest of the Fortune 500 companies.

They are extremely profitable companies. We want them to make profits, but not at the expense of seniors who cannot afford to pay.

Mr. President, I want to give my colleague an opportunity to speak here. I would say the most important thing I can tell you today is there is an answer. I am reintroducing a bill today that I believe will go a long way to reducing the cost of prescription drugs. The Medicare Prescription Drugs Savings and Choice Act instructs the Secretary of HHS to offer a nationwide Medicare-delivered prescription drug benefit in addition to the current PDP and PPO plans available in the 10 regions. It instructs the Secretary of HHS to set a uniform national premium of \$35 for the first year, and it instructs the Secretary of HHS to negotiate group purchasing agreements on behalf of Medicare beneficiaries.

This is the way to lower the costs of drugs. I am honored that my proposal, the legislation which I am introducing, has been endorsed by the AFL-CIO, AFSCME, the Alliance for Retired Americans, the American Federation of Teachers, the American Public Health Association, the American Nurses Association, Campaign for America's Future, Center for Medicare Advocacy, Consumers Union, Families USA, and a host of other groups. It is an indication to me that they know, for their membership and seniors and Americans in general, this legislation is going to be an important step forward.

I invite my colleagues to join me in sponsoring this legislation so we can bring the cost of drugs within the reach of senior citizens and keep a prescription drug program that is affordable.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I commend my colleague for his leadership on this issue. As I travel around my State, as he does his, too, the No. 1 issue I hear about from people is the cost of health care today.

We had an opportunity when we passed the Medicare prescription drug bill to deal with that issue. We did not. He has introduced legislation today that will focus on that incredibly important issue for our country. I thank him for his leadership.

Mr. DURBIN. 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. 345

*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 "Medicare Prescription Drug Savings and Choice Act of 2005".

#### SEC. 2. ESTABLISHMENT OF MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION.

(a) IN GENERAL.—Subpart 2 of part D of the Social Security Act is amended by inserting after section 1860D-11 the following new section:

##### "MEDICARE OPERATED PRESCRIPTION DRUG PLAN OPTION

"SEC. 1860D-11A. (a) IN GENERAL.—Notwithstanding any other provision of this part, for each year (beginning with 2006), in addition to any plans offered under section 1860D-11, the Secretary shall offer one or more medicare operated prescription drug plans (as defined in subsection (c)) with a service area that consists of the entire United States and shall enter into negotiations with pharmaceutical manufacturers to reduce the purchase cost of covered part D drugs for eligible part D individuals in accordance with subsection (b).

"(b) NEGOTIATIONS.—Notwithstanding section 1860D-11(i), for purposes of offering a medicare operated prescription drug plan under this section, the Secretary shall negotiate with pharmaceutical manufacturers with respect to the purchase price of covered part D drugs and shall encourage the use of more affordable therapeutic equivalents to

the extent such practices do not override medical necessity as determined by the prescribing physician. To the extent practicable and consistent with the previous sentence, the Secretary shall implement strategies similar to those used by other Federal purchasers of prescription drugs, and other strategies, to reduce the purchase cost of covered part D drugs.

"(c) MEDICARE OPERATED PRESCRIPTION DRUG PLAN DEFINED.—For purposes of this part, the term 'medicare operated prescription drug plan' means a prescription drug plan that offers qualified prescription drug coverage and access to negotiated prices described in section 1860D-2(a)(1)(A). Such a plan may offer supplemental prescription drug coverage in the same manner as other qualified prescription drug coverage offered by other prescription drug plans.

"(d) MONTHLY BENEFICIARY PREMIUM.—"(1) QUALIFIED PRESCRIPTION DRUG COVERAGE.—The monthly beneficiary premium for qualified prescription drug coverage and access to negotiated prices described in section 1860D-2(a)(1)(A) to be charged under a medicare operated prescription drug plan shall be uniform nationally. Such premium for months in 2006 shall be \$35 and for months in succeeding years shall be based on the average monthly per capita actuarial cost of offering the medicare operated prescription drug plan for the year involved, including administrative expenses.

"(2) SUPPLEMENTAL PRESCRIPTION DRUG COVERAGE.—Insofar as a medicare operated prescription drug plan offers supplemental prescription drug coverage, the Secretary may adjust the amount of the premium charged under paragraph (1).

"(3) REQUIREMENT FOR AT LEAST ONE PLAN WITH A \$35 PREMIUM IN 2006.—The Secretary shall ensure that at least one medicare operated prescription drug plan offered in 2006 has a monthly premium of \$35."

##### (b) CONFORMING AMENDMENTS.—

(1) Section 1860D-3(a) of the Social Security Act (42 U.S.C. 1395w-103(a)) is amended by adding at the end the following new paragraph:

"(4) AVAILABILITY OF THE MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—

"(A) IN GENERAL.—A medicare operated prescription drug plan (as defined in section 1860D-11A(c)) shall be offered nationally in accordance with section 1860D-11A.

"(B) RELATIONSHIP TO OTHER PLANS.—

"(i) IN GENERAL.—Subject to clause (ii), a medicare operated prescription drug plan shall be offered in addition to any qualifying plan or fallback prescription drug plan offered in a PDP region and shall not be considered to be such a plan for purposes of meeting the requirements of this subsection.

"(ii) DESIGNATION AS A FALLBACK PLAN.—Notwithstanding any other provision of this part, the Secretary may designate the medicare operated prescription drug plan as the fallback prescription drug plan for any fallback service area (as defined in section 1860D-11(g)(3)) determined to be appropriate by the Secretary."

(2) Section 1860D-13(c)(3) of such Act (42 U.S.C. 1395w-113(c)(3)) is amended—

(A) in the heading, by inserting "and medicare operated prescription drug plans" after "Fallback plans"; and

(B) by inserting "or a medicare operated prescription drug plan" after "a fallback prescription drug plan".

(3) Section 1860D-16(b)(1) of such Act (42 U.S.C. 1395w-116(b)(1)) is amended—

(A) in subparagraph (C), by striking "and" after the semicolon at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "and"; and

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

"(E) payments for expenses incurred with respect to the operation of medicare operated prescription drug plans under section 1860D-11A."

(4) Section 1860D-41(a) of such Act (42 U.S.C. 141(a)) is amended by adding at the end the following new paragraph:

"(19) MEDICARE OPERATED PRESCRIPTION DRUG PLAN.—The term 'medicare operated prescription drug plan' has the meaning given such term in section 1860D-11A(c)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2071).

By Ms. STABENOW:

S. 346. A bill to amend the Solid Waste Disposal Act to prohibit the importation of Canadian municipal solid waste without State consent; to the Committee on Environment and Public Works.

Ms. STABENOW. Mr. President, I rise today to reintroduce the Canadian Waste Import Ban Act of 2005, to address the rapidly growing problem of Canadian waste shipments to Michigan. Michigan has been known for its beautiful waters, lush forests, and now unfortunately as a top importer of international trash.

My colleagues may be surprised to learn that the biggest source of waste to Michigan is not from another State, but from our neighbor to the north, Canada. The rapid increase in waste shipments is stunning. In 2003, 180 trash trucks crossed the Ambassador and Blue Water bridges into Michigan. Today, that number has more than doubled to 415 trucks per day. You can see these trucks lined up for miles waiting to cross into Michigan, polluting the air and creating traffic congestions. The city of Toronto alone sends over 1 million tons of trash annually to Michigan.

This waste dramatically decreases Michigan's own landfill capacity, and has an incredible negative impact on Michigan's environment and the public health of its citizens. The waste also poses a tremendous homeland security threat, as trucks loaded with garbage are harder for Customs agents to inspect than traditional cargo.

I fought and was successful in the installation of radiation equipment at these crossings. As a result of this equipment, the Blue Water Bridge port director reports that three to four Canadian trash trucks per week are being turned back at the border for containing dangerous radioactive materials such as medical waste. But we need the trash shipments to stop completely.

Michigan already has protections contained in an international agreement between the United States and Canada, but are being ignored. Under the Agreement Concerning the Transboundary Movement of Hazardous Waste, which was entered into in 1986, shipments of waste across the Canadian-U.S. border require government-to-government notification. The

Environmental Protection Agency, EPA, as the designate authority for the United States would receive the notification and then would have 30 days to consent or object to the shipment. Not only have these notification provisions not been enforced, but the EPA has indicated that they would not object to the municipal waste shipments.

Michigan citizens have spoken loud and clear on this issue. More than 165,000 people signed my on-line petition urging the EPA to use their power to stop the Canadian trash shipments. Residents from all 83 Michigan counties have signed the petition—an unprecedented response. I've presented these signatures to both former EPA Administrator Mike Leavitt and Homeland Security Secretary Tom Ridge. But despite these efforts, EPA has not stopped these trash shipments.

That is why I'm reintroducing my bill today. The Canadian Waste Import Ban of 2005 would stop the Canadian trash shipments by placing an immediate Federal ban on the importation of Canadian municipal solid waste. Any State that wishes to receive Canadian trash can opt out of the ban by giving notice to the EPA. The ban will be in place until the EPA enforces the notice and consent provision contained in the binational agreement.

This legislation would also give Michigan residents the protection they deserve from these shipments. In enforcing the agreement, the EPA would have to obtain the consent of the receiving State before consenting to a Canadian municipal solid waste shipment. So if the State of Michigan says no, the EPA must object to the trash shipment.

The EPA would also have to consider the impact of the shipment on homeland security, environment, and public health. These waste shipments should no longer be accepted without an examination of how it will affect the health and safety of Michigan families.

Michigan residents deserve the protections provided by this international agreement and should be provided the ability to stop these dangerous and unhealthy trash shipments. I urge my colleagues to support the Canadian Waste Import Ban of 2005.

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. 346

*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 "Canadian Waste Import Ban Act of 2005".

#### SEC. 2. CANADIAN MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following: "**SEC. 4011. CANADIAN MUNICIPAL SOLID WASTE.**

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT.—The term 'Agreement' means—

"(A) the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, signed at Ottawa on October 28, 1986 (TIAS 11099) and amended on November 25, 1992; and

"(B) any regulations promulgated to implement and enforce that Agreement.

"(2) CANADIAN MUNICIPAL SOLID WASTE.—The term 'Canadian municipal solid waste' means municipal solid waste that is generated in Canada.

"(3) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'municipal solid waste' means—

"(i) material discarded for disposal by—

"(I) households (including single and multifamily residences); and

"(II) public lodgings such as hotels and motels; and

"(ii) material discarded for disposal that was generated by commercial, institutional, and industrial sources, to the extent that the material—

"(I)(aa) is essentially the same as material described in clause (i); or

"(bb) is collected and disposed of with material described in clause (i) as part of a normal municipal solid waste collection service; and

"(II) is not subject to regulation under subtitle C.

"(B) INCLUSIONS.—The term 'municipal solid waste' includes—

"(i) appliances;

"(ii) clothing;

"(iii) consumer product packaging;

"(iv) cosmetics;

"(v) debris resulting from construction, remodeling, repair, or demolition of a structure;

"(vi) disposable diapers;

"(vii) food containers made of glass or metal;

"(viii) food waste;

"(ix) household hazardous waste;

"(x) office supplies;

"(xi) paper; and

"(xii) yard waste.

"(C) EXCLUSIONS.—The term 'municipal solid waste' does not include—

"(i) solid waste identified or listed as a hazardous waste under section 3001, except for household hazardous waste;

"(ii) solid waste, including contaminated soil and debris, resulting from—

"(I) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604, 9606);

"(II) a response action taken under a State law with authorities comparable to the authorities contained in either of those sections; or

"(III) a corrective action taken under this Act;

"(iii) recyclable material—

"(I) that has been separated, at the source of the material, from waste destined for disposal; or

"(II) that has been managed separately from waste destined for disposal, including scrap rubber to be used as a fuel source;

"(iv) a material or product returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible potential reuse;

"(v) solid waste that is—

"(I) generated by an industrial facility; and

"(II) transported for the purpose of treatment, storage, or disposal to a facility (which facility is in compliance with applicable State and local land use and zoning laws and regulations) or facility unit—

"(aa) that is owned or operated by the generator of the waste;

"(bb) that is located on property owned by the generator of the waste or a company with which the generator is affiliated; or

"(cc) the capacity of which is contractually dedicated exclusively to a specific generator;

"(vi) medical waste that is segregated from or not mixed with solid waste;

"(vii) sewage sludge or residuals from a sewage treatment plant;

"(viii) combustion ash generated by a resource recovery facility or municipal incinerator; or

"(ix) waste from a manufacturing or processing (including pollution control) operation that is not essentially the same as waste normally generated by households.

"(b) BAN ON CANADIAN MUNICIPAL SOLID WASTE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), until the date on which the Administrator promulgates regulations to implement and enforce the Agreement (including notice and consent provisions of the Agreement), no person may import into any State, and no solid waste management facility may accept, Canadian municipal solid waste for the purpose of disposal or incineration of the Canadian municipal solid waste.

"(2) ELECTION BY GOVERNOR.—The Governor of a State may elect to opt out of the ban under paragraph (1), and consent to the importation and acceptance by the State of Canadian municipal solid waste before the date specified in that paragraph, if the Governor submits to the Administrator a notice of that election by the Governor.

"(c) AUTHORITY OF ADMINISTRATOR.—

"(1) IN GENERAL.—Beginning immediately after the date of enactment of this section, the Administrator shall—

"(A) perform the functions of the Designated Authority of the United States described in the Agreement with respect to the importation and exportation of municipal solid waste under the Agreement; and

"(B) implement and enforce the Agreement (including notice and consent provisions of the Agreement).

"(2) CONSENT TO IMPORTATION.—In considering whether to consent to the importation of Canadian municipal solid waste under article 3(c) of the Agreement, the Administrator shall—

"(A) obtain the consent of each State into which the Canadian municipal solid waste is to be imported; and

"(B) consider the impact of the importation on homeland security, public health, and the environment."

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following:

"Sec. 4011. Canadian municipal solid waste".

By Mr. NELSON of Florida (for himself, Mr. LUGAR, and Mr. ROCKEFELLER):

S. 347. A bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other

purposes; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleagues and cosponsors Senators JAY ROCKEFELLER and RICHARD LUGAR as we introduce the Advance Directives Improvement and Education Act of 2005. Senators ROCKEFELLER and COLLINS, along with Senator WYDEN, sponsored legislation with similar goals in the past and have provided invaluable support and counsel in drafting the bill we introduce today.

The Advance Directives Improvement and Education Act of 2005 has a simple purpose: to encourage all adults in America, especially those 65 and older, to think about, talk about and write down their wishes for medical care near the end of life should they become unable to make decisions for themselves. Advance directives, which include a living will stating the individual's preferences for care, and a power of attorney for health care, are critical documents that each of us should have. The goal is clear, but reaching it requires that we educate the public about the importance of advance directives, offer opportunities for discussion of the issues, and reinforce the requirement that health care providers honor patients' wishes. This bill is designed to do just that.

Americans are afraid of death. We don't like to think about it, talk about it, or plan for it. And yet, we will all face it. Not only our own deaths, but our parents, siblings, friends, and sometimes, tragically, children. Today, most Americans face death unprepared. Family members frequently end up making critical medical decisions for incapacitated patients, yet they, too, are unprepared. Only 15–20 percent of adults have advance directives. Among this group, many have not discussed the contents of these important documents with their families or even the person named as the health care proxy.

It is time to bring this discussion into the mainstream. Too much is at stake to continue to deny our mortality. You all know about the tragic situation going on in Florida with Terri Schiavo. Here is a young woman in a persistent vegetative state who is the subject of a debate about her treatment between her husband and her parents, a debate that has been a court case and a legislative quagmire. Why? Because she didn't write down what type of care she would want in the event an accident, illness or other medical condition caused her to be in an incapacitated state. She is young and didn't think about death or dying. If she had an advance directive that made her wishes clear and named a health care proxy to make decisions for her should she be unable to do so for herself, the treatment debate might continue, but there would be no question as to who could decide. The Supreme Court has clearly affirmed that competent adults have the right to refuse unwanted medical treatment, Wash-

ington v. Glucksburg and Vacco v. Quill, 1997, but it also stressed that advance directives are a means of safeguarding that right should adults become incapable of deciding for themselves.

Fortunately, situations like Ms. Schiavo's are rare. Of the 2.5 million people who die each year 83 percent are Medicare beneficiaries. In fact, 27 percent of Medicare expenditures cover care in the last year of life. Remember, everyone who enrolls in Medicare will die on Medicare. The Advance Directives Improvement and Education Act encourages all Medicare beneficiaries to prepare advance directives by providing a free physician office visit for the purpose of discussing end-of-life care choices and other issues around medical decision-making in a time of incapacitation. Physicians will be reimbursed for spending time with their patients to help them understand situations in which an advance directive would be useful, medical options, the Medicare hospice benefit and other concerns. The conversation will also enable physicians to learn about their patients' wishes, fears, religious beliefs, and life experiences that might influence their medical care wishes. These are important aspects of a physician-patient relationship that are too often unaddressed.

Another part of our bill will provide funds for the Department of Health and Human Services to conduct a public education campaign to raise awareness of the importance of planning for care near the end of life. This campaign would explain what advance directives are, where they are available, what questions need to be asked and answered, and what to do with the executed documents. HHS, directly or through grants, would also establish an information clearinghouse where consumers could receive state-specific information and consumer-friendly documents and publications.

State-specific information is needed because in addition to the federal Patients Self Determination Act passed in 1990, most states also have enacted advance directive laws. Because the state laws differ, some states may be reluctant to honor advance directives that were executed in another state. The bill we introduce today contains language that would make all advance directives "portable," that is, useful from one state to another. As long as the documents were lawfully executed in the state of origin, they must be accepted and honored in the state in which they are presented, unless to do so would violate state law.

All of the provisions in the Advance Directives Improvement and Education Act of 2005 are there for one reason: to increase the number of people in the United States who have advance directives, who have discussed their wishes with their physicians and families, and who have given copies of the directives to their loved ones, health care providers, and legal representatives.

This new Medicare benefit and education campaign will also lead to a reduction in litigation costs. By encouraging advance directives, cases like Ms. Schiavo's would be less frequent; therefore the long and costly litigation surrounding these unfortunate situations would be reduced.

Senators ROCKEFELLER, LUGAR and I all believe that as our Medicare population grows and life expectancy lengthens, improving care near the end of life must be a priority. Helping people complete these critical documents is an essential part of making the final journey as meaningful and peaceful as possible. In addition, there are growing numbers of health care providers, non-profit organizations and consumer advocates who recognize the need for change. New palliative care programs, pain protocols and hospice services are being instituted in facilities around the country.

This body is a legislative institution not a medical one—with the exceptions of the distinguished Majority Leader and Senator COBURN, of course. We cannot legislate good medical care or compassion. What we can do, what I hope we will do, is to enact this bill so that the American public can participate in improving end-of-life care—first, by filling out their own advance directives and talking to their families about them; and by raising their voices to demand that our health care systems honor their wishes and improve the way they care for people who are near the end of life. If we can do that, we will have done a great deal.

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:

*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 "Advance Directives Improvement and Education Act of 2005".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Medicare coverage of end-of-life planning consultations.
- Sec. 4. Improvement of policies related to the use and portability of advance directives.
- Sec. 5. Increasing awareness of the importance of end-of-life planning.
- Sec. 6. GAO studies and reports on end-of-life planning issues.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) Every year 2,500,000 people die in the United States. Eighty percent of those people die in institutions such as hospitals, nursing homes, and other facilities. Chronic illnesses, such as cancer and heart disease, account for 2 out of every 3 deaths.

(2) In January 2004, a study published in the Journal of the American Medical Association concluded that many people dying in institutions have unmet medical, psychological, and spiritual needs. Moreover, family members of decedents who received care

at home with hospice services were more likely to report a favorable dying experience.

(3) In 1997, the Supreme Court of the United States, in its decisions in *Washington v. Glucksberg* and *Vacco v. Quill*, reaffirmed the constitutional right of competent adults to refuse unwanted medical treatment. In those cases, the Court stressed the use of advance directives as a means of safeguarding that right should those adults become incapable of deciding for themselves.

(4) A study published in 2002 estimated that the overall prevalence of advance directives is between 15 and 20 percent of the general population, despite the passage of the Patient Self-Determination Act in 1990, which requires that health care providers tell patients about advance directives.

(5) Competent adults should complete advance care plans stipulating their health care decisions in the event that they become unable to speak for themselves. Through the execution of advance directives, including living wills and durable powers of attorney for health care according to the laws of the State in which they reside, individuals can protect their right to express their wishes and have them respected.

(b) PURPOSES.—The purposes of this Act are to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

### SEC. 3. MEDICARE COVERAGE OF END-OF-LIFE PLANNING CONSULTATIONS.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 642(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2322), is amended—

(1) in subparagraph (Y), by striking “and” at the end;

(2) in subparagraph (Z), by inserting “and” at the end; and

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

“(AA) end-of-life planning consultations (as defined in subsection (bbb));”.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 706(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2339), is amended by adding at the end the following new subsection:

#### “End-Of-Life Planning Consultation

“(bbb) The term ‘end-of-life planning consultation’ means physicians’ services—

“(1) consisting of a consultation between the physician and an individual regarding—

“(A) the importance of preparing advance directives in case an injury or illness causes the individual to be unable to make health care decisions;

“(B) the situations in which an advance directive is likely to be relied upon;

“(C) the reasons that the development of a comprehensive end-of-life plan is beneficial and the reasons that such a plan should be updated periodically as the health of the individual changes;

“(D) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the des-

ignation of a surrogate decision maker (health care proxy); and

“(E) whether or not the physician is willing to follow the individual’s wishes as expressed in an advance directive; and

“(2) that are furnished to an individual on an annual basis or immediately following any major change in an individual’s health condition that would warrant such a consultation (whichever comes first).”.

### (c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395 l(b)) is amended—

(A) by striking “and” before “(6)”; and

(B) by inserting before the period at the end the following: “, and (7) such deductible shall not apply with respect to an end-of-life planning consultation (as defined in section 1861(bbb))”.

(2) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395 l(a)(1)) is amended—

(A) in clause (N), by inserting “(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))” after “80 percent”; and

(B) in clause (O), by inserting “(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))” after “80 percent”.

(d) PAYMENT FOR PHYSICIANS’ SERVICES.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)), as amended by section 611(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2304), is amended by inserting “(2)(AA),” after “(2)(W),”.

(e) FREQUENCY LIMITATION.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)), as amended by section 613(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2306), is amended—

(1) by striking “and” at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting “, and”; and

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

“(N) in the case of end-of-life planning consultations (as defined in section 1861(bbb)), which are performed more frequently than is covered under paragraph (2) of such section;”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

### SEC. 4. IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting “and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record” before the semicolon at the end;

(B) in subparagraph (D), by striking “and” after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.”;

(2) in paragraph (3), by striking “a written” and inserting “an”; and

(3) by adding at the end the following new paragraph:

“(5)(A) In addition to the requirements of paragraph (1), a provider of services, Medicare Advantage organization, or prepaid or eligible organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual’s wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

“(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient’s wishes, or more latitude in determining a patient’s wishes.”.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking “in the individual’s medical record” and inserting “in a prominent part of the individual’s current medical record”; and

(ii) by inserting “and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record” before the semicolon at the end;

(B) in subparagraph (D), by striking “and” after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.”;

(2) in paragraph (4), by striking “a written” and inserting “an”; and

(3) by adding at the end the following paragraph:

“(6)(A) In addition to the requirements of paragraph (1), a provider or organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual’s wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

“(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient’s wishes, or more latitude in determining a patient’s wishes.”.



## (c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 5. INCREASING AWARENESS OF THE IMPORTANCE OF END-OF-LIFE PLANNING.**

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

**“PART R—PROGRAMS TO INCREASE AWARENESS OF ADVANCE DIRECTIVE PLANNING ISSUES****“SEC. 399Z-1. ADVANCE DIRECTIVE EDUCATION CAMPAIGNS AND INFORMATION CLEARINGHOUSES.**

“(a) ADVANCE DIRECTIVE EDUCATION CAMPAIGN.—The Secretary shall, directly or through grants awarded under subsection (c), conduct a national public education campaign—

“(1) to raise public awareness of the importance of planning for care near the end of life;

“(2) to improve the public’s understanding of the various situations in which individuals may find themselves if they become unable to express their health care wishes;

“(3) to explain the need for readily available legal documents that express an individual’s wishes, through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care); and

“(4) to educate the public about the availability of hospice care and palliative care.

“(b) INFORMATION CLEARINGHOUSE.—The Secretary, directly or through grants awarded under subsection (c), shall provide for the establishment of a national, toll-free, information clearinghouse as well as clearinghouses that the public may access to find out about State-specific information regarding advance directive and end-of-life decisions.

**“(c) GRANTS.—**

“(1) IN GENERAL.—The Secretary shall use at least 60 percent of the funds appropriated under subsection (d) for the purpose of awarding grants to public or nonprofit private entities (including States or political subdivisions of a State), or a consortium of any of such entities, for the purpose of conducting education campaigns under subsection (a) and establishing information clearinghouses under subsection (b).

“(2) PERIOD.—Any grant awarded under paragraph (1) shall be for a period of 3 years.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$25,000,000.”.

**SEC. 6. GAO STUDIES AND REPORTS ON END-OF-LIFE PLANNING ISSUES.**

(a) STUDY AND REPORT ON COMPLIANCE WITH ADVANCE DIRECTIVES AND OTHER ADVANCE PLANNING DOCUMENTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of advance directives in making patients’ wishes known and honored by health care providers.

(2) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

(b) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of the amendments made by section 3 (relating to medicare coverage of end-of-life planning consultations).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

(c) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

By Mr. SANTORUM (for himself and Ms. MIKULSKI):

S. 348. A bill to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

Mr. SANTORUM. Mr. President, I rise today to introduce, along with Senator MIKULSKI, a bill that would designate Poland as a program country under the Visa Waiver Program under section 217 of the Immigration Nationality Act.

As we celebrate an historic period with the first Iraqi elections in over fifty years, it is important to appreciate the sacrifices our allies have made to make such an event possible. America must continue to solidify the bond with its allies by assisting their governments and citizens when possible. This legislation brings us closer to a country that has been by our side through a time of war and continues to be a partner in the global freedom.

Since the founding of the United States, Poland has proven its steadfast

dedication to the causes of freedom and friendship with the United States. This has been exemplified by the brave actions of Polish patriots such as Casimir Pulaski and Tadeusz Kosciuszko during the American Revolution. Polish history provides pioneering examples of democracy and religious tolerance, and this is reflected in their constitution that states, “Freedom of faith and religion shall be ensured to everyone.”

Poland’s revolt from the Soviet Union’s communist stranglehold is a more recent example of their dedication to freedom. They are a prime example of Ronald Reagan’s vision to end the Cold War. Last year, when I met Lech Walesa, the tenacious leader of Poland’s Solidarity movement and former President of Poland, I was reminded of the profound struggle the country endured to bring democracy to their people.

And their commitment to preserving freedom and global security continues today. On March 12, 1999, Poland became a member of the North Atlantic Treaty Organization. This was followed by admission into the European Union on May 1, 2004. Poland was a staunch ally to the United States in Operation Iraqi Freedom and has committed 2,300 troops to help with the ongoing peace efforts in Iraq.

In addition to Poland’s efforts as a global ally, its people have contributed greatly within our borders. Nearly nine million people of Polish ancestry live in the United States. Polish immigrants have played an integral role in the success of industry and agriculture in Pennsylvania and throughout the United States.

Currently, the United States administers the Visa Waiver Program to citizens of twenty-seven countries. The program allows citizens from Visa Waiver Program countries to visit the United States as tourists, and Poland has earned the right to participate. I believe Poland deserves to be the twenty-eighth country to participate in the program. The 100,000 Polish citizens who visit the United States annually must currently pay a \$100 fee to apply for a visa. Many of these applicants are visiting family, often for wedding celebrations or funerals. In an expression of good faith, in 1991 the Polish government unilaterally repealed the visa requirement for U.S. citizens traveling to Poland for less than 90 days.

I am aware of past concerns about Polish visa refusal rates, but a closer look shows that refusal rates can be an inaccurate measure because they are based on decisions made by a very short interview process rather than the actual behavior of non-immigrants. Often, refusal rates do not reflect the propensity of nationals from that country to overstay their visas. More importantly, Poland’s refusal rate does not reflect a high propensity for terrorism. The State Department has given no indication that the potential for terrorism in Poland significantly exceeds that of the 27 countries currently participating in the Visa Waiver

Program. Please be assured that I am sensitive to arguments that have concerns about our national security at the core. However, our past history with Polish citizens visiting the United States does not favor this argument.

For all Polish citizens and Polish Americans, I ask through this legislation that Poland be deemed a designated program country for the purposes of the Visa Waiver Program. I ask my colleagues for their support.

Ms. MIKULSKI. Mr. President, I rise today to continue the fight to right a wrong in America's visa program. I believe it's time for America to extend the Visa Waiver program to Poland. I'm pleased to have formed a bipartisan partnership with Senator SANTORUM to reintroduce our bill to get it done.

Last fall, Senator SANTORUM and I met with a hero of the Cold War, Lech Walesa. When he jumped over the wall of the Gdansk shipyard, he took Poland and the whole world with him. He told us that the visa issue is a question of honor for Poland. That day, we introduced a bill to once again stand in solidarity with the father of Solidarity by extending the Visa Waiver program to Poland.

This morning, I had the honor of hosting Poland's Foreign Minister, Professor Adam Rotfeld. We reaffirmed and cemented the close ties between the Polish and American peoples. Senator SANTORUM and I heard loud and clear that the visa waiver program remains a high priority for Poland.

My friends, Poland is not some Communist holdover or third-world country begging for a handout. The Cold War is over. Poland is a free and democratic nation. Poland is a NATO ally and a member of the European Union. But America's visa policy still treats Poland as a second-class citizen. That is just wrong.

Poland is a reliable ally, not just by treaty but in deeds. Warsaw hosted an international Conference on Combating Terrorism less than two months after the September 11 attacks. Poland continues to modernize its Armed Forces so they can operate with the Armed Forces of the U.S. and other NATO allies, buying American F-16s and Shad-ow UAVs and humvees.

More importantly, Polish troops have stood side by side with America's Armed Forces. Polish ships participated in Desert Shield and Desert Storm during the 1990-91 Gulf War. Poland sent troops to Bosnia as part of UNPROFOR and IFOR. Poland sent troops as part of the international coalition in Afghanistan.

Polish troops fought alongside American and British and Australian troops from day one of the Iraq war. They are there because they want to be reliable allies. Because they are ready to stand with us even when the mission is risky and unpopular. Today, Poland still commands multinational forces in the South Central region of Iraq. Nearly 2,500 Polish troops are still on the ground in Iraq, sharing the burden and the risk and the casualties.

So why are Singapore and San Marino among the 27 countries in the Visa Waiver program, but Poland is not?

President Kwasniewski raised this issue with President Bush last year and again this week. The President has said this is a matter for Congress. It's time for us to act.

The bill Senator SANTORUM and I are introducing today will add Poland to the list of designated countries in the Visa Waiver program. That will allow Polish citizens to travel to the U.S. for tourism or business for up to sixty days without needing to stand in line to get a visa. That means it will be easier for Poles to visit family and friends or do business in America. Shouldn't we make it easier for the Pulaskis and Kosciuszkos and Marie Curies of today to visit our country?

We know that our borders will be no less secure because of these Polish visitors to our country. But we know that our alliance will be more secure because of this legislation.

I urge our colleagues to join us in support of this important bill.

By Mr. DOMENICI:

S. 349. A bill to provide for the appointment of additional judges for the district of New Mexico; to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, I introduce legislation that continues my efforts to address a significant problem in the state of New Mexico, a problem that the Judicial Conference of the United States has previously described as a "crisis." According to the latest survey by the Judicial Conference, the weighted caseload for the District of New Mexico is now the fourth highest in the Nation. This is in spite of the fact that in 2002 Congress approved a temporary judgeship for New Mexico which the President has filled.

Based on this heavy workload, the Judicial Conference recently recommended 2 additional permanent judgeships, as well as an additional temporary judgeship for New Mexico; Only 2 districts in California, one in Florida, and one in New York were recommended to get more judgeships than New Mexico. The legislation I have introduced today reflects this recommendation.

In the 12-month period ending on June 30, 2002, the number of criminal filings per judgeship increased from 222 to 320. This is compared to the national average of 81. You don't have to be a mathematical genius to figure out that this is just short of four times the national average. During this same time period, the number of weighted filings increased from 673 per judgeship to 739. The national average is 504 and the Judicial Conference has set the benchmark at 430 weighted cases per judgeship. The District of New Mexico is clearly in need of relief from this crisis.

The Sixth Amendment of the Constitution guarantees the right to a

speedy trial in all criminal cases. The United States Supreme Court has called this guarantee "one of the most basic rights preserved by our Constitution," 386 U.S. 213. We must ensure that our States have the proper judicial resources to guarantee the basic right promised to Americans more than 200 years ago. The bill that I am introducing provides such necessary resources to New Mexico.

Without additional judges, this problem will only continue to grow as the country focuses more intently on the security of our borders. I hope that my colleagues will act quickly to authorize these necessary additional judgeships for New Mexico.

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. 349

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

**SECTION 1. ADDITIONAL JUDGES FOR THE DISTRICT OF NEW MEXICO.**

(a) PERMANENT DISTRICT JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the district of New Mexico.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to New Mexico and inserting the following:

"New Mexico ..... 8."

(b) TEMPORARY JUDGESHIP.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of New Mexico.

(2) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the district of New Mexico occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

By Mr. LUGAR (for himself, Mrs. BOXER, Mr. CHAFFEE, Mr. FEINGOLD, Mr. COLEMAN, and Mr. SMITH):

S. 350. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005.

On October 7, 2004, I introduced S. 2939, a bill to improve our ability to provide assistance to orphans and vulnerable children in developing countries. Because of the gravity and urgency of the growing AIDS orphans crisis, I am reintroducing my bill.

The unprecedented AIDS orphan crisis in sub-Saharan Africa has profound

implications for political stability, development, and human welfare that extend far beyond the region. Sub-Saharan African nations stand to lose generations of educated and trained professionals who can contribute meaningfully to their countries' development. Orphaned children, many of whom are homeless, are more likely to resort to prostitution and other criminal behavior to survive. Most frighteningly, these uneducated, poorly socialized, and stigmatized young adults are extremely vulnerable to being recruited into criminal gangs, rebel groups, or extremist organizations that offer shelter and food and act as "surrogate" families. It is imperative that the international community respond to this crisis.

An estimated 110 million orphans live in sub-Saharan Africa, Asia, Latin America, and the Caribbean. The HIV/AIDS pandemic is rapidly expanding the orphan population. Currently an estimated 14 million children have been orphaned by AIDS, most of whom live in sub-Saharan Africa. This number is projected to soar to more than 25 million by 2010. The pandemic is orphaning generations of African children and is compromising the overall development prospects of their countries.

Most orphans in the developing world live in extremely disadvantaged circumstances. Poor communities in the developing world struggle to meet the basic food, clothing, health care, and educational needs of orphans. Experts recommend supporting community-based organizations to assist these children. Such an approach enables the children to remain connected to their communities, traditions, rituals, and extended families.

My bill seeks to improve assistance to orphans and other vulnerable children in developing countries. It would require the United States Government to develop a comprehensive strategy for providing such assistance and would authorize the President to support community-based organizations that provide basic care for orphans and vulnerable children.

Orphans are less likely to be in school, and more likely to be working full time. Yet only education can help children acquire the knowledge and develop the skills they need to build a better future.

For many children, the primary barrier to an education is the expense of school fees, uniforms, supplies, and other costs. My bill aims to improve enrollment and access to primary school education by supporting programs that reduce the negative impact of school fees and other expenses. It also would reaffirm our commitment to international school lunch programs. Studies have shown that school food programs provide an incentive for children to stay in school. School meals provide basic nutrition to children who otherwise do not have access to reliable food.

Many children who lose one or both parents often face difficulty in asserting their inheritance rights. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow—even if she has small children—to claim property after the death of her husband. This often leaves the most vulnerable children impoverished and homeless. My bill seeks to support programs that protect the inheritance rights of orphans and widows with children.

The AIDS orphan crisis in sub-Saharan Africa has implications for political stability, development, and human welfare that extend far beyond the region, affecting governments and people worldwide. Every 14 seconds another child is orphaned by AIDS. Turning the tide on this crisis will require a coordinated, comprehensive, and swift response. I am hopeful that Senators will join me in backing this legislation.

Mrs. BOXER. Mr. President, I am pleased to join my chairman of the Senate Foreign Relations I Committee, Senator LUGAR, in reintroducing the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act. Today, we are reintroducing a bill that we worked on together in the 108th Congress—a bill that will help those most vulnerable to the HIV/AIDS pandemic throughout the world.

An estimated 14 million children have lost either one or both parents to HIV/AIDS. By the year 2010, it is estimated that this number will grow to 25 million. The pandemic has created an orphans crisis, especially in sub-Saharan Africa where this crisis is most severe.

The struggle of those orphaned by this pandemic is heartbreaking. These children face the trauma of watching their parents die. They are forced at a very young age to care for their younger siblings while suffering from deep poverty, hunger, and sicknesses.

A girl from Uganda who lost her parents to HIV/AIDS at age 11 told the BBC:

When my mother died we suffered so much. There was no food, and there was no one to look after us. We didn't even have money to buy soap and salt. We wanted to run away to our other grandparents, but we didn't have transport to go there. I tried to be positive, but it was difficult. I missed my mother because I loved her so much.

Picture this story repeated 14 million times throughout the world. We cannot stand by and allow this suffering to continue.

The Lugar-Boxer legislation that is being introduced today is designed to help these orphans and other vulnerable children who have been affected by the HIV/AIDS pandemic.

First, our bill would authorize the President to provide assistance to orphans and other vulnerable children in developing countries. Specific authorization is provided in the areas of basic care, HIV/AIDS treatment, school food

programs, protection of inheritance rights, and education and employment training assistance.

Second, this legislation calls on the President to use U.S. foreign assistance to support programs that eliminate school fees. Throughout the world, many orphans are prevented from attending school because they cannot afford to pay school fees or are forced to financially support their families or care for sick relatives.

And, third, our bill would require the President to develop and submit to Congress a strategy for coordinating, implementing, and monitoring assistance programs for orphans and vulnerable children.

This strategy must include measurable performance indicators to ensure that our policies are effective in helping orphans and vulnerable children.

Once again, Mr. President, I thank Chairman LUGAR for working with me on this bipartisan legislation. I also thank Congresswoman LEE for her leadership on this issue in the House of Representatives.

I hope my colleagues will join us in supporting this important bill.

By Mr. KENNEDY (for himself, Mr. KERRY, Mr. AKAKA, Mrs. BOXER, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mr. FEINGOLD, Mr. INOUE, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. SARBANES, and Mr. REED):

S. 351. A bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the Medicare Program; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senators KERRY, CLINTON, SARBANES, CORZINE, MIKULSKI, DODD, LEVIN, REED, LIEBERMAN, FEINGOLD, INOUE, and AKAKA in introducing the Safe Nursing and Patient Care Act.

Current Federal safety standards limit work hours for pilots, flight attendants, truck drivers, railroad engineers and other professionals, in order to protect the public safety. However, no similar limitation currently exists for the nation's nurses, who care for so many of our most vulnerable citizens.

The Safe Nursing and Patient Care Act will limit mandatory overtime for nurses in order to protect patient safety and improve working conditions for nurses. Across the country, the widespread practice of mandatory overtime means that over-worked nurses are often providing care in unacceptable circumstances. A recent study from the University of Pennsylvania School of Nursing found that nurses who work shifts of twelve and a half hours or more are three times more likely to commit an error than nurses who work a standard shift of eight and a half

hours or less. Restrictions for mandatory overtime will help ensure that nurses are able to provide the highest quality of care to their patients.

Some hospitals have already taken action to deal with this serious problem. Over the last few years in Massachusetts, Brockton Hospital and St. Vincent Hospital agreed to limit mandatory overtime as part of negotiations following successful strikes by nurses. These limits will protect patients and improve working conditions for the nurses, and will help in the recruitment and retention of nurses in the future.

Job dissatisfaction and harsh overtime hours are major factors in the current shortage of nurses. Nationally, the shortfall is expected to rise to 20 percent in coming years. A major goal of the Safe Nursing and Patient Care Act is to improve the quality of life for nurses, so that more persons will enter the nursing profession and remain in it.

Improving conditions for nurses is an essential part of our ongoing effort to reduce medical errors, improve patient outcomes, and encourage more Americans to become and remain nurses. The Safe Nursing and Patient Care Act is a significant step that Congress can take to support better quality care for all Americans, and improve working conditions for our nation's nurses, and I urge my colleagues to support it.

By Ms. MIKULSKI (for herself, Mr. GREGG, Mr. LEAHY, Mr. WARNER, Mr. CHAFEE, Mr. THOMAS, Mr. LEVIN, Mr. SALAZAR, Mr. ALLEN, Mr. KENNEDY, Mr. JEFFORDS, Ms. COLLINS, Mr. SARBANES, Ms. SNOWE, Mr. DORGAN, Mr. REED, Mr. DAYTON, and Mr. KERRY):

S. 352. A bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes; to the Committee on the Judiciary.

Ms. MIKULSKI. Mr. President, today I rise to introduce legislation that is desperately needed by small and seasonal businesses all over the Nation. These businesses are in crisis. They need seasonal workers before the summer so that they can survive. For many years they have relied on the H2B Visa program to meet these needs, but this year they can't get the temporary labor they need because they have been shut out of the H-2B visa program. That program lets them hire temporary foreign workers when no American workers are available.

So today, I join with my colleague Senator GREGG to introduce legislation that provides a quick fix to the H-2B problem. The "Save our Small and Seasonal Businesses Act" will help these employers by doing three things—temporarily exempting good actor workers from the H-2B cap, protecting against fraud in the H-2B program and providing a fair and balanced allocation

system for H-2B visas. I urge my colleagues to work with us to pass this legislation quickly to save these businesses and the thousands of American jobs they provide.

Many in this body know about the H-2B crisis. All this week we have been talking about the litigation crisis—but a real crisis to thousands of small and seasonal businesses is the worker shortage they face as they approach the summer season. These small businesses count on the H-2B Visa Program to keep their businesses afloat. And this year, because the cap of 66,000 was reached so early in the year, many of these businesses will be unable to get the seasonal workers that they need to survive.

Hitting the cap so early has had a great impact on Maryland. We have a lot of summer seasonal businesses in Maryland, on the Eastern Shore, in Ocean City or working the Chesapeake Bay. Many of our businesses use the program year after year. They hire all the American workers they can find, but they need additional help to meet seasonal demands. Because the cap was reached so early this year, for the second year in a row, summer employers face a disadvantage. They can't use the program, so they can't meet their seasonal needs and many will be forced to limit services, lay-off permanent U.S. workers or, worse yet, close their doors.

These are family businesses and small businesses in small communities in Maryland. If the business suffers the whole community suffers. For seafood companies like J.M. Clayton, what they do is more than a business, it's a way of life. Started over a century ago and run by the great grandsons of the founder, J.M. Clayton works the waters of the Chesapeake Bay, supplying crabs, crabmeat and other seafood, including Maryland's famous oysters, to restaurants, markets, and wholesalers all over the Nation. It is the oldest working crab processing plant in the world and by employing 65 H-2B workers the company can retain over 30 full-time American workers.

But its not just seafood companies that have a long history on the Eastern Shore. It's companies like S.E.W. Friel Cannery, which began its business over 100 years ago when there were 300 canneries on the Eastern Shore. But now those others are gone and Friel's is the last corn cannery left. Ten years ago, when the cannery could not find local workers, it turned to the new H-2B Visa Program. It has used the program every year since, and many workers are repeat users who come each year and then go home after the season. What's important is that having this help each year has not only allowed the company to maintain its American workforce, but it has paved the way for local workers to return to the cannery. They now employ 75 full time and 190 seasonal workers, along with 70 farmers and additional suppliers.

Now these employers can't just turn to the H-2B program whenever they

want seasonal workers. First, employers must try to vigorously recruit U.S. workers. They must demonstrate to the Department of Labor that there are no U.S. workers available. Only after that are they allowed to fill seasonal vacancies with H-2B visa workers. The workers that they bring in often participate in the H-2B program year after year. They often work for the same companies. But they cannot and do not stay in the U.S. They return to their home countries, to their families and their U.S. employer must go through the whole visa process again the following year to get them back. That means an employer must prove again to the Department of Labor that they cannot get U.S. workers.

This legislative fix keeps that visa process in place. It's a short-term legislative fix to solve the immediate H-2B visa shortage. It does not take the place of comprehensive immigration reform.

This legislation is a temporary two year fix. And it does four things:

One, it exempts returning seasonal workers from the cap. These are workers who have already successfully participated in the H-2B Visa Program. They received a visa in one of the past three years and have returned home to their families after their seasonal employment with a U.S. company.

Everyone must still play by the rules. Employers must go through the whole visa process, prove they need the seasonal help and only after that are returning employees exempt from the cap. Employees must be those who have left the U.S. and are requesting a new H-2B visa to come back for another season. This new system rewards those who have played by the rules, worked hard and successfully participated in the program. And the bill gives a helping hand to businesses by allowing them to retain workers who they have already trained to do their seasonal jobs.

Next, this bill creates new anti-fraud provisions. To make sure that everyone is playing by the rules and that no one is misusing the program. And it gives government some teeth to prevent fraud and enforce our nation's immigration laws. A \$150 anti-fraud fee ensures that government agencies processing the H-2B visas will get added resources to detect and prevent fraud. New sanction provisions for those who misrepresent facts on a petition further strengthens DHS's enforcement power. This section also sends a strong message to employers—don't play games with U.S. jobs. Our bill reserves the highest penalties for employer actions which harm U.S. workers.

And, this bill creates a fair allocation of visas. Now, summer employers lose out because winter employers get all the visas. This bill makes the system fair for all employers. We reserve half of the visas for the winter and half for the summer. Allocating visas ensures that, until a long-term solution is reached, all employers will have an

equal chance of getting the workers that they need.

Finally, the bill adds some simple reporting requirements. So that DHS gives Congress the information it needs to make informed decisions about the H-2B visa program in the future.

This is a quick and simple fix. It lasts just 2 years—the rest of this year and next. And it does not get in the way of comprehensive immigration reform.

I worked with my colleagues to get a bill with strong bipartisan support, a bill that would work.

This bill is realistic. It provides a temporary solution because immediate action is needed to help these small and seasonal businesses stay in business. Yes, we need to help them now. Their seasons start soon. And if they don't get seasonal workers this year, there may not be any businesses around next year to help.

Every Member of the Senate who has heard from their constituents—whether they are seafood processors, landscapers, resorts, timber companies, fisheries, pool companies or carnivals—knows the urgency in their voices, knows the immediacy of the problem and knows that the Congress must act now to save these businesses. I urge my colleagues to join this effort, support the Save our Small and Seasonal Businesses Act, and push this Congress to fix the problem today.

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

S. 352

*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 “Save Our Small and Seasonal Businesses Act of 2005”.

#### SEC. 2. NUMERICAL LIMITATIONS ON H-2B WORKERS.

(a) IN GENERAL.—Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following:

“(9) An alien counted toward the numerical limitations of paragraph (1)(B) during any one of the 3 fiscal years prior to the submission of a petition for a nonimmigrant worker described in section 101(a)(15)(H)(ii)(b) may not be counted toward such limitation for the fiscal year in which the petition is approved.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment in subsection (a) shall take effect as if enacted on October 1, 2004, and shall expire on October 1, 2006.

(2) IMPLEMENTATION.—Not later than the date of enactment of this Act, the Secretary of Homeland Security shall begin accepting and processing petitions filed on behalf of aliens described in section 101(a)(15)(H)(ii)(b), in a manner consistent with this Act and the amendments made by this Act.

#### SEC. 3. FRAUD PREVENTION AND DETECTION FEE.

(a) IMPOSITION OF FEE.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 426(a) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447), is amended by adding at the end the following:

“(13)(A) In addition to any other fees authorized by law, the Secretary of Homeland

Security shall impose a fraud prevention and detection fee on an employer filing a petition under paragraph (1) for nonimmigrant workers described in section 101(a)(15)(H)(ii)(b).

“(B) The amount of the fee imposed under subparagraph (A) shall be \$150.”.

(b) USE OF FEES.—

(1) FRAUD PREVENTION AND DETECTION ACCOUNT.—Subsection (v) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 426(b) of division J of the Consolidated Appropriations Act, 2005 (Public Law 108-447), is amended—

(A) in paragraphs (1), (2)(A), (2)(B), (2)(C), and (2)(D) by striking “HI-B and L” each place it appears;

(B) in paragraph (1), as amended by subparagraph (A), by striking “section 214(c)(12)” and inserting “paragraph (12) or (13) of section 214(c)”;

(C) in paragraphs (2)(A)(i) and (2)(B), as amended by subparagraph (A), by striking “(H)(i)” each place it appears and inserting “(H)(i), (H)(ii),”; and

(D) in paragraph (2)(D), as amended by subparagraph (A), by inserting before the period at the end “or for programs and activities to prevent and detect fraud with respect to petitions under paragraph (1) or (2)(A) of section 214(c) to grant an alien nonimmigrant status described in section 101(a)(15)(H)(ii)”.

(2) CONFORMING AMENDMENT.—The heading of such subsection 286 is amended by striking “HI-B AND L”.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2005.

#### SEC. 4. SANCTIONS.

(a) IN GENERAL.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)), as amended by section 3, is further amended by adding at the end the following:

“(14)(A) If the Secretary of Homeland Security finds, after notice and an opportunity for a hearing, a substantial failure to meet any of the conditions of the petition to admit or otherwise provide status to a nonimmigrant worker under section 101(a)(15)(H)(ii)(b) or a willful misrepresentation of a material fact in such petition—

“(i) the Secretary of Homeland Security may, in addition to any other remedy authorized by law, impose such administrative remedies (including civil monetary penalties in an amount not to exceed \$10,000 per violation) as the Secretary of Homeland Security determines to be appropriate; and

“(ii) the Secretary of Homeland Security may deny petitions filed with respect to that employer under section 204 or paragraph (1) of this subsection during a period of at least 1 year but not more than 5 years for aliens to be employed by the employer.

“(B) The Secretary of Homeland Security may delegate to the Secretary of Labor, with the agreement of the Secretary of Labor, any of the authority given to the Secretary of Homeland Security under subparagraph (A)(i).

“(C) In determining the level of penalties to be assessed under subparagraph (A), the highest penalties shall be reserved for willful failures to meet any of the conditions of the petition that involve harm to United States workers.

“(D) In this paragraph, the term ‘substantial failure’ means the willful failure to comply with the requirements of this section that constitutes a significant deviation from the terms and conditions of a petition.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

#### SEC. 5. ALLOCATION OF H-2B VISAS DURING A FISCAL YEAR.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)), as amended

by section 2, is further amended by adding at the end the following new paragraph:

“(10) The numerical limitations of paragraph (1)(B) shall be allocated for a fiscal year so that the total number of aliens who enter the United States pursuant to a visa or other provision of nonimmigrant status under section 101(a)(15)(H)(ii)(b) during the first 6 months of such fiscal year is not more than 33,000.”.

#### SEC. 6. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H-2B NON-IMMIGRANTS.

Section 416 of the American Competitiveness and Workforce Improvement Act of 1998 (title IV of division C of Public Law 105-277; 8 U.S.C. 1184 note) is amended—

(1) by striking “Attorney General” each place that term appears and inserting “Secretary of Homeland Security”; and

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

“(d) PROVISION OF INFORMATION.—

“(1) QUARTERLY NOTIFICATION.—Beginning not later than March 1, 2006, the Secretary of Homeland Security shall notify, on a quarterly basis, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of House of Representatives of the number of aliens who during the preceding 1-year period—

“(A) were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)); or

“(B) had such a visa or such status expire or be revoked or otherwise terminated.

“(2) ANNUAL SUBMISSION.—Beginning in fiscal year 2007, the Secretary of Homeland Security shall submit, on an annual basis, to the Committees on the Judiciary of the House of Representatives and the Senate—

“(A) information on the countries of origin of, occupations of, and compensation paid to aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during the previous fiscal year;

“(B) the number of aliens who had such a visa or such status expire or be revoked or otherwise terminated during each month of such fiscal year; and

“(C) the number of aliens who were provided nonimmigrant status under such section during both such fiscal year and the preceding fiscal year.

“(3) INFORMATION MAINTAINED BY STATE.—If the Secretary of Homeland Security determines that information maintained by the Secretary of State is required to make a submission described in paragraph (1) or (2), the Secretary of State shall provide such information to the Secretary of Homeland Security upon request.”.

Mr. WARNER. Mr. President, I rise today in support of S. 352, the Save Our Small and Seasonal Businesses Act. This legislation, which I'm proud to co-sponsor, would provide emergency relief to thousands of small and seasonal businesses across the country, many of which are significant employers in the Commonwealth of Virginia.

I am pleased to be joined in this effort by my colleague from Virginia, Senator GEORGE ALLEN. I particularly would like to thank Senator BARBARA MIKULSKI and Senator JUDD GREGG, the sponsors of this bipartisan bill, for their leadership in this area.

Our legislation is simple. It makes common-sense reforms to our H-2B visa program that will allow our small and seasonal companies an opportunity to remain open for business. Without these modifications, these employers will continue to struggle in their efforts to find the necessary employees to keep their businesses running.

The H-2B visa program is designed to allow nonagricultural businesses to supplement their workforce with non-immigrant workers when American workers cannot be found. The cap is set at 66,000 per fiscal year, which begins on October 1 of each year. Employers can only apply for a visa 120 days before the work is needed.

For each of the last two years, this statutory cap was reached soon after the fiscal year began. In 2004, the cap was reached on March 20. As a result, many businesses, mostly summer employers, were unable to obtain the temporary workers they needed because the cap was filled prior to the day they could even apply for the visas.

Consequently, these businesses sustained significant economic losses.

This year the H-2B visa cap was reached on January 3, 2005. Now, even more businesses, especially in the seafood industry which has a long history in Virginia and the Chesapeake Bay, are susceptible to significant losses.

The hardships in these and other businesses are very real. Many in the seafood industry in Virginia have come to my office, looked me straight in the eye, and told me that their businesses aren't going to make it another year if something isn't done. Only through passage of this legislation can this detrimental cycle be interrupted and these business can be saved.

There are three main criticisms of this program which I am certain some will raise: these H-2B workers are taking jobs away from Americans; automation of these jobs makes H-2B workers unnecessary; and finally, these workers come into the U.S. under the guise of returning home after they've finished, but they never do. In my view, these criticisms of the H-2B program simply do not reflect the reality.

Believe me, I am a strong supporter of efforts to help those Americans who want to work get the skills they need to be successful in the workforce. But these H-2B workers are not taking jobs from Americans, they are filling in the gaps left vacant by Americans that don't want them. The jobs we are talking about here are seasonal, labor intensive, and require a certain amount of skill, mainly in the areas of oyster and crab harvesting, seafood processing, landscaping, reforestation, and seasonal resorts and other hospitality services.

Furthermore, most of these jobs cannot be automated. What kind of machine will you use to fully landscape a yard, to arrange and plant flowers? Some in the seafood industry already tried to automate parts of crab harvesting, but it was a complete failure.

The machines failed to remove most of the bits of crab shells from the meat, and the consumers flat out rejected it.

As for the criticism that these temporary workers won't leave, a long review of the management of this program reveals otherwise. The employers have successfully ensured that the workers return to their home country. If they don't, employers aren't able to participate in the program next year, and neither are the workers. Most consulates in their home countries require the workers to present themselves personally to prove that they have returned home.

The future success of the H-2B visa program rests on the ability of businesses to participate in it, but right now, many will be denied access to the program for the second year in a row. The bill introduced today helps fix this problem by focusing on three main objectives to help make the H-2B program more effective and more fair.

First, the bill will reward good workers and employers by exempting from the cap H-2B workers who have participated in the program successfully in one of the past three years. These are companies and employees that have faithfully abided by the law, and they have a successful track record of working together.

Second, the bill will make sure that the government agencies processing the H-2B visas have the resources they need to detect and prevent fraud. Starting on October 1, 2005, employers participating in the program will pay an additional fee that will be placed in a Fraud Prevention and Detection account. The Departments of State, Homeland Security, and Labor can use these funds to educate and train their employees to prevent and detect fraudulent visas.

Finally, the bill implements a visa allocation system that is fair for all employers. Half of the 66,000 visas will be reserved for employers needing workers in the winter and the other half will be reserved for companies needing workers for the summer. This provision allows both winter employers and summer employers an equal chance to obtain the workers they desperately need.

These seasonal businesses just can't find enough American workers to meet their business needs. And ultimately, that is why this program is so important. Without Americans to fill these jobs, these businesses need to be able to participate in the H-2B program. The current system isn't treating small and seasonal businesses fairly and must be reformed if we want these employers to stay in business.

In closing, I strongly support this legislation, and I hope my colleagues in the Senate will join with me to help these small and seasonal businesses by passing this legislation as quickly as possible.

Mr. JEFFORDS. Mr. President, I am proud to be a strong supporter and original cosponsor of the Save Our

Small and Seasonal Businesses Act, which is being introduced today. This legislation will ensure that the seasonal businesses in our country have the workers they need to support our economy and enable the economy to flourish.

I would first like to thank Senators MIKULSKI and GREGG for bringing such a large, bipartisan group of Senators together to create this legislative solution. Last year, the United States Citizenship and Immigration Services announced in March that they had received enough petitions to meet the cap on H-2B visas. As a result, they stopped accepting petitions for these temporary work visas halfway through the Federal fiscal year. This announcement was a shock to many businesses around the country that depend on foreign workers to fill their temporary and seasonal positions.

Tourism is the largest sector of Vermont's economy and as a result, many Vermont businesses hire seasonal staff during their winter, summer or fall foliage seasons. Last year, I heard from many Vermont businesses that they were unable to employ foreign workers for their summer and fall seasons because the cap had been reached. Not only was this unexpected, but many of the employees were people who had been returning to the same employer year after year. These employers lost essential staff and, in many cases, well trained, experienced staff.

Many employers told me it is extremely difficult to find Americans to fill these seasonal positions, especially in areas of Vermont where the unemployment rate is less than 2 percent. One Vermont resort only survived Vermont's fall foliage season because of the dedication of their permanent employees. Instead of 35 housekeeping staff, they made do with 8. Staff was asked to work 12 to 14 hours per day, 6 or 7 days per week. At this particular resort, the vice president, general manager, administrative and technology managers, and marketing manager all cleaned rooms. While they are proud of the work of their staff, they believe their business and their personnel will suffer if they are not able to employ seasonal foreign workers again this year. They foresee a devastating effect on the family business they have owned and operated for the past 40 years if they are not able to bring in foreign workers soon.

I have also heard from Vermont businesses that had to lay off or not hire American workers because they could not find enough employees to fill their crews. Without the workers to complete projects, they could not hire or maintain their year-round staff. They also could not bid on projects and many had to scale back their operations. In these instances, the lack of seasonal workers had a direct effect on our economy and the employment of American workers.

As many may know, I believe strongly that American workers must be

given the opportunity to fill jobs and strengthen our nation's workforce. However, the companies I have referred to today, and all of the others that have contacted me, did their utmost to find Americans for the positions available. Efforts to find workers included: working closely with the State of Vermont's Employment and Training office; increasing wages and benefits; and implementing aggressive year-round recruiting.

While many Vermont businesses were able to survive last year, thanks to that old Yankee ingenuity, I am not optimistic about this year. The cap on H-2B visas was reached in early January, barely a quarter of the way through the fiscal year. It is imperative we immediately address this problem in order to prevent further harm to this Nation's small businesses and the economy.

Ms. COLLINS. Mr. President, the recent shortage of H-2B nonimmigrant visas for temporary or seasonal non-agricultural foreign workers is a matter of great concern to many small businesses in my home state of Maine, particularly those in the hospitality sector that rely on these seasonal workers to supplement their local employees during the height of the tourism season.

On January 4, a mere three months into fiscal year 2005, the U.S. Citizenship and Immigration Services, CIS, announced that it would immediately stop accepting applications for H-2B visas because the annual statutory cap of 66,000 visas had been met. In other words, many employers who require temporary workers in the spring, summer, or fall will be unable to hire such workers because all 66,000 H-2B visas already will have been issued within the first few months of the fiscal year. Once again, Maine's employers will be left out in the cold, disadvantaged by the simple fact of their later tourism season.

Without these visas, employers will be unable to hire enough workers to keep their businesses running at normal levels. Last year, unable to locate enough American workers willing and able to take these jobs, and without temporary foreign workers to fill the gap, many business owners were forced to initiate stop-gap measures that were neither ideal nor sustainable in the long term. Many of these businesses fear that, this year, they will have to decrease their hours of operation during what is their busiest time of year. This would translate into lost jobs for American workers, lost income for American businesses, and lost tax revenue from those businesses. These losses will be significant, and they can be avoided.

Today, I am pleased to join Senators MIKULSKI and GREGG, along with several other of my distinguished colleagues, in introducing the Save Our Small and Seasonal Businesses Act of 2005. Similar to legislation that I co-sponsored last year, as well as legisla-

tion that I have introduced in the current Congress, this bill would exclude from the cap returning workers who were counted against the cap within the past 3 years. This legislation also seeks to address the inequities in the current system by limiting the number of H-2B visas that can be issued in the first 6 months of the fiscal year to no more than 33,000 visas, or one half of the total number of visas available under the cap. By allocating visas equally between each half of the year, employers across the country, operating both in the winter and summer seasons, will have a fair and equal opportunity to hire these much-needed workers.

In addition, this legislation includes important new anti-fraud provisions that will strengthen our ability to detect, prevent, and deter, fraud by those who would seek to abuse the H-2B program. These include sanctions for employers who are found to have misrepresented if facts on an H-2B petition, and the creation of a Fraud Prevention and Detection Fee of \$150 for each H-2B petition. Similar to anti-fraud fees charged in other visa categories, funds raised from this fee will be placed in an account with the U.S. Treasury and made available to the agencies involved in processing H-2B visas—CIS, the Department of Labor, and the Department of State—to educate and train employees to recognize and protect against fraud in the visa applicant process.

I believe that this anti-fraud fee serves a worthy goal, and that the government agencies should have the resources they need to ensure the integrity of the H-2B visa application process. However, I am concerned about the impact that a fee of this size, in addition to the filing fees that employers already pay, may have on many smaller businesses. I intend to examine this issue further in order to ensure that smaller businesses are not unfairly impacted by this provision.

We must act quickly on this legislation, or we will be too late to help thousands of American businesses that need our help now. We cannot be content to say: "It's too late for this year; maybe next year." It is true that comprehensive, long-term solutions may be necessary, but we have immediate needs as well. This problem demands immediate solutions.

In my home state of Maine, the economic impact of this visa shortage will be harmful and widespread. When people think of Maine, what often comes to mind is its rugged coastline, picturesque towns and villages, and its abundant lakes and forests. Not surprisingly, tourism is the state's largest industry. Temporary and seasonal workers play an important role in this very important industry.

Unfortunately, there are not enough American workers willing and able to fill the thousands of jobs necessary to provide the level of service that Maine's visitors have come to expect.

Over the years, seasonal workers have filled this gap, becoming an integral part of Maine's tourism and hospitality industry. In Fiscal Year 2003, the last time Maine's employers were able to fully utilize the H-2B program, Maine employed more than 3,000 seasonal workers. The majority of these individuals worked in the State's resorts, inns, hotels, and restaurants. Many are people who have returned to the same employer summer after summer.

Let me emphasize that employers are not permitted to hire these foreign workers unless they can prove that they have tried, and failed, to locate available and qualified American workers through advertising and other means. As a safeguard, current regulations require the U.S. Department of Labor to certify that such efforts have occurred before CIS will process the visa applications. In Maine, as in other States, our state Department of Labor takes the lead in ensuring that employers have taken sufficient steps to try to find local workers to fill the positions. Unless and until more H-2B visas are made available, many seasonal jobs will remain unfilled and American businesses will suffer.

A similar situation faces Maine's forest products industry, which contributes approximately \$5.6 billion annually to Maine's economy. In 2003, more than 600 temporary workers—mostly from Canada—were employed as forestry workers in Maine. Many work in remote areas of the state where there are not enough Americans able to take these jobs. By some estimates, these foreign workers account for as much as 30-40 percent of the wood fiber that supplies paper and saw mills throughout Maine and the Northeast. This number represents roughly 4.8 million tons of wood annually. With an already significant shortage in the wood supply, the loss of these temporary workers poses a serious threat to the industry and to Maine's economy. With fewer workers available to bring wood out of the forest and into mills, supplies will dwindle, prices will continue to rise, and mills may be forced to curtail production, or even temporarily discontinue operations. If this happens, it is American workers that may lose their jobs.

The effects of the H-2B visa shortage are not limited to the tourism and forest products industries, however. It will also be felt by fisheries and lobstermen, junior league hockey and minor league baseball teams. It will affect small businesses and large, visitors and locals, young and old, from Maine to Maryland, to Wyoming and Alaska.

Mr. President, the shortage of non-immigrant temporary or seasonal worker visas is a problem that must be addressed, and soon. I believe that this legislation offers a workable short-term solution, and I urge us to move forward. We must resist the tendency to let this problem, and the people who are affected by it, become entangled in the larger debate about our Nation's

immigration policies. This is not about the number of immigrants we should allow to come to the United States each year, or what to do with those who violate our immigration laws. It is about temporary workers who, for the most part, respect our laws, go home at the end of their authorized stay, and in many cases, return again next year to provide services that benefit our Nation's economy. It is about American businesses that rely on these workers to take jobs that many Americans do not want. It is about the economic impact that will be felt across the Nation if these businesses are unable to hire temporary workers. We need to solve this problem now, before it is too late and our economy is harmed and jobs lost.

Mr. SARBANES. Mr. President, I rise in support of the Save Our Small and Seasonal Businesses Act being introduced by Senator MIKULSKI today. This legislation offers a measured approach to provide needed relief to the many small businesses that have been struggling to find enough employees to operate during seasonal spikes in workload. Small businesses that are seasonal often need a large number of employees for a short portion of the year, but cannot afford to retain the same number of people as full-time, year-round employees. They instead must rely on temporary workers to fill the gap in their high season. In my home State of Maryland, for example, our seafood processors are busy in the summer and early fall, but have very little work in the winter. To accommodate this changing need, they hire college students and local residents as extra workers in the summer. But even with those workers they often find themselves short-staffed. So they turn to temporary employees who are willing to leave their home countries for a few months to come to the U.S. and work.

Specifically, the bill being introduced today will allow anyone who has had an H-2B visa for one of the last 3 years to return this summer or next if an employer petitions for them to do so. Importantly, employers still must demonstrate that they have tried and failed to find available, qualified U.S. citizens to fill these jobs before they file an H-2B visa application. In addition, the bill would ensure that our summer employers are not disadvantaged by allowing no more than half of the 66,000 visas to be allocated in the first half of the year. Finally, the bill imposes antifraud fees on employers who willfully misrepresent any statement on their H-2B petition and requires the Department of Homeland Security to file reports on the demographics of those utilizing the H-2B program.

Any changes to our immigration laws must balance the interests of U.S. citizens and our economy while providing a fair, legal framework for those seeking to come to our Nation from other countries. For example, our current immigration laws already contain sev-

eral general reasons an alien seeking admission into the United States may be denied entry: security and terrorist concerns, health-related grounds, criminal history, public charge, i.e., indigence, seeking to work without proper labor certification, illegal entry and/or immigration law violations, lack of proper documents, ineligibility for citizenship, and previous removal. Ensuring the safety of our country requires preserving these categories.

This legislation would leave this existing framework intact. It simply provides a fair and equitable means of distributing a very scarce number of visas so that all employers who require extra assistance during one season of the year may obtain that assistance. We must resist the temptation to let the H-2B situation and the small businesses affected by it become entangled in the larger debate over immigration reform. Workers who use H-2B visas come to the U.S. for a temporary period of time and are required to leave when that time period has run. These workers respect our laws, work hard, provide services that benefit our economy, and then return to their families at the end of the season. For their sake and that of the small, seasonal businesses that rely on them, we need to resolve this H-2B crisis soon.

Without this fix, our seafood processors cannot operate at full capacity. That becomes a problem for the rest of the seafood industry, including our watermen, who will be forced to curtail their fishing because of an insufficient number of locations to process their catches. In the end, the people who suffer are not the seafood processors or the temporary workers but the watermen who cannot feed their families. This bill provides the assistance necessary to keep our watermen, seafood processors, and a number of other industries such as landscapers, pool operators, and summer camps working at full capacity this summer. I urge my colleagues to support its passage.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 353. A bill to amend the Water Resources Development Act of 1999 to direct the Secretary of the Army to provide assistance to design and construct a project to provide a continued safe and reliable municipal water supply system for Devils Lake, to the Committee on Environment and Public Works.

Mr. CONRAD. Mr. President, I rise today to introduce legislation to authorize the U.S. Army Corps of Engineers to construct a new municipal water supply system for the city of Devils Lake, ND. This project is very important to the reliability of the water supply for the residents of Devils Lake and is needed to mitigate long-term consequences from the rising flood waters of Devils Lake.

As many of my colleagues know, the Devils Lake region has been plagued by a flooding disaster since 1993. During

that time, Devils Lake, a closed basin lake, has risen 25 feet, consuming land, destroying homes, and impacting vital infrastructure. As a result of this disaster, the city of Devils Lake faces a significant risk of losing its water supply. Currently, six miles or approximately one-third of the city's 40-year-old water transmission line is covered by the rising waters of Devils Lake. The submerged section of the water line includes numerous gate valves, air relief valves, and blow-off discharges.

All of the water for the city's residents and businesses must flow through this single transmission line. It is also the only link between the water source and the city's water distribution system. Since the transmission line is operated under relatively low pressures and is under considerable depths of water, a minor leak could cause significant problems. If a failure in the line were to occur, it would be almost impossible to identify the leak and make necessary repairs, and the city would be left without a water supply.

The city is in the process of accessing a new water source due both to the threat of a transmission line failure and the fact that its current water source exceeds the new arsenic standard that will take effect in 2006. The city has worked closely with the North Dakota State Water Commission in identifying a new water source that will not be affected by the rising flood waters and will provide the city with adequate water to meet its current and future needs.

The bill I am introducing today will authorize the Corps to construct a new water supply system for the city. I believe the Federal Government has a responsibility to assist communities mitigate the adverse consequences resulting from this ongoing flooding disaster. In my view, the Corps should be responsible for addressing the unintended consequences of this flood and mitigate its long-term consequences. This bill will help the Federal Government live up to its responsibility and ensure that the residents of Devils Lake have a safe and reliable water supply. I urge my colleagues to review this legislation quickly so we can pass it this year.

By Mr. DORGAN (for himself and Mrs. CLINTON):

S. 355. A bill to require Congress to impose limits on United States foreign debt, to the Committee on Foreign Relations.

Mr. DORGAN. Mr. President, there are many issues we confront these days that are significant and serious. I wanted to bring one to the attention of the Chamber as I introduce legislation.

I send a bill to the desk and ask for its appropriate referral on behalf of myself and Senator CLINTON.

The PRESIDING OFFICER. The bill will be received and appropriately referred.



Mr. DORGAN. Mr. President, this legislation deals with trade. Let me describe what was announced this morning by the administration.

Last year's trade deficit was \$618 billion. You can see from this chart what has happened in the last 8 or 9 years. Our trade deficit has gone in the red by a dramatic amount, ending up at \$618 billion for 2004.

What does that mean? That means we purchased from other countries \$618 billion worth of goods more than we sold to other countries. In other words, every single day, 7 days a week, \$1.8 billion leaves this country and goes into foreign hands to pay for goods that we purchased from abroad.

As a result, foreign entities have \$2.5 trillion worth of claims against our assets, our property, our stocks, and our assets. We are, with our trade policies, selling America.

With China alone, we have a \$161 billion trade deficit. This is unbelievably out of balance. We purchase China's trinkets, trousers, shirts, and shoes. Now they're making plans to ship Chinese automobiles to this country.

By the way, as I told my colleagues before, in the last trade agreement with China we agreed they could charge a tariff on imported U.S. cars which is 10 times higher than the tariff we can charge on Chinese cars sold in the United States.

Who did that? I don't know; some trade negotiator.

It is the same old story with cars from China, cars from Korea, wheat to China, beef to Japan. It is the same old story.

I mentioned to my colleagues many times what Will Rogers said in the 1930s: "The United States of America has never lost a war and never won a conference." He said we can't send negotiators to Costa Rica and come back with our shirts on. He surely must have been thinking about the people who had been negotiating trade agreements that resulted in these kinds of deficits.

Now our trade deficit on a yearly basis is over 5 percent of our gross domestic product. Who holds this debt? Japan holds \$715 billion of asset claims against our country, and China, \$191 billion.

Does anybody think this is healthy for our country? This kind of trade deficit and combined trade debt is going to injure America's future economic growth and continue to accelerate the movement of U.S. jobs overseas. That is what is behind all of these numbers.

American corporations in recent decades have discovered that you can move technology and capital at the speed of light. And they have discovered there are a billion people in other parts of the world who are willing to work for 30 cents an hour. When you can ship technology and capital to someone overseas willing to work for 30 cents an hour, you begin to hollow out the manufacturing sector in this country.

The news this morning of the largest trade deficit in the history of this

country is sober news. This town will sleep through it once again. The White House will sleep through it, and so will the Congress. It doesn't matter much to most people.

We have a debt limit in this country that says once the government borrows a certain amount, we have to have a debate, and vote on it. Otherwise, you can't go any further.

But there is no trade debt limit. Whatever the trade debt is, it is. Katy bar the door, no matter how high it is. There is no requirement to do anything about it.

The legislation I introduced, along with my colleague Senator CLINTON, will establish a trade debt limit and a trade deficit limit. When the trade deficit exceeds 5 percent of our gross domestic product, then it requires certain things. It is an alarm clock that requires the administration's trade review group to have an emergency meeting, and within 45 days the administration and the trade ambassador have to submit to Congress a plan to reduce the trade deficit.

Somebody someplace, someday, some way has to decide the current situation can't continue. This is all about jobs and future economic opportunity. This is real, and it is immediate. And we have to do something about it.

That is why we have introduced this legislation. This country has been in a deep sleep about an abiding trade problem in which we link with other countries in bilateral agreements. In almost every case these are not mutually beneficial. Instead, the agreements are beneficial to them and detrimental to us. Yet, we have people on street corners chanting "free trade."

I think trade is fine, I think fair trade is important, and I think expanding trade is valuable. But I believe free trade, if it means a trade agreement which undercuts this country's ability to compete, free trade which pulls the rug out from under our workers, and establishes conditions under which we cannot compete, is wrong for this country.

I will not go through again the list of issues of potato flakes going to Korea, beef to Japan, wheat to China. I could go through dozens of them. I will not do that again today. My point is that at some point somebody has to have the backbone and the will and the nerve to stand up for this country's economic interests. That has not been done for a long while. It needs to be done now because this trade deficit has reached crisis proportions.

One final chart: Some said that last month the trade deficit was actually a little better than the month before. This is a town of warped reality on a lot of issues. Let me describe what has happened to our trade deficit month by month since 1998. It does not take a sharp eye to see what is happening.

This trade deficit is growing. It is dangerous. It is harmful to the long-term economic interests of this country. We have to do something about it.

By Mr. BINGAMAN (for himself, Mrs. HUTCHISON, Mr. NELSON of Florida, Mrs. CLINTON, and Mr. MARTINEZ):

S. 357. A bill to expand and enhance post baccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the next generation of Hispanic Serving Institutions legislation. This legislation is critical if we, as a Nation, are going to continue to compete in a global economy. Education is the key to building a strong and dynamic economy, and therefore, it is our obligation to ensure quality educational opportunities for all Americans. That is why I am introducing, along with my colleague Senator HUTCHISON, the Next Generation Hispanic Serving Institutions Act of 2005. This legislation is supported by the Hispanic Education Coalition, an ad hoc coalition of national organizations dedicated to improving educational opportunities for more than 40 million Hispanics living in the United States, including groups like National Council of La Raza, HACU, and MALDEF. Senators BILL NELSON and CLINTON have joined in this effort as cosponsors.

According to Census Bureau data, Hispanic population in the United States grew by 25.7 million between 1970 and 2000 and continues to grow at a very brisk pace. The most recent census data puts the Hispanic population at over 40 million, representing approximately 14 percent of the U.S. population and making it the Nation's largest minority group. Estimates project that the Hispanic population will grow by 25 million between 2000 and 2020. By the year 2050, 1 in 4 Americans will be of Hispanic origin.

Currently, Hispanics make up about 13 percent of the U.S. labor force. While the overall labor force is projected to slow down over the next decades as an increasing number of workers reach retirement age, the Hispanic labor force is expected to continue growing at a fast pace. It will expand by nearly 10 million workers between now and 2020, through a combination of immigration and native-born youth reaching working age.

Our Nation's economic and social success rests, in large part, on the level of skills and knowledge attained by our Hispanic population.

I was one of the authors and lead supporters of the original Hispanic Serving Institutions proposal when it was enacted as part of the Higher Education Act in 1992 in order to increase educational opportunities for Hispanic students. Since then, Hispanic-Serving Institutions, HSIs, have made significant strides in increasing the number of Hispanic students enrolling in and graduating from college. Although Hispanic-serving institutions account for only 5 percent of all institutions of higher education in the United States,

HSIs enroll over half, 51 percent, of all Hispanics pursuing higher education degrees in the 50 States, the District of Columbia and Puerto Rico.

While Hispanic high school graduates go on to college at higher rates than they did even ten years ago, Hispanics still lag behind their non-Hispanic peers in postsecondary school enrollment. In 2000, only 21.7 percent of all Hispanics ages 18 through 24 were enrolled in postsecondary degree-granting institutions in the United States.

We must take HSIs to the next level. While the percentage of Hispanics attending college has increased significantly over the past few years, Hispanic students are disproportionately enrolled in 2-year colleges, and are much less likely to finish college than their non-Hispanic peers. In 2001, only slightly more than 1 in 10 Hispanics ages 25 years and over had received a bachelor's degree or higher.

According to the Department of Education, in 2000, Hispanics only earned 6 percent of all bachelor's degrees awarded, 4 percent of all master's degrees, and only 3 percent of all doctorates. But the pace of bachelor's degrees or higher earned by Hispanics is accelerating rapidly, according to the Department of Education. Therefore, we must keep pace. We must increase the capacity of our institutions of higher education to serve the increasing number of Hispanic students.

The Next Generation HSI bill does just that. Simply, this legislation will improve educational opportunities for Hispanic students by establishing a competitive grant program to expand post-baccalaureate degree opportunities at HSIs, and by eliminating unnecessary and burdensome administrative requirements HSIs must contend with.

Current law only provides support for 2-year and 4-year Hispanic Serving Institutions. This legislation will support graduate fellowships and support services for graduate students, facilities improvement, faculty development, technology and distance education, and collaborative arrangements with other institutions. This legislation will build capacity and establish a long overdue graduate program for HSIs.

In addition, current law places a number of unnecessary, burdensome administrative and regulatory barriers at the gates of our HSIs. If our goal is to increase educational opportunities for all students, and particularly Hispanic students, then we must eliminate bureaucratic barriers that impede access.

Accordingly, this legislation removes a 2-year period in which HSIs must wait before becoming eligible to apply for another grant under title V of the Higher Education Act. This 2-year wait out period obstructs the efforts of many HSIs to implement continuing programs and conduct long range planning. As a result, many HSIs cannot maintain continuity in educational programming. We should be creating opportunities to improve the quality of

education, and eliminating this wait-out period is a step in the right direction.

In addition, this bill eliminates another onerous requirement on HSIs that other minority-serving institutions are not required to follow. Currently, in order to be eligible as an HSI, the institution must serve "needy students"—meaning at least 50 percent of the degree students are receiving Federal need-based assistance or the institution's percentage of Pell Grant recipients exceeds the median percentage for similar institutions receiving Pell Grants. Also, to be eligible, 25 percent of the full time, undergraduate population must be Hispanic. However, unlike other grant programs in the Higher Education Act, HSIs must also show that 50 percent of the Hispanic population is low income.

This last requirement is particularly burdensome, as it is duplicative and unfair, and, in many cases, prevents HSIs from providing vital educational services to Hispanic students. This provision requires the institutions to collect information and data that is not readily available or easily acquirable. It requires the schools to come up with data beyond what is required for financial aid purposes. Further, there is no other requirement in Federal law for institutions to collect this type of data. As a result, many institutions with large Hispanic student populations must divert critical resources and staff to acquire this information, or they simply do not qualify as an HSI.

To ensure that the institution continues to serve low-income students, the Next Generation HSI Act maintains the requirement that the institution serve needy students, but eliminates the additional requirement that the school demonstrate that 50 percent of its Hispanic students are low-income. The elimination of this requirement will ease the administrative burdens placed on our schools, and further our goals of increasing access and improving quality.

Finally, this bill facilitates the transition of Hispanic students from 2-year colleges to 4-year colleges. As I noted earlier, Hispanics are disproportionately enrolled in 2-year colleges as compared to their non-Hispanic peers. To encourage and support these students' continued education, this legislation adds as an authorized activity programs that assist a student's transfer from a 2-year institution to a 4-year institution.

Hispanic students now account for nearly 17 percent of the total kindergarten through grade 12 student population. Estimates project that this student population will grow from 11 million in 2005 to 16 million in 2020. We must provide our institutions of higher education with the resources and flexibility they need to build capacity and serve the increasing Hispanic student population. We must be ready for the next generation of students to meet

the demands of a competitive workforce and to fully participate in the global economy. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 357

*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 "Next Generation Hispanic Serving Institutions Act".

**TITLE I—GRADUATE OPPORTUNITIES AT HISPANIC-SERVING INSTITUTIONS**

**SEC. 101. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.**

(a) ESTABLISHMENT OF PROGRAM.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 the following:

**"PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS**

**"SEC. 511. FINDINGS AND PURPOSES.**

"(a) FINDINGS.—Congress finds the following:

"(1) According to the United States Census, by the year 2050, 1 in 4 Americans will be of Hispanic origin.

"(2) Despite the dramatic increase in the Hispanic population in the United States, the National Center for Education Statistics reported that in 1999, Hispanics accounted for only 4 percent of the master's degrees, 3 percent of the doctor's degrees, and 5 percent of first-professional degrees awarded in the United States.

"(3) Although Hispanics constitute 10 percent of the college enrollment in the United States, they comprise only 3 percent of instructional faculty in college and universities.

"(4) The future capacity for research and advanced study in the United States will require increasing the number of Hispanics pursuing postbaccalaureate studies.

"(5) Hispanic-serving institutions are leading the Nation in increasing the number of Hispanics attaining graduate and professional degrees.

"(6) Among Hispanics who received master's degrees in 1999–2000, 25 percent earned them at Hispanic-serving institutions.

"(7) Between 1991 and 2000, the number of Hispanic students earning master's degrees at Hispanic-serving institutions grew 136 percent, the number receiving doctor's degrees grew by 85 percent, and the number earning first-professional degrees grew by 47 percent.

"(8) It is in the national interest to expand the capacity of Hispanic-serving institutions to offer graduate and professional degree programs.

"(9) Research is a key element in graduate education and undergraduate preparation, particularly in science and technology, and Congress desires to strengthen the role of research at Hispanic-serving institutions. University research, whether performed directly or through a university's nonprofit research institute or foundation, is considered an integral part of the institution and mission of the university.

"(b) PURPOSES.—The purposes of this part are—

"(1) to expand postbaccalaureate educational opportunities for, and improve the

academic attainment of, Hispanic students; and

“(2) to expand and enhance the postbaccalaureate academic offerings of high quality that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and low-income individuals complete postsecondary degrees.

**“SEC. 512. PROGRAM AUTHORITY AND ELIGIBILITY.**

“(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award competitive grants to eligible institutions.

“(b) ELIGIBILITY.—For the purposes of this part, an ‘eligible institution’ means an institution of higher education that—

“(1) is a Hispanic-serving institution (as defined under section 502); and

“(2) offers a postbaccalaureate certificate or degree granting program.

**“SEC. 513. AUTHORIZED ACTIVITIES.**

“Grants awarded under this part shall be used for 1 or more of the following activities:

“(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

“(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

“(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

“(4) Support for needy postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

“(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

“(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

“(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

“(8) Other activities proposed in the application submitted pursuant to section 514 that—

“(A) contribute to carrying out the purposes of this part; and

“(B) are approved by the Secretary as part of the review and acceptance of such application.

**“SEC. 514. APPLICATION AND DURATION.**

“(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as determined by the Secretary. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to such students’ greater financial independence.

“(b) DURATION.—Grants under this part shall be awarded for a period not to exceed 5 years.

“(c) LIMITATION.—The Secretary may not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution.”

(b) COOPERATIVE ARRANGEMENTS.—Section 524(a) of the Higher Education Act of 1965 (as

redesignated by subsection (a)(2)) is amended by inserting “and section 513” after “section 503”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 528(a) of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended to read as follows:

“(a) AUTHORIZATIONS.—

“(1) PART A.—There are authorized to be appropriated to carry out part A of this title \$175,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 4 succeeding fiscal years.

“(2) PART B.—There are authorized to be appropriated to carry out part B of this title \$125,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 4 succeeding fiscal years.”

(d) CONFORMING AMENDMENTS.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) in section 502—

(A) in subsection (a)(2)(A)(ii), by striking “section 512(b)” and inserting “section 522(b)”;

(B) in subsection (b)(2), by striking “section 512(a)” and inserting “section 522(a)”;

(2) in section 521(c)(6) (as redesignated by subsection (a)(2)), by striking “section 516” and inserting “section 526”;

(3) in section 526 (as redesignated by subsection (a)(2)), by striking “section 518” and inserting “section 528”.

**TITLE II—REDUCING REGULATORY BARRIERS FOR HISPANIC-SERVING INSTITUTIONS**

**SEC. 201. DEFINITIONS.**

Section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by inserting “and” after the semicolon;

(B) in subparagraph (B), by striking “; and” and inserting a period; and

(C) by striking subparagraph (C); and

(2) by striking paragraph (7).

**SEC. 202. AUTHORIZED ACTIVITIES.**

Section 503(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1101b(b)(7)) is amended to read as follows:

“(7) Articulation agreements and student support programs designed to facilitate the transfer from 2-year to 4-year institutions.”

**SEC. 203. ELIMINATION OF WAIT-OUT PERIOD.**

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended to read as follows:

“(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.”

**SEC. 204. APPLICATION PRIORITY.**

Section 521(d) of the Higher Education Act of 1965 (as redesignated by section 101(a)(2)) is amended by striking “(from funds other than funds provided under this title)”.

Mrs. HUTCHISON. Mr. President, I rise today to introduce a bill that will amend the Higher Education Act of 1965 to revise provisions for Hispanic-serving institutions, HSIs, under Title V, Developing Institutions. The changes will expand opportunities in postgraduate education, an essential part of our economy that enables our workforce to maintain the knowledge that keeps our nation at the forefront of science and technology.

The bill will establish a program of competitive grants for HSIs that offer post-baccalaureate certifications or degrees. Grants will support graduate fellowships, services for students, facilities improvement and faculty development, among other things. It author-

izes \$125 million in grants for fiscal year 2006, and will reduce red tape by eliminating the requirement that an HSI certify half of its students are low-income, thus making it easier for students to transfer from two to four year colleges.

According to the 2000 Census, Hispanics represent the nation’s largest minority population. Unfortunately, too few graduate from high school or college, despite being the fastest-growing ethnicity in that age group. We need more resources to support Hispanic educational opportunities. Hispanic-Serving Institutions are currently educating 51 percent of the 457,000 Hispanic higher education students in the United States. Although HSIs account for 5 percent of all institutions of higher education, almost one-half of the 1.5 million Hispanic students currently in college programs attend them.

Between 1991 and 2000, the number of Hispanics earning master’s degrees grew 136 percent and the number of doctor’s degrees grew 85 percent. Our Nation’s economic strength and prosperity will depend on the knowledge, skills, and leadership of a population that already makes up one of three new workers joining the U.S. labor force today.

As a member of the Senate Appropriations Committee, I have been committed to increasing federal support of HSIs. Since 1995, Title V funding has increased from \$12 million to \$95 million in fiscal year 2005. I believe this is an important investment to ensure our nation’s youngest and largest ethnic population has access to the educational opportunities needed to excel.

Because I believe the success of Hispanic students will play a critical role in determining this country’s future, I am proud to offer this bill that will improve options for graduate and postgraduate study, and I urge my colleagues to support it. Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

By Mr. DURBIN (for himself, Mr. SPECTER, Mr. BYRD, Mr. ROCKEFELLER, Mr. COCHRAN, Ms. MIKULSKI, Mr. BAYH, and Mr. SARBANES):

S. 358. A bill to maintain and expand the steel import licensing and monitoring program; to the Committee on Finance

Mr. DURBIN. 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. 358

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

**SECTION 1. MAINTENANCE AND EXPANSION OF STEEL IMPORT LICENSING AND MONITORING PROGRAM.**

(a) MAINTENANCE OF PROGRAM.—The steel import licensing and monitoring program established by the Secretary of the Treasury

and the Secretary of Commerce pursuant to the Memorandum signed by the President on March 5, 2002 (67 Fed. Reg. 10593 through 10597) (pursuant to the authority of the President under section 203(g) of the Trade Act of 1974), shall, notwithstanding any other action taken by the President under section 203 of the Trade Act of 1974 concerning the steel products described in the Memorandum, remain in effect and be established by the Secretary of Commerce as a permanent program.

(b) EXPANSION OF PROGRAM.—

(1) IN GENERAL.—In carrying out the program in accordance with subsection (a), the Secretary of the Treasury and the Secretary of Commerce shall expand the program to include all iron and steel, and all articles of iron or steel, described in paragraph (2). The import and licensing data made available to the public as part of this program shall be released based upon classifications at the tenth digit level of the Harmonized Tariff Schedule of the United States.

(2) IRON AND STEEL DESCRIBED.—The iron and steel, and articles of iron or steel, referred to in subparagraph (A) are the iron and steel, and articles of iron or steel, contained in the following headings and subheadings of the Harmonized Tariff Schedule of the United States:

(A) Each of the headings 7206 through 7229 (relating to mill products).

(B) Each of the headings 7301 through 7307 (relating to rails, structurals, pipe and tubes, and fittings and flanges).

(C) Heading 7308 (relating to fabricated structurals).

(D) Subheading 7310.10.00 (relating to bars and drums).

(E) Heading 7312 (relating to strand and rope).

(F) Heading 7313.00.00 (relating to barbed and fence wire).

(G) Headings 7314, 7315, and 7317.00 (relating to fabricated wire).

(H) Heading 7318 (relating to industrial fasteners).

(I) Heading 7326 (relating to fence posts).

(c) ADDITIONAL AUTHORITY.—The Secretary of the Treasury and the Secretary of Commerce are hereby authorized and directed to take such actions as are necessary—

(1) to maintain the program described in subsection (a) in accordance with such subsection; and

(2) to expand, as necessary and appropriate, such program in accordance with subsection (b).

By Mr. CRAIG (for himself, Mr. KENNEDY, Mr. HAGEL, Mr. SPENCER, Mr. LAUTENBERG, Mr. VOINOVICH, Mr. SCHUMER, Mr. LUGAR, Mr. DURBIN, Mr. COLEMAN, Mr. KERRY, Mr. MCCAIN, Mr. DODD, Mr. COCHRAN, Mr. DOMENICI, Ms. CANTWELL, Mr. DEWINE, Mr. LIEBERMAN, Mr. BURNS, Mrs. BOXER, Mr. ROBERTS, Mr. LEAHY, Mr. HATCH, Mr. AKAKA, Mr. LOTT, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. LEVIN, Mr. STEVENS, Mr. WYDEN, Mr. MARTINEZ, Mr. SALAZAR, Mr. CHAFEE, and Mrs. MURRAY):

S. 359. A bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working

conditions to more workers, and for other purposes; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I have introduced what I believe to be a very important piece of legislation that the Senate will consider this year, dealing with an issue that is certainly on the minds of many Americans and No. 1 on the minds of some Americans. It is on the question of immigration reform and dealing with it in an appropriate fashion, to create a transparency in the process, and to begin to end and identify the 8 million to 12 million undocumented foreign nationals currently in our country.

Over the last 5 years, I have worked in a bipartisan way with many of my colleagues, and literally hundreds of organizations around the country, in focusing on a specific area of immigration, and that is the H-2A area, or those who work in agricultural employment.

What we have discovered over the course of time is a broken system, which in large part now allows the possibility of well over a million foreign nationals working illegally in this country, but working in an economy where they are desperately needed to bring the food products from our fields, to process those products and put them on the shelves of the American consuming public. As a result of that great concern, I, working with my colleague Senator TED KENNEDY in the Senate, with Congressman HOWARD BERMAN and Congressman CHRIS CANNON over in the House for some time, have produced legislation that brings all sides of this very diverse and oftentimes very contentious issue together, to therefore be able to offer tonight a piece of legislation that has at this moment nearly 40 Members of the Senate, Democrats and Republicans, supporting it; whereas last year, identical legislation had over 63 Senators, and we believe we will have that same support again this year.

Americans, after 9/11, cried out to the Congress and to our Government, saying: What is wrong? Why were people allowed to come to our country who then turned on us to kill our citizens? Why did we let that happen?

Well, we learned that the immigration policies of our country were largely broken and that the Congress, over years and years, had turned its back on the issue, either not funding immigration appropriately or not enforcing the laws already on the books regarding immigration.

As a result of that, it is now estimated that there are between 8 million to 12 million foreign nationals living in this country, the vast majority of them working and living in law-abiding, peaceful ways, but working here to better themselves and their families for their own human well-being. We did find out there were a few who were here to do evil things to Americans.

In the legislation I bring to the floor tonight, in legislation we call the Agri-

cultural Job Opportunity Benefit and Security Act, I focus rather narrowly on what is believed to be about 1.6 million of the total number, to recognize that clearly the vast majority of them are here for peaceful purposes, to better themselves and their families, and, in the meantime, cause American agriculture to work as effectively and efficiently as it does.

Oftentimes, these men and women do work that American citizens do not want to do or will not do—toiling in the hot fields of American agriculture day in and day out, dirty, tough work, but seeing it as an opportunity for themselves and an opportunity for their children to have a better life.

In so failing to recognize that need, we have oftentimes caused them to live in the back alleys and the shadows of America in an illegal status, but we still rely heavily on them for the services they provide.

Americans need and expect a stable, predictable, legal workforce in American agriculture, and consumers in our country deserve a safe, stable, domestic food supply. Willing American workers deserve a system that puts them first in line for the jobs that are available with a fair market wage, and our legislation does that. All workers deserve decent treatment and protection of basic rights under the law, and our legislation does that. American citizens and taxpayers deserve secure borders, a safe homeland, and a government that works, and our legislation helps accomplish those three very important goals.

Yet we are threatened on all fronts because of a growing shortage now of legal workers in American agriculture. Last year, in 2 of the 12 months, we were net importers of agricultural food products. For the first time in the history of our country that happened. I grew up being told—and most of us did—that because of our great American agriculture always being able to feed us, we were a secure, safe nation, and our food supply was such that we would never be dependent upon foreign interests to feed the American consumer.

Last year it happened 2 out of 12 months that we grew dependent. This year, USDA tells us that we will break even at about 50-50. There will be no surplus agriculture trade. We will be importing as much as we are exporting, and that will be a historic first for our Nation.

What it tells me, as someone who grew up in American agriculture, is that agriculture as an economy is becoming increasingly fragile. It no longer has the strength or the dynamics it once had. It grows increasingly dependent on the high cost of inputs—energy, equipment, other supplies necessary to produce the bounty of the American farm field. But one of those key inputs is labor—labor that is stable, labor that you know will be there, and, most importantly, labor that can get the job done at the right time,

when the crop in the field is ripe and ready to harvest.

That labor pool is largely undocumented today. It is estimated that anywhere from 72 to 75 percent of those who work in American agriculture today are undocumented foreign nationals; in other words, illegal. And yet they toil in the fields, they pick our food, they help prepare it through the processing plants to get it to the consumer's shelf.

If in our effort to protect our borders and to create a law enforcement community that can apprehend a person who has entered this country illegally, if all of that happens and we do not create a system that stabilizes and provides a legal foreign national workforce, we could literally collapse American agriculture.

We are working at trying to protect our borders. We have invested heavily in it for the last good number of years. We just passed an intelligence reform bill in the latter part of the last session of the 108th Congress dealing closely with our borders. Members on the House side are ready to introduce new forms of legislation to tighten up and allow the driver's license to become a more secure legal documentation—an American citizen versus one who would not be.

I support nearly all of those things because they are the right thing to do for America to reclaim herself and to control her borders. But at the same time, there is a legitimate and responsible need to recognize the importance—the critical importance—of foreign nationals in our workforce helping to provide for our economy.

In the late nineties, we were near 100-percent employment in our country. Anyone who wanted to work could work and was working. Those who were not probably either did not want to or could not. Yet during that time, we were still employing an estimated 8 million foreign nationals in our country. That is not a negative, that is the character of a great country. That is the character of a great economy and a strong economy.

It is also that diversity that has produced the great American way, the idea of the American dream, the phenomenal hybrid vigor of a diverse character that is this country and has always been. And American agriculture has been a part of that. Those who toil in American agriculture have been a big part of that.

What we do today by this legislation is reach out and attempt to recognize those who are here in an undocumented way and cause them to come forward to be recognized, to have a background check done, to make sure they are not law violators or felons who are here for some other purpose. If they have been here and worked a period of 100 days since January 1, 2005, we will provide for them a temporary green card and then allow them to work and earn the right for permanent work status in our country.

To me, that seems fair and responsible. All of the parties involved in American agriculture today from the workforce to the producer themselves, they, too, agree that is a fair and responsible fashion. It is not giving anything away. It is attempting to correct a problem. It is doing the background checks. It is making sure we have a legal and legitimate workforce so that as we plug all of these holes and change the character of a broken immigration law, we do so without collapsing the very economy that feeds our country, recognizing that they became too dependent as agricultural producers on a workforce that was not legal.

So we do not just wipe the workforce away. We attempt to identify it, shape it, and cause it to be legal and do so in a responsible fashion. That is clearly what our legislation does. That is why 63 Senators supported it last year, and well over 100 in the House were cosponsors of it. We are working hard at this very moment to pass this legislation, to get it to the President's desk, and recognize that it may be a template, it may be a pilot for others to look at for a more comprehensive approach toward immigration reform.

There is no question in my mind that our immigration laws are broken, and I am not going to stand here tonight and suggest I have the wisdom to fix it all. But I and others and hundreds of organizations and interest groups from around this country have spent the last 5 years trying to solve this problem.

When we started, many of us were 180 degrees apart. Slowly but surely we came together out of need, the clear recognition of the necessity of providing a legal, recognizable, and stable workforce for American agriculture.

I do not think any citizen in our country would sleep well if they knew that a majority of our foodstuffs were imported, if they knew that we were dependent upon foreign nations and their producers for our food supply.

I think they would grow frustrated over the risk that would be at hand there, the stability, the availability, the safety issue. Many have suggested that if we are going to have a terrorist attack again some day, one of the approaches terrorists might use would be to attack our food supply.

If we control our workforce, if we produce it here, the possibility of that happening is considerably lessened. That goes right back to the old historic belief that a nation that can feed itself and its people is a nation that is inherently stable, and without question the produce of the American farm has allowed us to be that generation after generation, war after war.

We are now at a very fine point and balance in our Nation's history where this year we will zero out that old historic belief of stability. We will be importing as much as we are exporting. So American agriculture deserves our attention.

The people who labor there deserve our attention and respect. They de-

serve to be treated fairly as we would expect all people in our country to be, to have proper conditions and proper wages and to be recognized for the quality of work they do, instead of simply shoving them into the shadows in the back streets of America and denying they are there but knowing that we need them. That is an interesting contradiction in the current immigration laws in our country and America knows it and has reacted accordingly.

It is why our President says immigration reform is critical and necessary and has proposed ways to accomplish it. It is why it is in the top list of issues and concerns that most Americans hold about what Government ought to be doing to create a safer, stronger America, from controlling our borders to an effective law enforcement system, to assuring that we know those who are within our borders and why they are here and what their intent is. That is all part of the agricultural jobs bill we introduce tonight, the Agricultural Job Opportunity Benefit and Security Act of 2005.

I am proud that 40 Senators, nearly 50-50 in partisan split, have already endorsed this legislation. We will strive for that number of 60-plus again. In doing so, I will ask my colleagues to help us bring this bill to the floor very early in this session, to debate it, to pass it out, to work with our House colleagues and to put it on the President's desk. I believe it is a positive and necessary start in marching down the road toward comprehensive immigration reform.

To do anything less than we are proposing is once again to do the very thing we have done for well over a decade, and that is to turn our back on the problem and the issue, to know it is there but to deny it exists, and then to have a broken system produce the crisis that occurred on 9/11.

We are a better country than that, and this Senate is a more responsible legislative body than that.

So tonight I bring to my colleagues what I think is a major first step in immigration reform necessary and important to protecting our borders, to making sure we are secure at home, to stabilizing a food supply, to assuring that American agriculture has a predictable, stable workforce, and to say to all at hand that those who come here to toil, in the benefit of the American economy, will be treated in a fair, just, and responsible way.

I yield the floor.

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

S. 360. A bill to amend the Coastal Zone Management Act; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Coastal Zone Enhancement Reauthorization Act of 2005. I am pleased to have worked with my cosponsor, Senator KERRY, in developing this bill, which will enable our

Nation to improve the way we manage our valuable, yet vulnerable, coastal resources.

More than three decades ago, Congress enacted the Coastal Zone Management Act of 1972, or CZMA, in response to concerns over growing threats to our Nation's coastal environments and resources. While this act has been instrumental in facilitating better coastal planning and management, the September 2004 Final Report of the U.S. Commission on Ocean Policy reminded us that the pressures facing our coastal regions have greatly increased since the CZMA was enacted.

America's coastal zone comprises only 17 percent of the contiguous U.S. land area, yet nearly 53 percent of all Americans live in these coastal areas. Attracted by economic opportunity as well as beaches and other recreational amenities, more than 3,600 people are moving to this area each year. This relatively small portion of our country supports approximately 361 sea ports, including most of our largest cities. At the same time, it provides critical habitat for a variety of plants and animals, ranging from rare microscopic organisms to commercially valuable fish stocks.

The CZMA established a unique State-Federal framework for facilitating sound coastal planning, and any amendments to this act must uphold and strengthen this arrangement. Under the authorities in the CZMA, coastal States can elect to participate in a voluntary Federal Coastal Zone Management Program. The 34 participating States and territories create individualized coastal zone management plans, taking their State's specific needs and problems into account, and then receive Federal matching funds to help implement their plans. This system respects states' rights while empowering them to better identify and meet their environmental, social, and economic goals for their coastal areas. As a result of this program's success, more than 99.9 percent of the United States 95,376 shoreline miles are managed under this system.

Even though our coastal States and territories have benefitted from this vital CZMA program, our coastal areas continue to face increasing demands to expand working waterfronts as well as increasing rates of nonpoint source water pollution. These persistent threats have outpaced the ability of many States to keep up with coastal zone conservation. Although the States are currently taking action to address this problem under existing authorities, the Coastal Zone Enhancement Reauthorization of 2005 would encourage them to take additional voluntary steps to combat these problems through the Coastal Community Program.

The coastal community initiative would provide participating States with the funding and flexibility necessary to deal with a broad array of specific nonpoint source pollution problems.

The State of Maine, like many coastal States, is working to reduce nonpoint source pollution programs, and its efforts have led to the reopening of hundreds of acres of shellfish beds and the restoration of fish nursery areas. Even with these successes, Maine needs to do more and is looking forward to this new opportunity.

The Coastal Community Program authorized in this bill would also aid States in developing and implementing creative, community-based initiatives to deal with problems other than nonpoint source pollution. It would increase Federal and State support of local grassroots programs that target coastal environmental issues, such as the impact of development and sprawl on coastal resources and activities.

The bill I offer today would reauthorize the CZMA and make a number of improvements to strengthen our Nation's coastal management system. The Coastal Zone Enhancement Reauthorization of 2005 significantly increases the authorization levels for the Coastal Zone Management Program, enabling States to better achieve their coastal management goals. The bill authorizes \$137.5 million for fiscal year 2006 and increases the authorization levels up to \$160,000,000 for fiscal year 2010. This increase in funding would enable the States' coastal programs to achieve their full potential.

Within these authorized funding levels, this bill would increase authorization for the National Estuarine Research Reserve System to \$18 million in fiscal year 2006 with an additional \$1 million increase each year through fiscal year 2010. This system is a network of reserves around the country that support coastal science, research, education and conservation, and they are operated as a cooperative Federal-State partnership. Additional authorizations, including funds to support construction at designated reserve sites, will help strengthen this nationwide program which has not received increased funding commensurate with the addition of new reserves.

In this bill, we have tried to rectify a very serious problem facing the Coastal Zone Management Program. The funding for this program is based on administrative grants, under section 306 of the CZMA, in which the amount of funding for each State is determined by a formula that takes into account both the length of the coastline and population of each State. However, since 1992, the Appropriations Committee has imposed a million a \$2 million cap per State on administrative grants in an attempt to treat all participating States equally.

Even while overall program funding has increased in recent years, this arbitrary cap has remained in place, and by fiscal year 2000, 13 States had reached it. These 13 States account for 83 percent of our Nation's coastline and 76 percent of our coastal population. Despite appropriators' desire for equal treatment, it is simply not equitable to

have the 13 States with the largest coastlines and populations stuck at a \$2 million cap, despite overall program funding increases. While smaller States have enjoyed additional programmatic success due to an influx of funding, progress in some of the larger States—with some of the most pressing coastal management problems—has stagnated.

This bill contains new language that would direct the Secretary of Commerce to ensure equitable increases or decreases in annual administrative grant funding for each State. It further requires that States should not experience a decrease in base program funds in any year when the overall appropriations increase. I must thank my former colleague, Senator HOLLINGS, for his many years of effort and cooperation in helping us develop this new grant funding allocation language. His leadership and commitment to all ocean and coastal conservation matters continues to guide our efforts today.

The State-Federal Coastal Zone Management Program has a long record of helping States achieve their coastal area management goals, and having clean, safe, and productive coastlines ultimately serves the best interest of our Nation. This program enjoys widespread support among coastal States, as demonstrated by the many Commerce Committee members who have worked with me to strengthen this program over the past several years.

I am pleased to introduce this legislation to provide our coastal States with the funding and management frameworks necessary to meet the ever-increasing conservation and development challenges facing our coastal communities, and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the Coastal Zone Enhancement Reauthorization of 2005 be printed in the RECORD.

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

S. 360

*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 "Coastal Zone Enhancement Reauthorization Act of 2005".

**SEC. 2. AMENDMENT OF COASTAL ZONE MANAGEMENT ACT.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

**SEC. 3. FINDINGS.**

Section 302 (16 U.S.C. 1451) is amended—

(1) by redesignating paragraphs (a) through (m) as paragraphs (1) through (13);

(2) by inserting "ports," in paragraph (3) (as so redesignated) after "fossil fuels,";

(3) by inserting "including coastal waters and wetlands," in paragraph (4) (as so redesignated) after "zone,";

(4) by striking "therein," in paragraph (4) (as so redesignated) and inserting "dependent on that habitat,";

(5) by striking “well-being” in paragraph (5) (as so redesignated) and inserting “quality of life”;

(6) by striking paragraph (11) (as so redesignated) and inserting the following:

“(11) Land and water uses in the coastal zone and coastal watersheds may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from activities in these areas must be improved.”; and

(7) by adding at the end thereof the following:

“(14) There is a need to enhance cooperation and coordination among states and local communities, to encourage local community-based solutions that address the impacts and pressures on coastal resources and on public facilities and public service caused by continued coastal demands, and to increase state and local capacity to identify public infrastructure and open space needs and develop and implement plans which provide for sustainable growth, resource protection and community revitalization.”.

#### SEC. 4. POLICY.

Section 303 (16 U.S.C. 1452) is amended—

(1) by striking “the states” in paragraph (2) and inserting “state and local governments”;

(2) by striking “waters,” each place it appears in paragraph (2)(C) and inserting “waters and habitats.”;

(3) by striking “agencies and state and wildlife agencies; and” in paragraph (2)(J) and inserting “and wildlife management; and”;

(4) by inserting “other countries,” after “agencies,” in paragraph (5);

(5) by striking “and” at the end of paragraph (5);

(6) by striking “zone.” in paragraph (6) and inserting “zone.”; and

(7) by adding at the end thereof the following:

“(7) to create and use a National Estuarine Research Reserve System as a Federal, state, and community partnership to support and enhance coastal management and stewardship; and

“(8) to encourage the development, application, and transfer of innovative coastal and estuarine environmental technologies and techniques for the long-term conservation of coastal ecosystems.”.

#### SEC. 5. CHANGES IN DEFINITIONS.

Section 304 (16 U.S.C. 1453) is amended—

(1) by striking “and the Trust Territories of the Pacific Islands,” in paragraph (4);

(2) by striking paragraph (8) and inserting the following:

“(8) The term ‘estuarine reserve’ means a coastal protected area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to the estuary, and which constitutes to the extent feasible a natural unit, established to provide long-term opportunities for conducting scientific studies and educational and training programs that improve the understanding, stewardship, and management of estuaries.”; and

(3) by adding at the end thereof the following:

“(19) The term ‘coastal nonpoint pollution control strategies and measures’ means strategies and measures included as part of the coastal nonpoint pollution control program under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b).

“(20) The term ‘qualified local entity’ means—

“(A) any local government;

“(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334 (a)(1));

“(C) any regional agency;

“(D) any interstate agency;

“(E) any nonprofit organization; or

“(F) any reserve established under section 315.”.

#### SEC. 6. REAUTHORIZATION OF MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 (16 U.S.C. 1454) is amended to read as follows:

##### “SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

“(a) STATES WITHOUT PROGRAMS.—In fiscal years 2006 and 2007, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed \$200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state under this subsection, no subsequent grant may be made to that coastal state under this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than 4 grants under this subsection.

“(b) SUBMITTAL OF PROGRAM FOR APPROVAL.—A coastal state that has completed the development of its management program shall submit the program to the Secretary for review and approval under section 306.”.

#### SEC. 7. ADMINISTRATIVE GRANTS.

(a) PURPOSES.—Section 306(a) (16 U.S.C. 1455(a)) is amended by inserting “including developing and implementing coastal nonpoint pollution control program components,” after “program.”.

(b) EQUITABLE ALLOCATION OF FUNDING.—Section 306(c) (16 U.S.C. 1455(c)) is amended by adding at the end thereof “In promoting equity, the Secretary shall consider the overall change in grant funding under this section from the preceding fiscal year and minimize the relative increases or decreases among all the eligible States. The Secretary shall ensure that each eligible State receives increased funding under this section in any fiscal year for which the total amount appropriated to carry out this section is greater than the total amount appropriated to carry out this section for the preceding fiscal year.

(c) ACQUISITION CRITERIA.—Section 306(d)(10)(B) (16 U.S.C. 1455(d)(10)(B)) is amended by striking “less than fee simple” and inserting “other”.

#### SEC. 8. COASTAL RESOURCE IMPROVEMENT PROGRAM.

Section 306A (16 U.S.C. 1455a) is amended—

(1) by inserting “or other important coastal habitats” in subsection (b)(1)(A) after “306(d)(9)”;

(2) by inserting “or historic” in subsection (b)(2) after “urban”;

(3) by adding at the end of subsection (b) the following:

“(5) The coordination and implementation of approved coastal nonpoint pollution control plans.

“(6) The preservation, restoration, enhancement or creation of coastal habitats.”;

(4) by striking “and” after the semicolon in subsection (c)(2)(D);

(5) by striking “section.” in subsection (c)(2)(E) and inserting “section.”;

(6) by adding at the end of subsection (c)(2) the following:

“(F) work, resources, or technical support necessary to preserve, restore, enhance, or create coastal habitats; and

“(G) the coordination and implementation of approved coastal nonpoint pollution control plans.”; and

(7) by striking subsections (d), (e), and (f) and inserting after subsection (c) the following:

“(d) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

“(1) IN GENERAL.—If a coastal state chooses to fund a project under this section, then—

“(A) it shall submit to the Secretary a combined application for grants under this section and section 306;

“(B) it shall match the combined amount of such grants in the ratio required by section 306(a) for grants under that section; and

“(C) the Federal funding for the project shall be a portion of that state’s annual allocation under section 306(a).

“(2) USE OF FUNDS.—Grants provided under this section may be used to pay a coastal state’s share of costs required under any other Federal program that is consistent with the purposes of this section.

“(e) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state’s approved management program.

“(f) ASSISTANCE.—The Secretary shall assist eligible coastal states in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).”.

#### SEC. 9. COASTAL ZONE MANAGEMENT FUND.

(a) TREATMENT OF LOAN REPAYMENTS.—Section 308(a)(2) (16 U.S.C. 1456a(a)(2)) is amended to read as follows:

“(2) Loan repayments made under this subsection—

“(A) shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b); and

“(B) subject to amounts provided in Appropriations Acts, shall be available to the Secretary for purposes of this title and transferred to the Operations, Research, and Facilities account of the National Oceanic and Atmospheric Administration to offset the costs of implementing this title.”.

(b) USE OF AMOUNTS IN FUND.—Section 308(b) (16 U.S.C. 1456a(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) Subject to Appropriation Acts, amounts in the Fund shall be available to the Secretary to carry out the provisions of this Act.”.

#### SEC. 10. COASTAL ZONE ENHANCEMENT GRANTS.

Section 309 (16 U.S.C. 1456b) is amended—

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

“(1) Protection, restoration, enhancement, or creation of coastal habitats, including wetlands, coral reefs, marshes, and barrier islands.”;

(2) by inserting “and removal” after “entry” in subsection (a)(4);

(3) by striking “on various individual uses or activities on resources, such as coastal wetlands and fishery resources.” in subsection (a)(5) and inserting “of various individual uses or activities on coastal waters, habitats, and resources, including sources of polluted runoff.”;

(4) by adding at the end of subsection (a) the following:

“(10) Development and enhancement of coastal nonpoint pollution control program components, including the satisfaction of conditions placed on such programs as part of the Secretary’s approval of the programs.

“(11) Significant emerging coastal issues as identified by coastal states, in consultation with the Secretary and qualified local entities.”;

(5) by striking “proposals, taking into account the criteria established by the Secretary under subsection (d).” in subsection (c) and inserting “proposals.”;

(6) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(7) by striking “section, up to a maximum of \$10,000,000 annually” in subsection (f) and inserting “section.”; and

(8) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

#### SEC. 11. COASTAL COMMUNITY PROGRAM.

The Act is amended by inserting after section 309 the following:

##### “SEC. 309A. COASTAL COMMUNITY PROGRAM.

“(a) COASTAL COMMUNITY GRANTS.—The Secretary may make grants to any coastal state that is eligible under subsection (b)—

“(1) to assist coastal communities in assessing and managing growth, public infrastructure, and open space needs in order to provide for sustainable growth, resource protection and community revitalization;

“(2) to provide management-oriented research and technical assistance in developing and implementing community-based growth management and resource protection strategies in qualified local entities;

“(3) to fund demonstration projects which have high potential for improving coastal zone management at the local level;

“(4) to assist in the adoption of plans, strategies, policies, or procedures to support local community-based environmentally-protective solutions to the impacts and pressures on coastal uses and resources caused by development and sprawl that will—

“(A) revitalize previously developed areas;

“(B) undertake conservation activities and projects in undeveloped and environmentally sensitive areas;

“(C) emphasize water-dependent uses; and

“(D) protect coastal waters and habitats; and

“(5) to assist coastal communities to coordinate and implement approved coastal nonpoint pollution control strategies and measures that reduce the causes and impacts of polluted runoff on coastal waters and habitats.”.

“(b) ELIGIBILITY.—To be eligible for a grant under this section for a fiscal year, a coastal state shall—

“(1) have a management program approved under section 306; and

“(2) in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (K).

“(c) ALLOCATIONS; SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

“(1) ALLOCATION.—Grants under this section shall be allocated to coastal states as provided in section 306(c).

“(2) APPLICATION; MATCHING.—If a coastal state chooses to fund a project under this section, then—

“(A) it shall submit to the Secretary a combined application for grants under this section and section 306; and

“(B) it shall match the amount of the grant under this section on the basis of a total contribution of section 306, 306A, and this section so that, in aggregate, the match is 1:1.

“(d) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—

“(1) IN GENERAL.—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity amounts received by the state under this section.

“(2) ASSURANCES.—A coastal state shall ensure that amounts allocated by the state under paragraph (1) are used by the qualified local entity in furtherance of the state’s approved management program, specifically furtherance of the coastal management objectives specified in section 303(2).

“(e) ASSISTANCE.—The Secretary shall assist eligible coastal states and qualified local entities in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (a).”.

#### SEC. 12. TECHNICAL ASSISTANCE.

Section 310(b) (16 U.S.C. 1456c(b)) is amended by adding at the end thereof the following:

“(4) The Secretary may conduct a program to develop and apply innovative coastal and estuarine environmental technology and methodology through a cooperative program. The Secretary may make extramural grants in carrying out the purpose of this subsection.”.

#### SEC. 13. PERFORMANCE REVIEW.

Section 312(a) (16 U.S.C. 1458(a)) is amended by inserting “coordinated with National Estuarine Research Reserves in the state” after “303(2)(A) through (K).”.

#### SEC. 14. WALTER B. JONES AWARDS.

Section 314 (16 U.S.C. 1460) is amended—

(1) by striking “shall, using sums in the Coastal Zone Management Fund established under section 308” in subsection (a) and inserting “may, using sums available under this Act”;

(2) by striking “field.” in subsection (a) and inserting the following: “field of coastal zone management. These awards, to be known as the ‘Walter B. Jones Awards’, may include—

“(1) cash awards in an amount not to exceed \$5,000 each;

“(2) research grants; and

“(3) public ceremonies to acknowledge such awards.”;

(3) by striking “shall elect annually—” in subsection (b) and inserting “may select annually if funds are available under subsection (a)—”; and

(4) by striking subsection (e).

#### SEC. 15. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

(a) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking “consists of—” and inserting “is a network of areas protected by Federal, state, and community partnerships which promotes informed management of the Nation’s estuarine and coastal areas through interconnected programs in resource stewardship, education and training, and scientific understanding consisting of—”.

(b) Section 315(b)(2)(C) (16 U.S.C. 1461(b)(2)(C)) is amended by striking “public education and interpretation; and”; and inserting “education, interpretation, training, and demonstration projects; and”.

(c) Section 315(c) (16 U.S.C. 1461(c)) is amended—

(1) by striking “RESEARCH” in the subsection caption and inserting “RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP”;

(2) by striking “conduct of research” and inserting “conduct of research, education, and resource stewardship”;

(3) by striking “coordinated research” in paragraph (1) and inserting “coordinated research, education, and resource stewardship”;

(4) by striking “research” before “principles” in paragraph (2);

(5) by striking “research programs” in paragraph (2) and inserting “research, education, and resource stewardship programs”;

(6) by striking “research” before “methodologies” in paragraph (3);

(7) by striking “data,” in paragraph (3) and inserting “information.”;

(8) by striking “research” before “results” in paragraph (3);

(9) by striking “research purposes;” in paragraph (3) and inserting “research, education, and resource stewardship purposes;”;

(10) by striking “research efforts” in paragraph (4) and inserting “research, education, and resource stewardship efforts”;

(11) by striking “research” in paragraph (5) and inserting “research, education, and resource stewardship”; and

(12) by striking “research” in the last sentence.

(d) Section 315(d) (16 U.S.C. 1461(d)) is amended—

(1) by striking “ESTUARINE RESEARCH.—” in the subsection caption and inserting “ESTUARINE RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP.—”;

(2) by striking “research purposes” and inserting “research, education, and resource stewardship purposes”;

(3) by striking paragraph (1) and inserting the following:

“(1) giving reasonable priority to research, education, and stewardship activities that use the System in conducting or supporting activities relating to estuaries; and”;

(4) by striking “research.” in paragraph (2) and inserting “research, education, and resource stewardship activities.”; and

(5) by adding at the end thereof the following:

“(3) establishing partnerships with other Federal and state estuarine management programs to coordinate and collaborate on estuarine research.”.

(e) Section 315(e) (16 U.S.C. 1461(e)) is amended—

(1) by striking “reserve,” in paragraph (1)(A)(i) and inserting “reserve; and”;

(2) by striking “and constructing appropriate reserve facilities, or” in paragraph (1)(A)(ii) and inserting “including resource stewardship activities and constructing reserve facilities; and”;

(3) by striking paragraph (1)(A)(iii);

(4) by striking paragraph (1)(B) and inserting the following:

“(B) to any coastal state or public or private person for purposes of—

“(i) supporting research and monitoring associated with a national estuarine reserve that are consistent with the research guidelines developed under subsection (c); or

“(ii) conducting educational, interpretive, or training activities for a national estuarine reserve that are consistent with the education guidelines developed under subsection (c).”;

(5) by striking “therein or \$5,000,000, whichever amount is less.” in paragraph (3)(A) and inserting “therein. Non-Federal costs associated with the purchase of any lands and waters, or interests therein, which are incorporated into the boundaries of a reserve up to 5 years after the costs are incurred, may be used to match the Federal share.”;

(6) by striking “and (iii)” in paragraph (3)(B);

(7) by striking “paragraph (1)(A)(iii)” in paragraph (3)(B) and inserting “paragraph (1)(B)”;

(8) by striking “entire System.” in paragraph (3)(B) and inserting “System as a whole.”; and

(9) by adding at the end thereof the following:

“(4) The Secretary may—

“(A) enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with any nonprofit organization, authorizing the organization to solicit donations to carry out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section; and



“(B) accept donations of funds and services for use in carrying out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section.

Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States for the purpose of carrying out this section.”

(f) Section 315(f)(1) (16 U.S.C. 1461(f)(1)) is amended by inserting “coordination with other state programs established under sections 306 and 309A,” after “including”.

#### SEC. 16. COASTAL ZONE MANAGEMENT REPORTS.

Section 316 (16 U.S.C. 1462) is amended—

(1) by striking “to the President for transmittal” in subsection (a);

(2) by striking “zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences;” and inserting “zone;” in the provision designated as (10) in subsection (a);

(3) by inserting “education,” after the “studies,” in the provision designated as (12) in subsection (a);

(4) by striking “Secretary” in the first sentence of subsection (c)(1) and inserting “Secretary, in consultation with coastal states, and with the participation of affected Federal agencies;”

(5) by striking the second sentence of subsection (c)(1) and inserting the following: “The Secretary, in conducting such a review, shall coordinate with, and obtain the views of, appropriate Federal agencies.”;

(6) by striking “shall promptly” in subsection (c)(2) and inserting “shall, within 4 years after the date of enactment of the Coastal Zone Enhancement Reauthorization Act of 2005;” and

(7) by adding at the end of subsection (c)(2) the following: “If sufficient funds and resources are not available to conduct such a review, the Secretary shall so notify the Congress.”.

#### SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

“(1) for grants under sections 306, 306A, and 309—

“(A) \$90,500,000 for fiscal year 2006;

“(B) \$94,000,000 for fiscal year 2007;

“(C) \$98,000,000 for fiscal year 2008;

“(D) \$102,000,000 for fiscal year 2009; and

“(E) \$106,000,000 for fiscal year 2010.

“(2) for grants under section 309A—

“(A) \$29,000,000 for fiscal year 2006;

“(B) \$30,000,000 for fiscal year 2007;

“(C) \$31,000,000 for fiscal year 2008;

“(D) \$32,000,000 for fiscal year 2009; and

“(E) \$32,000,000 for fiscal year 2010.

of which \$10,000,000, or 35 percent, whichever is less, shall be for purposes set forth in section 309A(a)(5);

“(3) for grants under section 315—

“(A) \$18,000,000 for fiscal year 2006;

“(B) \$19,000,000 for fiscal year 2007;

“(C) \$20,000,000 for fiscal year 2008;

“(D) \$21,000,000 for fiscal year 2009; and

“(E) \$22,000,000 for fiscal year 2010.

“(4) for grants to fund construction projects at estuarine reserves designated under section 315, \$15,000,000 for each of fiscal years 2006, 2007, 2008, 2009, and 2010; and

“(5) for costs associated with administering this title, \$7,000,000 for fiscal year 2006 and such sums as are necessary for fiscal years 2007–2010.”;

(2) by striking “306 or 309.” in subsection (b) and inserting “306.”;

(3) by striking “during the fiscal year, or during the second fiscal year after the fiscal year, for which” in subsection (c) and inserting “within 3 years from when”;

(4) by striking “under the section for such reverted amount was originally made available.” in subsection (c) and inserting “to states under this Act.”; and

(5) by adding at the end thereof the following:

“(d) PURCHASE OF OTHERWISE UNAVAILABLE FEDERAL PRODUCTS AND SERVICES.—Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

“(e) RESTRICTION ON USE OF AMOUNTS FOR PROGRAM, ADMINISTRATIVE, OR OVERHEAD COSTS.—Except for funds appropriated under subsection (a)(5), amounts appropriated under this section shall be available only for grants to states and shall not be available for other program, administrative, or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce.”.

#### SEC. 18. SENSE OF CONGRESS.

It is the sense of Congress that the Undersecretary for Oceans and Atmosphere should re-evaluate the calculation of shoreline mileage used in the distribution of funding under the Coastal Zone Management Program to ensure equitable treatment of all regions of the coastal zone, including the Southeastern States and the Great Lakes States.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. STEVENS, Mr. INOUE, and Ms. COLLINS):

S. 361. A bill to develop and maintain an integrated system of ocean and coastal observations for the Nation’s coasts, oceans and Great Lakes, improve warnings of tsunamis and other natural hazards, enhance homeland security, support maritime operations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Ocean and Coastal Observation Systems Act of 2005, a bill that would forever change our understanding of the marine environment.

As our Nation saw with the devastating Indian Ocean tsunami only weeks ago, the oceans are alive and ever-changing. While our Nation’s coast escaped the direct reach of this recent tragedy, it reminds us that those who live near or along our Nation’s 95,000-plus miles of shoreline need to be able to monitor a range of ocean conditions and quickly assess ocean-based threats, including tsunamis, hurricanes, harmful algal blooms, and pollution. The purpose of this bill is to fulfil these needs for ocean and coastal observation and warning systems surrounding the United States.

This bi-partisan, science-based bill would authorize the National Oceanic and Atmospheric Administration, or NOAA, to establish and maintain an integrated network of ocean observing and communication systems around our Nation’s coastlines. This system would collect instantaneous data and information on ocean conditions—such as temperature, wave height, wind speed, currents, dissolved oxygen, salinity, contaminants, and other variables—that are essential to marine science and resource management as

well as maritime transportation, safety, and commerce.

As Chair of the Fisheries and Coast Guard Subcommittee of the Commerce, Science, and Transportation Committee, and as a representative of a state with more than 5,000 miles of shoreline, I want to ensure that the citizens of Maine, and all coastal states, have the tools they need to monitor and assess what is happening off their shores. The State of Maine has a strong and proud history rooted in our connection to the sea, as do other coastal states, and our coastal communities are highly dependent on the fisheries resources, coastal habitats, tourist destinations, safe harbors, and other essential services connected to the sea. The people of this country’s livelihoods are directly linked to how well we understand and adapt to changing ocean conditions.

Our ability to understand ocean dynamics took a great leap forward in 2001, when marine scientists and educators launched an innovative partnership known as the Gulf of Maine Ocean Observing System, or GoMOOS, to start gathering a range of ocean data on a large regional scale. This prototype system, which started with ten observation buoys, has transformed how we observe and track ocean conditions over time. The GoMOOS system takes ocean and surface condition measurements on an hourly basis through a network of linked buoys, and these real-time measurements can be monitored and accessed by the public via the GoMOOS Web site. The unprecedented geographical range and frequency of measurements revolutionized our knowledge about the Gulf of Maine, and GoMOOS continues to provide a tremendous public service for New England.

Of course, the need to access this type of ocean information is not limited to the Gulf of Maine. Similar observing systems are planned or developed in other coastal regions, many in conjunction with NOAA, universities, and State agencies. Data from these independent regional systems, however, are often incompatible with data from other regions, making it difficult to compile, manage, process, and communicate data across networks. As a result, there is a possibility that these systems would be unable to link their data and develop a comprehensive picture of coastal and ocean conditions around the Nation.

The Ocean and Coastal Observation Systems Act of 2005 seeks to rectify this situation by integrating ocean and coastal observation efforts in cooperation with NOAA. This Act would encourage further development of the regional systems, enable their data to be linked through a national network, provide information that anyone could access, and facilitate timely public warnings of hazardous ocean conditions. It would authorize the National Ocean Research Leadership Council to have general oversight for research and

development of this national undertaking. This Council would establish an interagency program office that would plan and coordinate operational activities and budgets, and NOAA would be the lead Federal agency charged with ensuring that this national network of regional observation associations, such as GoMOOS and others under development, effectively integrates and utilizes ocean data for the benefit of the American public.

As the U.S. Ocean Commission made clear in its final report issued in September 2004, ocean and coastal observations are a cornerstone of sound marine science, management, and commerce, and the potential uses of this system are nearly unlimited. For example, fisheries scientists and managers can use ocean data to better predict ocean productivity and use this information to facilitate ecosystem management. Fishermen, sailors, shippers, Coast Guard search-and-rescue units, and other seafarers can better monitor sea conditions to more safely navigate rough seas. Ocean scientists and regulators can better predict and respond to marine pollution, harmful algal bloom outbreaks, or other hazardous conditions and issue prompt alerts to potentially vulnerable communities. Clearly, anyone who uses and depends upon the ocean stands to benefit from this integrated system.

I am very proud to introduce this bill, and I would like to thank my sponsors, Senators KERRY, STEVENS, and INOUE, for contributing to this legislation and supporting this national initiative. Of course, our current and expanding ocean observation and communication system would not be possible without the work of dedicated professionals in the ocean and coastal science, management, and research communities—they have taken the initiative to develop the grassroots regional observation systems as well as contribute to this legislation. Thanks to their ongoing efforts, ocean observations will continue to provide a tremendous service to the American ocean-dependent public.

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. 361

*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 “Ocean and Coastal Observation System Act of 2005”.

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Ocean and coastal observations provide vital information for protecting human lives and property from marine hazards, enhancing national and homeland security, predicting weather and global climate change, improving ocean health and providing for the protection, sustainable use, and enjoyment of the resources of the Nation’s coasts, oceans, and Great Lakes.

(2) The continuing and potentially devastating threat posed by tsunamis, hurricanes, storm surges, and other marine hazards requires immediate implementation of strengthened observation and communications systems to provide timely detection, assessment, and warnings to the millions of people living in coastal regions of the United States and throughout the world.

(3) The 95,000-mile coastline of the United States, including the Great Lakes, is vital to the Nation’s prosperity, contributing over \$117 billion to the national economy in 2000, supporting jobs for more than 200 million Americans, handling \$700 billion in waterborne commerce, and supporting commercial and sport fisheries valued at more than \$50 billion annually.

(4) Safeguarding homeland security, conducting search and rescue operations, responding to natural and man-made coastal hazards such as oil spills and harmful algal blooms, and managing fisheries and other coastal activities require improved monitoring of the Nation’s waters and coastline, including the ability to track vessels and to provide rapid response teams with real-time environmental conditions necessary for their work.

(5) While knowledge of the ocean and coastal environment and processes is far from complete, advances in sensing technologies and scientific understanding have made possible long-term and continuous observation from shore, from space, and in situ of ocean and coastal characteristics and conditions.

(6) Many elements of a ocean and coastal observing system are in place, but require national investment, consolidation, completion, and integration at Federal, regional, State, and local levels.

(7) The Commission on Ocean Policy recommends a national commitment to a sustained and integrated ocean and coastal observing system and to coordinated research programs in order to assist the Nation and the world in understanding the oceans and the global climate system, enhancing homeland security, improving weather and climate forecasts, strengthening management of ocean and coastal resources, improving the safety and efficiency of maritime operations, and mitigating marine hazards.

(8) In 2003, the United States led more than 50 nations in affirming the vital importance of timely, quality, long-term global observations as a basis for sound decision-making, recognizing the contribution of observation systems to meet national, regional, and global needs, and calling for strengthened cooperation and coordination in establishing a Global Earth Observation System of Systems, of which an integrated ocean and coastal observing system is an essential part.

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

(1) the development and maintenance of an integrated ocean and coastal observing system that provides the data and information to ensure national security and public safety, support economic development, sustain and restore healthy marine ecosystems and the resources they support, enable advances in scientific understanding of the oceans, and strengthen science education and communication;

(2) implementation of research and development and education programs to improve understanding of the oceans and Great Lakes and achieve the full national benefits of an integrated ocean and coastal observing system;

(3) implementation of a data and information management system required by all components of an integrated ocean and

coastal observing system and related research to develop early warning systems; and

(4) establishment of a system of regional ocean and coastal observing systems to address local needs for ocean information.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term “Council” means the National Ocean Research Leadership Council established under section 7902(a) of title 10, United States Code.

(2) OBSERVING SYSTEM.—The term “observing system” means the integrated coastal, ocean and Great Lakes observing system to be established by the Committee under section 4(a).

(3) NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.—The term “National Oceanographic Partnership Program” means the program established under section 7901 of title 10, United States Code.

(4) INTERAGENCY PROGRAM OFFICE.—The term “interagency program office” means the office established under section 4(d).

#### SEC. 4. INTEGRATED OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, acting through the Council, shall establish and maintain an integrated system of ocean and coastal observations, data communication and management, analysis, modeling, research, and education designed to provide data and information for the timely detection and prediction of changes occurring in the ocean and coastal environment that impact the Nation’s social, economic, and ecological systems. The observing system shall provide for long-term, continuous and quality-controlled observations of the coasts, oceans, and Great Lakes for the following purposes:

(1) Improving the health of the Nation’s coasts, oceans, and Great Lakes.

(2) Protecting human lives and livelihoods from hazards such as tsunamis, hurricanes, coastal erosion, and fluctuating Great Lakes water levels.

(3) Supporting national defense and homeland security efforts.

(4) Understanding the effects of human activities and natural variability on the state of the coasts and oceans and the Nation’s socioeconomic well-being.

(5) Measuring, explaining, and predicting environmental changes.

(6) Providing for the sustainable use, protection, and enjoyment of ocean and coastal resources.

(7) Providing a scientific basis for implementation and refinement of ecosystem-based management.

(8) Educating the public about the role and importance of the oceans and Great Lakes in daily life.

(9) Tracking and understanding climate change and the ocean and Great Lakes’ roles in it.

(10) Supplying critical information to marine-related businesses such as marine transportation, aquaculture, fisheries, and offshore energy production.

(11) Supporting research and development to ensure continuous improvement to ocean and coastal observation measurements and to enhance understanding of the Nation’s ocean and coastal resources.

(b) SYSTEM ELEMENTS.—In order to fulfill the purposes of this Act, the observing system shall consist of the following program elements:

(1) A national program to fulfill national observation priorities, including the Nation’s ocean contribution to the Global Earth Observation System of Systems and the Global Ocean Observing System.

(2) A network of regional associations to manage the regional ocean and coastal observing and information programs that collect, measure, and disseminate data and information products to meet regional needs.

(3) A data management and communication system for the timely integration and dissemination of data and information products from the national and regional systems.

(4) A research and development program conducted under the guidance of the Council.

(5) An outreach, education, and training program that augments existing programs, such as the National Sea Grant College Program and the Centers for Ocean Sciences Education Excellence program, to ensure the use of the data and information for improving public education and awareness of the Nation's oceans and building the technical expertise required to operate and improve the observing system.

(c) COUNCIL FUNCTIONS.—In carrying out responsibilities under this section, the Council shall—

(1) serve as the oversight body for the design and implementation of all aspects of the observing system;

(2) adopt plans, budgets, and standards that are developed and maintained by the interagency program office in consultation with the regional associations;

(3) coordinate the observing system with other earth observing activities including the Global Ocean Observing System and the Global Earth Observing System of Systems;

(4) coordinate and administer programs of research and development and education to support improvements to and the operation of an integrated ocean and coastal observing system and to advance the understanding of the oceans;

(5) establish pilot projects to develop technology and methods for advancing the development of the observing system;

(6) support the development of institutional mechanisms to further the goals of the program and provide for the capitalization of the required infrastructure;

(7) provide, as appropriate, support for and representation on United States delegations to international meetings on ocean and coastal observing programs, including those under the jurisdiction of the International Joint Commission involving Canadian waters; and

(8) in consultation with the Secretary of State, coordinate relevant Federal activities with those of other nations.

(d) INTERAGENCY PROGRAM OFFICE.—The Council shall establish an interagency program office to be known as "OceanUS". The interagency program office shall be responsible for program planning and coordination of the observing system. The interagency program office shall—

(1) prepare annual and long-term plans for consideration by the Council for the design and implementation of the observing system that promote collaboration among Federal agencies and regional associations in developing the global and national observing systems, including identification and refinement of a core set of variables to be measured by all systems;

(2) coordinate the development of agency priorities and budgets for implementation of the observing system, including budgets for the regional associations;

(3) establish and refine standards and protocols for data management and communications, including quality standards, in consultation with participating Federal agencies and regional associations;

(4) develop a process for the certification of the regional associations and their periodic review and recertification; and

(5) establish an external technical committee to provide biennial review of the observing system.

(e) LEAD FEDERAL AGENCY.—The National Oceanic and Atmospheric Administration shall be the lead Federal agency for implementation and operation of the observing system. Based on the plans prepared by the interagency program office and adopted by the Council, the Administrator of the National Oceanic and Atmospheric Administration shall—

(1) coordinate implementation, operation and improvement of the observing system;

(2) establish efficient and effective administrative procedures for allocation of funds among Federal agencies and regional associations in a timely manner and according to the budget adopted by the Council;

(3) implement and maintain appropriate elements of the observing system;

(4) provide for the migration of scientific and technological advances from research and development to operational deployment;

(5) integrate and extend existing programs and pilot projects into the operational observation system; and

(6) certify regional associations that meet the requirements of subsection (f).

(f) REGIONAL ASSOCIATIONS OF OCEAN AND COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration may certify one or more regional associations to be responsible for the development and operation of regional ocean and coastal observing systems to meet the information needs of user groups in the region while adhering to national standards. To be certifiable by the Administrator, a regional association shall—

(1) demonstrate an organizational structure capable of supporting and integrating all aspects of ocean and coastal observing and information programs within a region;

(2) operate under a strategic operations and business plan that details the operation and support of regional ocean and coastal observing systems pursuant to the standards established by the Council;

(3) provide information products for multiple users in the region;

(4) work with governmental entities and programs at all levels within the region to provide timely warnings and outreach and education to protect the public; and

(5) meet certification standards developed by the interagency program office in conjunction with the regional associations and approved by the Council.

(g) CIVIL LIABILITY.—For purposes of section 1346(b)(1) and chapter 171 of title 28, United States Code, the Suits in Admiralty Act (46 U.S.C. App. 741 et seq.), and the Public Vessels Act (46 U.S.C. App. 781 et seq.), any regional ocean and coastal observing system that is a designated part of a regional association certified under this section shall, in carrying out the purposes of this Act, be deemed to be part of the National Oceanic and Atmospheric Administration, and any employee of such system, while acting within the scope of his or her employment in carrying out such purposes, shall be deemed to be an employee of the Government.

#### SEC. 5. RESEARCH AND DEVELOPMENT AND EDUCATION.

The Council shall establish programs for research and development and education for the ocean and coastal observing system, including projects under the National Oceanographic Partnership Program, consisting of the following:

(1) Basic research to advance knowledge of ocean and coastal systems and ensure continued improvement of operational products, including related infrastructure and observing technology.

(2) Focused research projects to improve understanding of the relationship between the coasts and oceans and human activities.

(3) Large scale computing resources and research to advance modeling of ocean and coastal processes.

(4) A coordinated effort to build public education and awareness of the ocean and coastal environment and functions that integrates ongoing activities such as the National Sea Grant College Program and the Centers for Ocean Sciences Education Excellence.

#### SEC. 6. INTERAGENCY FINANCING.

The departments and agencies represented on the Council are authorized to participate in interagency financing and share, transfer, receive, obligate, and expend funds appropriated to any member of the Council for the purposes of carrying out any administrative or programmatic project or activity under this Act or under the National Oceanographic Partnership Program, including support for the interagency program office, a common infrastructure, and system integration for a ocean and coastal observing system. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Council member and the costs of the same.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for the implementation of an integrated ocean and coastal observing system under section 4, and the research and development program under section 5, including financial assistance to the interagency program office, the regional associations for the implementation of regional ocean and coastal observing systems, and the departments and agencies represented on the Council, such sums as may be necessary for each of fiscal years 2006 through 2010. At least 50 percent of the sums appropriated for the implementation of the integrated ocean and coastal observing system under section 4 shall be allocated to the regional associations certified under section 4(f) for implementation of regional ocean and coastal observing systems. Sums appropriated pursuant to this section shall remain available until expended.

#### SEC. 8. REPORTING REQUIREMENT.

Not later than March 31, 2010, the President, acting through the Council, shall transmit to Congress a report on the programs established under sections 4 and 5. The report shall include a description of activities carried out under the programs, an evaluation of the effectiveness of the programs, and recommendations concerning reauthorization of the programs and funding levels for the programs in succeeding fiscal years.

By Mr. INOUE (for himself, Mr. STEVENS, Ms. CANTWELL, Ms. SNOWE, Mr. KERRY, and Mr. LAUTENBERG):

S. 362. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

## RESEARCH AND REDUCTION ACT

Mr. INOUE. Mr. President, today I am introducing the Marine Debris Research and Reduction Act. From the shore, our oceans seem vast and limitless, but I fear that we often overlook the impacts our actions have on the sea and its resources. The Act that I am introducing today with my friends and colleagues, Senators STEVENS, CANTWELL, SNOWE, KERRY, and LAUTENBERG, focuses on one particular impact that goes unnoticed by many: marine debris. I am proud to say that the Senate unanimously passed this bill in the 108th Congress, and we look for swift action on this legislation again this year.

In a high-tech era of radiation, carcinogenic chemicals, and human-induced climate change, the problem of the trash produced by ocean-going vessels or litter swept out to sea must seem old-fashioned by comparison. Sea garbage would seem to be a simple issue that surely cannot rise to the priority level of the stresses our 21st century civilization places on the natural environment.

Regrettably, that perception is wrong. While marine debris includes conventional "trash," it also includes a vast array of additional materials. It is discarded or lost fishing gear. It is cargo washed overboard. It is abandoned equipment from our commercial fleets. Nor does the "low-tech" nature of solid refuse diminish its deadly impact on the creatures of the sea. Whether an animal dies from a immune system weakened by toxic chemicals, or drowns entangled in a discarded fishing net, the result is the same—and in many cases, preventable.

Global warming, disease, and toxic contamination of our seas has already stressed these fragile ecosystems. These threats have been described in last year's Final Report of the U.S. Commission on Ocean Policy, which also dedicated an entire chapter to the threats posed by marine debris. The bill we introduce today adopts the measures recommended by the Commission to help remove man-made marine debris from the list of ocean threats. It also follows the recommendations of the International Marine Debris Conference held in my home State of Hawaii in 2000.

The bill establishes a Marine Debris Prevention and Removal Program within the National Oceanic and Atmospheric Administration, NOAA, directs the U.S. Coast Guard to improve enforcement of laws designed to prevent ship-based pollution from plastics and other garbage, reinvigorates an interagency committee on marine debris, and improves our research and information on marine debris sources, threats, and prevention.

In Hawaii, we are able to see the impacts of marine debris more clearly than most because of the convergence caused by the North Pacific Tropical High. Atmospheric forces cause ocean surface currents to converge on Ha-

wai, bringing with them the vast amount of debris floating throughout the Pacific. Since 1996, a total of 484 tons of debris have been removed from coral reefs in the Northwestern Hawaiian Islands, which is also home to many endangered marine species. But the job is not done, because more arrives daily. In 2004 alone, the program removed over 125 tons of debris.

I am pleased that the coordinated approach taken to address the threats posed by marine debris in the Northwestern Hawaiian Islands has provided a model for the nation. NOAA's Pacific Islands Region Fisheries Science Center is leading this interagency partnership, which also includes the U.S. Fish and Wildlife Service, Hawaii's business and university communities, and conservation groups. Not only have we removed debris that poses harm to endangered species, but with the help of donated services, we have recycled the abandoned nets into energy to power residential homes.

We have learned that our best path to success lies in partnering with one another to share resources, and it is my hope that others may adapt our project to their own shores through the partnership and funding opportunities set forth in this bill. This is why the bill strengthens and reestablishes an Interagency Committee on Marine Debris to coordinate marine debris prevention and removal efforts among federal agencies state governments, universities, and nongovernmental organizations.

We must also bear in mind that no matter how zealously we reform our practices, the ultimate solution lies in international cooperation. The oceans connect the coastal nations of the world, and we must work together to reduce this increasing threat to our seas and shores. The Marine Debris Research and Reduction Act will provide the United States with the tools to develop effective marine debris prevention and removal programs on a worldwide basis, including reporting and information requirements that will assist in the creation of an international marine debris database.

Mr. President, I hope you will join me in supporting enactment of the Marine Debris Research and Reduction Act. This bill will provide the United States with the programs and resources necessary to protect our most valuable resources, our oceans. I ask unanimous consent that the full 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. 362

*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 "Marine Debris Research Prevention and Reduction Act".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress makes the following findings:

(1) The oceans, which comprise nearly three quarters of the Earth's surface, are an important source of food and provide a wealth of other natural products that are important to the economy of the United States and the world.

(2) Ocean and coastal areas are regions of remarkably high biological productivity, are of considerable importance for a variety of recreational and commercial activities, and provide a vital means of transportation.

(3) Ocean and coastal resources are limited and susceptible to change as a direct and indirect result of human activities, and such changes can impact the ability of the ocean to provide the benefits upon which the Nation depends.

(4) Marine debris, including plastics, derelict fishing gear, and a wide variety of other objects, has a harmful and persistent effect on marine flora and fauna and can have adverse impacts on human health.

(5) Marine debris is also a hazard to navigation, putting mariners and rescuers, their vessels, and consequently the marine environment at risk, and can cause economic loss due to entanglement of vessel systems.

(6) Modern plastic materials persist for decades in the marine environment and therefore pose the greatest potential for long-term damage to the marine environment.

(7) Insufficient knowledge and data on the source, movement, and effects of plastics and other marine debris in marine ecosystems has hampered efforts to develop effective approaches for addressing marine debris.

(8) Lack of resources, inadequate attention to this issue, and poor coordination at the Federal level has undermined the development and implementation of a Federal program to address marine debris, both domestically and internationally.

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

(1) to establish programs within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with other Federal and non-Federal entities;

(2) to re-establish the Inter-agency Marine Debris Coordinating Committee to ensure a coordinated government response across Federal agencies;

(3) to develop a Federal information clearinghouse to enable researchers to study the sources, scale and impact of marine debris more efficiently; and

(4) to take appropriate action in the international community to prevent marine debris and reduce concentrations of existing debris on a global scale.

**SEC. 3. NOAA MARINE DEBRIS PREVENTION AND REMOVAL PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety.

(b) PROGRAM COMPONENTS.—Through the Marine Debris Prevention and Removal Program, the Administrator shall carry out the following activities:

(1) MAPPING, IDENTIFICATION, IMPACT ASSESSMENT, REMOVAL, AND PREVENTION.—The Administrator shall, in consultation with relevant Federal agencies, undertake marine debris mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources (particularly endangered or protected species) and navigation safety, including—

(A) the establishment of a process, building on existing information sources maintained by Federal agencies such as the Environmental Protection Agency and the Coast Guard, for cataloguing and maintaining an inventory of marine debris and its impacts found in the United States navigable waters and the United States exclusive economic zone, including location, material, size, age, and origin, and impacts on habitat, living marine resources, human health, and navigation safety;

(B) measures to identify the origin, location, and projected movement of marine debris within the United States navigable waters, the United States exclusive economic zone, and the high seas, including the use of oceanographic, atmospheric, satellite, and remote sensing data; and

(C) development and implementation of strategies, methods, priorities, and a plan for preventing and removing marine debris from United States navigable waters and within the United States exclusive economic zone, including development of local or regional protocols for removal of derelict fishing gear.

(2) **REDUCING AND PREVENTING LOSS OF GEAR.**—The Administrator shall improve efforts and actively seek to prevent and reduce fishing gear losses, as well as to reduce adverse impacts of such gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment, and methods for marking gear used in specific fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

(B) development of voluntary or mandatory measures to reduce the loss and discard of fishing gear, and to aid its recovery, such as incentive programs, reporting loss and recovery of gear, observer programs, toll-free reporting hotlines, computer-based notification forms, and providing adequate and free disposal receptacles at ports.

(3) **OUTREACH.**—The Administrator shall undertake outreach and education of the public and other stakeholders, such as the fishing industry, fishing gear manufacturers, and other marine-dependent industries, on sources of marine debris, threats associated with marine debris and approaches to identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigational safety. Including outreach and education activities through public-private initiatives. The Administrator shall coordinate outreach and education activities under this paragraph with any outreach programs conducted under section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915).

(c) **GRANTS.**—

(1) **IN GENERAL.**—The Administrator shall provide financial assistance, in the form of grants, through the Marine Debris Prevention and Removal Program for projects to accomplish the purposes of this Act.

(2) **50 PERCENT MATCHING REQUIREMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), Federal funds for any project under this section may not exceed 50 percent of the total cost of such project. For purposes of this subparagraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(B) **WAIVER.**—The Administrator may waive all or part of the matching requirement under subparagraph (A) if the Administrator determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs

the public interest in such matching requirement.

(3) **AMOUNTS PAID AND SERVICES RENDERED UNDER CONSENT.**—

(A) **CONSENT DECREES AND ORDERS.**—The non-Federal share of the cost of a project carried out under this Act may include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

(B) **OTHER DECREES AND ORDERS.**—The non-Federal share of the cost of a project carried out under this Act may not include any money paid pursuant to, or the value of any in-kind service performed under, any other administrative order or court order.

(4) **ELIGIBILITY.**—Any natural resource management authority of a State, Federal or other government authority whose activities directly or indirectly affect research or regulation of marine debris, and any educational or nongovernmental institutions with demonstrated expertise in a field related to marine debris, are eligible to submit to the Administrator a marine debris proposal under the grant program.

(5) **GRANT CRITERIA AND GUIDELINES.**—Within 180 days after the date of enactment of this Act, the Administrator shall promulgate necessary guidelines for implementation of the grant program, including development of criteria and priorities for grants. Such priorities may include proposals that would reduce new sources of marine debris and provide additional benefits to the public, such as recycling of marine debris or use of biodegradable materials. In developing those guidelines, the Administrator shall consult with—

(A) the Interagency Marine Debris Committee;

(B) regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(C) State, regional, and local governmental entities with marine debris experience;

(D) marine-dependent industries; and

(E) non-governmental organizations involved in marine debris research, prevention, or removal activities.

(6) **PROJECT REVIEW AND APPROVAL.**—The Administrator shall review each marine debris project proposal to determine if it meets the grant criteria and supports the goals of the Act. Not later than 120 days after receiving a project proposal under this section, the Administrator shall—

(A) provide for external merit-based peer review of the proposal;

(B) after considering any written comments and recommendations based on the review, approve or disapprove the proposal; and

(C) provide written notification of that approval or disapproval to the person who submitted the proposal.

(7) **PROJECT REPORTING.**—Each grantee under this section shall provide periodic reports as required by the Administrator. Each report shall include all information required by the Administrator for evaluating the progress and success in meeting its stated goals, and impact on the marine debris problem.

**SEC. 4. COAST GUARD PROGRAM.**

The Commandant of the Coast Guard shall, in cooperation with the Administrator, undertake measures to reduce violations of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to the discard of plastics and other garbage from vessels. The measures shall include—

(1) the development of a strategy to improve monitoring and enforcement of current

laws, as well as recommendations for statutory or regulatory changes to improve compliance and for the development of any appropriate amendments to MARPOL;

(2) regulations to address implementation gaps with respect to the requirement of MARPOL Annex V and section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) that all United States ports and terminals maintain receptacles for disposing of plastics and other garbage, which may include measures to ensure that a sufficient quantity of such facilities exist at all such ports and terminals, requirements for logging the waste received, and for Coast Guard comparison of vessel and port log books to determine compliance;

(3) regulations to close record keeping gaps, which may include requiring fishing vessels under 400 gross tons entering United States ports to maintain records subject to Coast Guard inspection on the disposal of plastics and other garbage, that, at a minimum, include the time, date, type of garbage, quantity, and location of discharge by latitude and longitude or, if discharged on land, the name of the port where such material is offloaded for disposal;

(4) regulations to improve ship-board waste management, which may include expanding to smaller vessels existing requirements to maintain ship-board receptacles and maintain a ship-board waste management plan, taking into account potential economic impacts and technical feasibility;

(5) the development, through outreach to commercial vessel operators and recreational boaters, of a voluntary reporting program, along with the establishment of a central reporting location, for incidents of damage to vessels caused by marine debris, as well as observed violations of existing laws and regulations relating to disposal of plastics and other marine debris; and

(6) a voluntary program encouraging United States flag vessels to inform the Coast Guard of any ports in other countries that lack adequate port reception facilities for garbage.

**SEC. 5. INTERAGENCY COORDINATION.**

(a) **INTERAGENCY MARINE DEBRIS COMMITTEE ESTABLISHED.**—There is established an Interagency Committee on Marine Debris to coordinate a comprehensive program of marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, State governments, Indian tribes, and other nations, as appropriate, and to foster cost-effective mechanisms to identify, determine sources of, assess, reduce, and prevent marine debris, and its adverse impact on the marine environment and navigational safety, including the joint funding of research and mitigation and prevention strategies.

(b) **MEMBERSHIP.**—The Committee shall include a senior official from—

(1) the National Oceanic and Atmospheric Administration, who shall serve as the chairperson of the Committee;

(2) the United States Coast Guard;

(3) the Environmental Protection Agency;

(4) the United States Navy;

(5) the Maritime Administration of the Department of Transportation;

(6) the National Aeronautics and Space Administration;

(7) the U.S. Fish and Wildlife Service;

(8) the Department of State;

(9) the Marine Mammal Commission; and

(10) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Administrator determines appropriate.

(c) **MEETINGS.**—The Committee shall meet at least twice a year to provide a public,

interagency forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

(d) DEFINITION.—The Committee shall develop and promulgate through regulation a definition of the term “marine debris”.

(e) REPORTING.—

(1) INTERAGENCY REPORT ON MARINE DEBRIS IMPACTS AND STRATEGIES.—Not later than 12 months after the date of the enactment of this Act, the Committee, through the chairperson, and in cooperation with the coastal States, Indian tribes, local governments, and non-governmental organizations, shall complete and submit to the Congress a report identifying the source of marine debris, examining the ecological and economic impact of marine debris, alternatives for reducing, mitigating, preventing, and controlling the harmful affects of marine debris, the social and economic costs and benefits of such alternatives, and recommendations regarding both domestic and international marine debris issues.

(2) CONTENTS.—The report submitted under paragraph (1) shall provide recommendations on—

(A) establishing priority areas for action to address leading problems relating to marine debris;

(B) developing an effective strategy and approaches to preventing, reducing, removing, and disposing of marine debris, including through private-public partnerships;

(C) providing appropriate infrastructure for effective implementation and enforcement of measures to prevent and remove marine debris, especially the discard and loss of fishing gear;

(D) establishing effective and coordinated education and outreach activities; and

(E) ensuring Federal cooperation with, and assistance to, the coastal States (as defined in section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4))), Indian tribes, and local governments in the identification, determination of sources, prevention, reduction, management, mitigation, and control of marine debris and its adverse impacts.

(3) ANNUAL PROGRESS REPORTS.—Not later than 2 years after the date of the enactment of this Act, and every year thereafter, the Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that evaluates United States and international progress in meeting the purposes of this Act. The report shall include—

(A) the status of implementation of the recommendations of the Committee and analysis of their effectiveness;

(B) a summary of the marine debris inventory to be maintained by the National Oceanic and Atmospheric Administration;

(C) a review of the National Oceanic and Atmospheric Administration program authorized by section 3 of this Act, including projects funded and accomplishments relating to reduction and prevention of marine debris;

(D) a review of United States Coast Guard programs and accomplishments relating to marine debris removal, including enforcement and compliance with MARPOL requirements; and

(E) estimated Federal and non-Federal funding provided for marine debris and recommendations for priority funding needs.

(f) MONITORING.—The Administrator, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under this Act and title V of the Marine Protection, Re-

search, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

(1) the Committee in ensuring coordination of research, monitoring, education, and regulatory actions; and

(2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) in ensuring compliance under section 2201 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1913).

(g) CONFORMING AMENDMENT.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is repealed.

#### SEC. 6. INTERNATIONAL COOPERATION.

The Interagency Marine Debris Committee shall develop a strategy and pursue in the International Maritime Organization and other appropriate international and regional forums, international action to reduce the incidence of marine debris, including—

(1) the inclusion of effective and enforceable marine debris prevention and removal measures in international and regional agreements, including fisheries agreements and maritime agreements;

(2) measures to strengthen and to improve compliance with MARPOL Annex V;

(3) national reporting and information requirements that will assist in improving information collection, identification and monitoring of marine debris;

(4) the establishment of an international database, consistent with the information clearinghouse established under section 7, that will provide current information on location, source, prevention, and removal of marine debris;

(5) the establishment of public-private partnerships and funding sources for pilot programs that will assist in implementation and compliance with marine debris requirements in international agreements and guidelines;

(6) the identification of possible amendments to and provisions in the International Maritime Organization Guidelines for the Implementation of Annex V of MARPOL for potential inclusion in Annex V; and

(7) when appropriate assist the responsible Federal agency in bilateral negotiations to effectively enforce marine debris prevention.

#### SEC. 7. FEDERAL INFORMATION CLEARINGHOUSE.

The Administrator, in coordination with the Committee, shall maintain a Federal information clearinghouse on marine debris that will be available to researchers and other interested parties to improve source identification, data sharing, and monitoring efforts through collaborative research and open sharing of data. The clearinghouse shall include—

(1) standardized protocols to map locations of commercial fishing and aquaculture activities using Geographic Information System techniques;

(2) a world-wide database which describes fishing gear and equipment, and fishing practices, including information on gear types and specifications;

(3) guidance on the identification of types of fishing gear fragments and their sources developed in consultation with persons of relevant expertise; and

(4) the data on mapping and identification of marine debris to be developed pursuant to section 3(b)(1) of this Act.

#### SEC. 8. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(2) COMMITTEE.—The term “Committee” means the Interagency Marine Debris Committee established by section 5 of this Act.

(3) UNITED STATES EXCLUSIVE ECONOMIC ZONE.—The term “United States exclusive economic zone” means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as “eastern special areas” in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

(4) MARPOL; ANNEX V; CONVENTION.—The terms “MARPOL”, “Annex 5”, and “Convention” have the meaning given those terms in paragraphs (3) and (4) of section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year 2006 through 2010—

(1) to the Administrator for the purpose of carrying out sections 3 and 7 of this Act, \$10,000,000, of which no more than 10 percent may be for administrative costs; and

(2) to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the Coast Guard in carrying out sections 4 and 6 of this Act, \$5,000,000, of which no more than 10 percent may be used for administrative costs.

By Mr. INOUE (for himself, Mr. STEVENS, Mr. AKAKA, and Mr. LAUTENBERG):

S. 363. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUE. Mr. President. I rise today to introduce the Ballast Water Management Act of 2005. I am joined by my friend and colleague, Senator TED STEVENS. For some time we have recognized the impacts of land-based invasive species. In Hawaii, the impacts of such alien species on native species have been among the most significant in the country.

While not as visible, invasive species pose an equally great threat. One of the major ways that aquatic invasives make their way around the globe is through the ballast water used by vessels.

Modern maritime commerce depends on ships stabilized by the uptake and discharge of huge volumes of ocean water for ballast. Regrettably, ships do not transport such water alone—but also the plants and animals, as well as human diseases such as cholera, that it contains. An estimated 10,000 aquatic organisms travel around the globe each day in the ballast water of cargo vessels. Over 2 billion gallons of ballast water are discharged into waters of the United States each year.

From the zebra mussel fouling the facilities and shores of the Great Lakes, to the noxious algae that choke the coral reefs of Hawaii, aquatic invasive species pose a serious threat to delicate marine ecosystems and human health. The economic costs are also staggering—the direct and indirect costs of

aquatic invasive species to the economy of the United States amount to billions of dollars each year.

We must find an effective solution to this problem, while at the same time ensuring that our maritime industry can continue to operate in a cost-effective manner. We will need to rely on the steady collaborative efforts of industry, science, government, and coastal communities as we move forward.

The bill I introduce today lays the foundation for such progress. It establishes standards for ballast water treatment that will be effective but on a schedule that our maritime fleet can realistically achieve. It recognizes safety as a paramount concern, and allows flexibility in ballast exchange practices to safeguard vessels and their passengers and crew. Looking to the future, my bill will also encourage the development and adoption of new ballast water treatment technologies, as well as innovative technologies to address other vessel sources of invasives such as hull fouling, through a grant program.

The bill closely tracks and is consistent with an agreement recently negotiated in the International Maritime Organization. It would phase-in ballast water treatment requirements on the same schedule as that adopted by the IMO agreement, and require ballast water exchange to be used until treatment systems are in place. Importantly, the international agreement includes a provision assuring that parties can adopt more stringent measures than those included in the agreement. This provision was sought by the United States and is important to assure the sovereignty of nations in addressing their needs while striving for international cooperation. In light of this provision, the bill includes a standard for treatment that is more effective than that adopted by the international community to ensure that the impacts in the United States are adequately prevented.

Finally, the bill would require a report on other vessel pathways of invasive species, including hull fouling, and the development of standards to reduce the introduction of invasive species through such pathways. This issue is particularly important for Hawaii.

I hope that my colleagues will join me in supporting 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. 363

*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 "Ballast Water Management Act of 2005".

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The introduction of aquatic invasive species into the Nation's waters is one of the most urgent issues facing the marine environment in the United States.

(2) The direct and indirect costs of aquatic invasive species to the economy of the United States amount to billions of dollars per year.

(3) Invasive species are thought to have been involved in 70 percent of the last century's extinctions of native aquatic species.

(4) Invasive aquatic species are a significant problem in all regions of the United States, including Hawaii, Alaska, San Francisco Bay, the Great Lakes, the Southeast, and the Chesapeake Bay.

(5) Ballast water from ships is one of the largest pathways for the introduction and spread of aquatic invasive species.

(6) It has been estimated that some 10,000 non-indigenous aquatic organisms travel around the globe each day in the ballast water of cargo ships.

(7) Over 2 billion gallons of ballast water are discharged in United States waters each year. Ballast water may be the source of the largest volume of foreign organisms released on a daily basis into American ecosystems.

(8) Ballast water has been found to transport not only invasive plants and animals but human diseases as well, such as cholera.

(9) Invasive species may also be introduced by other vessel conduits, including the hulls of ships.

(10) Invasive aquatic species may originate in other countries, or from distinct regions in the United States.

(11) An average of 72 percent of all fish species introduced in the Southeast have become established, many of which are native to the United States but transplanted outside their native ranges.

(12) The introduction of non-indigenous species has been closely correlated with the disappearance of indigenous species in Hawaii and other islands.

(13) Despite the efforts of more than 20 State, Federal, and private agencies, unwanted alien pests are entering Hawaii at an alarming rate—about 2 million times more rapid than the natural rate.

(14) Current Federal programs are insufficient to effectively address this growing problem.

(15) Preventing aquatic invasive species from being introduced is the most cost-effective approach for addressing this issue, because once established, they are costly and sometimes impossible to control.

#### SEC. 3. BALLAST WATER MANAGEMENT.

(a) IN GENERAL.—Section 1101 of the Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711) is amended to read as follows:

##### "SEC. 1101. BALLAST WATER MANAGEMENT.

"(a) VESSELS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section applies to a vessel that is designed or constructed to carry ballast water; and

"(A) is a vessel of the United States (as defined in section 2101(46) of title 46, United States Code); or

"(B) is a foreign vessel that—

"(i) is en route to a United States port; or

"(ii) has departed from a United States port and is within the exclusive economic zone.

"(2) EXCEPTIONS.—Notwithstanding paragraph (1), this section does not apply to—

"(A) permanent ballast water in a sealed tank on a vessel that is not subject to discharge;

"(B) a vessel of the Armed Forces; or

"(C) a vessel, or category of vessels, exempted by the Secretary under paragraph (4).

"(3) STANDARDS FOR VESSELS OF THE ARMED FORCES.—With respect to a vessel of the Armed Forces that is designed or constructed to carry ballast water, the Secretary of Defense, after consultation with

the Administrator of the Environmental Protection Agency and the Secretary, shall promulgate ballast water and sediment management standards for such vessels that, so far as is reasonable and practicable, achieve environmental results that are comparable to those achieved by the requirements of this section in waters subject to the jurisdiction of the United States. In promulgating those standards, the Secretary of Defense may take into account the standards promulgated for such vessels under section 312 of the Clean Water Act (33 U.S.C. 1322) to the extent that compliance with those standards would meet the requirements of this Act.

"(4) VESSEL EXEMPTIONS BY SECRETARY.—The Secretary may exempt a vessel, or category of vessels, from the application of this section if the Secretary determines, after consultation with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, that ballast water discharge from the vessel or category of vessels will not have an adverse impact (as defined in section 1003(1) of this Act), based on factors including the origin and destination of the voyages undertaken by such vessel or category of vessels.

"(5) COAST GUARD ASSESSMENT AND REPORT.—Within 180 days after the date of enactment of the Ballast Water Management Act of 2005, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

"(A) an assessment of the magnitude of ballast water operations from vessels designed or constructed to carry ballast water that are not described in paragraph (1) that are transiting waters subject to the jurisdiction of the United States; and

"(B) recommendations, including legislative recommendations if appropriate, of options for addressing such ballast water operations.

"(b) UPTAKE AND DISCHARGE OF BALLAST WATER AND SEDIMENT.—

"(1) PROHIBITION.—The operator of a vessel to which this section applies may not conduct the uptake or discharge of ballast water and sediment except as provided in this section.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to the uptake or discharge of ballast water and sediment in the following circumstances:

"(A) The uptake or discharge is solely for the purpose of—

"(i) ensuring the safety of vessel in an emergency situation; or

"(ii) saving a life at sea.

"(B) The uptake or discharge is accidental and the result of damage to the vessel or its equipment and—

"(i) all reasonable precautions to prevent or minimize ballast water and sediment discharge have been taken before and after the damage occurs, the discovery of the damage, and the discharge; and

"(ii) the owner or officer in charge of the vessel did not willfully or recklessly cause the damage.

"(C) The uptake or discharge is solely for the purpose of avoiding or minimizing the discharge of pollution from the vessel.

"(D) The uptake and subsequent discharge on the high seas of the same ballast water and sediment.

"(E) The uptake or discharge of ballast water and sediment occurs at the same location where the whole of the ballast water and sediment that is discharged was taken up and there is no mixing with unmanaged ballast water and sediment from another area.

“(3) SPECIAL RULE FOR THE GREAT LAKES.—Paragraph (2) does not apply to a vessel subject to the regulations under subsection (e)(2) until the vessel is required to conduct ballast water treatment in accordance with subsection (f) of this section.

“(c) VESSEL BALLAST WATER MANAGEMENT PLAN.—

“(1) IN GENERAL.—A vessel to which this section applies shall conduct all its ballast water management operations in accordance with a ballast water management plan that—

“(A) meets the requirements prescribed by the Secretary by regulation; and

“(B) is approved by the Secretary.

“(2) APPROVAL CRITERIA.—The Secretary may not approve a ballast water management plan unless the Secretary determines that the plan—

“(A) describes in detail safety procedures for the vessel and crew associated with ballast water management;

“(B) describes in detail the actions to be taken to implement the ballast water management requirements established under this section;

“(C) describes in detail procedures for disposal of sediment at sea and on shore;

“(D) designates the officer on board the vessel in charge of ensuring that the plan is properly implemented;

“(E) contains the reporting requirements for vessels established under this section; and

“(F) meets all other requirements prescribed by the Secretary.

“(3) COPY OF PLAN ON BOARD VESSEL.—The owner or operator of a vessel to which this section applies shall maintain a copy of the vessel's ballast water management plan on board at all times.

“(d) VESSEL BALLAST WATER RECORD BOOK.—

“(1) IN GENERAL.—The owner or operator of a vessel to which this section applies shall maintain a ballast water record book on board the vessel in which—

“(A) each operation involving ballast water is fully recorded without delay, in accordance with regulations promulgated by the Secretary; and

“(B) each such operation is described in detail, including the location and circumstances of, and the reason for, the operation.

“(2) AVAILABILITY.—The ballast water record book—

“(A) shall be kept readily available for examination by the Secretary at all reasonable times; and

“(B) notwithstanding paragraph (1), may be kept on the towing vessel in the case of an unmanned vessel under tow.

“(3) RETENTION PERIOD.—The ballast water record book shall be retained—

“(A) on board the vessel for a period of 2 years after the date on which the last entry in the book is made; and

“(B) under the control of the vessel's owner for an additional period of 3 years.

“(4) REGULATIONS.—In the regulations prescribed under this section, the Secretary shall require, at a minimum, that—

“(A) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded; and

“(B) each completed page in the ballast water record book be signed and dated by the master of the vessel.

“(5) ALTERNATIVE MEANS OF RECORD-KEEPING.—The Secretary may provide by regulation for alternative methods of record-keeping, including electronic recordkeeping, to comply with the requirements of this subsection.

“(e) BALLAST WATER EXCHANGE REQUIREMENTS.—

“(1) IN GENERAL.—Until a vessel conducts ballast water treatment in accordance with the requirements of subsection (f) of this section, the operator of a vessel to which this section applies may not conduct the uptake or discharge of ballast water unless the operator conducts ballast water exchange, in accordance with regulations prescribed by the Secretary, in a manner that results in an efficiency of at least 95 percent volumetric exchange of the ballast water for each ballast water tank.

“(2) SPECIAL RULE FOR VESSELS IN THE GREAT LAKES.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subsection, under regulations prescribed by the Secretary to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels, operators of vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone shall—

“(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes; or

“(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1).

“(B) ADDITIONAL MATTERS COVERED BY THE REGULATIONS.—The regulations shall—

“(i) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(ii) provide for sampling procedures to monitor compliance with the requirements of the regulations;

“(iii) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

“(iv) protect the safety of—

“(I) each vessel; and

“(II) the crew and passengers of each vessel;

“(v) take into consideration different operating conditions; and

“(vi) be based on the best scientific information available.

“(C) HUDSON RIVER PORT.—The regulations under this paragraph also apply to vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

“(D) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this paragraph.

“(3) EXCHANGE AREAS.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), the operator of a vessel to which this section applies shall conduct ballast water exchange in accordance with regulations prescribed by the Secretary—

“(i) at least 200 nautical miles from the nearest land; and

“(ii) in water at least 200 meters in depth.

“(B) MINIMUM DISTANCE AND DEPTH.—

“(1) IN GENERAL.—Except as provided in subparagraph (C), if the operator of a vessel is unable to conduct ballast water exchange

in accordance with subparagraph (A), the ballast water exchange shall be conducted in water that is—

“(I) as far as possible from land;

“(II) at least 50 nautical miles from land; and

“(III) in water of at least 200 meters in depth.

“(ii) LIMITATION.—The operator of a vessel may not conduct ballast water exchange in accordance with clause (i) in any area with respect to which the Secretary has determined, after consultation with the Administrators of the Environmental Protection Agency and the National Oceanic and Atmospheric Administration, that ballast water exchange in the area will have an adverse impact, notwithstanding the fact that the area meets the distance and depth criteria of clause (i).

“(C) EXCHANGE IN DESIGNATED AREA.—

“(i) IN GENERAL.—If the operator of a vessel is unable to conduct ballast water exchange in accordance with subparagraph (B), the operator of the vessel may conduct ballast water exchange in an area that does not meet the distance and depth criteria of subparagraph (B) in such areas as may be designated by the Administrator of the National Oceanic and Atmospheric Administration, determined in consultation with the Secretary and the Administrator of the Environmental Protection Agency, for that purpose.

“(ii) CHARTING.—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Secretary, shall designate such areas on nautical charts.

“(iii) LIMITATION.—The Administrator may not designate an area under clause (i) if a ballast water exchange in that area could have an adverse impact, as determined by the Secretary in consultation with the Administrator of the Environmental Protection Agency.

“(D) SAFETY OR STABILITY EXCEPTION.—

“(i) IN GENERAL.—Subparagraphs (A), (B), and (C) do not apply to the discharge or uptake of ballast water if the master of a vessel determines that compliance with subparagraph (A), (B), or (C), whichever applies, would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, ship design or stress, equipment failure, or any other relevant condition.

“(ii) NOTIFICATION REQUIRED.—Whenever the master of a vessel conducts a ballast water discharge or uptake under the exception described in clause (i), the master of the vessel shall notify the Secretary as soon as practicable thereafter but no later than 24 hours after the ballast water discharge or uptake commenced.

“(iii) LIMITATION ON VOLUME.—The volume of any ballast water taken up or discharged under the exception described in clause (i) may not exceed the volume necessary to ensure the safe operation of the vessel.

“(iv) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge or uptake under the exception described in clause (i) on more than 2 out of 6 sequential voyages, the Secretary shall review the circumstances to determine whether those ballast water discharges or uptakes met the requirements of this subparagraph. The review under this clause shall be in addition to any other enforcement activity by the Secretary.

“(E) INABILITY TO COMPLY WITH EXCHANGE AREA REQUIREMENTS.—

“(i) DEVIATION OR DELAY OF VOYAGE.—In determining the ability of the operator of a vessel to conduct ballast water exchange in accordance with the requirements of subparagraph (A) or (B), a vessel is not required



to deviate from its intended voyage or unduly delay its voyage to comply with those requirements.

“(ii) PARTIAL COMPLIANCE.—An operator of a vessel that is unable to comply fully with the requirements of subparagraph (A) or (B), shall conduct ballast water exchange to the maximum extent feasible in compliance with those subparagraphs.

“(F) SPECIAL RULE FOR THE GREAT LAKES.—This paragraph does not apply to vessels subject to the regulations under paragraph (2).

“(f) BALLAST WATER TREATMENT REQUIREMENTS.—

“(1) IN GENERAL.—Subject to the implementation schedule in paragraph (3), before discharging ballast water in waters subject to the jurisdiction of the United States a vessel to which this section applies shall conduct ballast water treatment so that the ballast water discharged will contain—

“(A) less than 0.1 living organisms per cubic meter that are 50 or more micrometers in minimum dimension;

“(B) less than 0.1 living organisms per milliliter that are less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension;

“(C) concentrations of indicator microbes that are less than—

“(i) 1 colony-forming unit of Toxicogenic vibrio cholera (O1 and O139) per 100 milliliters, or less than 1 colony-forming unit of that microbe per gram of wet weight of zoological samples;

“(ii) 126 colony-forming units of escherichia coli per 100 milliliters; and

“(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters; and

“(D) concentrations of such indicator microbes as may be specified in regulations promulgated by the Secretary that are less than the amount specified in those regulations.

“(2) RECEPTION FACILITY EXCEPTION.—Paragraph (1) does not apply to a vessel that discharges ballast water into a reception facility that meets standards prescribed by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, for the reception of ballast water that provide for the reception of ballast water and its disposal or treatment in a way that does not impair or damage the environment, human health, property, or resources. The Secretary may not prescribe such standards that are less stringent than any otherwise applicable Federal, State, or local law requirements.

“(3) IMPLEMENTATION SCHEDULE.—Paragraph (1) applies to vessels in accordance with the following schedule:

“(A) FIRST PHASE.—Beginning January 1, 2009, for vessels constructed on or after that date with a ballast water capacity of less than 5,000 cubic meters.

“(B) SECOND PHASE.—Beginning January 1, 2012, for vessels constructed on or after that date with a ballast water capacity of 5,000 cubic meters or more.

“(C) THIRD PHASE.—Beginning January 1, 2014, for vessels constructed before January 1, 2009, with a ballast water capacity of 1,500 cubic meters or more but not more than 5,000 cubic meters.

“(D) FOURTH PHASE.—Beginning January 1, 2016, for vessels constructed—

“(i) before January 1, 2009, with a ballast water capacity of less than 1,500 cubic meters or 5,000 cubic meters or more; or

“(ii) on or after January 1, 2009, and before January 1, 2012, with a ballast water capacity of 5,000 cubic meters or more.

“(4) REVIEW OF STANDARDS.—

“(A) IN GENERAL.—In December, 2012, and in every third year thereafter, the Secretary shall review the treatment standards established in paragraph (1) of this subsection to

determine, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, if the standards should be revised to reduce the amount of organisms or microbes allowed to be discharged using the best available technology economically available. The Secretary shall revise such standards as necessary by regulation.

“(B) APPLICATION OF ADJUSTED STANDARDS.—In the regulations, the Secretary shall provide for the prospective application of the adjusted standards prescribed under this paragraph to vessels constructed after the date on which the adjusted standards apply and for an orderly phase-in of the adjusted standards to existing vessels.

“(5) DELAY OF APPLICATION FOR VESSEL PARTICIPATING IN PROMISING TECHNOLOGY EVALUATIONS.—

“(A) IN GENERAL.—If a vessel participates in a program approved by the Secretary to test and evaluate promising ballast water treatment technologies with the potential to result in treatment technologies achieving a standard that is the same as or more stringent than the standard that applies under paragraph (1) before the first date on which paragraph (1) applies to that vessel, the Secretary may postpone the date on which paragraph (1) would otherwise apply to that vessel for not more than 5 years.

“(B) VESSEL DIVERSITY.—The Secretary—

“(i) shall seek to ensure that a wide variety of vessel types and voyages are included in the program; but

“(ii) may not grant a delay under this paragraph to more than 1 percent of the vessels to which subparagraph (A), (B), (C), or (D) of paragraph (3) applies.

“(C) TERMINATION OF POSTPONEMENT.—The Secretary may terminate the 5-year postponement period if participation of the vessel in the program is terminated without the consent of the Secretary.

“(6) FEASIBILITY REVIEW.—

“(A) IN GENERAL.—Not less than 2 years before the date on which paragraph (1) applies to vessels under each subparagraph of paragraph (3), the Secretary shall complete a review to determine whether appropriate technologies are available to achieve the standards set forth in paragraph (1) for the vessels to which they apply under the schedule set forth in paragraph (3).

“(B) DELAY IN SCHEDULED APPLICATION.—If the Secretary determines, on the basis of the review conducted under subparagraph (A), that compliance with the standards set forth in paragraph (1) in accordance with the schedule set forth in any subparagraph of paragraph (3) is not feasible, the Secretary shall—

“(i) extend the date on which that subparagraph first applies to vessels for a period of not more than 36 months; and

“(ii) recommend action to ensure that compliance with the extended date schedule for that subparagraph is achieved.

“(7) TREATMENT SYSTEM APPROVAL REQUIRED.—The operator of a vessel may not use a ballast water treatment system to comply with the requirements of this subsection unless the system is approved by the Secretary. The Secretary shall promulgate regulations establishing a process for such approval.

“(g) WARNINGS CONCERNING BALLAST WATER UPTAKE.—

“(1) IN GENERAL.—The Secretary shall notify mariners of any area in waters subject to the jurisdiction of the United States in which vessels should not uptake ballast water due to known conditions.

“(2) CONTENTS.—The notice shall include—

“(A) the coordinates of the area; and

“(B) if possible, the location of alternative areas for the uptake of ballast water.

“(h) SEDIMENT MANAGEMENT.—

“(1) IN GENERAL.—The operator of a vessel to which this section applies may not remove or dispose of sediment from spaces designed to carry ballast water except in accordance with this subsection and the ballast water management plan required under subsection (c).

“(2) DESIGN REQUIREMENTS.—

“(A) NEW VESSELS.—No person may remove and dispose of such sediment from a vessel to which this section applies in waters subject to the jurisdiction of the United States that is constructed on or after January 1, 2009, unless the vessel is designed and constructed in a manner that—

“(i) minimizes the uptake and entrapment of sediment;

“(ii) facilitates removal of sediment; and

“(iii) provides for safe access for sediment removal and sampling.

“(B) EXISTING VESSELS.—The operator of a vessel to which this section applies that was constructed before January 1, 2009, may not remove and dispose of such sediment in waters subject to the jurisdiction of the United States unless—

“(i) the vessel has been modified, to the extent practicable and in accordance with regulations promulgated by the Secretary, to achieve the objectives described in clauses (i), (ii), and (iii) of subparagraph (A); or

“(ii) the removal and disposal of the sediment is conducted in such a manner as to achieve those objectives to the greatest extent practicable and in accordance with those regulations.

“(C) REGULATIONS.—The Secretary shall promulgate regulations establishing design and construction standards to achieve the objectives of subparagraph (A) and providing guidance for modifications and practices under subparagraph (B). The Secretary shall incorporate the standards and guidance in the regulations governing the ballast water management plan.

“(3) SEDIMENT RECEPTION FACILITIES.—

“(A) STANDARDS.—The Administrator of the Environmental Protection Agency in consultation with the Secretary, shall promulgate regulations governing facilities for the reception of vessel sediment from spaces designed to carry ballast water that provide for the disposal of such sediment in a way that does not impair or damage the environment, human health, or property or resources of the disposal area. The Administrator may not prescribe standards under this subparagraph that are less stringent than any otherwise applicable Federal, State, or local law requirements.

“(B) DESIGNATION.—The Secretary shall designate facilities for the reception of vessel sediment that meet the requirements of the regulations promulgated under subparagraph (A) at ports and terminals where ballast tanks are cleaned or repaired.

“(i) EXAMINATIONS AND CERTIFICATIONS.—

“(1) INITIAL EXAMINATION.—

“(A) IN GENERAL.—The Secretary shall examine vessels to which this section applies to determine whether—

“(i) there is a ballast water management plan for the vessel; and

“(ii) the equipment used for ballast water and sediment management in accordance with the requirements of this section and the regulations promulgated hereunder is installed and functioning properly.

“(B) NEW VESSELS.—For vessels constructed on or after January 1, 2009, the Secretary shall conduct the examination required by subparagraph (A) before the vessel is placed in service.

“(C) EXISTING VESSELS.—For vessels constructed before January 1, 2009, the Secretary shall—

“(i) conduct the examination required by subparagraph (A) before the date on which subsection (f)(1) applies to the vessel according to the schedule in subsection (f)(3); and

“(ii) inspect the vessel’s ballast water record book required by subsection (d).

“(2) SUBSEQUENT EXAMINATIONS.—The Secretary shall examine vessels no less frequently than once each year to ensure vessel compliance with the requirements of this section.

“(3) INSPECTION AUTHORITY.—In order to carry out the provisions of this section, the Secretary may take ballast water samples at any time on any vessel to which this section applies to ensure its compliance with this Act.

“(4) REQUIRED CERTIFICATE.—

“(A) IN GENERAL.—If, on the basis of an initial examination under paragraph (1) the Secretary finds that a vessel complies with the requirements of this section and the regulations promulgated hereunder, the Secretary shall issue a certificate under this paragraph as evidence of such compliance. The certificate shall be valid for a period of not more than 5 years, as specified by the Secretary. The certificate or a true copy shall be maintained on board the vessel.

“(B) FOREIGN CERTIFICATES.—The Secretary may treat a certificate issued by a foreign government as a certificate issued under subparagraph (A) if the Secretary determines that the standards used by the issuing government are equivalent to or more stringent than the standards used by the Secretary under subparagraph (A).

“(5) NOTIFICATION OF VIOLATIONS.—If the Secretary finds, on the basis of an examination under paragraph (1) or (2), sampling under paragraph (3), or any other information, that a vessel is being operated in violation of the requirements of this section and the regulations promulgated hereunder, the Secretary shall—

“(A) notify—

“(i) the master of the vessel; and

“(ii) the captain of the port at the vessel’s next port of call; and

“(B) take such other action as may be appropriate.

“(j) DETENTION OF VESSELS.—

“(1) IN GENERAL.—The Secretary, by notice to the owner, charterer, managing operator, agent, master, or other individual in charge of a vessel, may detain that vessel if the Secretary has reasonable cause to believe that—

“(A) the vessel is a vessel to which this section applies;

“(B) the vessel does not comply with the requirements of this section or of the regulations issued hereunder or is being operated in violation of such requirements; and

“(C) the vessel is about to leave a place in the United States.

“(2) CLEARANCE.—

“(A) IN GENERAL.—A vessel detained under paragraph (1) may obtain clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) only if the violation for which it was detained has been corrected.

“(B) WITHDRAWAL.—If the Secretary finds that a vessel detained under paragraph (1) has received a clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) before it was detained under paragraph (1), the Secretary shall request the Secretary of the Treasury to withdraw the clearance. Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance.

“(k) SANCTIONS.—

“(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under this section shall be liable for a civil penalty in

an amount not to exceed \$25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

“(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under this section is guilty of a class C felony.

“(3) REVOCATION OF CLEARANCE.—Except as provided in subsection (j)(2), upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under this section.

“(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

“(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

“(B) the recordkeeping and reporting requirements of the Act are complied with.

“(1) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

“(m) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species. The Secretary is particularly encouraged to seek bilateral or multilateral agreements with Canada, Mexico, and other nations in the Wider Caribbean (as defined in the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean (Cartagena Convention) under this section.

“(n) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.

“(o) SUPPORT FOR FEDERAL BALLAST WATER DEMONSTRATION PROJECT.—In addition to amounts otherwise available to the Maritime Administration, the National Oceanographic and Atmospheric Administration, and the United States Fish and Wildlife Service for the Federal Ballast Water Demonstration Project, the Secretary shall provide support for the conduct and expansion of the project, including grants for research and development of innovative technologies for the management, treatment, and disposal of ballast water and sediment, for ballast water exchange, and for other vessel vectors of invasive aquatic species such as hull fouling. There are authorized to be appropriated to the Secretary \$25,000,000 for each fiscal year to carry out this subsection.

“(p) CONSULTATION WITH TASK FORCE.—The Secretary shall consult with the Task Force in carrying out this section.

“(q) PREEMPTION.—Notwithstanding any other provision of law, the provisions of subsections (e) and (f) (other than subsection (f)(2)) supersede any provision of State or local law determined by the Secretary to be inconsistent with the requirements of that subsection or to conflict with the requirements of that subsection.

“(r) REGULATIONS.—The Secretary may issue such regulations as may be necessary to carry out this section and the terms defined in section 1003 that are used in this section.”

(b) DEFINITIONS.—Section 1003 of the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(1) by redesignating—

(A) paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(B) paragraphs (4), (5), (6), (7), and (8) as paragraphs (8), (9), (10), (11), and (12), respectively;

(C) paragraphs (9) and (10) as paragraphs (14) and (15) respectively;

(D) paragraphs (11) and (12) as paragraphs (17) and (18), respectively;

(E) paragraphs (13), (14), and (15) as paragraphs (20), (21), and (22), respectively;

(F) paragraph (16) as paragraph (26); and

(G) paragraph (17) as paragraph (23) and inserting it after paragraph (22), as redesignated;

(2) by inserting before paragraph (2), as redesignated, the following:

“(1) ‘adverse impact’ means the direct or indirect result or consequence of an event or process that—

“(A) creates a hazard to the environment, human health, property, or a natural resource;

“(B) impairs biological diversity; or

“(C) interferes with the legitimate use of waters subject to the jurisdiction of the United States;”;

(3) by striking paragraph (4), as redesignated, and inserting the following:

“(4) ‘ballast water’—

“(A) means water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; but

“(B) does not include potable or technical water that does not contain harmful aquatic organisms or pathogens that is taken on board a vessel and used for a purpose described in subparagraph (A) if such potable or technical water is discharged in compliance with section 312 of the Clean Water Act (33 U.S.C. 1322);”;

(4) by inserting after paragraph (4) the following:

“(5) ‘ballast water capacity’ means the total volumetric capacity of any tanks, spaces, or compartments on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

“(6) ‘ballast water management’ means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediment;

“(7) ‘constructed’ means a state of construction of a vessel at which—

“(A) the keel is laid;

“(B) construction identifiable with the specific vessel begins;

“(C) assembly of the vessel has begun comprising at least 50 tons or 1 percent of the estimated mass of all structural material of the vessel, whichever is less; or

“(D) the vessel undergoes a major conversion;”;

(5) by inserting after paragraph (12), as redesignated, the following:

“(13) ‘harmful aquatic organisms and pathogens’ means aquatic organisms or pathogens that have been determined by the Secretary, after consultation with the Administrator of the National Oceanographic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, to cause an adverse impact if introduced into the waters subject to the jurisdiction of the United States;”;

(6) by inserting after paragraph (15), as redesignated, the following:

“(16) ‘major conversion’ means a conversion of a vessel, that—

“(A) changes its ballast water carrying capacity by at least 15 percent;

“(B) changes the vessel class;

“(C) is projected to prolong the vessel’s life by at least 10 years (as determined by the Secretary); or

“(D) results in modifications to the vessel’s ballast water system, except—

“(i) component replacement-in-kind; or

“(ii) conversion of a vessel to meet the requirements of section 1101(e);”;

(7) by inserting after paragraph (18), as redesignated, the following:

“(19) ‘sediment’ means matter that has settled out of ballast water within a vessel;”;

(8) by inserting after paragraph (23), as redesignated, the following:

“(24) ‘United States port’ means a port, river, harbor, or offshore terminal under the jurisdiction of the United States, including ports located in Puerto Rico, Guam, the Northern Marianas, and the United States Virgin Islands;

“(25) ‘vessel of the Armed Forces’ means—

“(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

“(B) any vessel owned or operated by the Department of Homeland Security that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A);”;

(9) by inserting after paragraph (26), as redesignated, the following:

“(27) ‘waters subject to the jurisdiction of the United States’ means navigable waters and the territorial sea of the United States, the exclusive economic zone, and the Great Lakes.”.

(c) GREAT LAKES REGULATIONS.—Until vessels described in section 1101(e)(2) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(e)(2)), as amended by this Act, are required to conduct ballast water treatment in accordance with the requirements of section 1101(f) of that Act (16 U.S.C. 1101(f)), as amended by this Act, the regulations promulgated by the Secretary of Transportation under section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711), as such regulations were in effect on the day before the date of enactment of this Act, shall remain in full force and effect for, and shall continue to apply to, such vessels.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 1301(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(a)) is amended—

(1) by striking “and” after the semicolon in paragraph (4)(B);

(2) by striking “1102(f).” in paragraph (5)(B) and inserting “1102(f); and”;

(3) by adding at the end the following:

“(6) \$10,000,000 for each of fiscal years 2006 through 2010 to the Secretary to carry out section 1101.”.

#### SEC. 5. COAST GUARD REPORT ON OTHER VESSEL-RELATED VECTORS OF INVASIVE SPECIES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on vessel-related vectors of harmful aquatic organisms and pathogens other than ballast water and sediment, including vessel hulls and equipment, and from vessels equipped with ballast tanks that carry no ballast water on board.

(b) BEST PRACTICES.—As soon as practicable, the Coast Guard shall develop best practices standards and procedures designed to reduce the introduction of invasive species into and within the United States from vessels and establish a timeframe for implementation of those standards and procedures by vessels, in addition to the mandatory requirements set forth in section 1101 for ballast water. Such standards and procedures should include designation of geographical locations for uptake and discharge of untreated ballast water, as well as standards and procedures for other vessel vectors of invasive aquatic species. The Commandant shall transmit a report to the Committees describing the standards and procedures developed and the implementation timeframe, together with any recommendations, including legislative recommendations if appropriate, the Commandant deems appropriate. The Secretary of the department in which the Coast Guard is operating may promulgate regulations to incorporate and enforce standards and procedures developed under this subsection.

By Mr. INOUE (for himself, Mr. STEVENS, Mr. LOTT, Ms. CANTWELL, Ms. SNOWE, Mr. KERRY, and Mr. LAUTENBERG):

S. 364. A bill to establish a program within the National Oceanic Atmospheric Administration to integrate Federal coastal and ocean mapping activities; to the Committee on Commerce, Science, and Transportation.

Mr. INOUE. Mr. President, today I am introducing the Ocean and Coastal Mapping Integration Act, and I am pleased to be joined by my Commerce Committee Chairman, Senator STEVENS, and fellow Committee members Senators LOTT, CANTWELL, SNOWE, KERRY, and LAUTENBERG, who are all original cosponsors of the bill. I am pleased to report that the Senate passed this bill unanimously in the 108th Congress, and we look forward to moving this legislation quickly this year, particularly because of its importance to coastal planning for natural hazards such as tsunami.

The jurisdiction of the United States extends 200 miles beyond its coastline and includes the U.S. Territorial Sea and Exclusive Economic Zone, or “EEZ.” Regrettably, nearly 90 percent of this expanse remains unmapped by modern technologies, meaning that we have almost no information about a swath of ocean as large as the terra firma of the entire United States.

There was a time in the history of our Nation when our best efforts to map the seas meant lowering weights tied to piano wire over the side of a vessel, and measuring how deep they

went. These efforts led to the development of rudimentary nautical charts designed to help mariners navigate safely. The rapidly increasing uses of our coastal and ocean waters, however, call for development of a new generation of ecosystem-oriented mapping and assessment products and services.

The technologies of today create richly layered mapping products that expand far beyond just charting for safe navigation. Now, by combining such information as mineral surveys of the U.S. Geological Service, habitat characterizations of the National Oceanic Atmospheric Administration NOAA, and watershed assessments of the Environmental Protection Agency into a single product, map users are able to consider the impacts of their actions on multiple facets of the marine environment.

Last year, the U.S. Commission on Ocean Policy issued a report highlighting the urgent need to modernize, improve, expand, and integrate federal mapping efforts to improve navigation, safety and resource management decisionmaking. By employing integrated mapping approaches, urban and residential growth can be directed away from areas of high risk from ocean-based threats such as tsunami and tidal surge. The risks of maritime activities can be minimized by identifying hazards that could impact on sensitive ecosystems, and devising appropriate mitigation plans. Living marine resource managers can also gauge where and how best to focus their efforts to restore essential marine habitats.

The bill we are introducing today will lay the foundation for producing the ocean maps of the 21st century. It mandates coordination among the many federal agencies with mapping missions with NOAA as the lead in developing national mapping priorities and strategies. The bill would also establish national hydrographic centers to manage comprehensively the mapping data produced by the federal government, encourage innovation in technologies, and authorize the funding necessary to implement this comprehensive effort.

Perhaps the most important lesson that comprehensive, integrated mapping can afford is an awareness of a web of human marine communities as rich and varied as the ocean itself. From awareness grows understanding, respect, and cooperation.

I hope that my colleagues will join me in supporting this measure that will, in turn, support the development of healthy coastal communities across the nation. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 364

*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 "Ocean and Coastal Mapping Integration Act".

**SEC. 2. INTEGRATED OCEAN AND COASTAL MAPPING PROGRAM.**

(a) IN GENERAL.—The Administrator of the National Oceanic and Atmospheric Administration shall establish a program to develop, in coordination with the Interagency Committee on Ocean and Coastal Mapping, a coordinated and comprehensive Federal ocean and coastal mapping plan for the Great Lakes and Coastal State waters, the territorial sea, the exclusive economic zone, and the continental shelf of the United States that enhances ecosystem approaches in decision-making for conservation and management of marine resources and habitats, establishes research priorities, supports the siting of research and other platforms, and advances ocean and coastal science.

(b) PROGRAM PARAMETERS.—In developing such a program, the Administrator shall work with the Committee to—

(1) identify all Federal and Federally-funded programs conducting shoreline delineation and ocean or coastal mapping, noting geographic coverage, frequency, spatial coverage, resolution, and subject matter focus of the data and location of data archives;

(2) promote cost-effective, cooperative mapping efforts among all Federal agencies conducting ocean and coastal mapping agencies by increasing data sharing, developing data acquisition and metadata standards, and facilitating the interoperability of in situ data collection systems, data processing, archiving, and distribution of data products;

(3) facilitate the adaptation of existing technologies as well as foster expertise in new ocean and coastal mapping technologies, including through research, development, and training conducted in cooperation with the private sector, academia, and other non-Federal entities;

(4) develop standards and protocols for testing innovative experimental mapping technologies and transferring new technologies between the Federal government and the private sector or academia;

(5) centrally archive, manage, and distribute data sets as well as provide mapping products and services to the general public in service of statutory requirements;

(6) develop specific data presentation standards for use by Federal, State, and other entities that document locations of Federally permitted activities, living and nonliving resources, marine ecosystems, sensitive habitats, submerged cultural resources, undersea cables, offshore aquaculture projects, and any areas designated for the purposes of environmental protection or conservation and management of living marine resources; and

(7) identify the procedures to be used for coordinating Federal data with State and local government programs.

**SEC. 3. INTERAGENCY COMMITTEE ON OCEAN AND COASTAL MAPPING.**

(a) ESTABLISHMENT.—There is hereby established an Interagency Committee on Ocean and Coastal Mapping.

(b) MEMBERSHIP.—The Committee shall be comprised of senior representatives from Federal agencies with ocean and coastal mapping and surveying responsibilities. The representatives shall be high-ranking officials of their respective agencies or departments and, whenever possible, the head of the portion of the agency or department that is most relevant to the purposes of this Act. Membership shall include senior representatives from the National Oceanic and Atmospheric Administration, the Chief of Naval Operations, the United States Geological

Survey, Minerals Management Service, National Science Foundation, National Geospatial-Intelligence Agency, United States Army Corps of Engineers, United States Coast Guard, Environmental Protection Agency, Federal Emergency Management Agency and National Aeronautics and Space Administration, and other appropriate Federal agencies involved in ocean and coastal mapping.

(c) CHAIRMAN.—The Committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full Committee to address issues of short duration.

(d) MEETINGS.—The Committee shall meet on a quarterly basis, but subcommittee or working group meetings shall meet on an as-needed basis.

(e) COORDINATION.—The committee should coordinate activities, when appropriate, with—

(1) other Federal efforts, including the Digital Coast, Geospatial One-Stop, and the Federal Geographic Data Committee;

(2) international mapping activities; and

(3) States and user groups through workshops and other appropriate mechanisms.

**SEC. 4. NOAA INTEGRATED MAPPING INITIATIVE.**

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Committee, shall develop and submit to the Congress a plan for an integrated ocean and coastal mapping initiative within the National Oceanic and Atmospheric Administration.

(b) PLAN REQUIREMENTS.—The plan shall—

(1) identify and describe all ocean and coastal mapping programs within the agency, including those that conduct mapping or related activities in the course of existing missions, such as hydrographic surveys, ocean exploration projects, living marine resource conservation and management programs, coastal zone management projects, and ocean and coastal science projects;

(2) establish priority mapping programs and establish and periodically update priorities for geographic areas in surveying and mapping, as well as minimum data acquisition and metadata standards for those programs;

(3) encourage the development of innovative ocean and coastal mapping technologies and applications through research and development through cooperative or other agreements at joint centers of excellence and with the private sector;

(4) document available and developing technologies, best practices in data processing and distribution, and leveraging opportunities with other Federal agencies, non-governmental organizations, and the private sector;

(5) identify training, technology, and other resource requirements for enabling the National Oceanic and Atmospheric Administration's programs, ships, and aircraft to support a coordinated ocean and coastal mapping program;

(6) identify a centralized mechanism or office for coordinating data collection, processing, archiving, and dissemination activities of all such mapping programs within the National Oceanic and Atmospheric Administration, including—

(A) designating primary data processing centers to maximize efficiency in information technology investment, develop consistency in data processing, and meet Federal mandates for data accessibility; and

(B) designating a repository that is responsible for archiving and managing the dis-

tribution of all ocean and coastal mapping data to simplify the provision of services to benefit Federal and State programs; and

(6) set forth a timetable for implementation and completion of the plan, including a schedule for periodic Congressional progress reports, and recommendations for integrating approaches developed under the initiative into the interagency program.

(c) NOAA JOINT OCEAN AND COASTAL MAPPING CENTERS.—The Administrator is authorized to maintain and operate up to 3 joint ocean and coastal mapping centers, including a joint hydrographic center, which shall be co-located with an institution of higher education. The centers shall serve as hydrographic centers of excellence and are authorized to conduct activities necessary to carry out the purposes of this Act, including—

(1) research and development of innovative ocean and coastal mapping technologies, equipment, and data products;

(2) mapping of the United States outer continental shelf;

(3) data processing for non-traditional data and uses;

(4) advancing the use of remote sensing technologies, for related issues, including mapping and assessment of essential fish habitat and of coral resources, ocean observations and ocean exploration; and

(5) providing graduate education in ocean and coastal mapping sciences for National Oceanic and Atmospheric Administration Commissioned Officer Corps, personnel of other agencies with ocean and coastal mapping programs, and civilian personnel.

**SEC. 5. INTERAGENCY PROGRAM REPORTING.**

No later than 18 months after the date of enactment of this Act, and bi-annually thereafter, the Chairman of the Committee shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources a report detailing progress made in implementing the provisions of this Act, including—

(1) an inventory of ocean and coastal mapping data, noting the metadata, within the territorial seas and the exclusive economic zone and throughout the continental shelf of the United States, noting the age and source of the survey and the spatial resolution (metadata) of the data;

(2) identification of priority areas in need of survey coverage using present technologies;

(3) a resource plan that identifies when priority areas in need of modern ocean and coastal mapping surveys can be accomplished;

(4) the status of efforts to produce integrated digital maps of ocean and coastal areas;

(5) a description of any products resulting from coordinated mapping efforts under this Act that improve public understanding of the coasts, oceans, or regulatory decision-making;

(6) documentation of minimum and desired standards for data acquisition and integrated metadata;

(7) a statement of the status of Federal efforts to leverage mapping technologies, coordinate mapping activities, share expertise, and exchange data;

(8) a statement of resource requirements for organizations to meet the goals of the program, including technology needs for data acquisition, processing and distribution systems;

(9) a statement of the status of efforts to declassify data gathered by the Navy, the National Geospatial-Intelligence Agency and other agencies to the extent possible without jeopardizing national security, and make it available to partner agencies and the public; and

(10) a resource plan for a digital coast integrated mapping pilot project for the northern Gulf of Mexico that will—

(A) cover the area from the authorized coastal counties through the territorial sea;

(B) identify how such a pilot project will leverage public and private mapping data and resources, such as the United States Geological Survey National Map, to result in an operational coastal change assessment program for the subregion; and

(11) the status of efforts to coordinate Federal programs with State and local government programs and leverage those programs.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to the amounts authorized by section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), there are authorized to be appropriated to the Administrator to carry out this Act—

- (1) \$20,000,000 for fiscal year 2006;
- (2) \$26,000,000 for fiscal year 2007;
- (3) \$32,000,000 for fiscal year 2008;
- (4) \$38,000,000 for fiscal year 2009; and
- (5) \$45,000,000 for each of fiscal years 2010 through 2013.

(b) JOINT OCEAN AND COASTAL MAPPING CENTERS.—Of the amounts appropriated pursuant to subsection (a), the following amounts shall be used to carry out section 4(c) of this Act:

- (1) \$10,000,000 for fiscal year 2006.
- (2) \$11,000,000 for fiscal year 2007.
- (3) \$12,000,000 for fiscal year 2008.
- (4) \$13,000,000 for fiscal year 2009.
- (5) \$15,000,000 for each of fiscal years 2010 through 2013.

(c) INTERAGENCY COMMITTEE.—Notwithstanding any other provision of law, from amounts authorized to be appropriated for fiscal years 2006 through 2013 to the Department of Defense, the Department of the Interior, the Department of Homeland Security, the Environmental Protection Agency, and the National Aeronautics and Space Administration, the head of each such department or agency may make available not more than \$10,000,000 per fiscal year to carry out interagency activities under section 3 of this Act.

#### SEC. 7. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(2) COASTAL STATE.—The term “coastal state” has the meaning given that term by section 304(4) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(4)).

(3) COMMITTEE.—The term “Committee” means the Interagency Ocean Mapping Committee established by section 3.

(4) EXCLUSIVE ECONOMIC ZONE.—The term “exclusive economic zone” means the exclusive economic zone of the United States established by Presidential Proclamation No. 5030, of March 10, 1983.

(5) OCEAN AND COASTAL MAPPING.—The term “ocean and coastal mapping” means the acquisition, processing, and management of physical, biological, geological, chemical, and archaeological characteristics and boundaries of ocean and coastal areas, resources, and sea beds through the use of acoustics, satellites, aerial photogrammetry, light and imaging, direct sampling, and other mapping technologies.

(6) TERRITORIAL SEA.—The term “territorial sea” means the belt of sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988.

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

S. 365. A bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes; to the Committee on Foreign Relations.

Mr. COLEMAN. Mr. President, torture is a fundamental violation of human rights. It is an act that aims not only to destroy the body but to destroy a person's spirit, leaving a psychologically crippled victim as a warning to others in their community.

Approximately 500,000 survivors of torture have found refuge in the United States, with many more around the world. The survivors of this terrible experience require treatment to recover from the effects of torture and to rebuild their shattered lives.

Fortunately, we have the ability to provide such treatment. There are 30 torture treatment centers in the United States located in 16 states, all helping former victims to recover from the trauma they experienced. We in Minnesota are tremendously proud of the work of Minnesota's Center for Victims of Torture, a world leader in administering this kind of treatment.

The Torture Victims Relief Reauthorization Act will authorize \$92 million in funding for both domestic and foreign treatment centers for victims of torture. \$50 million of the funding goes directly to domestic programs. The remaining funds assist foreign treatment centers through the U.S. Agency for International Development and the U.N. Voluntary Fund for Victims of Torture.

This reauthorization comes at a critical time. With the liberation of the people of Iraq and Afghanistan and other events around the world, even more survivors of torture around the world are seeking treatment. I look forward to the prompt consideration of this legislation and urge my colleagues to support this and other effort to assist victims of torture.

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

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

S. 365

*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 “Torture Victims Relief Reauthorization Act of 2005”.

#### SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR DOMESTIC TREATMENT CENTERS FOR VICTIMS OF TORTURE.

Section 5(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended—

(1) by striking “and 2005” and inserting “, 2005, 2006, and 2007”;

(2) by striking “2004 and” and inserting “2004,”; and

(3) by striking the period at the end and inserting “, \$25,000,000 for the fiscal year 2006, and \$25,000,000 for the fiscal year 2007.”.

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN TREATMENT CENTERS FOR VICTIMS OF TORTURE.

Section 4(b)(1) of the Torture Victims Relief Act of 1998 (22 U.S.C. 2152 note) is amended—

(1) by striking “and 2005” and inserting “, 2005, 2006, and 2007”;

(2) by striking “2004 and” and inserting “2004,”; and

(3) by striking the period at the end and inserting “, \$12,000,000 for the fiscal year 2006, and \$13,000,000 for the fiscal year 2007.”.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CONTRIBUTION TO THE UNITED NATIONS VOLUNTARY FUND FOR VICTIMS OF TORTURE.

Of the amounts authorized to be appropriated for fiscal years 2006 and 2007 pursuant to chapter 3 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2221 et seq.), there are authorized to be appropriated to the President for a voluntary contribution to the United Nations Voluntary Fund for Victims of Torture \$8,000,000 for fiscal year 2006 and \$9,000,000 for fiscal year 2007.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, and Mrs. MURRAY):

S. 368. A bill to provide assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development; to the Committee on Health, Education, Labor, and Pensions.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Responsible Education About Life or “REAL” Act along with my cosponsors Senators KENNEDY, and Mrs. MURRAY.

The REAL Act aims to reduce adolescent pregnancy, HIV rates, and other sexually transmitted diseases, by providing federal funds for comprehensive sex education in schools. Comprehensive sex education is medically accurate, age appropriate, education that includes information about both contraception and abstinence. It is an approach that doesn't hide important information from our kids.

For years, taxpayer dollars have been flooded into unproven “abstinence-only” programs—while no federal program is dedicated to comprehensive sex education. Under the Bush Administration, federal support for “abstinence-only” education has expanded rapidly.

The proof is in the numbers. In fiscal year 2004 the federal government spent \$138 million dollars on “abstinence only” programs. In fiscal year 2005 the federal government increased funding for these programs by \$30 million dollars. This year President Bush is asking for \$206 million dollars for “abstinence only” education—a 50 percent increase over the 2004 funding level. Would you like to know how much money has the government devoted to comprehensive sex education programs over this same time? Zero dollars.

Much of the taxpayer funds going to “abstinence-only” programs are essentially being wasted. Teens need information, not censorship. “Abstinence-only” education only tells young people half the story, and they need the full picture. These programs are not getting the job done.

After years of “abstinence only” programs, the United States still has the highest rates of teen pregnancy in the industrialized world. The American public knows what works. Parents do not want sexual education programs limited to abstinence in schools. Even the Heritage Foundation had to admit this when their own poll showed that “75 percent of parents want teens to be taught about both abstinence and contraception.” Other polls show numbers as high as 93 percent in support of high school programs that include information about contraception.

The REAL Act also has the support of the National Education Association (NEA), the American Academy of Pediatrics (AAP), the American Nurses Association (ANA), the Child Welfare League of America and more than 130 other medical and professional organizations. It is a fact that teenagers who receive sex education that includes discussion of contraception are more likely to delay sexual activity than those who receive abstinence-only education. Comprehensive sex education simply works better.

The stakes are high: of the 19 million cases of sexually transmitted diseases every year in the United States, almost half of them strike young people between the ages of 15 and 24. And each year in the United States, about 20,000 young people are newly infected with HIV.

These aren't just numbers. These are our sons and daughters whose health and well-being are jeopardized when ideology comes before sound public policy. That is why we are introducing this legislation today. It's time for a more balanced approach; it's time to protect our kids, and it's time to get REAL. Our bill authorizes \$206 million per year in federal funds to states for comprehensive sexual education programs.

The REAL Act is step in a more effective direction. It brings sex education up-to-date in a way that will reflect the serious issues and real life situations millions of young people find themselves in every year. Young people have a right to accurate and complete information that could protect their health and even save their lives. I urge my colleagues to support the REAL Act and make it possible to give young people the tools to make safe and responsible decisions. 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. 368

*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 “Responsible Education About Life Act”.

#### SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The American Medical Association (“AMA”), the American Nurses Association

(“ANA”), the American Academy of Pediatrics (“AAP”), the American College of Obstetricians and Gynecologists (“ACOG”), the American Public Health Association (“APHA”), and the Society of Adolescent Medicine (“SAM”), support responsible sexuality education that includes information about both abstinence and contraception.

(2) Recent scientific reports by the Institute of Medicine, the American Medical Association and the Office on National AIDS Policy stress the need for sexuality education that includes messages about abstinence and provides young people with information about contraception for the prevention of teen pregnancy, HIV/AIDS and other sexually transmitted diseases (“STDs”).

(3) Research shows that teenagers who receive sexuality education that includes discussion of contraception are more likely than those who receive abstinence-only messages to delay sexual activity and to use contraceptives when they do become sexually active.

(4) Comprehensive sexuality education programs respect the diversity of values and beliefs represented in the community and will complement and augment the sexuality education children receive from their families.

(5) The median age of puberty is 13 years and the average age of marriage is over 26 years old. American teens need access to full, complete, and medically and factually accurate information regarding sexuality, including contraception, STD/HIV prevention, and abstinence.

(6) Although teen pregnancy rates are decreasing, there are still between 750,000 and 850,000 teen pregnancies each year. Between 75 and 90 percent of teen pregnancies among 15- to 19-year olds are unintended.

(7) Studies estimate that 50 to 75 percent of the reduction in adolescent pregnancy rates is attributable to improved contraceptive use; the remainder to increased abstinence.

(8) More than eight out of ten Americans believe that young people should have information about abstinence and protecting themselves from unplanned pregnancies and sexually transmitted diseases.

(9) United States teens and young adults acquire an estimated 4,000,000 sexually transmitted infections each year. By age 25, at least 1 of every 2 sexually active people will have contracted a sexually transmitted disease.

(10) More than 2 young people in the United States are infected with HIV every hour of every day. African American and Hispanic youth have been disproportionately affected by the HIV/AIDS epidemic. Although about 15 percent of the adolescent population (ages 13 to 19) in the United States is African American, nearly 60 percent of AIDS cases through 2002 among 13- to 19-year olds were among African Americans. Hispanics comprise nearly 16 percent of the adolescent population (ages 13 to 19) in the United States and 22 percent of reported adolescent AIDS cases through June 2002.

#### SEC. 3. ASSISTANCE TO REDUCE TEEN PREGNANCY, HIV/AIDS, AND OTHER SEXUALLY TRANSMITTED DISEASES AND TO SUPPORT HEALTHY ADOLESCENT DEVELOPMENT.

(a) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary of Health and Human Services, for each of the fiscal years 2006 through 2010, a grant to conduct programs of family life education, including education on both abstinence and contraception for the prevention of teenage pregnancy and sexually transmitted diseases, including HIV/AIDS.

(b) REQUIREMENTS FOR FAMILY LIFE PROGRAMS.—For purposes of this Act, a program of family life education is a program that—

(1) is age-appropriate and medically accurate;

(2) does not teach or promote religion;

(3) teaches that abstinence is the only sure way to avoid pregnancy or sexually transmitted diseases;

(4) stresses the value of abstinence while not ignoring those young people who have had or are having sexual intercourse;

(5) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to prevent pregnancy;

(6) provides information about the health benefits and side effects of all contraceptives and barrier methods as a means to reduce the risk of contracting sexually transmitted diseases, including HIV/AIDS;

(7) encourages family communication about sexuality between parent and child;

(8) teaches young people the skills to make responsible decisions about sexuality, including how to avoid unwanted verbal, physical, and sexual advances and how not to make unwanted verbal, physical, and sexual advances; and

(9) teaches young people how alcohol and drug use can affect responsible decision-making.

(c) ADDITIONAL ACTIVITIES.—In carrying out a program of family life education, a State may expend a grant under subsection (a) to carry out educational and motivational activities that help young people—

(1) gain knowledge about the physical, emotional, biological, and hormonal changes of adolescence and subsequent stages of human maturation;

(2) develop the knowledge and skills necessary to ensure and protect their sexual and reproductive health from unintended pregnancy and sexually transmitted disease, including HIV/AIDS throughout their lifespan;

(3) gain knowledge about the specific involvement of and male responsibility in sexual decisionmaking;

(4) develop healthy attitudes and values about adolescent growth and development, body image, gender roles, racial and ethnic diversity, sexual orientation, and other subjects;

(5) develop and practice healthy life skills including goal-setting, decisionmaking, negotiation, communication, and stress management;

(6) promote self-esteem and positive interpersonal skills focusing on relationship dynamics, including, but not limited to, friendships, dating, romantic involvement, marriage and family interactions; and

(7) prepare for the adult world by focusing on educational and career success, including developing skills for employment preparation, job seeking, independent living, financial self-sufficiency, and workplace productivity.

#### SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that while States are not required to provide matching funds, they are encouraged to do so.

#### SEC. 5. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—For the purpose of evaluating the effectiveness of programs of family life education carried out with a grant under section 3, evaluations of such program shall be carried out in accordance with subsections (b) and (c).

(b) NATIONAL EVALUATION.—

(1) IN GENERAL.—The Secretary shall provide for a national evaluation of a representative sample of programs of family life education carried out with grants under section 3. A condition for the receipt of such a grant is that the State involved agree to cooperate with the evaluation. The purposes of the national evaluation shall be the determination of—

(A) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(B) the effectiveness of such programs in preventing adolescent pregnancy;

(C) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS;

(D) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs; and

(E) a list of best practices based upon essential programmatic components of evaluated programs that have led to success in subparagraphs (A) through (D).

(2) REPORT.—A report providing the results of the national evaluation under paragraph (1) shall be submitted to the Congress not later than March 31, 2009, with an interim report provided on a yearly basis at the end of each fiscal year.

(c) INDIVIDUAL STATE EVALUATIONS.—

(1) IN GENERAL.—A condition for the receipt of a grant under section 3 is that the State involved agree to provide for the evaluation of the programs of family education carried out with the grant in accordance with the following:

(A) The evaluation will be conducted by an external, independent entity.

(B) The purposes of the evaluation will be the determination of—

(i) the effectiveness of such programs in helping to delay the initiation of sexual intercourse and other high-risk behaviors;

(ii) the effectiveness of such programs in preventing adolescent pregnancy;

(iii) the effectiveness of such programs in preventing sexually transmitted disease, including HIV/AIDS; and

(iv) the effectiveness of such programs in increasing contraceptive knowledge and contraceptive behaviors when sexual intercourse occurs.

(2) USE OF GRANT.—A condition for the receipt of a grant under section 3 is that the State involved agree that not more than 10 percent of the grant will be expended for the evaluation under paragraph (1).

**SEC. 6. DEFINITIONS.**

For purposes of this Act:

(1) The term “eligible State” means a State that submits to the Secretary an application for a grant under section 3 that is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this Act.

(2) The term “HIV/AIDS” means the human immunodeficiency virus, and includes acquired immune deficiency syndrome.

(3) The term “medically accurate”, with respect to information, means information that is supported by research, recognized as accurate and objective by leading medical, psychological, psychiatric, and public health organizations and agencies, and where relevant, published in peer review journals.

(4) The term “Secretary” means the Secretary of Health and Human Services.

**SEC. 7. APPROPRIATIONS.**

(a) IN GENERAL.—For the purpose of carrying out this Act, there is authorized to be appropriated \$206,000,000 for each of fiscal years 2006 through 2010.

(b) ALLOCATIONS.—Of the amounts appropriated under subsection (a) for a fiscal year—

(1) not more than 7 percent may be used for the administrative expenses of the Secretary in carrying out this Act for that fiscal year; and

(2) not more than 10 percent may be used for the national evaluation under section 5(b).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 47—EX-PRESSING THE SENSE OF THE SENATE COMMENDING CIVILIAN EMPLOYERS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES FOR THEIR SUPPORT OF MEMBERS WHO ARE CALLED TO ACTIVE DUTY AND FOR THEIR SUPPORT OF THE MEMBERS’ FAMILIES

Mr. BAYH submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 47

Whereas, over 450,000 members of the reserve components of the Armed Force have been called to active duty between September 11, 2001, and February of 2005, and have had to leave their families and employers to serve and protect their country;

Whereas, the reservists called to active duty provide critical support of United States military operations abroad by serving as engineers, medics, military police, and civil affairs specialists, and in other military specialties;

Whereas, more than half of all reservists are married, and about half of them have children or other dependents;

Whereas, extended active-duty service in the performance of critical national security missions abroad has required reservists to make significant sacrifices, in time spent away from their family and, in some cases, loss of income;

Whereas, the business community in the United States has played a crucial role in supporting our reservists by providing significant financial assistance for reservists ordinarily in their workforce who experience a reduction in income due to extended active-duty service;

Whereas, this financial support by civilian employers makes it possible, in many cases, for the families of reservists to meet daily expenses associated with raising children and attaining the American dream;

Whereas the business community continues to provide this critical assistance so that the Nation’s reservists may serve their country without worrying about the financial condition of their family; and

Whereas the following Indiana employers, among others, provide assistance to their employees when, as reservists, they are called to active duty, and the employers deserve public recognition for their role in supporting our troops: Eli Lilly and Company, Cummins, Inc., Guidant Corporation, Alcoa, Inc., ConAgra Foods, Inc., CSX Corporation, Daimler Chrysler, Delphi Technologies, Inc., The Dow Chemical Company, FedEx Corporation, General Dynamics Corporation, Raytheon Company, General Electric Company, American International Group, Inc., Bristol-Myers Squibb Company, Pfizer, Inc., United Parcel Service of America, Inc., Smiths Group plc, Honeywell International, Inc., and Am General, LLC: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the members of the reserve components of the Armed Forces and the businesses that ordinarily employ them are a cornerstone of the United States’ successful prosecution of the war on terror, and the Federal Government should take steps to assist businesses that are providing this critical support to the citizen-soldiers among their employees who are away in the military service of the United States;

(2) the business community deserves the Nation’s gratitude for the role it continues to perform in supporting the members of the reserve components of the Armed Forces, their families, and this Nation; and

(3) the appropriate officials of the Federal Government should carefully review the adverse effects of mobilizations and demobilizations of the reserve components on the community of employers within the United States.

SENATE RESOLUTION 48—EX-PRESSING THE SENSE OF THE SENATE REGARDING TRAFFICKING IN PERSONS

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 48

Whereas an estimated 600,000 to 800,000 people are trafficked annually;

Whereas approximately 70 percent of trafficked persons are female and 50 percent are children;

Whereas approximately 250,000 people are trafficked in, out, and through the South East Asia region each year;

Whereas the tsunami that struck South East Asia, South Asia, and East Africa on December 26, 2004, killed more than 160,000 people, affected 5,000,000 people, and left an estimated 35,000 children orphaned;

Whereas these orphaned children are particularly vulnerable to being trafficked for sexual exploitation, forced labor, or to be child soldiers;

Whereas governments of countries affected by the earthquake and tsunami in the Indian Ocean have taken measures to prevent the trafficking of children and other vulnerable persons;

Whereas President Susilo Bambang Yudhono of Indonesia has ordered that immigration and police officers not allow children from Aceh to be removed from the country;

Whereas Prime Minister Abdullah Badawi of Malaysia undertook measures to prevent child trafficking by directing immigration enforcement officials at entry points in Malaysia to be on the alert for child trafficking and by imposing a temporary ban on the adoption of foreign children;

Whereas, in India, the State Government of Tamil Nadu opened shelters to protect orphaned or separated children and pledged that it would provide orphans of the tsunami support and education;

Whereas the Royal Thai Government has placed all tsunami orphans in that country in the protective custody of extended family members and has awarded boarding school scholarships to children affected by the tsunami;

Whereas, in Sri Lanka, the National Child Protection Authority (NCPA), UNICEF, and nongovernmental organizations have mobilized teams to identify and register all children who have been separated from their immediate families;

Whereas the United Nations Convention Against Transnational Organized Crime (hereafter in this resolution referred to as the “Organized Crime Convention”) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, a protocol to the Organized Crime Convention (hereafter in this resolution referred to as the “Trafficking Protocol”), require countries to enact laws to criminalize trafficking in persons, punish traffickers, and assist victims;

Whereas the United States, on December 13, 2000, signed, but has not yet ratified, the