KOHL) were added as cosponsors of S. Con. Res. 25, supra.

S. RES. 31

At the request of Mr. COLEMAN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as ''National Health Center Week'' in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

AMENDMENT NO. 316

At the request of Mr. NELSON of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 316 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 743. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan; to the Committee on the Judiciary.

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. 743

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

SECTION 1. PERMANENT RESIDENT STATUS FOR NABIL RAJA DANDAN, KETTY DANDAN, SOUZI DANDAN, RAJA NABIL DANDAN, AND SANDRA DANDAN.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan enter the United States before the filing deadline specified in subsection (c), Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan shall each be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan, the Secretary of State shall instruct the proper officer to reduce by 5, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act.

By Mr. BYRD (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. BINGAMAN):

S. 745. A bill to amend the Global Environmental Protection Assistance Act of 1989 to promote international clean energy development, to open and expand clean energy markets abroad, to engage developing nations in the advancement of sustainable energy use and climate change actions, and for other purposes; to the Committee on Foreign Relations.

Mr. BYRD. Mr. President, today I am introducing the International Clean Energy Deployment and Global Energy Markets Investment Act of 2005. This is a forward-thinking, made-in-America action plan that can serve as a building block that puts the right structure and mechanisms in place, mobilizes the necessary resources, and helps define the course we will have to take in order to better design the global energy system that will be built in coming decades. But let me also state up front what this legislation does not do. It is not intended to be a substitute for the need to seek globally binding climate change agreements that would include commitments from the largest industrial and developing country emitters of greenhouse gases. However, my legislation can serve as a meaningful first step to seriously engage developing countries in tackling the critical link between our mutual energy and climate change challenges. Additionally, such engagement can be a new cornerstone for the U.S. to demonstrate that we are committed to working with other nations on a broad range of international issues.

We must start by honestly addressing several bottom line issues. We know that the world's population will likely grow by about 50 percent during this century, and those people, most of whom will live in developing nations, will be seeking the necessary resources to live. These nations will be growing rapidly and their requirements for energy will follow suit for the foreseeable future. But at the same time, we know that growth needs to be undertaken in as clean and efficient a manner as possible. When economies heat up so does energy use, greenhouse gas emissions, and that global change. How can any nation's economy continue to grow and provide good jobs in a way that does not undermine its environment and vice versa? How do we find ways to address these problems of mutual concern for our citizens and for their children and grandchildren? These issues matter as much in the United States as they do in places in China, India, Brazil, and Mexico.

This legislation's journey began several years when I included, in the fiscal year 2001 Energy and Water Appropriations bill, language that called for a clean energy exports and market development strategic plan. The Bush administration sent that report to Congress in October 2002. Since that time, I have been urging, cajoling, and pushing Federal agencies like the Department of State, Department of Energy, Department of Commerce, and the U.S. Agency for International Development to cooperate more and increase public/private efforts to help export U.S. clean energy technologies and open more of these markets abroad. It is now time to take the next step and introduce this legislation in order to expand upon that foundation.

By taking this next step, I am suggesting that we must work together to develop a broad-based action plan that builds on American ingenuity, encourages the export of made-in-America clean energy technologies, helps advance developing country climate change engagement, increases international sustainable development, and strengthens interagency and public/private cooperation. The objectives of this legislation further include efforts to increase access to clean and reliable energy services, reduce greenhouse gas emissions, increase energy security, and integrate these goals in a manner that is consistent with U.S. foreign policy interests around the world. Finally, my legislation essentially codifies and enhances the administrative structure that has already been put in place.

On a related but separate note, I am very aware that on February 16, 2005, the Kyoto Protocol came into force. As the primary author of Senate Resolution 98, which passed unanimously in 1997, I worked to establish core principles which should be part of any future binding, international climate change agreement. Those principles were that a treaty should be cost effective and should include the participation of developing nations, especially the largest emitters. The Kyoto Protocol does not meet those principles for the United States.

There have been widely varying interpretations of that resolution, especially by the Bush administration. The Byrd-Hagel resolution was intended to guide our Nation's role in international negotiations, not kill that effort. It was meant to strengthen the hand of

any administration as it sat at the international negotiating table, but this White House has used the Senate's vote as an excuse to totally abandon the negotiations and offer, instead, only hollow alternatives. Yet, it is the height of hypocrisy for the Bush administration to claim that it is defending that resolution's principles when, as a matter of fact, it has disregarded its very purpose.

That Senate resolution directed that any climate change treaty include commitments for the developing world, like China and India, which will surpass the U.S. in greenhouse gas emissions by 2025. These commitments could lead to real reductions. An international treaty with binding commitments also could allow for developing countries' continued economic growth with relatively modest requirements at first, pacing upwards, with ultimate goals to be achieved over time.

Moreover, given their expected economic growth and energy demands, developing nations are a primary market for clean energy technologies. But, this multi-billion dollar window of opportunity could close for the United States. With little pressure on developing countries to reduce or contain their emissions growth, these potentially enormous markets for clean energy technologies, made in the U.S., could slip away. Thus, my legislation can serve as a commonsense foot-in-the-door to help jump start efforts to seek fair and effective globally binding agreements in the future.

Despite this, the President has clearly stated that the U.S. would only pursue voluntary measures both domestically and internationally, and he continues to follow that path despite the fact that no major environmental problem has ever been solved by a purely voluntary basis. Since retreating from the international forum, his own climate change program is a strong testament to prove that voluntary actions are not likely to result in any serious decrease in overall emissions. While global climate change is long-term problem, it does not mean that we can put off action indefinitely. If we wait for decades to take more significant actions, then more radical measures will likely be necessary.

Additionally, I have long said that the U.S. needs a comprehensive, national energy strategy that has bipartisan support. A serious energy efficiency program, bolstered by the promotion of renewable energy and other clean home-grown energy sources, provides a compass point for a U.S. energy strategy. At its core, we must rely on our nation's domestic energy assets, especially coal. Coal must become a primary fuel source for new energy demands into the 21st century. However, to do so requires that we think differently about coal.

It is a myth to say that the U.S. or other major nations like China and India will stop burning coal any time soon. Yet, we must begin to treat this plentiful resource like black gold and use it in a much cleaner and more efficient way. We must accelerate the deployment of commercial-scale technologies that move us away from simply burning coal toward the enhanced ability to transform coal into a variety of energy products. We can begin to meet this challenge by demonstrating and deploying advanced power generation, especially coal gasification and carbon sequestration technologies, as well as by producing synthetic fuels and, eventually, hydrogen for use in other sectors of the economy. This broad approach also requires sending strong and clear regulatory and market signals which can significantly reconcile numerous environmental and climate change concerns, stimulate technology deployment, and set the stage for coal into the future.

The path that I am proposing here today goes far beyond the energy proposals that this White House has offered. Pursuing this course will take steadfast leadership, hard work, and American ingenuity to move forward in a responsible, balanced, and intelligent way. It is time for industry, labor, academic, environmental, and community interests to work with policymakers to find common ground. Commonsense market-based and regulatory approaches, emerging technology platforms, and new policy perspectives can bring these divergent groups together.

I believe it is time to send the message that there will likely be a binding carbon management regime in place for the U.S. at some point in the future. It may not be in place tomorrow or the next day or even in the next 2 to 4 years. It may also be a modest approach initially, but it is on the horizon. We certainly cannot run until we have walked, and we cannot walk until we have taken a step. But we can no longer stand still forever. By acting boldly, we can champion a new energy and environmental legacy that will benefit all the world's citizens.

With regard to my legislation's introduction today, our Nation must recognize the incredible impact that U.S. technologies and ideas can have in helping to meet other nations' energy needs in a more sustainable way. We must work to open and expand international markets for a range of U.S. clean energy technologies and simultaneously address global energy security, economic, trade, and environmental objectives.

I thank you for this opportunity and hope this legislation will receive serious consideration. I urge Members to see this as a key component of the architecture that will be necessary if we ever hope to seriously tackle the tough energy and environment issues before us as well as a way to enhance our broader foreign policy and climate change efforts around the world.

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. 745

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 ''International Clean Energy Deployment and Global Energy Markets Investment Act of 2005''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the cooperation of the United States with developing countries in addressing critical energy needs and global climate change;

(2) to promote sustainable economic development, increase access to modern energy services, reduce greenhouse gas emissions, and strengthen energy security and independence in developing countries through the deployment of clean energy technologies;

(3) to facilitate the export of clean energy technologies to developing countries;

(4) to reduce the trade deficit of the United States through the export of United States energy technologies and technological expertise;

(5) to retain and create manufacturing and related service jobs in the United States;

(6) to integrate the objectives described in paragraphs (1) through (5) in a manner consistent with interests of the United States, into the foreign policy of the United States;

(7) to authorize funds for clean energy development activities in developing countries; and

(8) to ensure that activities funded under part C of title VII of the Global Environmental Protection Assistance Act of 1989 (as added by section 3) contribute to economic growth, poverty reduction, good governance, the rule of law, property rights, and environmental protection.

SEC. 3. CLEAN ENERGY TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.

Title VII of the Global Environmental Protection Assistance Act of 1989 (Public Law 101–240; 103 Stat. 2521) is amending by adding at the end the following:

''PART C—CLEAN ENERGY TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

''SEC. 731. DEFINITIONS.

''In this part:

''(1) CLEAN ENERGY TECHNOLOGY.—The term 'clean energy technology' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in any developing country—

''(A) is reliable, affordable, economically viable, socially acceptable, and compatible with the needs and norms of the host country;

''(B) results in—

''(i) reduced emissions of greenhouse gases; or

''(ii) increased geological sequestration; and

''(C) may—

''(i) substantially lower emissions of air pollutants; and

''(ii) generate substantially smaller or less hazardous quantities of solid or liquid waste.

''(2) DEPARTMENT.—The term 'Department' means the Department of State.

''(3) DEVELOPING COUNTRY.—

''(A) IN GENERAL.—The term 'developing country' means any country not listed in Annex I of the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

''(B) INCLUSION.—The term 'developing country' may include a country with an

economy in transition, as determined by the Secretary.

''(4) GEOLOGICAL SEQUESTRATION.—The term 'geological sequestration' means the capture and long-term storage in a geological formation of a greenhouse gas from an energy producing facility, which prevents the release of greenhouse gases into the atmosphere.

''(5) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

''(7) INTERAGENCY WORKING GROUP.—The term 'Interagency Working Group' means the Interagency Working Group on Clean Energy Technology Exports established under section 732(b)(1)(A).

''(8) NATIONAL LABORATORY.—The term 'National Laboratory' means any of the following laboratories owned by the Department of Energy:

''(A) Ames Laboratory.

''(B) Argonne National Laboratory.

''(C) Brookhaven National Laboratory.

''(D) Fermi National Accelerator Laboratory.

''(E) Idaho National Engineering and Environmental Laboratory.

''(F) Lawrence Berkeley National Laboratory.

''(G) Lawrence Livermore National Laboratory.

''(H) Los Alamos National Laboratory.

''(I) National Energy Technology Laboratory.

''(J) National Renewable Energy Laboratory.

''(K) Oak Ridge National Laboratory.

''(L) Pacific Northwest National Laboratory.

''(M) Princeton Plasma Physics Laboratory.

''(N) Sandia National Laboratories.

''(O) Stanford Linear Accelerator Center.

''(P) Thomas Jefferson National Accelerator Facility.

''(9) QUALIFYING PROJECT.—The term 'qualifying project' means a project meeting the criteria established under section 735(b).

''(10) SECRETARY.—The term 'Secretary' means the Secretary of State.

''(11) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia;

''(C) the Commonwealth of Puerto Rico; and

''(D) any other territory or possession of the United States.

''(12) STRATEGY.—The term 'Strategy' means the strategy established under section 733.

''(13) TASK FORCE.—The term 'Task Force' means the Task Force on International Clean Energy Cooperation established under section 732(a).

''(14) UNITED STATES.—The term 'United States', when used in a geographical sense, means all of the States.

''SEC. 732. ORGANIZATION.

''(a) TASK FORCE.—

''(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this part, the President shall establish a Task Force on International Clean Energy Cooperation.

''(2) COMPOSITION.—The Task Force shall be composed of—

''(A) the Secretary, who shall serve as Chairperson; and

''(B) representatives, appointed by the head of the respective Federal agency, of—

''(i) the Department of Commerce;

''(ii) the Department of the Treasury;

''(iii) the Department of Energy;

''(iv) the Environmental Protection Agency;

''(v) the United States Agency for International Development;

''(vi) the Export-Import Bank;

''(vii) the Overseas Private Investment Corporation;

''(viii) the Trade and Development Agency;

''(ix) the Small Business Administration;

''(x) the Office of United States Trade Representative; and

''(xi) other Federal agencies, as determined by the President.

''(3) DUTIES.—

''(A) LEAD AGENCY.—The Task Force shall act as the lead agency in the development and implementation of strategy under section 733.

''(B) COORDINATION AND IMPLEMENTATION.—The Task Force shall support the coordination and implementation of programs under sections 1331, 1332, and 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13361, 13362, 13387).

''(4) TERMINATION.—The Task Force, including any working group established by the Task Force, shall terminate on January 1, 2016.

''(b) WORKING GROUPS.—

''(1) ESTABLISHMENT.—The Task Force—

''(A) shall establish an Interagency Working Group on Clean Energy Technology Exports; and

''(B) may establish other working groups as necessary to carry out this part.

''(2) COMPOSITION OF INTERAGENCY WORKING GROUP.—The Interagency Working Group shall be composed of—

''(A) the Secretary of Energy, the Secretary of Commerce, and the Administrator of the United States Agency for International Development, who shall jointly serve as Chairpersons; and

''(B) other members, as determined by the Task Force.

''(c) INTERAGENCY CENTER.—

''(1) ESTABLISHMENT.—There is established an Interagency Center in the Office of International Energy Market Development of the Department of Energy.

''(2) DUTIES.—The Interagency Center shall—

''(A) assist the Interagency Working Group in carrying out this part; and

''(B) perform such other duties as are determined to be appropriate by the Secretary of Energy.

''SEC. 733. STRATEGY.

''(a) INITIAL STRATEGY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the Task Force shall develop and submit to the President a Strategy to—

''(A) support the development and implementation of programs and policies in developing countries to promote the adoption of clean energy technologies and energy efficiency technologies and strategies, with an emphasis on those developing countries that are expected to experience the most significant growth in energy production and use over the next 20 years;

''(B) open and expand clean energy technology markets and facilitate the export of clean energy technology to developing countries, in a manner consistent with the subsidy codes of the World Trade Organization;

''(C) integrate into the foreign policy objectives of the United States the promotion of—

''(i) clean energy technology deployment and reduced greenhouse gas emissions in developing countries; and

''(ii) clean energy technology exports;

''(D) establish a pilot program that provides financial assistance for qualifying projects; and

''(E) develop financial mechanisms and instruments (including securities that mitigate the political and foreign exchange risks of uses that are consistent with the foreign policy of the United States by combining the private sector market and government enhancements) that—

''(i) are cost-effective; and

''(ii) facilitate private capital investment in clean energy technology projects in developing countries.

''(2) TRANSMISSION TO CONGRESS.—On receiving the Strategy from the Task Force under paragraph (1), the President shall transmit to Congress the Strategy.

''(b) UPDATES.—

''(1) IN GENERAL.—Not later than 2 years after the date of submission of the initial Strategy under subsection (a)(1), and every 2 years thereafter—

''(A) the Task Force shall—

''(i) review and update the Strategy; and

''(ii) report the results of the review and update to the President; and

''(B) the President shall submit to Congress a report on the Strategy.

''(2) INCLUSIONS.—The report shall include—

''(A) the updated Strategy;

''(B) a description of the assistance provided under this part;

''(C) the results of the pilot projects carried out under this part, including a comparative analysis of the relative merits of each pilot project;

''(D) the activities and progress reported by developing countries to the Department under section 736(b)(2); and

''(E) the activities and progress reported towards meeting the goals established under section 736(b)(2).

''(c) CONTENT.—In developing, updating, and submitting a report on the Strategy, the Task Force shall—

''(1) assess—

''(A) energy trends, energy needs, and potential energy resource bases in developing countries; and

''(B) the implications of the trends and needs for domestic and global economic and security interests;

''(2) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technologies and strategies;

''(3) examine relevant trade, tax, finance, international, and other policy issues to assess what policies, in the United States and in developing countries, would help open markets and improve clean energy technology exports of the United States in support of—

''(A) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

''(B) improving energy end-use efficiency technologies (including buildings and facilities) and vehicle, industrial, and co-generation technology initiatives; and

''(C) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

''(4) investigate issues associated with building capacity to deploy clean energy technology in developing countries, including—

''(A) energy-sector reform;

''(B) creation of open, transparent, and competitive markets for clean energy technologies;

''(C) the availability of trained personnel to deploy and maintain clean energy technology; and

''(D) demonstration and cost-buydown mechanisms to promote first adoption of clean energy technology;

''(5) establish priorities for promoting the diffusion and adoption of clean energy technologies and strategies in developing countries, taking into account economic and security interests of the United States and opportunities for the export of technology of the United States;

''(6) identify the means of integrating the priorities established under paragraph (5) into bilateral, multilateral, and assistance activities and commitments of the United States;

''(7) establish methodologies for the measurement, monitoring, verification, and reporting under section 736(b)(2) of the greenhouse gas emission impacts of clean energy projects and policies in developing countries;

''(8) establish a registry that is accessible to the public through electronic means (including through the Internet) in which information reported under section 736(b)(2) shall be collected;

''(9) make recommendations to the heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve the role of the agencies in the international development, demonstration, and deployment of clean energy technology;

''(10) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to deploy clean energy technology;

''(11) recommend conditions and criteria that will help ensure that funds provided by the United States promote sound energy policies in developing countries while simultaneously opening their markets and exporting clean energy technology of the United States;

''(12) establish an advisory committee, composed of representatives of the private sector and other interested groups, on the export and deployment of clean energy technology;

''(13) establish a coordinated mechanism for disseminating information to the private sector and the public on clean energy technologies and clean energy technology transfer opportunities; and

''(14) monitor the progress of each Federal agency in promoting the purposes of this part, in accordance with—

''(A) the 5-year strategic plan submitted to Congress in October 2002; and

''(B) other applicable law.

''SEC. 734. CLEAN ENERGY ASSISTANCE TO DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Subject to section 736, the Secretary may provide assistance to developing countries for activities that are consistent with the priorities established in the Strategy.

''(b) ASSISTANCE.—The assistance may be provided through—

''(1) the Millennium Challenge Corporation established under section 604(a) of the Millennium Challenge Act of 2003 (22 U.S.C. 7703(a));

''(2) the Global Village Energy Partnership; and

''(3) other international assistance programs or activities of—

''(A) the Department;

''(B) the United States Agency for International Development; and

''(C) other Federal agencies.

''(c) ELIGIBLE ACTIVITIES.—The activities supported under this section include—

''(1) development of national action plans and policies to—

''(A) facilitate the provision of clean energy services and the adoption of energy efficiency measures;

''(B) identify linkages between the use of clean energy technologies and the provision of agricultural, transportation, water, health, educational, and other development-related services; and

''(C) integrate the use of clean energy technologies into national strategies for economic growth, poverty reduction, and sustainable development;

''(2) strengthening of public and private sector capacity to—

''(A) assess clean energy needs and options;

''(B) identify opportunities to reduce, avoid, or sequester greenhouse gas emissions;

''(C) establish enabling policy frameworks;

''(D) develop and access financing mechanisms; and

''(E) monitor progress in implementing clean energy and greenhouse gas reduction strategies;

''(3) enactment and implementation of market-favoring measures to promote commercial-based energy service provision and to improve the governance, efficiency, and financial performance of the energy sector; and

''(4) development and use of innovative public and private mechanisms to catalyze and leverage financing for clean energy technologies, including use of the development credit authority of the United States Agency for International Development and credit enhancements through the Export-Import Bank and the Overseas Private Investment Corporation.

''SEC. 735. PILOT PROGRAM FOR DEMONSTRATION PROJECTS.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this part, the Secretary, in consultation with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall, by regulation, establish a pilot program that provides financial assistance for qualifying projects consistent with the Strategy and the performance criteria established under section 736.

''(b) QUALIFYING PROJECTS.—To be qualified to receive assistance under this section, a project shall—

''(1) be a project—

''(A) to construct an energy production facility in a developing country for the production of energy to be consumed in the developing country; or

''(B) to improve the efficiency of energy use in a developing country;

''(2) be a project that—

''(A) is submitted by a firm of the United States to the Secretary in accordance with procedures established by the Secretary by regulation;

''(B) meets the requirements of section 1608(k) of the Energy Policy Act of 1992 (42 U.S.C. 13387(k));

''(C) uses technology that has been successfully developed or deployed in the United States; and

''(D) is selected by the Secretary without regard to the developing country in which the project is located, with notice of the selection published in the Federal Register; and

''(3) when deployed, result in a greenhouse gas emission reduction (when compared to the technology that would otherwise be deployed) of at least—

''(A) in the case of a unit or energy-efficiency measure placed in service during the period beginning on the date of enactment of this part and ending on December 31, 2009, 20 percentage points;

''(B) in the case of a unit or energy-efficiency measure placed in service during the period beginning on January 1, 2010, and ending on December 31, 2019, 40 percentage points; and

''(C) in the case of a unit or energy-efficiency measure placed in service after December 31, 2019, 60 percentage points.

''(c) FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—For each qualifying project selected by the Secretary to participate in the pilot program, the Secretary shall make a loan or loan guarantee available for not more than 50 percent of the total cost of the project.

''(2) INTEREST RATE.—The interest rate on a loan made under this subsection shall be equal to the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

''(3) HOST COUNTRY CONTRIBUTION.—To be eligible for a loan or loan guarantee for a project in a host country under this subsection, the host country shall—

''(A) make at least a 10 percent contribution toward the total cost of the project; and

''(B) verify to the Secretary (using the methodology established under section 733(c)(7)) the quantity of annual greenhouse gas emissions reduced, avoided, or sequestered as a result of the deployment of the project.

''(4) CAPACITY BUILDING RESEARCH.—

''(A) IN GENERAL.—A proposal made for a qualifying project may include a research component intended to build technological capacity within the host country.

''(B) RESEARCH.—To be eligible for a loan or loan guarantee under this paragraph, the research shall—

''(i) be related to the technology being deployed; and

''(ii) involve—

''(I) an institution in the host country; and

''(II) a participant from the United States that is an industrial entity, an institution of higher education, or a National Laboratory.

''(C) HOST COUNTRY CONTRIBUTION.—To be eligible for a loan or loan guarantee for research in a host country under this paragraph, the host country shall make at least a 50 percent contribution toward the total cost of the research.

''(5) GRANTS.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the United States Agency for International Development, may, at the request of the United States ambassador to a host country, make grants to help address and overcome specific, urgent, and unforeseen obstacles in the implementation of a qualifying project.

''(B) MAXIMUM AMOUNT.—The total amount of a grant made for a qualifying project under this paragraph may not exceed $1,000,000.

''SEC. 736. PERFORMANCE CRITERIA FOR MAJOR ENERGY CONSUMERS.

''(a) IDENTIFICATION OF MAJOR ENERGY CONSUMERS.—Not later than 1 year after the date of enactment of this part, the Task Force shall identify those developing countries that, by virtue of present and projected energy consumption, represent the predominant share of energy use among developing countries.

''(b) PERFORMANCE CRITERIA.—As a condition of accepting assistance provided under sections 734 and 735, any developing country identified under subsection (a) shall—

''(1) meet the eligibility criteria established under section 607 of the Millennium Challenge Act of 2003 (22 U.S.C. 7706), notwithstanding the eligibility of the developing country as a candidate country under section 606 of that Act (22 U.S.C. 7705); and

''(2) agree to establish and report on progress in meeting specific goals for reduced energy-related greenhouse gas emissions and specific goals for—

''(A) increased access to clean energy services among unserved and underserved populations;

''(B) increased use of renewable energy resources;

''(C) increased use of lower greenhouse gas-emitting fossil fuel-burning technologies;

''(D) more efficient production and use of energy;

''(E) greater reliance on advanced energy technologies;

''(F) the sustainable use of traditional energy resources; or

''(G) other goals for improving energy-related environmental performance, including the reduction or avoidance of local air and water quality and solid waste contaminants.

''SEC. 737. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this part for each of fiscal years 2006 through 2015.''.

By Mrs. FEINSTEIN:

S. 746. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to authorize the Inland Empire Regional Water Recycling initiative to be part of the U.S. Bureau of Reclamation's Title XVI program. These water recycling projects will produce approximately 100,000 acre-feet of new water annually in one of the most rapidly growing regions in the United States.

The legislation would authorize two project components: the first of which will be constructed by the Inland Empire Utilities Agency, IEUA and will produce approximately 90,000 acre feet of new water annually. The second of these projects, to be constructed by the Cucamonga Valley Water District CVWD, will produce an additional 5,000 acre feet of new water annually. Combined, approximately 100,000 acre feet of new water would be produced locally by 2010, reducing the need for imported water from the Colorado River and northern California through the California Water Project.

Significantly, the Federal cost share is only 10 percent of the upfront capital costs.

We must continue to approve measures preventing water supply shortages in the Western United States. The Inland Empire region is one of the fastest growing areas in the nation. This legislation means that the Inland Empire will use less water from the Colorado River and northern California, and the bill will have other benefits like improved water quality, energy savings, and job creation.

The development of recycled water has enormous capacity to produce significant amounts of water, and have it ''on line'' in a relatively short period of time. Recycled water provides our State and region with the ability to ''stretch'' existing water supplies significantly and in so doing, minimize conflict and address the many needs that exist. According to the State of California's Recycled Water Task Force, water recycling is a critical part of California's water future with an estimated 1.5 million acre-feet of new supplies being developed over the next 25 years.

Today's Commissioner of Reclamation said it best when, in a speech to the WateReuse Association he declared that recycled water is ''the last river to tap.''

IEUA produces recycled water for a variety of non-potable purposes, such as landscape irrigation, agricultural irrigation, construction, and industrial cooling. By replacing these water-intensive applications with high-quality recycled water, fresh water can be conserved or used for drinking, thereby reducing the dependence on expensive imported water.

As we look into the future, it is appropriate that we are guided by lessons from the recent past. In the late 1980's, California confronted a sustained, multi-year drought. It was so serious that some observed that our State had 6-year-old first graders who had never seen ''green grass.'' California faced a crisis and water agencies and water districts, particularly in Southern California found a solution—recycled water.

In 1991, the Secretary of the Interior in President George H.W. Bush's administration, Manual Lujan, recognized that California was receiving more water from the Colorado River than its allocation. The Interior Secretary looked into the future and saw a day when California would get its allocation—4.4. million acre-feet, but no longer would it get up to 800,000 acre-feet of ''surplus flows.'' As is well known, that day has arrived.

For any political leader, it's always a tremendous challenge to look into the future and design programs and solutions to a crisis. Secretary Lujan did exactly that. In August 1991, he launched the Southern California Water Initiative, a program to evaluate and study the feasibility of water reclamation projects. Mr. Lujan's vision was to build replacement water capacity to offset the anticipated Colorado River water supply reductions. In this endeavor, Secretary Lujan was assisted by then Commissioner of Reclamation Dennis Underwood. Last week, Mr. Underwood was selected by the Metropolitan Water District of Southern California, MWD, board of directors as their new general manager and CEO.

Congress saw the wisdom of the Lujan initiative too. Congress, in 1992, was completing work on major water legislation. The Lujan initiative, a year after it was first announced, became Title XVI, the Bureau of Reclamation water recycling program that today serves the entire West, not just California. Today, water recycling is an essential water supply element in Albuquerque, Phoenix, Denver, Salt Lake City, Tucson, El Paso, San Antonio, Portland and other western metropolitan areas.

The Inland Empire Regional Water Recycling Initiative has the support of all member agencies of IEUA, as well as the water agencies downstream in Orange County. IEUA encompasses approximately 242 square miles and serves the cities of Chino, Chino Hills, Fontana, through the Fontana Water Company, Ontario, Upland, Montclair, Rancho Cucamonga through the Cucamonga Valley Water District, and the Monte Vista Water District.

This bill is also supported by and fully consistent with the Metropolitan Water District of Southern California, MWD's Integrated Resource Plan, Santa Ana Watershed Project Authority, SAWPA's Integrated Watershed Plan, and the Chino Basin Watermaster's Optimum Basin Management Plan, Inland Empire Utility Agency's Feasibility Study, Cucamonga Valley Water District's ''Every Drop Counts'' Urban Water Reuse Management Strategy, the Bureau of Reclamation's Southern California Comprehensive Water Recycling and Reuse Feasibility Study, the State of California's Water Recycling Task Force, the WateReuse Association, the Association of California Water Agencies, ACWA and the U.S. Department of the Interior's Water 2025 Initiative.

Environmental groups such as the Mono Lake Committee, Environmental Defense, Clean Water and Natural Resources Defense Council strongly support recycling projects. Business leaders such as Southern Cal Edison and Building Industry Association also support these water recycling projects.

These projects were authorized for feasibility study in Public Law 102–575, Title XVI, Section 1606, the Southern California Comprehensive Water Recycling and Reuse Feasibility Study in 1992. The State of California, Metropolitan Water District of Southern California, SAWPA and others provided $3 million of the $6 million required for the regional feasibility study of which these projects were one part.

Detailed Feasibility Studies and environmentally reports have been prepared and approved by both agencies and certified by the State of California.

Congressman DAVID DREIER introduced identical legislation in the House in the 108th Congress. The House Resources Committee and then the House of Representatives both passed the bill unanimously.

His bill is cosponsored by Representatives GARY MILLER, GRACE NAPOLITANO, KEN CALVERT and JOE BACA.

And these valuable recycling projects would never have progressed at all without the hard work and dedication of Mr. Robert DeLoach, general manager of the Cucamonga Valley Water District, and Mr. Rich Atwater, CEO and general manager of the Inland Empire Utilities Agency.

I urge my colleagues to support this bill. I ask unanimous consent that the

text of the bill be printed in the RECORD.

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

S. 746

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

SECTION 1. INLAND EMPIRE AND CUCAMONGA VALLEY RECYCLING PROJECTS.

(a) SHORT TITLE.—This section may be cited as the ''Inland Empire Regional Water Recycling Initiative''.

(b) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating the second section 1636 (as added by section 1(b) of Public Law 108–316 (118 Stat. 1202)) as section 1637; and

(2) by adding at the end the following:

''SEC. 1638. INLAND EMPIRE REGIONAL WATER RECYCLING PROJECT.

''(a) IN GENERAL.—The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 1606(c).

''(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

''SEC. 1639. CUCAMONGA VALLEY WATER RECYCLING PROJECT.

''(a) IN GENERAL.—The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

''(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

''(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000.''.

(c) CONFORMING AMENDMENTS.—The table of sections in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended by striking the item relating to the second section 1636 (as added by section 2 of Public Law 108–316 (118 Stat. 1202)) and inserting the following:

''Sec. 1637. Williamson County, Texas, Water Recycling and Reuse Project.
''Sec. 1638. Inland Empire Regional Water Recycling Program.
''Sec. 1639. Cucamonga Valley Water Recycling Project.''.

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

S. 749. A bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. LEVIN. Mr. President, I am pleased to join with Senators CRAIG THOMAS, CHUCK GRASSLEY and DEBBIE STABENOW in introducing the Federal Prison Industries Competition in Contracting Act. Our bill is based on a straightforward premise: it is unfair for Federal Prison Industries to deny businesses in the private sector an opportunity to compete for sales to their own government.

We have made immeasurable progress on this issue since I first introduced a similar bill ten years ago. It may seem incredible, but at that time, Federal Prison Industries (FPI) could bar private sector companies from competing for a federal contract. Under the law establishing Federal Prison Industries, if Federal Prison Industries said that it wanted a contract, it would get that contract, regardless whether a company in the private sector could provide the product better, cheaper, or faster.

Four years ago, the Senate took a giant step toward addressing this inequity when we voted 74–24 to end Federal Prison Industries' monopoly on Department of Defense contracts. Not only was that provision enacted into law, we were able to strengthen it with a second provision in last year's defense bill. Last year, we took another important step, enacting an appropriations provision which extends the DOD rules to other Federal agencies. This means that, for the first time, private sector companies should be able to compete against for contracts awarded by all Federal agencies.

Despite this progress, work remains to be done. We have heard reports from federal procurement officials and from small businesses that FPI continues to claim that it retains the mandatory source status that protected it from competition for so long. This kind of misleading statement may undermine the right to compete that we have fought so hard for so long to establish.

In addition, FPI continues to sell its services into interstate commerce on an unlimited basis. I am concerned that the sale of prison labor into commerce could have the effect of undermining companies and work forces that are already in a weakened position as a result of foreign competition. We have long taken the position as a nation that prison-made goods should not be sold into commerce, where prison wages of a few cents per hour could too easily undercut private sector competition. It is hard for me to understand why the sale of services should be treated any differently than the sale of products.

The bill that we are introducing today would address these issues by making it absolutely clear that FPI no longer has a mandatory source status, by reaffirming the critical requirement that FPI compete for its contracts, and by carefully limiting the circumstances under which prison services may be sold into the private sector economy.

I look forward to working with my colleagues on these important issues, and 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. 749

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

SECTION 1. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

(a) REQUIREMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following:

''SEC. 42. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

''(a) COMPETITION REQUIRED.—In the procurement of any product that is authorized to be offered for sale by Federal Prison Industries and is listed in the catalog published and maintained by Federal Prison Industries under section 4124(b) of title 18, United States Code, or any service offered to be provided by Federal Prison Industries, the head of an executive agency shall, except as provided in subsection (d)—

''(1) use competitive procedures for entering into a contract for the procurement of such product, in accordance with the requirements applicable to such executive agency under sections 2304 and 2305 of title 10, United States Code, or sections 303 through 303C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253 through 253c); or

''(2) make an individual purchase under a multiple award contract in accordance with competition requirements applicable to such purchases.

''(b) OFFERS FROM FEDERAL PRISON INDUSTRIES.—In conducting a procurement pursuant to subsection (a), the head of an executive agency shall—

''(1) notify Federal Prison Industries of the procurement at the same time and in the same manner as other potential offerors are notified;

''(2) consider a timely offer from Federal Prison Industries for award in the same manner as other offers (regardless of whether Federal Prison Industries is a contractor under an applicable multiple award contract); and

''(3) consider a timely offer from Federal Prison Industries without limitation as to the dollar value of the proposed purchase, unless the contract opportunity has been reserved for competition exclusively among small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) and its implementing regulations.

''(c) IMPLEMENTATION BY AGENCIES.—The head of each executive agency shall ensure that—

''(1) the executive agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the executive agency determines that the product or service is comparable to a product or service available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery; and

''(2) Federal Prison Industries performs its contractual obligations to the executive agency to the same extent as any other contractor for the executive agency.

''(d) EXCEPTION.—

''(1) OTHER PROCEDURES.—The head of an executive agency may use procedures other than competitive procedures to enter into a contract with Federal Prison Industries only under the following circumstances:

''(A) The Attorney General personally determines in accordance with paragraph (2), within 30 days after Federal Prison Industries has been informed by the head of that executive agency of an opportunity for award of a contract for a product or service, that—

''(i) Federal Prison Industries cannot reasonably expect fair consideration in the selection of an offeror for award of the contract on a competitive basis; and

''(ii) the award of the contract to Federal Prison Industries for performance at a penal or correctional facility is necessary to maintain work opportunities not otherwise available at the penal or correctional facility that prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility.

''(B) The product or service is available only from Federal Prison Industries and the contract may be awarded under the authority of section 2304(c)(1) of title 10, United States Code, or section 303(c)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)), as may be applicable, pursuant to the justification and approval requirements relating to noncompetitive procurements specified by law and the Federal Acquisition Regulation.

''(2) DETERMINATION.—

''(A) IN GENERAL.—A determination made by the Attorney General regarding a contract pursuant to paragraph (1)(A) shall be—

''(i) supported by specific findings by the warden of the penal or correctional institution at which a Federal Prison Industries workshop is scheduled to perform the contract;

''(ii) supported by specific findings by Federal Prison Industries regarding the reasons that it does not expect to be selected for award of the contract on a competitive basis; and

''(iii) made and reported in the same manner as a determination made pursuant to section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

''(B) NONDELEGATION.—The Attorney General may not delegate to any other official authority to make a determination that is required under paragraph (1)(A) to be made personally by the Attorney General.

''(e) PERFORMANCE AS A SUBCONTRACTOR.—

''(1) IN GENERAL.—A contractor or potential contractor under a contract entered into by the head of an executive agency may not be required to use Federal Prison Industries as a subcontractor or supplier of a product or provider of a service for the performance of the contract by any means, including means such as—

''(A) a provision in a solicitation of offers that requires a contractor to offer to use or specify a product or service of Federal Prison Industries in the performance of the contract;

''(B) a contract clause that requires the contractor to use or specify a product or service (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

''(C) any contract modification that requires the use of a product or service of Federal Prison Industries in the performance of the contract.

''(2) SUBCONTRACTOR OR SUPPLIER.—A contractor using Federal Prison Industries as a subcontractor or supplier in furnishing a commercial product pursuant to a contract of an executive agency shall implement appropriate management procedures to prevent an introduction of an inmate-produced product into the commercial market.

''(3) DEFINITION.—In this subsection, the term 'contractor', with respect to a contract, includes a subcontractor at any tier under the contract.

''(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The head of an executive agency may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

''(1) any data that is classified or will become classified after being merged with other data;

''(2) any geographic data regarding the location of—

''(A) surface or subsurface infrastructure providing communications or water or electrical power distribution;

''(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

''(C) other utilities; or

''(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end the following:

''Sec. 42. Governmentwide procurement policy relating to purchases from Federal Prison Industries.''.

SEC. 2. CONFORMING AMENDMENTS.

(a) REPEAL OF INCONSISTENT REQUIREMENTS APPLICABLE TO DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—Section 2410n of title 10, United States Code, is repealed.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2410n.

(b) REPEAL OF INCONSISTENT REQUIREMENTS APPLICABLE TO OTHER AGENCIES.—Section 4124 of title 18, United States Code, is amended—

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

(2) in subsection (a), as redesignated by paragraph (1), by striking ''Federal department, agency, and institution subject to the requirements of subsection (a)'' and inserting ''Federal department and agency''.

(c) OTHER LAWS.—

(1) JAVITS-WAGNER-O'DAY ACT.—Section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48) is amended by striking ''which, under section 4124 of such title, is required'' and inserting ''which is required by law''.

(2) SMALL BUSINESS ACT.—Section 31(b)(4) of the Small Business Act (15 U.S.C. 657a(b)(4)) is amended by striking ''a different source under section 4124 or 4125 of title 18, United States Code, or the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.)'' and inserting ''a different source under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) or Federal Prison Industries under section 40(d) of the Office of Federal Procurement Policy Act or section 4125 of title 18, United States Code''.

SEC. 3. UNLAWFUL TRANSPORTATION OR IMPORTATION OF PRODUCTS, SERVICES, OR MINERALS RESULTING FROM CONVICT LABOR.

(a) PROHIBITION.—Section 1761 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after ''reformatory institution,'' the following: ''or knowingly sells in interstate commerce any services, other than disassembly and scrap resale activities to achieve landfill avoidance, furnished wholly or in part by convicts or prisoners, except convicts or prisoners on parole, supervised release, or probation, or in any penal or reformatory institution,''; and

(2) in the matter preceding paragraph (1) in subsection (c), by inserting '', or services furnished,'' after ''or mined''.

(b) COMPLETION OF EXISTING AGREEMENTS.—Any prisoner work program operated by the Federal Government or by a State or local government which was providing a service for the commercial market through inmate labor on October 1, 2005, may continue to provide such commercial services until—

(1) the expiration that was specified in the contract or other agreement with a commercial partner on October 1, 2005; or

(2) until September 30, 2006, if no expiration date was specified in a contract or other agreement with a commercial partner.

(c) APPROVAL REQUIRED FOR LONG-TERM OPERATION OF STATE AND LOCAL PROGRAMS.—Except as provided in subsection (b), a prison work program operated by a State or local government may provide a service for the commercial market through inmate labor only if such program has been certified pursuant to section 1761(c) of title 18, United States Code, and is in compliance with the requirements of such subsection and its implementing regulations.

(d) APPROVAL REQUIRED FOR LONG-TERM OPERATION OF FEDERAL PROGRAMS.—Except as provided in subsection (b), a prison work program operated by the Federal Government may provide a service for the commercial market through inmate labor only if a Federal Prison Industries proposal to provide such services is approved in accordance with the requirements of this subsection by the Secretary of Commerce, the Secretary of Labor, and the Administrator of the Small Business Administration. Such a proposal may be approved only upon a determination, after notice and an opportunity for public comment, that—

(1) the service to be provided would be provided exclusively by foreign labor in the absence of the Federal Prison Industries proposal; and

(2) the approval of the proposal will not have an adverse impact on employment in any United States business.

(e) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—A prison work program operated by a State or local government may not provide a service, including a service for the commercial market through inmate labor pursuant to section 1761(c) of title 18, United States Code, under which an inmate worker would have access to—

(1) any data that is classified or will become classified after being merged with other data;

(2) any geographic data regarding the location of—

(A) surface or subsurface infrastructure providing communications or water or electrical power distribution;

(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

(C) other utilities or transportation infrastructure; or

(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

SEC. 4. ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.

(a) COOPERATION WITH CHARITABLE ORGANIZATIONS.—Chapter 307 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 4130. COOPERATION WITH CHARITABLE ORGANIZATIONS.

''(a) SALE OR DONATION OF PRODUCTS OR SERVICES TO CHARITABLE ENTITIES.—Federal Prison Industries may, subject to subsection (b), sell or donate a product or service to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code. Any product or service sold or donated under this section may be donated or sold by the charitable organization to low-income individuals who would otherwise have difficulty purchasing such products or services.

''(b) WORK AGREEMENTS WITH CHARITABLE ORGANIZATIONS.—

''(1) IN GENERAL.—Federal Prison Industries may sell or donate a product or service to a charitable organization under subsection (a) only pursuant to a work agreement with the charitable organization receiving the product or service.

''(2) TERMS.—Federal Prison Industries may enter a work agreement relating to a product and service under paragraph (1) only if—

''(A) the Attorney General determines, in consultation with the Secretary of Labor and the Secretary of Commerce, that the product or service would not be available except for the availability of inmate workers provided by Federal Prison Industries; and

''(B) the work agreement is accompanied by a written certification by the chief executive officer of the charitable organization that—

''(i) no job of a noninmate employee or volunteer of the charitable organization (or any affiliate of the charitable organization) will be abolished, and no such employee's or volunteer's work hours will be reduced, as a result of the entity being authorized to utilize inmate workers; and

''(ii) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the charitable organization.

''(3) NONDELEGATION.—The Attorney General may not delegate authority to make determinations under paragraph (2)(A) to any person serving in a position below the lowest level of positions that are filled by appointment by the President, by and with the advice and consent of the Senate.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following:

''4130. Cooperation with charitable organizations.

SEC. 5. ADDITIONAL REHABILITATIVE OPPORTUNITIES FOR INMATES.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"SEC. 4049. ENHANCED IN-PRISON EDUCATIONAL AND VOCATIONAL ASSESSMENT AND TRAINING PROGRAM.

''(a) IN GENERAL.—There is established the Enhanced In-Prison Educational and Vocational Assessment and Training Program within the Federal Bureau of Prisons.

''(b) REQUIREMENTS.—The program established under this section shall provide, at a minimum, a full range of educational opportunities, vocational training and apprenticeships, and comprehensive release-readiness preparation for inmates in Federal prisons.''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

''4049. Enhanced In-Prison Educational and Vocational Assessment and Training Program.

(b) IMPLEMENTATION OBJECTIVE.—It shall be the objective of the Federal Bureau of Prisons to implement the program established under section 4049 of title 18, United States Code (as added by subsection (a)), in all Federal prisons not later than 8 years after the date of the enactment of this Act.

SEC. 6. NEW PRODUCTS AND EXPANDED PRODUCTION OF EXISTING PRODUCTS.

Federal Prison Industries shall, to the maximum extent practicable, increase inmate employment by producing new products or expanding the production of existing products for the public sector that would otherwise be produced outside the United States.

SEC. 7. TRANSITIONAL PERSONNEL MANAGEMENT AUTHORITY.

Any correctional officer or other employee of Federal Prison Industries being paid with nonappropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries before the date that is 5 years after the date of the enactment of this Act shall be—

(1) eligible for appointment (or reappointment) in the competitive service in accordance with subpart B or part III of title 5, United States Code;

(2) registered on a Bureau of Prisons reemployment priority list; and

(3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

Mr. THOMAS. President, today I am pleased to join Senator LEVIN in introducing a bill that will further my efforts to limit unfair government competition with the private sector. Throughout my career in public office, I have always taken the position that government should not compete unfairly with American small businesses. If a function or product is available in the private sector, then that should be the first avenue of choice as opposed to having that function provided by government.

For several years now, Federal Prison Industries (FPI), a government entity with the purpose of keeping prisoners busy while serving their sentences, has been providing a growing variety of products and services to both the Federal Government and the private sector. Currently, FPI employs approximately 21,000 Federal prisoners or roughly 12 percent of a population of 174,000. These prisoners are responsible for producing a diverse range of products for FPI, ranging from office furniture to clothing, as well as providing a variety of services, including telemarketing. The remaining Federal prisoners who work do so in and around Federal prisons.

Through its status as a sole provider of certain goods to the Federal Government, FPI has effectively blocked private sector businesses from having a chance to provide products, even though they may be able to provide a better product in a more cost effective and efficient manner. This situation is not in the best interest of the American taxpayer and is blatantly unfair to American small businesses across the country. Along with Senators GRASSLEY and STABENOW, Senator LEVIN and I propose to enact thorough and lasting reforms to Federal Prison Industries that would ensure that they no longer compete unfairly with private sector small businesses.

We have already taken steps to remedy the situation. In last year's Omnibus Appropriations bill, language was included that prohibited funding for sole source products from FPI and subjected such procurements to follow the competitive requirements set out in the Federal Acquisitions Regulations. However, there are questions as to whether the mandatory sourcing requirement still remains under these regulations. Our bill makes it very clear to Federal Managers and Federal Prison Industries that contracting officers are to use competitive procedures for the procurement of products and services. This approach allows federal agencies to select FPI for contracts if, as a result of a competitive process, FPI can meet that particular agency's requirements and the product or service is the best value offered at a fair and reasonable price. By removing FPI's status as the sole provider and subjecting procurement to competition, the above outlined provision in our bill places the control of government procurement in the hands of contracting officers and allows them to pursue the most cost effective and efficient use of taxpayer dollars.

While we believe that it is important to keep prisoners working, we do not believe that this effort should unduly harm or conflict with law-abiding businesses. This bill seeks to minimize the unfair competition that private sector companies face with the FPI. As FPI continues to expand its reach into providing services, the low costs of inmate labor is undercutting private sector businesses that provide similar services. The result is an unfair advantage for FPI. While allowing for the conclusion of current contracts, this bill also looks to limit services provided by inmates that compete with the private sector in interstate commerce. Additionally, the bill prohibits FPI from production of goods or services in which an inmate would have access to classified or sensitive data.

We support the goal of keeping prisoners busy while serving their time in prison. But FPI should not be placed in a position of advantage when providing goods to the federal government, and these activities should not unfairly compete with services already provided in the private sector. However, I recognize that there may be cases in which a particular contract is deemed essential to the safety and effective administration of a particular prison. To deal with these exceptions, a provision is included that allows the Attorney General to grant a waiver to these reform measures in certain cases.

In addition to bringing a halt to unfair business practices with the private sector, this bill allows for FPI to search for other means to keep prisoners working that do not impact the

employment of individuals in the private sector. There is a need to keep inmates busy, and this legislation addresses further work opportunities though public service activities and cooperation with charitable organizations. Additionally, the bill recognizes the need for further avenues of rehabilitation and directs the Federal Bureau of Prisons to establish an Enhanced In-Prison Educational and Vocational Assessment and Training Program for inmates.

I am confident that by allowing competition for government contracts our bill will save taxpayer dollars. Through healthy competition with the private sector for procurement contracts, FPI will be forced to look internally for ways to improve its own effectiveness and efficiency. The reform of Federal Prison Industries will bring about numerous improvements, not just in cost savings, but also in preserving jobs for law abiding Americans in the private sector who work in small businesses. And the most important effect will be the better use of tax dollars. The American taxpayer is the one who will benefit most from this legislation.

A similar version of our bill was reported favorably out of the Senate Governmental Affairs Committee in the 108th Congress, and reform measures have passed overwhelming in the House of Representatives. Our bill has the support of small business groups from across the country, as well as organized labor. Clearly, reforming the way Federal Prison Industries does business is an issue that enjoys broad, bipartisan support. I believe this bill provides that reform. I would ask my colleagues to look at this legislation and consider giving it their support.

By Mr. KYL:

S. 750. A bill to amend the Internal Revenue Code of 1986 to allow look-through treatment of payments between related foreign corporations; to the Committee on Finance.

Mr. KYL. Mr. President, the 108th Congress began the necessary process, as part of the American Jobs Creation Act, of rationalizing the way the United States taxes the foreign income of U.S.-based companies, thereby helping U.S. employers to be more competitive in international markets. There was one provision, however, that passed both the Senate and the House but that was dropped out of the conference report at the eleventh hour for reasons that were unrelated to the merits of the provision. That provision extended the general rule of tax deferral to dividends, interest, rents and royalties that are paid out in the ordinary course of active business activities by one foreign affiliate of a U.S. company to another affiliate in another country. Today, I am introducing legislation to make this important change.

The United States taxes U.S. companies on their worldwide income, but the general rule is that foreign subsidiary income is not taxed by the United States until the subsidiary earnings are brought back to the U.S. parent, usually in the form of a dividend. Subpart F of the Internal Revenue Code sets forth a number of exceptions to this general rule. Subpart F imposes current tax on subsidiary earnings generally when that income is passive in nature. One such exception taxes the U.S. parent when a subsidiary receives dividends, interest, rents or royalties from another subsidiary that is located in a different country. If the two subsidiaries are in the same country, however, current taxation does not apply.

The proposal I am introducing today would extend this ''same-country'' treatment to payments between related foreign subsidiaries that are located in different countries. This proposal is identical to the one that passed the Senate last year.

Today's global economy is significantly different from the environment that existed when the subpart F rules were first introduced in 1962. As the global economy has changed, the traditional model for operating a global business has changed as well. In today's world, it makes no sense to impose a tax penalty when a company wants to fund the operations of a subsidiary in one country from the active business earnings of a subsidiary in a second country. For example, to operate efficiently, a U.S.-based manufacturer will probably establish specialized manufacturing sites, distribution hubs, and service centers. As a result, multiple related-party entities may be required to fulfill a specific customer order. U.S. tax law today inappropriately increases the cost for these foreign subsidiaries to serve their customers in a very competitive business environment by imposing current tax on these related-party payments, even though the income remains deployed in the foreign market.

Further, financial institutions have established foreign subsidiaries with headquarters in a financial center, such as London, and branches in multiple countries in the same geographic region. This permits an efficient ''hub and spoke'' form of regional operation; however, this efficient business model may make it difficult for the same country exception under current law to be met for payments of dividends and interest.

Under the existing rules, American companies are at a real and significant competitive disadvantage as compared to foreign-based companies. By creating current U.S. taxation of active business income when subsidiaries make cross-border payments, U.S.-based multinationals are penalized for responding to market or investment opportunities by redeploying active foreign earnings among foreign businesses conducted through multiple subsidiaries. To remove this impediment, subpart F should be amended to provide a general exception for interaffiliate payments of dividends, interest, rents or royalties that are generated from an active business.

The right answer is to apply ''look-through'' treatment to payments of dividends, interest, rents and royalties between subsidiaries. If the underlying earnings would not have been subject to subpart F, the payments should not be subpart F income. Look-through treatment for payments of dividends, interest, rents and royalties should be permitted as long as the payments are made out of active business, non-subpart F, income. ''Look-through'' principles are already well-developed for other purposes of the Internal Revenue Code. For example, a look-through approach to the characterization of foreign income is used for purposes of calculating foreign tax credits. A consistent application of look-through principles would simplify the interaction between subpart F and the foreign tax credit rules.

If we want to keep U.S.-based multinational companies—who employ millions of workers here at home—headquartered in the United States, we must modernize our tax rules so that our companies can be competitive around the globe I urge my colleagues to cosponsor this legislation to make a modest change in the law that will enhance the position of U.S.-based employers trying to succeed in competitive foreign markets.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, and Mr. DORGAN):

S. 752. A bill to require the United States Trade Representative to pursue a complaint of anti-competitive practices against certain oil exporting countries; to the Committee on Finance.

Mr. LAUTENBERG. 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. 752

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 ''OPEC Accountability Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Gasoline prices have nearly doubled since January, 2002, with oil recently trading at more than $58 per barrel for the first time ever.

(2) Rising gasoline prices have placed an inordinate burden on American families.

(3) High gasoline prices have hindered and will continue to hinder economic recovery.

(4) The Organization of Petroleum Exporting Countries (OPEC) has formed a cartel and engaged in anti-competitive practices to manipulate the price of oil, keeping it artificially high.

(5) Six member nations of OPEC—Indonesia, Kuwait, Nigeria, Qatar, the United Arab Emirates and Venezuela—are also members of the World Trade Organization.

(6) The agreement among OPEC member nations to limit oil exports is an illegal prohibition or restriction on the exportation or

sale for export of a product under Article XI of the GATT 1994.

(7) The export quotas and resulting high prices harm American families, undermine the American economy, impede American and foreign commerce, and are contrary to the national interests of the United States.

SEC. 3. ACTIONS TO CURB CERTAIN CARTEL ANTI-COMPETITIVE PRACTICES.

(a) DEFINITIONS.—In this Act:

(1) GATT 1994.—The term ''GATT 1994'' has the meaning given such term in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)).

(2) UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES.—The term ''Understanding on Rules and Procedures Governing the Settlement of Disputes'' means the agreement described in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(3) WORLD TRADE ORGANIZATION.—

(A) IN GENERAL.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(B) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

(b) ACTION BY PRESIDENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall, not later than 15 days after the date of enactment of this Act, initiate consultations with the countries described in paragraph (2) to seek the elimination by those countries of any action that—

(A) limits the production or distribution of oil, natural gas, or any other petroleum product,

(B) sets or maintains the price of oil, natural gas, or any petroleum product, or

(C) otherwise is an action in restraint of trade with respect to oil, natural gas, or any petroleum product, when such action constitutes an act, policy, or practice that is unjustifiable and burdens and restricts United States commerce.

(2) COUNTRIES DESCRIBED.—The countries described in this paragraph are the following:

(A) Indonesia.
(B) Kuwait.
(C) Nigeria.
(D) Qatar.
(E) The United Arab Emirates.
(F) Venezuela.

(c) INITIATION OF WTO DISPUTE PROCEEDINGS.—If the consultations described in subsection (b) are not successful with respect to any country described in subsection (b)(2), the United States Trade Representative shall, not later than 60 days after the date of enactment of this Act, institute proceedings pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes with respect to that country and shall take appropriate action with respect to that country under the trade remedy laws of the United States.

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

S. 753. A bill to provide for modernization and improvement of the Corps of Engineers, and for other purposes; to the Committee on Environment and Public Works.

Mr. FEINGOLD. Mr. President, I rise today to introduce the Corps of Engineers Modernization and Improvement Act of 2005. I am pleased to be joined by the senior Senator from Arizona, Mr. MCCAIN, who worked with me in the 107th and 108th Congresses to reform the Corps.

We cannot ignore the record-breaking deficits that the Nation faces. Fiscal responsibility has never been so important. This legislation provides Congress with a unique opportunity to underscore our commitment to that goal. Too often, some have suggested that fiscal responsibility and environmental protection are mutually exclusive. Through this legislation, however, we can save taxpayers billions of dollars and protect the environment. As evidence of this unique opportunity, this bill is supported by Taxpayers for Common Sense, the National Taxpayers Union, the National Wildlife Federation, American Rivers, the Corps Reform Network, and Earthjustice.

Reforming the Army Corps of Engineers will be a difficult task for Congress. It involves restoring credibility and accountability to a Federal agency rocked by scandals and constrained by endlessly growing authorizations and a gloomy Federal fiscal picture, and yet an agency that Wisconsin, and many other States across the country, have come to rely upon. From the Great Lakes to the mighty Mississippi, the Corps is involved in providing aid to navigation, environmental remediation, water control and a variety of other services in my state alone.

My office has strong working relationships with the Detroit, Rock Island, and St. Paul District Offices that service Wisconsin, and I want the fiscal and management cloud over the Corps to dissipate so that the Corps can continue to contribute to our environment and our economy.

This legislation evolved from my experience in seeking to offer an amendment to the Water Resources Development Act of 2000 to create independent review of Army Corps of Engineers' projects. In response to my initiative, the bill's managers, who included the former Senator from New Hampshire, Senator BOB SMITH, and the senior Senator from Montana, Mr. BAUCUS, adopted an amendment as part of their managers' package to require a National Academy of Sciences study on the issue of peer review of Corps projects.

The bill I introduce today includes many provisions that were included the bill I authored in the 108th Congress. It codifies the idea of independent review of the Corps, which was investigated through the 2000 Water Resources bill. It also provides a mechanism to speed up completion of construction for good Corps projects with large public benefits by deauthorizing low priority and economically wasteful projects.

I will note, however, that this is not the first time that the Congress has realized that the Corps needs to be reformed because of its association with pork projects. In 1836, a House Ways and Means Committee report discovered that at least 25 Corps projects were over budget. In its report, the Committee noted that Congress must ensure that the Corps institutes ''actual reform, in the further prosecution of public works.'' In 1902, Congress created a review board to determine whether Corps projects were justified. The review board was dismantled just over a decade ago, and the Corps is still linked with wasteful spending. Here we are, more than 100 years later, talking about the same issue.

The reality is that the underlying problem is not with the Corps, the problem is with Congress. All too often, Members of Congress have seen Corps projects as a way to bring home the bacon, rather than ensuring that taxpayers get the most bang for their Federal buck.

This bill puts forth bold, comprehensive reform measures. It modernizes the Corps project planning guidelines, which have not been updated since 1983. It requires the Corps to use sound science in estimating the costs and evaluating the needs for water resources projects. The bill clarifies that the national economic development and environmental protection are coequal objectives of the Corps. Furthermore, the Corps must use current discount rates when determining the costs and benefits of projects. Several Corps projects are justified using a discount rate formula established over 30 years ago, not the current government-wide discount rate promulgated by the Office of Management and Budget. By using this outdated discount rate formula, the Corps often overestimates project benefits and underestimates project costs.

This legislation also requires that a water resource project's benefits must be 1.5 times greater than the costs to the taxpayer. According to a 2002 study of the Corps backlog of projects, at least 60 Corps projects, whose combined costs total $4.6 billion, do not meet this 1.5 to 1 benefit-cost ratio. Thus, this benefit-cost ratio will save the taxpayer billions of dollars. The bill also mandates federal-local cost sharing of flood control projects and reduces the federal cost burden of these projects.

While the bill assumes a flat 50 percent cost-share for flood control projects, my home state of Wisconsin has been on the forefront of responsible flood plain management and also happens to be home to the Association of State Flood Plain Managers. As Congress considers the issue of Corps reform and the Water Resources Development Act, I hope my colleagues will take a closer look at the issue of a sliding cost scale. We should explore the possibility of creating incentives for communities with cutting-edge flood plain management practices to reduce their local share for projects.

The bill requires independent review of Corps projects. The National Academy of Sciences, the General Accounting Office, and even the Inspector General of the Army agree that independent review is an essential step to assuring that each Corps project is economically justified. Independent review will apply to projects in the following circumstances: 1. the project

has costs greater than $25 million, including mitigation costs; 2. the Governor of a state that is affected by the project requests a panel; 3. the head of a federal agency charged with reviewing the project determines that the project is likely to have a significant adverse environmental or cultural impact; or 4. the Secretary of the Army determines that the project is controversial. Any party can request that the Secretary make a determination of whether the project is controversial.

This bill also creates a Director of Independent Review within the Office of the Inspector General of the Department of the Army. The Director is responsible for empaneling experts to review projects. The Secretary is required to respond to the panel's report and explain the extent to which a final report addresses the panel's concerns. The panel report and the underlying data that the Corps uses to justify the project will be made available to the public.

The bill also requires strong environmental protection measures. The Corps is required to mitigate the environmental impacts of its projects in a variety of ways, including by avoiding damaging wetlands in the first place and either holding other lands or constructing wetlands elsewhere when it cannot avoid destroying them. The Corps requires private developers to meet this standard when they construct projects as a condition of receiving a Federal permit, and I think the Federal Government should live up to the same standards. Too often, the Corps does not complete required mitigation and enhances environmental risks.

I feel very strongly that mitigation must be completed, that the true costs of mitigation should be accounted for in Corps projects, and that the public should be able to track the progress of mitigation projects. The bill requires the Corps to develop a detailed mitigation plan for each water resources project, and conduct monitoring to demonstrate that the mitigation is working. In addition, the concurrent mitigation requirements of this bill would actually reduce the total mitigation costs by ensuring the purchase of mitigation lands as soon as possible.

This bill streamlines the existing automatic deauthorization process. Estimates of the project backlog runs from $58 billion to $41 billion. The bill requires the Corps to conduct a fiscal transparency report to review and report on the current backlog of Corps projects. Under current law, a project will be deauthorized anywhere from 7.5 to 11.5 years after authorization for construction if it receives no funding, and any type of funding will keep the project alive. This bill reduces the amount of time until automatic deauthorization based on funding to between 7.5 to 6.5 years. After 4 years of receiving no construction funding, a project goes on the Fiscal Transparency Report list. To keep one of those projects alive, Federal funds must be obligated for construction within 30 months of submission of the Fiscal Transparency Report. If no funds are obligated during that time, the project is deauthorized.

This legislation will bring out comprehensive revision of the project review and authorization procedures at the Army Corps of Engineers. My goals for the Corps are to increase transparency and accountability, to ensure fiscal responsibility, and to allow greater stakeholder involvement in their projects. I remain committed to these goals, and to seeing Corps Reform enacted as part of this Congress's Water Resources bill.

I feel that this bill is an important step down the road to a reformed Corps of Engineers. This bill establishes a framework to catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, end old unjustified projects, and provide planners desperately needed support against the never-ending pressure of project boosters. Those boosters include congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance.

I wish it were the case that the changes we are proposing today were not needed, but unfortunately, there is still need for this bill. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing the taxpayers more than the Corps estimated, do not have unanticipated environmental impacts, and are built in an environmentally compatible way. This bill will help the Corps do a better job, which is what the taxpayers and the environment deserve.

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. 753

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 ''Corps of Engineers Modernization and Improvement Act of 2005''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Corps of Engineers is the primary Federal agency responsible for developing and managing the harbors, waterways, shorelines, and water resources of the United States;

(2) the scarcity of Federal resources requires more efficient use of Corps resources and funding, and greater oversight of Corps analyses;

(3) appropriate cost sharing ensures efficient measures of project demands and enables the Corps to meet more national project needs;

(4) the significant demand for recreation, clean water, and healthy wildlife habitat must be fully reflected in the project planning and construction process of the Corps;

(5) the human health, environmental, and social impacts of dams, levees, shoreline stabilization structures, river training structures, river dredging, and other Corps projects and activities must be adequately considered and, in any case in which adverse impacts cannot be avoided, fully mitigated;

(6) the National Academy of Sciences has concluded that the Principles and Guidelines for water resources projects need to be modernized and updated to reflect current economic practices and environmental laws and planning guidelines; and

(7) affected interests must have access to information that will allow those interests to play a larger and more effective role in the oversight of Corps project development and mitigation.

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

(1) to ensure that the water resources investments of the United States are economically justified and enhance the environment;

(2) to provide independent review of feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(3) to ensure timely, ecologically successful, and cost-effective mitigation for Corps projects;

(4) to ensure appropriate local cost sharing to assist in efficient project planning focused on national needs;

(5) to enhance the involvement of affected interests in feasibility studies, general reevaluation studies, and environmental impact statements of the Corps;

(6) to modernize planning principles of the Corps to meet the economic and environmental needs of riverside and coastal communities and the nation;

(7) to ensure that environmental protection and restoration, and national economic development, are co-equal goals, and given co-equal emphasis, during the evaluation, planning, and construction of Corps projects;

(8) to ensure that project planning, project evaluations, and project recommendations of the Corps are based on sound science and economics and on a full evaluation of the impacts to the health of aquatic ecosystems; and

(9) to ensure that the determination of benefits and costs of Corps projects properly reflects current law and Federal policies designed to protect human health and the environment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACADEMY.—The term ''Academy'' means the National Academy of Sciences.

(2) CORPS.—The term ''Corps'' means the Corps of Engineers.

(3) PRINCIPLES AND GUIDELINES.—The term ''Principles and Guidelines'' means the principles and guidelines of the Corps for water resources projects (consisting of Engineer Regulation 1105–2–100 and Engineer Pamphlet 1165–2–1).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

TITLE I—MODERNIZING PROJECT PLANNING

SEC. 101. MODERN PLANNING PRINCIPLES.

(a) PLANNING PRINCIPLES.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) is amended to read as follows:

''SEC. 209. CONGRESSIONAL STATEMENT OF OBJECTIVES.

''(a) IN GENERAL.—It is the intent of Congress that—

''(1) national economic development and environmental protection and restoration are co-equal objectives of water resources project planning and management; and

''(2) Federal agencies manage and, if clearly justified, construct water resource projects—

''(A) to meet national economic needs; and

''(B) to protect and restore the environment.

''(b) REVISION OF PLANNING GUIDELINES, REGULATIONS AND CIRCULARS.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2005, the Secretary, in collaboration with the National Academy of Sciences, shall develop proposed revisions of, and revise, the planning guidelines, regulations, and circulars of the Corps.

''(c) ADDITIONAL REQUIREMENTS.—Corps planning regulations revised under subsection (b) shall—

''(1) incorporate new and existing analytical techniques that reflect the probability of project benefits and costs;

''(2) apply discount rates provided by the Office of Management and Budget;

''(3) eliminate biases and disincentives that discourage the use of nonstructural approaches to water resources development and management;

''(4) encourage, to the maximum extent practicable, the restoration of ecosystems through the restoration of hydrologic and geomorphic processes;

''(5) consider the costs and benefits of protecting or degrading natural systems;

''(6) ensure that projects are justified by benefits that accrue to the public at large;

''(7) ensure that benefit-cost calculations reflect a credible schedule for project construction;

''(8) ensure that each project increment complies with section 104;

''(9) include as a cost any increase in direct Federal payments or subsidies and exclude as a benefit any increase in direct Federal payments or subsidies; and

''(10) provide a mechanism by which, at least once every 5 years, the Secretary shall collaborate with the National Academy of Sciences to review, and if necessary, revise all planning regulations, guidelines, and circulars.

''(d) NATIONAL NAVIGATION AND PORT PLAN.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Corps of Engineers Modernization and Improvement Act of 2005, the Corps shall develop, and update not less frequently than every 4 years, an integrated, national plan to manage, rehabilitate and, if justified, modernize inland waterway and port infrastructure to meet current national economic and environmental needs.

''(2) TOOLS.—To develop the plan, the Corps shall employ economic tools that—

''(A) recognize the importance of alternative transportation destinations and modes; and

''(B) employ practicable, cost-effective congestion management alternatives before constructing and expanding infrastructure to increase waterway and port capacity.

''(3) BENEFITS AND PROXIMITY.—The Corps shall give particular consideration to the benefits and proximity of proposed and existing port, harbor, waterway, rail and other transportation infrastructure in determining whether to construct new water resources projects.

''(e) NOTICE AND COMMENT.—The Secretary shall comply with the notice and comment provisions of chapter 551 of title 5, United States Code, in issuing revised planning regulations, guidelines and circulars.

''(f) APPLICABILITY.—On completion of the revisions required under this section, the Secretary shall apply the revised regulations to projects for which a draft feasibility study or draft reevaluation report has not yet been issued.

''(g) PROJECT REFORMULATION.—Projects of the Corps, and separable elements of projects of the Corps, that have been authorized for 10 years, but for which less than 15 percent of appropriations specifically identified for construction have been obligated, shall not be constructed unless a general reevaluation study demonstrates that the project or separable element meets—

''(1) all project criteria and requirements applicable at the time the study is initiated, including requirements under this section; and

''(2) cost share and mitigation requirements of this Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–17) is repealed.

(2) Section 7(a) of the Department of Transportation Act (Public Law 89–670; 80 Stat. 941) is repealed.

SEC. 102. INDEPENDENT REVIEW.

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term ''affected State'', with respect to a water resources project, means a State or portion of a State that—

(A) is located, at least partially, within the drainage basin in which the project is carried out; and

(B) would be economically or environmentally affected as a result of the project.

(2) DIRECTOR.—The term ''Director'' means the Director of Independent Review appointed under subsection (c)(1).

(b) PROJECTS SUBJECT TO INDEPENDENT REVIEW.—

(1) IN GENERAL.—The Secretary shall ensure that each feasibility report, general reevaluation report, and environmental impact statement for each water resources project described in paragraph (2) is subject to review by an independent panel of experts established under this section.

(2) PROJECTS SUBJECT TO REVIEW.—A water resources project shall be subject to review under paragraph (1) if—

(A) the project has an estimated total cost of more than $25,000,000, including mitigation costs;

(B) the Governor of an affected State requests the establishment of an independent panel of experts for the project;

(C) the head of a Federal agency charged with reviewing the project determines that the project is likely to have a significant adverse impact on environmental, cultural, or other resources under the jurisdiction of the agency; or

(D) the Secretary determines under paragraph (3) that the project is controversial.

(3) CONTROVERSIAL PROJECTS.—

(A) IN GENERAL.—The Secretary shall determine that a water resources project is controversial for the purpose of paragraph (2)(D) if the Secretary finds that—

(i) there is a significant dispute as to the size, nature, or effects of the project;

(ii) there is a significant dispute as to the economic or environmental costs or benefits of the project; or

(iii) there is a significant dispute as to the benefits to the communities affected by the project of a project alternative that—

(I) was not the focus of the feasibility report, general reevaluation report, or environmental impact statement for the project; or

(II) was not considered in the feasibility report, general reevaluation report, or environmental impact statement for the project.

(B) WRITTEN REQUESTS.—Not later than 30 days after the date on which the Secretary receives a written request of any party, or on the initiative of the Secretary, the Secretary shall determine whether a project is controversial.

(c) DIRECTOR OF INDEPENDENT REVIEW.—

(1) APPOINTMENT.—The Inspector General of the Army shall appoint in the Office of the Inspector General of the Army a Director of Independent Review.

(2) QUALIFICATIONS.—The Inspector General of the Army shall select the Director from among individuals who are distinguished experts in biology, hydrology, engineering, economics, or another discipline relating to water resources management.

(3) LIMITATION ON APPOINTMENTS.—The Inspector General of the Army shall not appoint an individual to serve as the Director if the individual has a financial interest in or close professional association with any entity with a financial interest in a water resources project that, on the date of appointment of the Director, is—

(A) under construction;

(B) in the preconstruction engineering and design phase; or

(C) under feasibility or reconnaissance study by the Corps.

(4) TERMS.—

(A) IN GENERAL.—The term of a Director appointed under this subsection shall be 6 years.

(B) TERM LIMIT.—An individual may serve as the Director for not more than 2 nonconsecutive terms.

(5) DUTIES.—The Director shall establish a panel of experts to review each water resources project that is subject to review under subsection (b).

(d) ESTABLISHMENT OF PANELS.—

(1) IN GENERAL.—After the Secretary selects a preferred alternative for a water resources project subject to review under subsection (b) in a formal draft feasibility report, draft general reevaluation report, or draft environmental impact statement, the Director shall establish a panel of experts to review the project.

(2) MEMBERSHIP.—A panel of experts established by the Director for a project shall be composed of not less than 5 nor more than 9 independent experts (including 1 or more biologists, hydrologists, engineers, and economists) who represent a range of areas of expertise.

(3) LIMITATION ON APPOINTMENTS.—The Director shall not appoint an individual to serve on a panel of experts for a project if the individual has a financial interest in or close professional association with any entity with a financial interest in the project.

(4) CONSULTATION.—The Director shall consult with the Academy in developing lists of individuals to serve on panels of experts under this section.

(5) NOTIFICATION.—

(A) IN GENERAL.—To ensure that the Director is able to effectively carry out the duties of the Director under this section, the Secretary shall notify the Director in writing not later than 90 days before the release of a draft feasibility report, draft general reevaluation report, or draft environmental

impact statement, for every water resources project.

(B) CONTENTS.—The notification shall include—

(i) the estimated cost of the project; and

(ii) a preliminary assessment of whether a panel of experts may be required.

(6) COMPENSATION.—An individual serving on a panel of experts under this section shall be compensated at a rate of pay to be determined by the Inspector General of the Army.

(7) TRAVEL EXPENSES.—A member of a panel of experts under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the panel.

(e) DUTIES OF PANELS.—

(1) IN GENERAL.—A panel of experts established for a water resources project under this section shall—

(A) review each draft feasibility report, draft general reevaluation report, and draft environmental impact statement prepared for the project;

(B) assess the adequacy of the economic, scientific, and environmental models used by the Secretary in reviewing the project to ensure that—

(i) the best available economic and scientific methods of analysis have been used;

(ii) the best available economic, scientific, and environmental data have been used; and

(iii) any regional effects on navigation systems have been examined;

(C) receive from the public written and oral comments concerning the project;

(D) not later than the deadline established under subsection (f), submit to the Secretary a report concerning the economic, engineering, and environmental analyses of the project, including the conclusions of the panel, with particular emphasis on areas of public controversy, with respect to the feasibility report, general reevaluation report, or environmental impact statement; and

(E) not later than 30 days after the date of issuance of a final feasibility report, final general reevaluation report, or final environmental impact statement, submit to the Secretary a brief report stating the views of the panel on the extent to which the final analysis adequately addresses issues or concerns raised by each earlier evaluation by the panel.

(2) EXTENSIONS.—

(A) IN GENERAL.—The panel may request from the Director a 30-day extension of the deadline established under paragraph (1)(E).

(B) RECORD OF DECISION.—The Secretary shall not issue a record of decision until after, at the earliest—

(i) the final day of the 30-day period described in paragraph (1)(E); or

(ii) if the Director grants an extension under subparagraph (A), the final day of the 60-day period beginning on the date of issuance of a final feasibility report described in paragraph (1)(E) and ending on the final day of the extension granted under subparagraph (A).

(f) DURATION OF PROJECT REVIEWS.—

(1) DEADLINE.—Except as provided in paragraph (2), not later than 180 days after the date of establishment of a panel of experts for a water resources project under this section, the panel shall complete—

(A) each required review of the project; and

(B) all other duties of the panel relating to the project (other than the duties described in subsection (e)(1)(E)).

(2) EXTENSION OF DEADLINE FOR REPORT ON PROJECT REVIEWS.—Not later than 240 days after the date of issuance of a draft feasibility report, draft general reevaluation report, or draft environmental impact statement for a project, if a panel of experts submits to the Director before the end of the 180-day period described in paragraph (1), and the Director approves, a request for a 60-day extension of the deadline established under that paragraph, the panel of experts shall submit to the Secretary a report required under subsection (e)(1)(D).

(g) RECOMMENDATIONS OF PANEL.—

(1) CONSIDERATION BY SECRETARY.—

(A) IN GENERAL.—If the Secretary receives a report on a water resources project from a panel of experts under this section by the applicable deadline under subsection (e)(1)(E) or (f), the Secretary shall, at least 14 days before entering a final record of decision for the water resources project—

(i) take into consideration any recommendations contained in the report; and

(ii) prepare a written explanation for any recommendations not adopted.

(B) INCONSISTENT RECOMMENDATIONS AND FINDINGS.—Recommendations and findings of the Secretary that are inconsistent with the recommendations and findings of a panel of experts under this section shall not be entitled to deference in a judicial proceeding.

(2) PUBLIC REVIEW; SUBMISSION TO CONGRESS.—After receiving a report on a water resources project from a panel of experts under this section (including a report under subsection (e)(1)(E)), the Secretary shall—

(A) immediately make a copy of the report (and, in a case in which any written explanation of the Secretary on recommendations contained in the report is completed, shall immediately make a copy of the response) available for public review; and

(B) include a copy of the report (and any written explanation of the Secretary) in any report submitted to Congress concerning the project.

(h) PUBLIC ACCESS TO INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall ensure that information relating to the analysis of any water resources project by the Corps, including all supporting data, analytical documents, and information that the Corps has considered in the analysis, is made available—

(A) to any individual upon request;

(B) to the public on the Internet; and

(C) to an independent review panel, if such a panel is established for the project.

(2) TYPES OF INFORMATION.—Information concerning a project that is available under paragraph (1) shall include—

(A) any information that has been made available to the non-Federal interests with respect to the project; and

(B) all data and information used by the Corps in the justification and analysis of the project.

(3) EXCEPTION FOR TRADE SECRETS.—

(A) IN GENERAL.—The Secretary shall not make information available under paragraph (1) that the Secretary determines to be a trade secret of any person that provided the information to the Corps.

(B) CRITERIA FOR TRADE SECRETS.—The Secretary shall consider information to be a trade secret only if—

(i) the person that provided the information to the Corps—

(I) has not disclosed the information to any person other than—

(aa) an officer or employee of the United States or a State or local government;

(bb) an employee of the person that provided the information to the Corps; or

(cc) a person that is bound by a confidentiality agreement; and

(II) has taken reasonable measures to protect the confidentiality of the information and intends to continue to take the measures;

(ii) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law; and

(iii) disclosure of the information is likely to cause substantial harm to the competitive position of the person that provided the information to the Corps.

(i) COSTS.—

(1) LIMITATION ON COST OF REVIEW.—The cost of conducting a review of a water resources project under this section shall not exceed—

(A) $250,000 for a project, if the total cost of the project in current year dollars is less than $50,000,000; and

(B) 0.5 percent of the total cost of the project in current year dollars, if the total cost is $50,000,000 or more.

(2) TREATMENT.—The cost of conducting a review of a project under this section shall be considered to be part of the total cost of the project.

(3) COST SHARING.—A review of a project under this section shall be subject to section 105(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)).

(4) WAIVER OF LIMITATION.—The Secretary may waive a limitation under paragraph (1) if the Secretary determines that the waiver is appropriate.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to a panel of experts established under this section.

SEC. 103. BENEFIT-COST ANALYSIS.

Section 308(a) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(a)) is amended—

(1) in paragraph (1)(B), by striking ''and'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semi-colon; and

(3) by adding at the end the following:

''(3) any projected benefit attributable to any change in, or intensification of, land use arising from the draining, reduction, or elimination of wetlands; and

''(4) any projected benefit attributable to an increase in direct Federal payments or subsidies.''.

SEC. 104. BENEFIT-COST RATIO.

(a) RECOMMENDATION OF PROJECTS.—Beginning in fiscal year 2006, in the case of a water resources project that is subject to a benefit-cost analysis, the Secretary may recommend the project for authorization by Congress, and may choose the project as a recommended alternative in any record of decision or environmental impact statement, only if the project, in addition to meeting any other criteria required by law, has projected national benefits that are at least 1.5 times as great as the estimated total costs of the project, based on current discount rates provided by the Office of Management and Budget.

(b) DEAUTHORIZATION OF PROJECTS.—

(1) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report identifying each water resources project (or separable element of such a project) that is subject to a benefit-cost analysis and authorized for construction, the projected remaining benefits of which are less than 1.5 times as great as the remaining projected costs.

(2) DEAUTHORIZATIONS.—

(A) IN GENERAL.—Effective beginning on the date that is 3 years after the date of submission of the report under paragraph (1), any project identified in the report shall be deauthorized unless the project was reauthorized by Congress during the preceding 3 years.

(B) CONSTRUCTION IN PROGRESS.—If construction (other than preconstruction engineering or design) began on or before the date of enactment of this Act for a project that is deauthorized under subparagraph (A), the Secretary may take such actions with respect to the project as the Secretary determines to be necessary to protect public health and safety and the environment.

(c) PUBLIC NOTIFICATION.—The Secretary shall—

(1) publish in the Federal Register the report under subsection (b)(1); and

(2) make the report available to the public on the Internet.

(d) FINAL DEAUTHORIZATION LIST.—The Secretary shall publish in the Federal Register a list of all projects deauthorized under this section.

SEC. 105. COST SHARING.

(a) OPERATIONS AND MAINTENANCE OF INLAND WATERWAYS.—Section 102 of the Water Resources Development Act of 1986 (33 U.S.C. 2212) is amended by striking subsections (b) and (c) and inserting the following:

''(b) OPERATION AND MAINTENANCE.—

''(1) FEDERAL SHARE.—The Federal share of the cost of operation and maintenance shall be 100 percent in the case of—

''(A) a project described in paragraph (1) or (2) of subsection (a); or

''(B) the portion of the project authorized by section 844 that is allocated to inland navigation.

''(2) SOURCE OF FEDERAL SHARE.—

''(A) FROM THE GENERAL FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is less than or equal to 2 cents per ton mile, or in the case of the portion of the project authorized by section 844 that is allocated to inland navigation, the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury.

''(B) FROM THE GENERAL FUND AND INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 2 but less than or equal to 10 cents per ton mile—

''(i) 75 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the general fund of the Treasury; and

''(ii) 25 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(C) FROM THE INLAND WATERWAYS TRUST FUND.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 10 cents per ton mile but less than 30 cents per ton mile, 100 percent of the Federal share under paragraph (1) shall be paid only from amounts appropriated from the Inland Waterways Trust Fund.

''(D) NON-FEDERAL RESPONSIBILITY.—In the case of a project described in paragraph (1) or (2) of subsection (a) with respect to which the cost of operation and maintenance is greater than 30 cents per ton-mile, the cost of operations and maintenance shall be a non-Federal responsibility.''.

(b) FLOOD DAMAGE REDUCTION.—Section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) is amended—

(1) in subsections (a)(2) and (b), by striking ''35'' each place it appears and inserting ''50'';

(2) in the paragraph heading of subsection (a)(2), by striking ''35 PERCENT MINIMUM''' and inserting ''MINIMUM'''; and

(3) in the paragraph heading of subsection (b), by striking ''35'' and inserting ''50''.

TITLE II—MITIGATION

SEC. 201. FULL MITIGATION.

Section 906(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) PROJECTS.—

''(A) IN GENERAL.—After November 17, 1986, the Secretary shall not submit to Congress any proposal for the authorization of any water resources project, and shall not choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment, unless the report contains—

''(i) a specific plan to fully mitigate losses of aquatic and terrestrial resources and fish and wildlife created by the project; or

''(ii) a determination by the Secretary that the project will have negligible adverse impact on aquatic and terrestrial resources and fish and wildlife.

''(B) SPECIFIC REQUIREMENTS.—Specific mitigation plans shall ensure that impacts to bottomland hardwood forests and other habitat types are mitigated in kind.

''(C) CONSULTATION.—In carrying out this paragraph, the Secretary shall consult with appropriate Federal and non-Federal agencies.''; and

(2) by adding at the end the following:

''(3) STANDARDS FOR MITIGATION.—

''(A) IN GENERAL.—To fully mitigate losses to fish and wildlife resulting from a water resources project, the Secretary shall, at a minimum—

''(i) acquire and restore 1 acre of superior or equivalent habitat of the same type to replace each acre of habitat adversely affected by the project; and

''(ii) replace the hydrologic functions and characteristics, the ecological functions and characteristics, and the spatial distribution of the habitat adversely affected by the project.

''(B) DETAILED MITIGATION PLAN.—The specific mitigation plan for a water resources project under paragraph (1) shall include, at a minimum—

''(i) a detailed and specific plan to monitor mitigation implementation and ecological success, including the designation of the entities that will be responsible for monitoring;

''(ii) specific ecological success criteria by which the mitigation will be evaluated and determined to be successful, prepared in consultation with the United States Fish and Wildlife Service;

''(iii) a detailed description of the land and interests in land to be acquired for mitigation and the basis for a determination that land and interests are available for acquisition;

''(iv) sufficient detail regarding the chosen mitigation sites and type and amount of restoration activities to permit a thorough evaluation of the plan's likelihood of ecological success and resulting aquatic and terrestrial resource functions and habitat values; and

''(v) a contingency plan for taking corrective actions if monitoring demonstrates that mitigation efforts are not achieving ecological success as described in the ecological success criteria.

''(C) APPLICABLE LAW.—A time period for mitigation monitoring or for the implementation and monitoring of contingency plan actions shall not be subject to the deadlines described in section 202.

''(4) DETERMINATION OF MITIGATION SUCCESS.—

''(A) IN GENERAL.—Mitigation shall be considered to be successful at the time at which monitoring demonstrates that the mitigation has met the ecological success criteria established in the mitigation plan.

''(B) REQUIREMENTS FOR SUCCESS.—To ensure the success of any attempted mitigation, the Secretary shall—

''(i) consult yearly with the United States Fish and Wildlife Service on each water resources project requiring mitigation to determine whether mitigation monitoring for that project demonstrates that the project is achieving, or has achieved, ecological success;

''(ii) ensure that implementation of the mitigation contingency plan for taking corrective action begins not later than 30 days after a finding by the Secretary or the United States Fish and Wildlife Service that the original mitigation efforts likely will not result in, or have not resulted in, ecological success;

''(iii) complete implementation of the contingency plan as expeditiously as practicable; and

''(iv) ensure that monitoring of mitigation efforts, including those implemented through a mitigation contingency plan, continues until the monitoring demonstrates that the mitigation has met the ecological success criteria.

''(5) RECOMMENDATION OF PROJECTS.—The Secretary shall not recommend a water resources project alternative or choose a project alternative in any final record of decision, environmental impact statement, or environmental assessment completed after the date of enactment of this paragraph unless the Secretary determines that the mitigation plan for the alternative will successfully mitigate the adverse impacts of the project on aquatic and terrestrial resources, hydrologic functions, and fish and wildlife.

''(6) IMPLEMENTATION OF MITIGATION BEFORE CONSTRUCTION OF NEW PROJECTS.—The Secretary shall implement all mitigation required by a record of decision for water resources projects in a particular district of the Corps before beginning physical construction of any new water resources project (or separable element of such a project) in that district.''.

SEC. 202. CONCURRENT MITIGATION.

Section 906(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(a)) is amended—

(1) by striking ''(a)(1) In the case'' and inserting the following:

''(a) MITIGATION.—

''(1) IN GENERAL.—In the case'';

(2) in paragraph (1), by striking ''interests—'' and all that follows through ''losses),'' and inserting the following: ''interests shall be undertaken or acquired—

''(A) before any construction of the project (other than such acquisition) commences; or

''(B) concurrently with the acquisition of land and interests in land for project purposes (other than mitigation of fish and wildlife losses);'';

(3) in paragraph (2), by striking ''(2) For the purposes'' and inserting the following:

''(2) COMMENCEMENT OF CONSTRUCTION.—For the purpose''; and

(4) by adding at the end the following:

''(3) IMPLEMENTATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), to ensure concurrent mitigation, the Secretary shall implement—

''(i) 50 percent of required mitigation before beginning construction of a project; and

''(ii) the remainder of required mitigation as expeditiously as practicable, but not later than the last day of construction of the project or separable element of the project.

''(B) EXCEPTION FOR PHYSICAL IMPRACTICABILITY.—In a case in which the Secretary determines that it is physically impracticable to complete mitigation by the last day

of construction of the project or separable element of the project, the Secretary shall reserve or reprogram sufficient funds to ensure that mitigation implementation is completed as expeditiously as practicable, but in no case later than the end of the next fiscal year immediately following the last day of that construction.

''(4) USE OF FUNDS.—Funds made available for preliminary engineering and design, construction, or operations and maintenance shall be available for use in carrying out this section.''.

SEC. 203. MITIGATION TRACKING SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a recordkeeping system to track each water resources project constructed, operated, or maintained by the Secretary, and for each permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344)—

(1) the quantity and type of wetland and other habitat types affected by the project, project operation, or permitted activity;

(2) the quantity and type of mitigation required for the project, project operation or permitted activity;

(3) the quantity and type of mitigation that has been completed for the project, project operation or permitted activity; and

(4) the status of monitoring for the mitigation carried out for the project, project operation or permitted activity.

(b) REQUIRED INFORMATION AND ORGANIZATION.—The recordkeeping system shall—

(1) include information on impacts and mitigation described in subsection (a) that occur after December 31, 1969; and

(2) be organized by watershed, project, permit application, and zip code.

(c) AVAILABILITY OF INFORMATION.—The Secretary shall make information contained in the recordkeeping system available to the public on the Internet.

TITLE III—IMPROVING ACCOUNTABILITY

SEC. 301. FISCAL TRANSPARENCY REPORT.

(a) DEFINITIONS.—In this section:

(1) CONSTRUCTION.—The term ''construction'' includes any physical work carried out under a construction contract relating to a water resources project.

(2) PHYSICAL WORK.—The term ''physical work'' does not include any activity relating to—

(A) project planning;

(B) project engineering and design;

(C) relocation; or

(D) the acquisition of land, an easement, or a right-of-way.

(b) REPORT.—

(1) IN GENERAL.—On the third Tuesday of January of each year beginning after the date of enactment of this Act, the Chief of Engineers shall submit to the Committee of Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a fiscal transparency report describing—

(A) the expenditures of the Corps during the preceding fiscal year;

(B) the estimated expenditures of the Corps for the fiscal year during which the report is submitted; and

(C) a list of projects that the Chief of Engineers expects to complete during the fiscal year during which the report is submitted.

(2) CONTENTS.—In addition to the information described in paragraph (1), the report shall contain a detailed account of—

(A) for each general construction project that is under construction on the date of submission of the report, or for which there is a signed cost-sharing agreement, complete information regarding planning, engineering, and design of the project, including—

(i) the primary purpose of the project;

(ii) each allocation made to the project on or before the date of submission of the report;

(iii) a description of any construction carried out relating to the project;

(iv) the projected date of completion of construction of the project;

(v) the estimated annual Federal cost of completing construction of the project on or before the projected date under clause (iv); and

(vi) the date of completion of the most recent feasibility study, reevaluation report, and environmental review of the project;

(B) for each general investigation and reconnaissance and feasibility study, information including—

(i) the number of studies initiated on or before the date of submission of the report;

(ii) the number of studies in progress on the date of submission of the report;

(iii) the number of studies expected to be completed during the fiscal year; and

(iv) a list of any completed study of a project that is not authorized for construction on the date of submission of the report, and the date of completion of the study;

(C) for each inland and intracoastal waterway operated and maintained under section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804), information including—

(i) the estimated annual cost of operating and maintaining the reach of the waterway at the depth of the waterway;

(ii) the actual cost of operating and maintaining the reach of the waterway at the depth of the waterway during the previous fiscal year; and

(iii) the number of barges (including the number of loaded barges) and the total tonnage shipped over each waterway during the preceding fiscal year; and

(D) for each water resources project (or separable element of such a project) that is authorized for construction, for which Federal funds have not been obligated for construction during any of the 4 preceding fiscal years, information including—

(i) the primary purpose of the project;

(ii) the date of authorization of the project;

(iii) each allocation made to the project on or before the date of submission of the report, including the amount and type of the allocation;

(iv) the percentage of construction of the project that has been completed on the date of submission of the report;

(v) the estimated cost of completing the project, and the percentage of estimated total costs that has been obligated to the project on or before the date of submission of the report;

(vi)(I) a benefit-cost analysis of the project, expressed as a ratio using current discount rates;

(II) the estimated annual benefits and annual costs of the project; and

(III) the date on which any economic data used to justify the project was collected;

(vii) the date of completion of the most recent feasibility study, reevaluation report, and environmental review of the project; and

(viii) a brief explanation of any reason why Federal funds have not been obligated for construction of the project.

(c) CONGRESSIONAL AND PUBLIC NOTIFICATIONS.—On submission of a report under this section, the Secretary shall notify each Senator in the State of whom, and each Member of the House of Representatives in the district of whom, a project identified in the report is located.

(d) PUBLICATION.—For any report under this section, the Secretary shall—

(1) publish the report in the Federal Register; and

(2) make the report available to—

(A) any person, on receipt of a request of the person; and

(B) the public on the Internet.

SEC. 302. PROJECT DEAUTHORIZATIONS.

Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

''(a) DEFINITIONS.—In this section:

''(1) CONSTRUCTION.—The term 'construction' includes any physical work carried out under a construction contract relating to a water resources project.

''(2) PHYSICAL WORK.—The term 'physical work' does not include any activity relating to—

''(A) project planning;

''(B) project engineering and design;

''(C) relocation; or

''(D) the acquisition of land, an easement, or a right-of-way.

''(b) DEAUTHORIZATIONS.—

''(1) IN GENERAL.—Effective beginning on the date that is 30 months after the date of submission of a fiscal transparency report under section 301 of the Corps of Engineers Modernization and Improvement Act of 2005, each project identified under section 301(b)(2)(D) of that Act shall be deauthorized unless Federal funds were obligated for construction of the project during the preceding 30 months.

''(2) EFFECT OF PARAGRAPH.—Paragraph (1) does not apply—

''(A) in the case of a beach nourishment project, beginning on the date on which initial construction of the project is completed; or

''(B) in the case of any other project, beginning on the date on which construction of the project is completed.

''(c) FINAL DEAUTHORIZATION LIST.—The Secretary shall annually publish in the Federal Register a list of all projects deauthorized under this section.''.

By Mr. KENNEDY (for himself, Mr. SMITH, and Mr. DURBIN):

S. 754. A bill to ensure that the Federal student loans are delivered as efficiently as possible, so that there is more grant aid for students; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. 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. 754

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 ''Student Aid Reward Act of 2005''.

SEC. 2. STUDENT AID REWARD PROGRAM.

Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 489 the following:

''SEC. 489A. STUDENT AID REWARD PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary shall carry out a Student Aid Reward Program to encourage institutions of higher education to participate in the student loan program under this title that is most cost-effective for taxpayers.

''(b) PROGRAM REQUIREMENTS.—In carrying out the Student Aid Reward Program, the Secretary shall—

''(1) provide to each institution of higher education participating in the student loan program under this title that is most cost-effective for taxpayers, a Student Aid Reward Payment, in an amount determined in accordance with subsection (c), to encourage

the institution to participate in that student loan program;

''(2) require each institution of higher education receiving a payment under this section to provide student loans under such student loan program for a period of 5 years after the date the first payment is made under this section;

''(3) where appropriate, require that funds paid to institutions of higher education under this section be used to award students a supplement to such students' Federal Pell Grants under subpart 1 of part A;

''(4) permit such funds to also be used to award need-based grants to lower- and middle-income graduate students; and

''(5) encourage all institutions of higher education to participate in the Student Aid Reward Program under this section.

''(c) AMOUNT.—The amount of a Student Aid Reward Payment under this section shall be not less than 50 percent of the savings to the Federal Government generated by the institution of higher education's participation in the student loan program under this title that is most cost-effective for taxpayers instead of the institution's participation in the student loan program that is not most cost-effective for taxpayers.

''(d) TRIGGER TO ENSURE COST NEUTRALITY.—

''(1) LIMIT TO ENSURE COST NEUTRALITY.—Notwithstanding subsection (c), the Secretary shall not distribute Student Aid Reward Payments under the Student Aid Reward Program that, in the aggregate, exceed the Federal savings resulting from the implementation of the Student Aid Reward Program.

''(2) FEDERAL SAVINGS.—In calculating Federal savings, as used in paragraph (1), the Secretary shall determine Federal savings on loans made to students at institutions of higher education that participate in the student loan program under this title that is most cost-effective for taxpayers and that, on the date of enactment of the Student Aid Reward Act of 2005, participated in the student loan program that is not most cost-effective for taxpayers, resulting from the difference of—

''(A) the Federal cost of loan volume made under the student loan program under this title that is most cost-effective for taxpayers; and

''(B) the Federal cost of an equivalent type and amount of loan volume made, insured, or guaranteed under the student loan program under this title that is not most cost-effective for taxpayers.

''(3) DISTRIBUTION RULES.—If the Federal savings determined under paragraph (2) is not sufficient to distribute full Student Aid Reward Payments under the Student Aid Reward Program, the Secretary shall—

''(A) first make Student Aid Reward Payments to those institutions of higher education that participated in the student loan program under this title that is not most cost-effective for taxpayers on the date of enactment of the Student Aid Reward Act of 2005; and

''(B) with any remaining Federal savings after making Student Aid Reward Payments under subparagraph (A), make Student Aid Reward Payments to the institutions of higher education eligible for a Student Aid Reward Payment and not described in subparagraph (A) on a pro-rata basis.

''(4) DISTRIBUTION TO STUDENTS.—Any institution of higher education that receives a Student Aid Reward Payment under this section—

''(A) shall distribute, where appropriate, part or all of such payment among the students of such institution who are Federal Pell Grant recipients by awarding such students a supplemental grant; and

''(B) may distribute part of such payment as a supplemental grant to graduate students in financial need.

''(5) ESTIMATES, ADJUSTMENTS, AND CARRY OVER.—

''(A) ESTIMATES AND ADJUSTMENTS.—The Secretary shall make Student Aid Reward Payments to institutions of higher education on the basis of estimates, using the best data available at the beginning of an academic or fiscal year. If the Secretary determines thereafter that loan program costs for that academic or fiscal year were different than such estimate, the Secretary shall adjust by reducing or increasing subsequent Student Aid Reward Payments rewards paid to such institutions of higher education to reflect such difference.

''(B) CARRY OVER.—Any institution of higher education that receives a reduced Student Aid Reward Payment under paragraph (3)(B), shall remain eligible for the unpaid portion of such institution's financial reward payment, as well as any additional financial reward payments for which the institution is otherwise eligible, in subsequent academic or fiscal years.

''(e) DEFINITION.—In this section:

''(1) STUDENT LOAN PROGRAM UNDER THIS TITLE THAT IS MOST COST-EFFECTIVE FOR TAXPAYERS.—The term 'student loan program under this title that is most cost-effective for taxpayers' means the loan program under part B or D of this title that has the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.

''(2) STUDENT LOAN PROGRAM UNDER THIS TITLE THAT IS NOT MOST COST-EFFECTIVE FOR TAXPAYERS.—The term 'student loan program under this title that is not most cost-effective for taxpayers' means the loan program under part B or D of this title that does not have the lowest overall cost to the Federal Government (including administrative costs) for the loans authorized by such parts.''.

By Mr. BENNETT (for himself, Mrs. MURRAY, Mr. SHELBY, and Mr. HATCH):

S. 756. A bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus; to the Committee on Health, Education, Labor, and Pensions.

Mr. BENNETT. Mr. President, I rise today to introduce the Lupus—Research, Education, Awareness, Communication, Health Care—or REACH Amendments of 2005. This bill will strengthen the Nation's research efforts to identify the causes and cure of lupus, improve lupus data collection and epidemiology, and enhance public and health professional awareness and understanding of lupus—one of the Nation's most devastating, yet least understood autoimmune diseases. It has been almost 40 years since the FDA has approved a drug specifically to treat lupus.

Lupus is a life-threatening, life diminishing autoimmune disease that can cause inflammation and tissue damage to virtually any organ system in the body, including the skin, joints, other connective tissue, blood and blood vessels, heart, lungs, kidney, and brain. It affects women nine times more often than men and 80 percent of newly diagnosed cases of lupus develop among women of child-bearing age.

This disease is not well known or well understood despite the fact that according to the Lupus Foundation of America at least 1.5 to 2 million Americans live with some form of lupus. Many are either misdiagnosed or not diagnosed at all. As the prototypical autoimmune disease, discoveries on lupus may apply to more than 20 other autoimmune diseases.

Of serious concern is that this disease disproportionately affects women of color—it is two to three times more common among African-Americans, Hispanics, Asians and Native Americans—a health disparity that remains unexplained. According to the Centers for Disease Control and Prevention the rate of lupus mortality has increased since the late 1970s and is higher among older African-American women. Comprehensive and definitive epidemiologic studies will help improve our understanding of these health disparities and move us toward closing the gaps.

The symptoms of lupus make diagnosis difficult because they are sporadic and imitate the symptoms of many other illnesses. If diagnosed promptly and properly treated, the majority of lupus cases can be controlled. Unfortunately, because of the dearth of medical research on lupus and the length of time it takes to make a diagnosis, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for these individuals to carry on normal everyday activities, including work. Thousands of these debilitating cases needlessly end in death each year. Our Nation must do more to ensure that health professionals are aware of its signs and symptoms so that people with lupus can receive the prompt, appropriate care they need and deserve.

The Lupus REACH Amendments of 2005 seek to expand biomedical research and strengthen lupus epidemiology. This bill authorizes a study and report by the Institute of Medicine, IOM, evaluating various Federal and State activities and research. This legislation will raise public awareness of lupus and improve health professional education. It aims to promote increased awareness of early intervention and treatment, direct communication and education efforts, and target at-risk women and health professionals to help them quickly achieve a correct diagnosis of lupus.

I would urge all my colleagues, to join me in sponsoring this legislation to increase research, education, and awareness of lupus.

By Mr. SCHUMER (for himself, Mr. BIDEN, Ms. SNOWE, Mr. DURBIN, and Mr. SMITH):

S. 759. A bill to amend the Internal Revenue Code of 1986 to make higher education more affordable, and for other purposes; to the Committee on the Judiciary.

Mr. SCHUMER. 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. 759

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 ''Make College Affordable Act of 2005''.

SEC. 2. EXPANSION OF DEDUCTION FOR HIGHER EDUCATION EXPENSES.

(a) AMOUNT OF DEDUCTION.—Subsection (b) of section 222 of the Internal Revenue Code of 1986 (relating to deduction for qualified tuition and related expenses) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) DOLLAR LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in paragraph (2), the amount allowed as a deduction under subsection (a) with respect to the taxpayer for any taxable year shall not exceed the applicable dollar limit.

''(B) APPLICABLE DOLLAR LIMIT.—The applicable dollar limit for any taxable year shall be determined as follows:

''Taxable year:	Applicable dollar amount:
2005	$8,000
2006 and thereafter	$12,000.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) shall be reduced (but not below zero) by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph equals the amount which bears the same ratio to the amount which would be so taken into account as—

''(i) the excess of—

''(I) the taxpayer's modified adjusted gross income for such taxable year, over

''(II) $65,000 ($130,000 in the case of a joint return), bears to

''(ii) $15,000 ($30,000 in the case of a joint return).

''(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

''(i) without regard to this section and sections 199, 911, 931, and 933, and

''(ii) after the application of sections 86, 135, 137, 219, 221, and 469.

For purposes of the sections referred to in clause (ii), adjusted gross income shall be determined without regard to the deduction allowed under this section.

''(D) INFLATION ADJUSTMENTS.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2005, both of the dollar amounts in subparagraph (B)(i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2004' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.''.

(b) QUALIFIED TUITION AND RELATED EXPENSES OF ELIGIBLE STUDENTS.—

(1) IN GENERAL.—Section 222(a) of the Internal Revenue Code of 1986 (relating to allowance of deduction) is amended by inserting ''of eligible students'' after ''expenses''.

(2) DEFINITION OF ELIGIBLE STUDENT.—Section 222(d) of such Code (relating to definitions and special rules) is amended by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE STUDENT.—The term 'eligible student' has the meaning given such term by section 25A(b)(3).''.

(c) DEDUCTION MADE PERMANENT.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to the amendments made by section 431 of such Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 2004.

SEC. 3. CREDIT FOR INTEREST ON HIGHER EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. INTEREST ON HIGHER EDUCATION LOANS.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $1,500.

''(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

''(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $50,000 ($100,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $20,000 ($40,000 in the case of a joint return).

''(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 199, 222, 911, 931, and 933.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 2005, the $50,000 and $100,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '2004' for '1992'.

''(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

''(c) DEPENDENTS NOT ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

''(d) LIMIT ON PERIOD CREDIT ALLOWED.—A credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

''(e) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' has the meaning given such term by section 221(d)(1).

''(2) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

''(f) SPECIAL RULES.—

''(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount taken into account for any deduction under any other provision of this chapter.

''(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

''(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Interest on higher education loans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 25C(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 2004.

Mr. INOUYE (for himself, Mr. HATCH, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, and Mr. CONRAD):

S. 760. A bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children; to the Committee on Health, Education, Labor, and Pensions.

Mr. INOUYE. Mr. President, today I introduce ''The Wakefield Act,'' also known as the ''Emergency Medical Services for Children Act of 2005'' along with my colleagues Mr. HATCH, Mr. KENNEDY, Mr. DODD, Mr. DEWINE, and Mr. CONRAD. Since Senator HATCH and I worked toward authorization of EMSC in 1984, this program has been the driving force toward improving a wide range of children's emergency services. From specialized training for emergency care providers to ensuring ambulances and emergency departments have state-of-the-art pediatric-sized equipment, EMSC has provided the vehicle for improving survival of our smallest citizens when accidents or medical emergencies threatened their lives.

It remains no secret that children present unique anatomic, physiologic, emotional and developmental challenges to our primarily adult-oriented emergency medical system. As has been said many times before, children are not little adults. Evaluation and treatment must take into account their special needs, or we risk letting them fall through the gap between

adult and pediatric care. EMSC has bridged that gap while fostering collaborative relationships among emergency medical technicians, paramedics, nurses, emergency physicians, surgeons, and pediatricians.

Yet, with the increasing number of children with special healthcare needs, the looming prospect of bioterrorism and the increasing importance of disaster preparedness, gaps still remain in our emergency healthcare delivery system for children. Re-authorization of EMSC will ensure children's needs are given the attention and priority necessary to coordinate and expand services for victims of life-threatening illnesses and injuries.

I join the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Surgeons, and thirty other supporting healthcare organizations in celebrating the 20th anniversary of the EMSC program. EMSC remains the only Federal program dedicated to examining the best ways to deliver various forms of care to children in emergency settings. I look forward to re-authorization of this important legislation and the continued advances in our emergency healthcare delivery system.

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. 760

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 ''Wakefield Act''.

SEC. 2. FINDINGS AND PURPOSE.

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

(1) There are 31,000,000 child and adolescent visits to the nation's emergency departments every year, with children under the age of 3 years accounting for most of these visits.

(2) Ninety percent of children requiring emergency care are seen in general hospitals, not in free-standing children's hospitals, with one-quarter to one-third of the patients being children in the typical general hospital emergency department.

(3) Severe asthma and respiratory distress are the most common emergencies for pediatric patients, representing nearly one-third of all hospitalizations among children under the age of 15 years, while seizures, shock, and airway obstruction are other common pediatric emergencies, followed by cardiac arrest and severe trauma.

(4) Up to 20 percent of children needing emergency care have underlying medical conditions such as asthma, diabetes, sickle-cell disease, low birthweight, and bronchopulmonary dysplasia.

(5) Significant gaps remain in emergency medical care delivered to children, with 43 percent of hospitals lacking cervical collars (used to stabilize spinal injuries) for infants, less than half (47 percent) of hospitals with no pediatric intensive care unit having a written transfer agreement with a hospital that does have such a unit, one-third of States lacking a physician available on-call 24 hours a day to provide medical direction to emergency medical technicians or other non-physician emergency care providers, and even those States with such availability lacking full State coverage.

(6) Providers must be educated and trained to manage children's unique physical and psychological needs in emergency situations, and emergency systems must be equipped with the resources needed to care for this especially vulnerable population.

(7) The Emergency Medical Services for Children (EMSC) Program under section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is the only Federal program that focuses specifically on improving the pediatric components of emergency medical care.

(8) The EMSC Program promotes the nationwide exchange of pediatric emergency medical care knowledge and collaboration by those with an interest in such care and is depended upon by Federal agencies and national organizations to ensure that this exchange of knowledge and collaboration takes place.

(9) The EMSC Program also supports a multi-institutional network for research in pediatric emergency medicine, thus allowing providers to rely on evidence rather than anecdotal experience when treating ill or injured children.

(10) States are better equipped to handle occurrences of critical or traumatic injury due to advances fostered by the EMSC program, with—

(A) forty-eight States identifying and requiring all EMSC-recommended pediatric equipment on Advanced Life Support ambulances;

(B) forty-four States employing pediatric protocols for medical direction;

(C) forty-one States utilizing pediatric guidelines for acute care facility identification, ensuring that children get to the right hospital in a timely manner; and

(D) thirty-six of the forty-two States having statewide computerized data collection systems now producing reports on pediatric emergency medical services using statewide data.

(11) Systems of care must be continually maintained, updated, and improved to ensure that research is translated into practice, best practices are adopted, training is current, and standards and protocols are appropriate.

(12) Now celebrating its twentieth anniversary, the EMSC Program has proven effective over two decades in driving key improvements in emergency medical services to children, and should continue its mission to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical and emergency surgical care children receive.

(b) PURPOSE.—It is the purpose of this Act to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical care children receive.

SEC. 3. REAUTHORIZATION OF EMERGENCY MEDICAL SERVICES FOR CHILDREN PROGRAM.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

(1) in subsection (a), by striking ''3-year period (with an optional 4th year'' and inserting ''4-year period (with an optional 5th year'';

(2) in subsection (d)—

(A) by striking ''and such sums'' and inserting ''such sums''; and

(B) by inserting before the period the following: ''$23,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010'';

(3) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(4) by inserting after subsection (a) the following:

''(b)(1) The purpose of the program established under this section is to reduce child and youth morbidity and mortality by supporting improvements in the quality of all emergency medical care children receive, through the promotion of projects focused on the expansion and improvement of such services, including those in rural areas and those for children with special healthcare needs. In carrying out this purpose, the Secretary shall support emergency medical services for children by supporting projects that—

''(A) develop and present scientific evidence;

''(B) promote existing and innovative technologies appropriate for the care of children: or

''(C) provide information on health outcomes and effectiveness and cost-effectiveness.

''(2) The program established under this section shall—

''(A) strive to enhance the pediatric capability of emergency medical service systems originally designed primarily for adults; and

''(B) in order to avoid duplication and ensure that Federal resources are used efficiently and effectively, be coordinated with all research, evaluations, and awards related to emergency medical services for children undertaken and supported by the Federal Government.''.

Mr. HATCH. Mr. President, I am pleased to join Senator INOUYE in introducing ''The Wakefield Act'', which reauthorizes the Emergency Medical Services for Children (EMSC) program. It has been 20 years since Senator INOUYE and I first worked for passage of the original bill authorizing the EMSC program. We embarked upon this partnership after realizing that there was a critical gap in our Nation's ability to provide emergency medical services for the most precious segment of our population: our children.

Since the Emergency Medical Services for Children Act was first passed, its programs have spread across the nation, enhancing the care received in the more than 31 million visits made by children and adolescents to our nation's emergency departments every year. In part due to this program, the pediatric death rate from injuries has fallen 40 percent over the last 20 years. Imagine that—40 percent! In that light, it is extremely disappointing that President Bush would recommend eliminating funding for this very important program.

More than 30 groups have endorsed this legislation, including the American Academy of Pediatrics, American College of Emergency Physicians, American College of Surgeons, Brain Injury Association of America, Emergency Nurses Association, Family Violence Prevention Fund, National Association of Children's Hospitals, National Association of Emergency Medical Technicians, Rural Metro Corporation, Society for Pediatric Research, and the Society of Critical Care Medicine.

While much has been accomplished, more remains to be done. Children's physiology and response to illness and injury differ significantly from those of

adults, necessitating specialized training to recognize and treat these patients properly. Ninety percent of the children who require emergency care receive it in general hospitals, not in free-standing specialty children's hospitals. Of those hospitals that lack pediatric intensive care units, only 47 percent have appropriate written transfer agreements with hospitals that do have such specialized units. One-third of states do not have a physician available on-call 24 hours to provide medical direction to EMTs or other non-physician emergency care providers. Of those states that do, many do not have full state coverage.

It is clear that despite the progress made since the Emergency Medical Services for Children Act was first enacted, deficiencies in our pediatric emergency care system remain. What is more, the need for a strong and healthy population, as well as a robust, prepared, and responsive health care system, has never been greater. This cannot occur in the absence of an emergency medical structure that is fully trained and ready to care for our nation's youth.

The Wakefield Act fills this role by supporting states' efforts to improve the care of children within their emergency medical services systems. EMSC-supported projects include strengthening emergency care infrastructures, assessing local provider needs, and developing comprehensive education and training modules. The impact of this program is undeniable: in 2003, 78 percent of States reported that either all or some of their pediatric emergency training programs were dependent on EMSC grant funding.

The EMSC program also ensures timely distribution of best practices and lessons learned in the area of pediatric emergency care, as well as facilitating the sharing of innovations through its national resource center. Furthermore, EMSC-supported projects have a proven record of success at the State and local level. For example, in 1997, no State disaster plan had specific pediatric components, but by 2003, 13 EMSC projects were working actively with their State's disaster preparedness offices to address children's needs in the event of a disaster.

I am proud that my home State of Utah has played a vital role in advancing the level of emergency medical care for children and teenagers. Working with the Emergency Medical Services for Children program, Utah has participated in the Intermountain Regional Emergency Medical Services for Children Coordinating Council. The University of Utah is home to both the National Emergency Medical Services for Children Data Analysis Resource Center and the Central Data Management Coordinating Center for the Pediatric Emergency Care Applied Research Network. Utah-based projects also helped pioneer the development of training materials on caring for special needs pediatric patients.

Over the course of its 20 year history, the Emergency Medical Services for Children program has made great strides in improving the lives of our Nation's children. It has largely eliminated discrepancies in regulations among States, establishing a national norm and making children's issues in emergency medical care a priority. The national EMSC program is a dynamic and flexible program that has proved to be responsive to both the Nation's and the individual States' needs. The program has funded pediatric emergency care improvement initiatives in every State, territory and the District of Columbia, as well as national improvement programs.

I urge my colleagues to support this important and necessary legislation.

Mr. CONRAD. Mr. President, I rise today to support the introduction of the Wakefield Act, which will reauthorize the Emergency Medical Services for Children, EMSC, program. This program is the only Federal program that focuses specifically on improving the quality of children's emergency care. With more than 31 million child and adolescent visits to emergency rooms each year, the EMSC program is important to ensuring that our children receive the best trauma care available.

As research shows, first responders cannot treat children as small adults, a different approach is needed. The EMSC program provides vital funding to States to improve the quality of pediatric emergency care. EMSC funds can be used for a variety of initiatives, including for the purchase of child appropriate equipment and training programs for nurses, physicians and emergency responders. These funds fill an important need. For example, 43 percent of hospitals in this country lack cervical collars for infants. The EMSC program is helping to address inadequacies in our Nation's EMS system.

This bill is particularly important to me because it is named for the family of a dear friend of mine, Mary Wakefield, who suffered a horrible tragedy this past January. Mary lost her brother, Thomas Wakefield, and two of his children, Mikal and Nicole, in a car accident. This terrible tragedy highlights the importance of providing appropriate training and equipment for children involved in trauma cases, and I urge all of my colleagues to cosponsor this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 102—COMMENDING THE VIRGINIA UNION UNIVERSITY PANTHERS MEN'S BASKETBALL TEAM FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION II NATIONAL BASKETBALL CHAMPIONSHIP

Mr. ALLEN (for himself and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 102

Whereas the students, alumni, faculty, and supporters of Virginia Union University are to be congratulated for their commitment to and pride in the Virginia Union University Panthers National Champion men's basketball team;

Whereas in the National Collegiate Athletic Association (NCAA) championship game against the Bryant Bulldogs, the Panthers led throughout the first half, on the strength of senior forward Antwan Walton's 19 points and 11 rebounds;

Whereas the Panthers won the 2005 NCAA Division II National Basketball Championship with an outstanding second-half performance, answering a 17 to 9 run by Bryant to regain the lead in the final moments of the game, winning the Championship game by a score of 63 to 58;

Whereas the Panthers added the NCAA Division II title to the Central Intercollegiate Athletic Association title to claim their second championship in 2005;

Whereas every player on the Panthers basketball team—Luqman Jaaber, Lantrice Green, Duan Crockett, Antwan Walton, Steve Miller, Remington Hart, Emerson Kidd, Trevor Bryant, Quincy Smith, B.J. Stevenson, Justin Wingfield, Arthur Kidd, Ralph Brown, Darius Hargrove, Phillip Moore and Chris Moore—contributed to the team's success in this impressive championship season;

Whereas the Panthers basketball team Head Coach Dave Robbins has become only the third man to win 3 Division II National Championships;

Whereas Coach Robbins is the first coach to win at least 1 Division II National Championship in 3 different decades; and

Whereas Assistant Coaches Willard Coker, Jerome Furtado, and Mike Walker deserve high recommendation for their strong leadership of, and superb coaching support to, the Virginia Union University Panthers men's basketball team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Virginia Union University Panthers men's basketball team for winning the 2005 National Collegiate Athletic Association Division II National Championship;

(2) recognizes the achievements of all of the team's players, Head Coach Dave Robbins, assistant coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the Head Coach of the National Champion Virginia Union University Panthers basketball team.

SENATE RESOLUTION 103—COMMENDING THE LADY BEARS OF BAYLOR UNIVERSITY FOR WINNING THE 2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S BASKETBALL CHAMPIONSHIP

Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted the following resolution; which was considered and agreed to:

S. RES. 103

Whereas the Baylor University women's basketball team won its first national championship by defeating Michigan State, 84 to 62, the second largest margin of victory in the history of women's basketball championship games;