844, a bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce the number of abortions, and improve access to women's health care.

S. 935

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 935, a bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation's critical infrastructure.

S. 936

At the request of Mr. LEAHY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 936, a bill to ensure privacy for e-mail communications.

S. 962

At the request of Mr. GRASSLEY, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 985

At the request of Mrs. CLINTON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 985, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 1049

At the request of Mr. FRIST, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1049, a bill to amend title XXI of the Social Security Act to provide grants to promote innovative outreach and enrollment under the medicaid and State children's health insurance programs, and for other purposes.

S. 1055

At the request of Mr. KENNEDY, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. JEFFORDS), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Rhode Island (Mr. REED) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1055, a bill to improve elementary and secondary education.

S. 1062

At the request of Mr. KENNEDY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1062, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 1075

At the request of Mr. THUNE, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1075, a bill to postpone the 2005 round of defense base closure and realignment.

S. 1081

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1110

At the request of Mr. ALLEN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1120

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1127

At the request of Ms. SNOWE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1127, a bill to require the Secretary of Defense to submit to Congress all documentation related to the Secretary's recommendations for the 2005 round of defense base closure and realignment.

S.J. RES. 18

At the request of Mr. MCCONNELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.J. Res. 18, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 20

At the request of Mr. COCHRAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 20, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month.

S. RES. 153

At the request of Mr. SESSIONS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. Res. 153, a resolution expressing the support of Congress for the observation of the National Moment of Remembrance at 3:00 pm local time on this and every Memorial Day to acknowledge the sacrifices made on the behalf of all Americans for the cause of liberty.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of amendment No. 762 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself and Mr. HAGEL):

S. 1129. A bill to provide authorizations of appropriations for certain development banks, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce legislation authorizing replenishment of funds to three of the five multilateral development banks, as requested by the U.S. Department of the Treasury. In addition, this legislation includes a long list of reform measures, intended to bring about transparency and accountability at all of the MDBs—the World Bank, the African Development Bank, the Asian Bank, the Inter-American Bank and the European Bank for Reconstruction and Development.

The World Bank, was the first MDB to be established in 1944, followed by the African Development Bank, 1964 and the Asian Development Bank, 1966. The shared original purpose of the three banks was to encourage economic development and reduce poverty in geographic regions impacted by the respective institutions.

I support the original operating purpose of the banks. However, I am deeply concerned that massive amounts of funds are not utilized as originally intended, due to diversion of those funds.

In 2003, I received information from credible sources within the MDBs alleging corruption on various fronts. As a result, I instructed staff of the Senate Foreign Relations Committee to commence collecting information on the anti-corruption strategies, and successes of each bank.

Based on the initial findings, I launched an investigation, reviewing corruption at the banks and their efforts to combat it. To date, I have chaired four hearings and sent letters of inquiry regarding individual projects to the bank presidents. Committee staff have interviewed scores of NGO representatives, bank insiders, academics and others, and have visited problem projects in six countries. Far too often, projects intended to boost economic development are derailed, and the poor suffer, unable to realize projected benefits in quality health care, clean water and education.

While the United States is one of dozens of donors, the financial contribution of American taxpayers over the years to these three institutions alone

exceeds $30 billion. The Congress has an obligation to our own citizens, as well as the intended beneficiaries of MDB projects, to press for transparency and accountability in the banks' operations.

Through adoption of the package of reforms I propose, the United States would set an example for other donor countries, encouraging their officials to also press for transparency and accountability.

I am pleased there is good news to report. The World Bank has embarked on an anti-corruption voluntary cooperation initiative, based in part on the Pentagon's anticorruption efforts. In addition, leading government officials from Italy, Spain and other countries have contacted the Committee, asking for more information about our review, and comparing strategies on ways of improving bank transparency. Finally, we have witnessed incremental improvements of greater transparency among the banks as a result of the Committee's ongoing work.

However, there is more to accomplish. This substantive package of reforms is based on our findings to date, and the input of many who support the original stated purpose of the multilateral development banks.

The Committee's oversight work continues, with the goal of enduring results.

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. 1129

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 ''Development Bank Reform and Authorization Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States has strong national security and humanitarian interests in alleviating poverty and promoting development around the world.

(2) The World Bank, the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank leverage the resources that the United States and other donors can devote to such goals.

(3) Contributions from the United States and other donors to the multilateral development banks must be well managed so that the mission of such banks is fully realized and not undermined by corruption. Bribes can influence important bank decisions on projects and contractors and misuse of funds can inflate project costs, cause projects to fail, and undermine development effectiveness.

(4) Officials of the World Bank have identified corruption as the single greatest obstacle to economic and social development. Corruption undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends.

(5) Officials of the World Bank have determined that the harmful effects of corruption are especially severe on the poor, who are hardest hit by economic decline, are most reliant on the provision of public services, and are least capable of paying the extra costs associated with bribery, fraud, and the misappropriation of economic privileges.

(6) In hearings before the Foreign Relations Committee of the Senate, it was demonstrated that—

(A) significant multilateral development bank funding has been lost to corruption and it is difficult to ascertain such amount precisely, in part because the multilateral development banks have not implemented procedures to calculate such amounts, either in the aggregate or on a country basis;

(B) the multilateral development banks are taking action to address fraud and corruption but additional measures remain to be carried out;

(C) the capability of anti-corruption mechanisms are not consistent among the multilateral development banks and divergences in anti-corruption policies exist that may hinder coordination on fighting corruption;

(D) weaknesses in whistleblower policy and practice exist at the multilateral development banks, to varying degree, that impede anti-fraud and anti-corruption efforts;

(E) greater transparency is necessary to provide effective development aid;

(F) the Secretary of the Treasury encourages anti-corruption efforts at the multilateral development banks and reviews loans made by such banks, however, the United States has limited ability to investigate the misuse of funds from such banks; and

(G) in some cases, the countries bearing the cost of prosecuting corruption related to the multilateral development banks are the countries that can least afford such costs, for example, the Government of Lesotho incurred considerable expense, despite competing priorities, such as those arising from an HIV/AIDS rate of more than 25 percent in that country, to investigate and prosecute fraud and corruption related to a project that received funding from the World Bank and the World Bank did not contribute money towards the prosecution or investigation.

(7) The General Accounting Office issued a report in 2001 that evaluated the external audit reporting of the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank and a report in 2000 that evaluated the internal controls of the World Bank, and recommended measures to strengthen such audit reporting and controls.

(8) The International Financial Institutions Advisory Commission (also known as the ''Meltzer Commission'') concluded in 2000, among other things, that—

(A) pressure to lend for lending's sake is built into the structure of the multilateral development banks;

(B) although several of the multilateral development banks recognize this problem and have called attention to the need for change, there is, at most, weak counterbalance to the pressure to lend; and

(C) the multilateral development banks' systems for project evaluation, performance evaluation, and project selection must be improved, and that such evaluation should be a repetitive process spread over time, including many years after final disbursement of funds.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations and the Committee on Financial Services of the House of Representatives.

(2) GROUP OF 7.—The term ''Group of 7'' means Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.

(3) GROUP OF 8.—The term ''Group of 8'' means the Group of 7 and Russia.

(4) MULTILATERAL DEVELOPMENT BANKS.—The term ''multilateral development banks'' means the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the World Bank, and any subsidiary or affiliate of such institutions.

(5) PERSON.—The term ''person'' includes a government, a government-controlled entity, a corporation, a company, an association, a firm, a partnership, a society, and a joint stock company, as well as an individual.

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

(7) WORLD BANK.—The term ''World Bank'' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, and the Multilateral Investment Guarantee Agency and any subsidiary or affiliate of such institutions.

SEC. 4. REFORMS.

(a) AUTHORITY.—The Secretary is authorized to seek the creation of a pilot program that establishes an Anti-Corruption Trust at the World Bank, as described in this section.

(b) PURPOSES.—The purposes of the Anti-Corruption Trust pilot program shall include—

(1) to assist poor countries in investigations and prosecutions of fraud and corruption related to a loan, grant, or credit of the World Bank; and

(2) to determine whether such a program should be carried out at other multilateral development banks.

(c) REPAYMENT OF FUNDS.—If a poor country assesses a fine or receives any renumeration as part of a prosecution paid for with funds from the Anti-Corruption Trust pilot program, such country shall repay the amount received from the Trust until the total amount received by such country is repaid.

(d) MONITORING.—The Secretary shall be responsible for establishing a system for monitoring the disbursement and use of funds from the Anti-Corruption Trust pilot program and promoting access to such funds by poor countries that are challenged by the high cost of investigating and prosecuting corruption and fraud linked to a loan from, or a project funded by, the World Bank.

(e) OTHER DONORS.—The Secretary shall encourage other donors to the multilateral development banks to contribute funds to the Anti-Corruption Trust.

(f) POOR COUNTRIES DEFINED.—In this section, the term ''poor countries'' means countries eligible to borrow from the International Development Association, as such eligibility is determined by gross national product per capita, lack of creditworthiness to borrow on market terms, and good policy performance.

(g) REPORTS.—

(1) REPORT ON IMPLEMENTATION.—Not later than September 1, 2006, the Secretary shall submit to the appropriate congressional committees a report that describes the actions taken to establish the Anti-Corruption Trust as described in this section.

(2) REPORT ON EVALUATION.—Not later than September 1, 2007, the Secretary shall submit to the appropriate congressional committees a report that—

(A) evaluates the effectiveness of the Anti-Corruption Trust pilot program; and

(B) evaluates the feasibility of establishing similar trusts at other multilateral development banks.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary for contribution on behalf of the United States to an Anti-Corruption Trust if a pilot program establishing such a Trust is established as described in this section.

SEC. 5. PROMOTION OF POLICY GOALS AT MULTILATERAL DEVELOPMENT BANKS.

Title XV of the International Financial Institutions Act (22 U.S.C. 262o) is amended by adding at the end the following:

''SEC. 1505. PROMOTION OF POLICY GOALS.

''(a) DEFINITIONS.—In this section:

''(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations and the Committee on Financial Services of the House of Representatives.

''(2) MULTILATERAL DEVELOPMENT BANKS.—The term 'multilateral development banks' means the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the World Bank, and any subsidiary or affiliate of such institutions.

''(3) PERSON.—The term 'person' includes a government, a government-controlled entity, a corporation, a company, an association, a firm, a partnership, a society, and a joint stock company, as well as an individual.

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

''(5) WORLD BANK.—The term 'World Bank' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, and the Multilateral Investment Guarantee Agency, and any subsidiary or affiliate of such institutions.

''(b) TRANSPARENCY.—

''(1) PUBLICATION OF STATEMENTS.—

''(A) IN GENERAL.—Not later than 60 calendar days after a meeting of the board of directors of a multilateral development bank, the Secretary shall provide for publication on the Internet Web site of the Department of the Treasury of—

''(i) the justification for each vote by the United States Executive Director at the multilateral development bank on any matter before the board of directors of the bank; and

''(ii) any written statement presented at the meeting by such United States Executive Director at the bank concerning—

''(I) a lending, grant, or guarantee operation which would result or be likely to result in significant social or environmental effects;

''(II) an institutional policy or strategy of the bank that generates significant public interest, including operational policies and sector or thematic strategies;

''(III) a project on which a claim has been made to the inspection mechanism of the bank; or

''(IV) a case pending before the inspection mechanism of the bank.

''(B) REDACTED MATERIAL.—The Secretary may redact material from the material to be made available under subparagraph (A) if the Secretary determines such material is too sensitive for public distribution.

''(2) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of the publication policy described in paragraph (3), and use the voice and vote of the United States to implement such policy.

''(3) PUBLICATION POLICY.—

''(A) IN GENERAL.—The publication policy referred to in paragraph (2) is a policy that each multilateral development bank shall—

''(i) make available to the public, including on the Internet Web site of such bank, the loan, credit, and grant documents, country assistance strategies, sector strategies, and sector policies prepared by the bank that are to be presented for endorsement or approval by the board of directors of the bank, 15 calendar days prior to the date that such document, strategy, or policy will be considered by the board or, if not available at that time, at the time the documents are distributed to the board;

''(ii) make available to the public all draft country strategies 120 calendar days prior to consideration of such strategies by the board of directors of the bank;

''(iii) make a concerted effort to distribute paper copies of the material referred to in clauses (i) and (ii) to communities affected by the documents referred to in such clauses;

''(iv) make available to the public, including on the Internet Web site of such bank, the minutes of a meeting of the board of directors of the bank, not later than 60 calendar days after the date that the bank approves the minutes of the board meeting;

''(v) make available to the public, including on the Internet Web site of such bank, a summary of discussion of the meeting of the board of directors of the bank, not later than 90 calendar days after the date of the meeting;

''(vi) keep a written transcript or electronic recording of each meeting of its board of directors and preserve the transcript or recording for not less than 10 years after the date of such meeting; and

''(vii) make available to the public a written transcript or an electronic recording of a meeting of the board of directors of the bank during the 5-year period beginning on the date that is 5 years after the date of the meeting.

''(B) REDACTED MATERIAL.—The president of a multilateral development bank may redact material from the material to be made available under subparagraph (A) if the president of a multilateral development bank determines such material is too sensitive for public distribution.

''(c) STRENGTHENING DEVELOPMENT BANK ADMINISTRATION.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of, and use the voice and vote of the United States to achieve at the bank, the following United States policy goals:

''(1) Each multilateral development bank shall require mandatory financial disclosure of any possible or apparent conflict of interest by each employee of the bank, consultant to the bank, or independent expert to the bank whose duties and responsibilities include, through decision or the exercise of judgment, the taking of any action regarding—

''(A) contracting or procurement;

''(B) developing, administering, managing, or monitoring loans, grants, programs, projects, subsidies, or other conferred financial or operational benefits provided by the bank; or

''(C) evaluating or auditing any project, program or entity.

''(2) Each multilateral development bank shall reform the 'pressure to lend' incentive structure at such bank by linking project design and implementation to staff performance appraisals and shall require that staff increase its focus on monitoring existing loans.

''(3) Each multilateral development bank shall continue strengthening whistleblower policies at the bank to the level of emerging standards for national and international law in the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.), the Inspector General Act of 1978 (5 U.S.C. App.), and the model approved for member nations by the Organization of American States to implement the Inter-American Convention Against Corruption, done at Caracas on March 29, 1996.

''(4) All loan, credit, guarantee, and grant documents and other agreements with borrowers shall include provisions for the financial resources and conditionality necessary to ensure that a person who obtains financial support from a multilateral development bank complies with applicable bank policies and national and international laws in carrying out the terms and conditions of such documents and agreements, including bank policies and national and international laws pertaining to the comprehensive assessment and transparency of the activities supported, such as those concerning public consultation, access to information, public health, safety, and environmental protection.

''(5) Each multilateral development bank shall develop clear procedures setting forth the circumstances under which a person will be barred from receiving a loan, contract, grant, or credit from such bank, shall make such procedures available to the public, and shall make the identities of such person available to the public.

''(6) Each multilateral development bank shall coordinate policies across international institutions on issues including debarment, cross-debarment, procurement and consultant guidelines, and fiduciary standards so that a person that is debarred by one multilateral development bank is automatically declared ineligible to conduct business with the other multilateral development banks during the specified ineligibility period.

''(d) ANTI-CORRUPTION PRACTICES.—

''(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of the United States anti-corruption policy described in paragraph (2), and use the voice and vote of the United States to implement such policy at the bank.

''(2) ANTI-CORRUPTION POLICY.—The anti-corruption policy referred to in paragraph (1) is the United States policy that a person that receives money from a multilateral development bank shall sign a code of conduct that embodies the standards set out in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2), and that prohibits such person from corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any official for purposes, directly or indirectly—

''(A)(i) influencing any act or decision of such official in his or her official capacity;

''(ii) supporting any political party, political entity, any official of a political party, or any candidate for political office;

''(iii) inducing such official to do or omit to do any act in violation of the lawful duty of such official; or

''(iv) securing any improper advantage; or

''(B) inducing such official to use the official's influence with a government or instrumentality thereof, to affect or influence any act or decision of such government or instrumentality,

in order to assist such person in obtaining or retaining business for or with, or directing business to, any other person.

''(e) STRENGTHENING DEVELOPMENT BANK AUDITING.—

''(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of, and use the voice and vote of the United States to achieve at the bank, the following United States policy goals:

''(A) Each multilateral development bank shall—

''(i) establish an independent Office of an Inspector General, establish or strengthen an independent auditing function at the bank, and require that the Inspector General and the auditing function report directly to the board of directors of the bank; and

''(ii) adopt and implement an internationally recognized internal controls framework, allocate adequate staffing to auditing and supervision, require external audits of internal controls, and external and forensic audits of loans where fraud is suspected.

''(B) Each multilateral development bank shall establish a plan and schedule for conducting regular, independent audits of internal management controls and procedures for meeting operational objectives, complying with the policies of such bank, and preventing fraud, and making reports describing the scope and findings of such audits available to the public.

''(C) Each multilateral development bank shall establish effective procedures for the receipt, retention, and treatment of—

''(i) complaints received by the bank regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters; and

''(ii) the confidential, anonymous submission, particularly by employees of the bank, of concerns regarding fraud, accounting, mismanagement, internal accounting controls, or auditing matters.

''(D) Each multilateral development bank shall post on the Internet Web site of such bank an annual report containing statistical summaries and case studies of the fraud and corruption cases pursued by the bank's investigations unit.

''(f) COMPENSATION PACKAGES FOR PEOPLE NEGATIVELY AFFECTED BY DEVELOPMENT BANK PROJECTS.—

''(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of the United States policy goals related to compensation described in paragraph (2), and use the voice and vote of the United States to implement such policy at the bank.

''(2) COMPENSATION POLICY.—The compensation policy referred to in paragraph (1) is a policy that each multilateral development bank shall, for each project funded by the bank where compensation, including resettlement or rehabilitation assistance, is to be provided to persons adversely impacted by the project, require that an independent mechanism be established for, or included in the design of, the project to receive and adjudicate complaints from a person who is eligible for compensation if such person, not more than 6 years after the date of the completion of the project, finds that the compensation is either inadequate or improperly implemented.

''(g) EVALUATION.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to inform the bank of, and use the voice and vote of the United States to achieve at the bank, the following goals:

''(1) Each multilateral development bank shall make the results of project and non-project operations evaluations available to the public, including through the Internet Web site of the bank and including information on the quantity of projects evaluated per year as a percentage of total projects carried out.

''(2) Each multilateral development bank shall require that all loans, grants, credits, policies, and strategies, including budget support, prepared by the bank include specific outcome and output indicators to measure results, and that the indicators and results be published periodically during the execution and at the completion of the appropriate project or program, and at the number of years after such completion determined to be appropriate for such loan, grant, credit, policy, or strategy.

''(3) Each multilateral development bank shall promote rigorous evaluation of projects and policies to ensure that the intent of such projects and policies is realized. Such a bank shall favor grants and loans to applicants who agree, in consultation with an independent evaluator or evaluators, to design projects to facilitate the evaluation of outcomes. Rigorous evaluations shall measure the impact on those served by a loan, grant, or credit and shall have a carefully constructed comparison group to help measure the impacts of the loan, grant, or credit.

''(h) QUALIFICATION POLICY.—

''(1) VOICE AND VOTE.—The Secretary shall instruct the United States Executive Director at each multilateral development bank to encourage the bank to implement the qualification policy for borrowing countries described in paragraph (2), and use the voice and vote of the United States to achieve such policy at each bank.

''(2) QUALIFICATION POLICY FOR BORROWING COUNTRIES.—The qualification policy for borrowing countries referred to in paragraph (1) is a policy that requires, in addition to the standards in effect on the date of the enactment of the Development Bank Reform and Authorization Act of 2005, each multilateral development bank to qualify a country for budget support, adjustment lending, policy lending for non-project loans, grants, or credits, or other loans directed to the country's budget based on transparency in procurement and fiduciary requirements and requiring the borrowing country to make its budget available to the public before funds are disbursed to that country.

''(i) MICROFINANCE AND BUSINESS DEVELOPMENT.—The Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States to encourage microfinance services for the poor and very poor (as that term is defined in section 259 of the Foreign Assistance Act of 1961 (22 U.S.C. 2214a)), and micro-, small-, and medium-enterprise development programs, particularly in a country where the government of such country ranks poorly in the World Bank Institute's governance indicators.

''(j) RESOURCE DEPENDENT COUNTRY REVENUE TRANSPARENCY.—

''(1) REQUIREMENTS FOR RESOURCE ASSISTANCE FOR A GOVERNMENT.—The Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States that any assistance provided by a such bank including any investment, loan, credit, grant, or guarantee, to a government of a resource-dependent country or for any project located in a resource-dependent country, other than humanitarian assistance, assistance to address HIV/AIDS, tuberculosis, malaria or food aid, may not be provided unless the government has in place or is taking the necessary steps to establish functioning systems for—

''(A) accurately accounting for all revenues received by a borrowing government from a person and all payments to a government in connection with the extraction or export of natural resources, such as gas, oil, oil shale, tar sands, coal, any metal, mineral, or timber;

''(B) the independent auditing of such payments and such revenues by a credible, independent auditor, applying international auditing standards, and the widespread regular public dissemination of the auditor's findings, including a reconciliation of aggregate payments and revenues;

''(C) verifying such revenues against the records for such payments made by each person, including widespread dissemination of aggregate payment information in a manner that protects proprietary information, that observes the law of the borrowing country, and that the person determines does not cause substantial competitive harm;

''(D) making available to the public all contracts between the government of such country or any person owned or controlled by such government, and any person that is engaged in the extraction or export of natural resources through a project or program supported by a bank, unless the person determines such disclosure would cause substantial competitive harm;

''(E) applying the revenue transparency approach described in this paragraph equally and fully to all extractive industry companies operating in the country, including state-owned entities; and

''(F) establishing a legal framework for disclosure of payments from a person or contracts with a person and outlining the level and extent of disclosure or payment information by companies in the extractive industries.

''(2) REQUIREMENTS FOR OTHER NATURAL RESOURCE ASSISTANCE.—The Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States that any assistance, including any investment, loan, or guarantee, provided by such a bank to private sector sponsors for the extraction or export of natural resources in a resource-dependent country shall only be provided if the government of the country has in place or is taking necessary steps to establish the functioning systems described in subparagraphs (A) through (F) in paragraph (1) and if the private sector sponsors of such projects publicly disclose revenue payments made to the government of such country, in accordance with the laws of such country regarding the required level and extent of such disclosure.

''(3) COMPLIANCE WITH TRANSPARENCY GUIDELINES PRIOR TO APPROVAL OF ASSISTANCE.—In furtherance of the policy described in paragraph (1), not later than 2 years after the date of the enactment of the Development Bank Reform and Authorization Act of 2005, the Secretary shall inform the management of each multilateral development bank and the public that it is the policy of the United States that any assistance by such a bank, including any investment, loan, credit, grant, or guarantee, other than humanitarian assistance, assistance to address HIV/AIDS, tuberculosis, or malaria or to provide food, to any government of a resource-dependent country or for any project located in such country, shall not be provided unless the bank, prior to the approval of such assistance, has—

''(A) determined that the government has in place the systems described in subparagraphs (A) through (F) of paragraph (1), based on all information that is relevant, applicable and reasonably available to the bank, including, the views of other international financial institutions active in such country and the views of civil society organizations that are active within and outside such country;

''(B) determined that private sector sponsors of projects for the extraction and export of natural resources have agreed to publicly

disclose revenue payments to host governments; and

''(C) made available to the public the findings and conclusions identifying the information taken into consideration in making such determinations and the reasons for such determinations.

''(4) RESOURCE-DEPENDENT COUNTRY DEFINED.—In this subsection, the term 'resource-dependent country' means a country that has—

''(A) an average share of natural resource-derived fiscal revenues of at least 25 percent of the total fiscal revenues during the preceding 3-year period; or

''(B) an average share of natural resource export proceeds of at least 25 percent of the total export proceeds during the preceding 3-year period.''.

SEC. 6. SENSE OF CONGRESS ON THE EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE AND G–8 AGREEMENTS.

It is the sense of Congress that—

(1) the President should continue promoting the Extractive Industry Transparency Initiative as one approach to help ensure that the revenues from extractive industries contribute to sustainable development and poverty reduction, as such Initiative is a voluntary initiative intended—

(A) to promote greater transparency of developing country government revenues and expenditures, procurement, concession-granting systems; and

(B) to work to recover stolen assets and enforce antibribery laws;

(2) the United States should encourage the continued work of the G–8 to promote the Extractive Industries Transparency Initiative; and

(3) the United States should support and encourage the carrying out of the agreements of the G–8 made at the 2004 Summit at Sea Island, Georgia, and at the 2003 Summit at Evian, France, to promote transparency in public budgets, including revenues and expenditures, government procurement, public concessions, the granting of licenses with special emphasis on countries with large extractive industries sectors, including the agreements made at the Summit at Sea Island which specifically—

(A) support the efforts of the Public Expenditure and Financial Accountability program at the World Bank to help developing countries achieve accountability in public finance and expenditure and to extend harmonized approaches to the assessment and reform of their public financial, accountability, and procurement systems;

(B) invite developing countries to prepare anticorruption action plans to implement the commitments of such countries in regional and international conventions; and

(C) achieve agreement on full disclosure of the World Bank International Development Association's Country Policy and Institutional Assessment results, with disclosure to begin with the 2005 ratings.

SEC. 7. REPORTS FROM THE GOVERNMENT ACCOUNTABILITY OFFICE.

(a) SENSE OF CONGRESS ON ACCESS TO INFORMATION.—It is the sense of Congress that—

(1) to evaluate the compliance of the multilateral development banks with the policies of the United States described in section 1505 of the International Financial Institutions Act, as added by section 5 of this Act, and to prepare the reports required by this section, the Comptroller General of the United States should have full and complete access to financial information relating to the multilateral development banks, including information related to the performance, accountability, oversight, financial transactions, organization, and activities of the multilateral development banks;

(2) the Secretary should seek to conclude memorandums of understanding with the multilateral development banks to ensure that the United States will have access to documents related to information described in paragraph (1); and

(3) the Secretary of the Treasury should facilitate access by the Comptroller General of the United States to the financial information described in paragraph (1).

(b) REPORT ON EFFECTIVENESS OF MULTILATERAL DEVELOPMENT BANKS.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a review of the effectiveness of each multilateral development bank in achieving the mission of such bank as set out in the articles of agreement of such bank, specifically poverty reduction and economic development; and

(2) submit to the appropriate congressional committees a report on the findings of the review.

(c) REPORT ON CONSISTENCY OF MULTILATERAL DEVELOPMENT BANK PRACTICES WITH STATUTORY POLICIES.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the appropriate congressional committees a report on the extent to which the practices of the multilateral development banks are consistent with the policies of the United States, as expressly contained in Federal law applicable to the multilateral development banks.

(d) REPORT ON REFORMS AT THE MULTILATERAL DEVELOPMENT BANKS.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the appropriate congressional committees a report on the extent of the implementation of the reforms called for by the Group of 8 or by the Group of 7, starting with the 2000 Okinawa Summit, as delineated in communiqués, chairman's statements, and other official communication through the summit or finance ministerial processes of the Group of 8 or the Group of 7.

SEC. 8. CONTRIBUTIONS TO MULTILATERAL DEVELOPMENT BANKS.

(a) WORLD BANK.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end the following new section:

''SEC. 23. FOURTEENTH REPLENISHMENT.

''(a) CONTRIBUTION AUTHORITY.—

''(1) IN GENERAL.—The United States Governor of the Association is authorized to contribute on behalf of the United States $2,850,000,000 to the fourteenth replenishment of the resources of the Association.

''(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated, without fiscal year limitation, $2,850,000,000 for payment by the Secretary of the Treasury.''.

(b) AFRICAN DEVELOPMENT BANK FUND.—The African Development Fund Act (22 U.S.C. 290g et seq.) is amended by adding at the end the following new section:

''SEC. 218. TENTH REPLENISHMENT.

''(a) CONTRIBUTION AUTHORITY.—

''(1) IN GENERAL.—The United States Governor of the Fund is authorized to contribute on behalf of the United States $407,000,000 to the tenth replenishment of the resources of the Fund.

''(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated, without fiscal year limitation, $407,000,000 for payment by the Secretary of the Treasury.''.

(c) ASIAN DEVELOPMENT FUND OF THE ASIAN DEVELOPMENT BANK.—The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

''SEC. 32. EIGHTH REPLENISHMENT.

''(a) CONTRIBUTION AUTHORITY.—

''(1) IN GENERAL.—The United States Governor of the Bank is authorized to contribute on behalf of the United States $461,000,000 to the eighth replenishment of the resources of the Fund.

''(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated, without fiscal year limitation, $461,000,000 for payment by the Secretary of the Treasury.''.

SEC. 9. ANNUAL REPORTS.

(a) INITIAL REPORT.—Not later than September 1, 2006, the Secretary shall submit a report to the appropriate congressional committees the describes the actions taken by the United States Executive Director at each multilateral development bank to implement the policy goals described in this Act and the amendments made by this Act and any other actions that should be taken to implement such goals.

(b) UPDATES.—The Secretary shall submit to the appropriate congressional committees an annual update of the report required by subsection (a) for each of the fiscal years 2007, 2008, and 2009.

By Mr. CRAIG:

S. 1131. A bill to authorize the exchange of certain Federal land within the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Idaho Land Enhancement Act of 2005. Simply put, this legislation directs the Secretaries of Agriculture and Interior to exchange land with the State of Idaho involving key parcels of land from the Boise Foothills to North Idaho.

The proposed exchange is exceptional in many respects. First, the concept for the proposed land exchange originated from a local conservation effort led by the city of Boise and local conservation groups including the Idaho Conservation League. Since the late 1960's the issue of conserving the Boise Foothills has been a significant concern of the community. Conservation efforts have continued to grow in support within the community, culminating in May 2001 with the citizens of Boise, in one of the highest voter turnouts in city history, electing to tax themselves in order to provide funding to secure permanent public open space in the Boise Foothills.

Next, the collaboration between the city of Boise, the State of Idaho, the Forest Service and the Bureau of Land Management has produced an agreement that has yielded a proposal benefiting the State's endowment beneficiaries while addressing the common threats of fire and hazardous fuels, invasive species, habitat fragmentation and unmanaged recreation associated with urban interface with Federal lands. The proposal uses both Bureau of Land Management and Forest Service land to balance an exchange with Idaho State Endowment lands on an equal value basis.

Last, the process has been open, transparent, and has wide support throughout the State. The city of Boise has facilitated public meetings, provided opportunities for public comment, and has made the maps of the exchange available to the public. The City has met with all of the affected tribes and counties. In addition, the multi-agency group completed evaluations of timber values, minerals, cultural resources, water rights, legal access, wildlife, fisheries, vegetation, hydrology, wetlands, threatened and endangered species, and specific habitat. The evaluations show that no major environmental effect will occur as a result of the exchange. In fact, The Nature Conservancy independently reviewed the data and compared it to their eco-regional planning efforts and concluded that the exchange has ''limited potential to impact biodiversity values'' and they support the exchange.

The city of Boise has made a substantial investment of local property tax dollars in the facilitation of this land exchange package. This exchange will complete a statewide collaborative process that represents a legacy of local, State and Federal cooperation benefiting land management interests throughout the State.

This exchange will enhance land in both the northern and southern parts of the State. It is an example of how local, State, and Federal partners can come together to collaboratively develop an exchange in which the public and the land are the ultimate beneficiaries.

By Mr. COLEMAN (for himself, Ms. LANDRIEU, Mr. DEWINE, Ms. SNOWE, Mr. COCHRAN, Mr. VITTER, Mr. BAYH, and Mr. SMITH):

S. 1132. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease; to the Committee on Health, Education, Labor, and Pensions.

Mr. COLEMAN. Mr. President, I am pleased today to be introducing the bipartisan Treatment of Children's Deformities Act. I am pleased to be joined by many of my friends and colleagues, including Senators LANDRIEU, DEWINE, SNOWE, COCHRAN, VITTER and BAYH.

Imagine being a parent with a child who has a cleft lip and palate or another more severe congenital facial deformity that requires reconstructive surgery to achieve a sense of normalcy and function. Now imagine receiving a letter from your insurance carrier that states the following:

The reviewer determined that although the procedures listed above would enhance the appearance of the patient, the procedures listed are not necessary to correct a functional disorder and therefore do not meet the criteria for benefits as outlined in the medical plan.

Unfortunately, there are numerous examples of children and families around the country that have been confronted with this kind of heart wrenching situation. Examples of congenital deformities include cleft lip, cleft palate, skin lesions, vascular anomalies, malformations of the ear, hand, or foot, and other more profound craniofacial deformities. It is essential for children with these problems to receive timely surgical care in order to have a chance at leading normal, healthy, happy lives. And yet, an increasing number of kids go without life changing treatment because treatment is regarded as ''cosmetic'' or ''non-functional.''

It's unfortunate that legislation is necessary. However, this legislation will ensure that children who are born with a congenital deformity—whether a cleft lip and palate or a more severe deformity—receive the reconstructive surgery they need to achieve a sense of normalcy and function.

According to the March of Dimes, 150,000 newborns suffer from birth defects each year. Of the 150,000 born, approximately 50,000 require reconstructive surgery. Although surgeons are able to correct many of these problems, an increasing number of these children are denied access to care by the labeling of the procedures as ''cosmetic'' or ''non-functional'' in nature.

A common Federal definition of reconstructive surgery, based on the American Medical Association's definition, will help clarify coverage nationally and reduce the delay for children in need of surgery.

It is essential for children with these problems to receive timely surgical care in order to have a chance at leading normal, healthy, and happy lives. Also, many times these surgeries are best performed while children are young and their bodies can more readily recover and respond to the corrective surgery.

The Treatment of Children's Deformities Act differentiates between cosmetic and reconstructive surgery. The legislation defines reconstructive surgery as that being performed on abnormal structures of the body, caused by congenital defects, developmental abnormalities, trauma, infection, tumors or disease.

Cosmetic surgery, in contrast, is defined by the American Medical Association as being performed to reshape normal structures of the body in order to improve the patient's appearance and self-esteem.

Children born with deformities should receive the help they need and this legislation will make it happen. I look forward to working with my colleagues to pass this legislation that will improve the quality of life for children born with congenital deformities. I urge my colleagues to join me in supporting this legislation.

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. 1132

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 ''Treatment of Children's Deformities Act of 2005''.

SEC. 2. COVERAGE OF MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(b) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.

''(b) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Standards relating to benefits for minor child's congenital or developmental deformity or disorder''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended—

(A) in the table of sections, by inserting after the item relating to section 9812 the following:

''Sec. 9813. Standards relating to benefits for minor child's congenital or developmental deformity or disorder''; and

(B) by inserting after section 9812 the following:

''SEC. 9813. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 the following:

''SEC. 2753. STANDARDS RELATING TO BENEFITS FOR MINOR CHILD'S CONGENITAL OR DEVELOPMENTAL DEFORMITY OR DISORDER.

''(a) REQUIREMENTS FOR RECONSTRUCTIVE SURGERY.—

''(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for surgical benefits shall provide coverage for outpatient and inpatient diagnosis and treatment of a minor child's congenital or developmental deformity, disease, or injury. A minor child shall include any individual through 21 years of age.

''(2) REQUIREMENTS.—Any coverage provided under paragraph (1) shall be subject to pre-authorization or pre-certification as required by the plan or issuer, and such coverage shall include any surgical treatment which, in the opinion of the treating physician, is medically necessary to approximate a normal appearance.

''(3) TREATMENT DEFINED.—

''(A) IN GENERAL.—In this section, the term 'treatment' includes reconstructive surgical procedures (procedures that are generally performed to improve function, but may also be performed to approximate a normal appearance) that are performed on abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease, including—

''(i) procedures that do not materially affect the function of the body part being treated; and

''(ii) procedures for secondary conditions and follow-up treatment.

''(B) EXCEPTION.—Such term does not include cosmetic surgery performed to reshape normal structures of the body to improve appearance or self-esteem.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH COVERAGE.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2006.

(2) INDIVIDUAL HEALTH COVERAGE.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 300gg–92 note) is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 100 of the Internal Revenue Code of 1986''.

By Mr. BYRD (for himself, Mr. ROCKEFELLER, and Mr. SPECTER):

S. 1133. A bill to authorize the Secretary of Energy to develop and implement an accelerated research, development, and demonstration program for advanced clean coal technologies for use in coal-based generation facilities and to provide financial incentives to encourage the early commercial deployment of advanced clean coal technologies through the retrofitting, repowering, replacement, and new construction of coal-based electricity generating facilities and industrial gasification facilities; to the Committee on Energy and Natural Resources.

Mr. BYRD. Mr. President, today I am introducing S. 1133, the Clean Coal Research, Development, Demonstration, and Deployment Act of 2005. I am proud to have Senators ROCKEFELLER and SPECTER as cosponsors of my bill. This comprehensive clean coal technology legislation will help provide for a new era for coal. I have looked into the past; I recognize the enormous challenges that are before us; and I see coal's future.

The bill authorizes important programs at the Department of Energy as

well as provides a major package of targeted federal energy tax incentives. It supports a research and development program and tax incentives to encourage the use of advanced coal technologies at coal-fired power plants. The bill also promotes a major investment in a national industrial gasification program. It is a balanced and financially sound proposal, and it recognizes that there are new horizons opening for coal.

The Byrd-Rockefeller-Specter bill works to balance these ever expanding opportunities in a very reasonable and responsible way. We must move forward with the development and deployment of advanced power generation and carbon capture and sequestration technologies. Coal also has a future in producing chemicals, alternative transportation fuels, and other important products for use in the economy. My legislation can begin to initiate that effort.

There are those who have wanted to push coal aside like stove wood and horse power as novelties from a bygone era. But we cannot ignore coal as part of the solution to our future energy challenges. Over the past several years, I have been diligently assembling a set of proposals that can provide a comprehensive approach for the near- and long-term viability for coal, both at home and abroad. It is time that we reexamine the opportunities for coal, and let the past be our guide to the future.

Mr. President, I hope other Senators will review S. 1133, and I urge them to cosponsor this legislation.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 1135. A bill to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I am pleased to be able to re-introduce the Utah Recreational Land Exchange Act of 2005, together with my colleague Senator HATCH. Legislation was introduced in the previous Congress to lay the groundwork for our efforts in the 109th Congress.

This legislation will ensure the protection of critical lands along the Colorado River corridor in southeastern Utah and will help provide important funding for Utah's school children. In Utah we treasure the education of our children. A key component of our education system is the 3.5 million acres of school trust lands scattered throughout the State. These lands are dedicated to the support of public education. Revenue from Utah school trust lands, whether from grazing, forestry, surface leasing or mineral development, is placed in the State School Fund. This fund is a permanent income producing endowment created by Congress upon statehood to fund public education. Unfortunately, the majority of these lands are trapped within federal ownership patterns that make it impossible for responsible development. It is critical to both the State of Utah and the Bureau of Land Management, BLM, that we consolidate their respective lands to ensure that both public agencies are permitted to fulfill their mandates.

The legislation we are introducing today is yet another chapter in our State's long history of consolidating these State lands for the financial well being of our education system. These efforts serve a dual purpose as they help the Federal land management agencies to consolidate Federal lands in environmentally sensitive areas that can then be reasonably managed. We see this exchange as a win-win solution for the State of Utah and its school children, as well as the Department of the Interior as the caretaker of our public lands.

Beginning in 1998 Congress passed the first major Utah school trust land exchange which consolidated hundreds of thousands of acres. Again in 2000, Congress enacted an exchange consolidating another 100,000 acres. I was proud to playa role in those efforts, and the bill we are introducing today is yet another step in the longjoumey toward giving the school children the deal they were promised in 1896 when Utah was admitted to the Union.

The School Trust of Utah currently owns some of the most spectacular lands in America, located along the Colorado River in southeastern Utah. This legislation will ensure that places like Westwater Canyon of the Colorado River, the world famous Kokopelli and Slickrock biking trails, some of the largest natural rock arches in the United States, wilderness study areas, and viewsheds for Arches National Park will be traded into Federal ownership and for the benefit of future generations. At the same time, the school children of Utah will receive mineral and development lands that are not environmentally sensitive, in locations where responsible development makes sense. This will be an equal value exchange, with approximately 40,000 acres exchanged on either side, with both taxpayers and the school children of Utah receiving a fair deal. Moreover, the legislation establishes a valuation process that is transparent to the public, yet will ensure the exchange process occurs in a timely manner.

This legislation represents a truly collaborative process. We have convened all of the players to give us input into this legislation: local government, the State, the recreation community, the environmental community and other interested parties. At the same time we are working closely with the Department of Interior. We introduced this bill in the 108th Congress in order to initiate some discussion of moving forward with this exchange proposal. Since that time, some changes have been made in an effort to improve this legislation. We remain receptive to additional changes that might make further improvements. The State has been working with all of these groups over the past year at a grass-roots level to address concerns. We look forward to working with the appropriate committees and the Department of Interior toward a successful resolution of this proposed exchange.

I urge all of my colleagues to support our efforts to fund the education of our children in Utah and to protect some of this Nation's truly great lands. I urge support of the Utah Recreational Land Exchange Act of 2005.

By Mr. GRASSLEY (for himself, Mr. MCCAIN, and Mr. ALLEN):

S. 1137. A bill to include dehydroepiandrosterone as an anabolic steroid; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, recently, the problem of steroid abuse has been getting a great deal of media attention. While this publicity has helped to raise public awareness about the dangers of illegal steroids, recent studies indicate that more and more young people are taking these drugs to improve their performance, appearance, or self image. In fact, some recent studies indicate that as many as 5 percent to 7 percent of students, even as young as middle school, admit to using illegal steroids.

Even more widespread among adolescents, however, is the use of over-the-counter supplements. Many young people are turning to ''supplements'' as an alternative to illegal steroids, mistakenly believing that because they are sold over the counter, they must be safe. However, many of these over the counter ''supplements'' actually produce the same dangerous effects on the body as illegal steroids. Some, even become steroids in the bloodstream.

Last year, the President signed into law the Anabolic Steroid Control Act of 2004, which added 18 anabolic steroid precursors to the list of anabolic steroids that are classified as controlled substances. Yet as I speak, on the shelves of health stores across the country, sits one anabolic steroid that can be bought by anyone, at any age, without the need of a doctor's prescription.

Dehydroepiandrosterone, or DHEA, is an anabolic steroid that once ingested, the body turns into testosterone. DHEA like all other steroids, may cause a number of long term physical and psychological effects, including: heart disease, cancer, stroke, liver damage, severe acne, baldness, dramatic mood swings, aggression etc. In fact, DHEA is already banned by the Olympics, the World Anti-Doping Agency, the National Collegiate Athletic Association, the National Football League, the National Basketball Association, and Minor League Baseball, yet it actually enjoys special protections under the Anabolic Steroid Control Act.

In an effort to keep all potentially dangerous steroids out of the hands of unsuspecting consumers and children, I am pleased to introduce legislation

today that would add DHEA to the list of controlled substances under the Anabolic Steroid Control Act. This legislation will eliminate the special exemption granted to DHEA, thereby treating it as every other substance in the steroid family.

With the dramatic rise in the use of steroids among our nation's youth, now is the time to act to curb this increasingly growing problem. Just like all other anabolic steroids, DHEA should not be available over the counter, but only under a doctor's supervision. I encourage my colleagues to join in support of this legislation.

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. 1137

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

SECTION 1. INCLUSION OF DEHYDROEPIANDROSTERONE.

Section 102(41)(A) of the Controlled Substances Act (21 U.S.C. 802(41)(A)) is amended—

(1) in the matter preceding clause (i), by striking ''corticosteroids, and dehydroepiandrosterone'' and inserting ''and corticosteroids'';

(2) by redesignating clauses (x) through (xlx) as clauses (xi) through (xlxi), respectively; and

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

''(x) dehydroepiandrosterone (androst-5-en-3β-ol-17-one);''.

By Mr. SANTORUM:

S. 1139. A bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SANTORUM. Mr. President, I rise today to introduce the Pet Animal Welfare Statute of 2005 (PAWS). The introduction of this important animal welfare legislation demonstrates my continued interest in humane treatment of animals. As the proud owner of a German Shepherd, it is disturbing to see the number of high volume breeders who are careless and disregard their responsibilities to care properly for their animals.

Across the United States, there are more than 3,000 commercial dog-breeding facilities that are licensed to operate by the United States Department of Agriculture (USDA). Owners of these facilities are required to comply with the rules and regulations of the Animal Welfare Act (AWA), which sets forth standards for humane handling and treatment. USDA inspections are also required to ensure compliance with AWA standards.

Unfortunately, enforcement of AWA has not effectively stopped the inhumane treatment of animals within the pet industry. Because the AWA only covers breeders and others who sell at wholesale, many puppy mill owners have successfully avoided AWA requirements by selling directly to the public. The ability to use the Internet as a marketing tool for direct sales has only made selling directly to the public more prevalent and popular. Because USDA can only regulate wholesalers under the AWA, it has very limited authority to oversee the care and conditions of animals in these facilities.

PAWS addresses this growing problem. PAWS would regulate breeders who raise seven or more litters of dogs or cats each year. This threshold test would differentiate those breeders who raise animals in mass numbers from those who are hobby breeders.

In addition, this broad ranging legislation would cover importers and other non-breeder dealers who sell more than 25 dogs or cats per year, strengthen USDA's enforcement authority, and assure USDA access to source records of persons who acquire dogs for resale. Finally, PAWS expands the USDA's authority to seek injunctions against unlicensed dog and cat dealers.

The term ''puppy mill'' is not new to many people, be it pet owners, consumers, animal welfare advocates, inspectors or just casual observers. Puppy mills are large breeding operations that mass-produce puppies for commercial sale with little regard for the humane handling and treatment of the dogs. Breeding and raising dogs without respect to the animal's welfare guarantees bad results for the unknowing owner, and for the health of the dog and her puppies. For dogs, puppy mill conditions can mean overcrowded cages, lack of protection from weather conditions, and an overall lack of veterinary care.

The benefits of regulating commercial breeders and sellers are obvious. PAWS addresses the commerce in pets from many different angles, including imports, large direct sellers, Internet sellers, enforcement tools, and source records. As a member of the Senate Agriculture Committee and Chairman of the Subcommittee on Research, Nutrition and General Legislation, the subcommittee with jurisdiction, I am prepared to work aggressively to advance this legislation. I urge my colleagues to join Senator DURBIN and me in supporting this legislation.

Mr. DURBIN. Mr. President, I rise today to introduce the Pet Animal Welfare Statute, PAWS, along with my colleague, Senator SANTORUM.

For more than three decades, Congress has given the responsibility of ensuring minimum standards of humane care and treatment of animals to the U.S. Department of Agriculture, USDA, under the Animal Welfare Act, AWA.

The current guidelines within the AWA do not go far enough to protect puppies at large breeding facilities; they merely ensure the provision of water and food, and that is inadequate. The AWA has been largely ineffective because of weak enforcement procedures and limited resources. Another severe limitation of the current AWA is that it does not regulate overseas breeders who submit their animals to deplorable conditions before exporting them to the United States, leaving many imported animals with diseases and behavioral disorders. PAWS strengthens the AWA to better control the practices of puppy breeding in large facilities, addresses cruel puppy treatment and places stricter regulations on overseas breeders.

In large breeding facilities, puppies are often kept in cramped, dirty cages; sometimes stacked on top of each other; exposed to the elements in extreme cold and heat; forced to breed too frequently; and deprived of adequate food, water, veterinary care, and any semblance of loving contact. In fact, current law allows many of these breeders to evade all federal oversight.

This inhumane treatment has a direct bearing on the physical and mental health of dogs in these facilities. Often, after these puppies join a family, they turn out to have serious health and behavioral problems that cause them pain, cause their owners great distress, and require expensive medical care.

I believe PAWS will address these problems by filling gaps in the current law and encouraging stronger enforcement by USDA to crack down on chronic violators. The bill also applies to cats.

PAWS requires that any commercial hreeder who sells seven or more litters of dogs or cats directly to the public in a year must be licensed by the USDA. The statute also allows the USDA to obtain the identity of breeders, a measure that would help the USDA to address inhumane treatment. PAWS extends the suspension period for facilities with AWA violations from 21 days to 60 days and provides the USDA with direct authority to apply for injunctions.

I've heard from many of my constituents in Illinois who are deeply concerned about the puppy mill problem and want this legislation enacted. PAWS is supported by national organizations, including the Humane Society of the United States, the American Kennel Club, Doris Day Animal League, and the Animal Welfare Institute.

I am pleased that we have obtained additional funds for USDA to improve its enforcement of the AWA. This piece of legislation will complement those ongoing efforts by strengthening USDA's authority to crack down on the bad actors.

PAWS will ensure that any commercial dog breeder licensed by the Federal Government is meeting basic humane standards of care. We owe at least this much to the animals that have earned the title ''man's best friend.'' This safety net for dogs and cats will protect pets and the consumers who care about them against the poor treatment practices of the worst dealers: the ones who provide no

interaction; the ones who violate industry norms against over-breeding; the ones who repeatedly violate the law governing humane care. The good dealers, however, should be recognized for the value they bring to pet lovers everywhere.

Currently, the good dealers suffer at the hands of the bad ones, the ones who give the industry a bad reputation. This bill will help draw a clear distinction in favor of the good dealers. I thank my colleagues for their attention to this issue, and I urge their support for the Pet Animal Welfare Statute.

By Mr. COCHRAN (for himself, Mr. PRYOR, Mr. CHAMBLISS, and Mr. ROBERTS):

S. 1141. A bill to authorize the Secretary of Homeland Security to regulate ammonium nitrate; to the Committee on Homeland Security and Governmental Affairs.

Mr. COCHRAN. Mr. President, fertilizers provide essential nutrients to the food we eat. Without fertilizer, roughly one-third of the world's people would go hungry. Ammonium nitrate fertilizer is an effective source of nitrogen that all crops need to grow. Thousands of American farmers value its use in certain applications including cool weather fertilization and other low-till cropping systems. Thus, the continued availability of ammonium nitrate fertilizer to U.S. farmers has economic, agronomic and environmental benefits to farmers and society as a whole.

At the same time, the April 1995 attack on the Alfred P. Murrah Federal Building in Oklahoma City showed America that this highly valuable fertilizer can be subject to adulteration and misuse by criminals intent on engaging in acts of terror.

After the Oklahoma City tragedy, Congress enacted legislation calling for a study on the feasibility and practicability of imposing controls on certain precursor chemicals, including ammonium nitrate. Congress recognized that it is simply not possible for the agriculture community to guarantee against the criminal misuse of ammonium nitrate or for any community to guarantee that the thousands of everyday products that can be converted to criminal use will not be misused by those with the intent and capability to do so.

Over the past 10 years, the security landscape has continued to change. The agriculture community and the fertilizer industry recognize that more needs to be done to strengthen the controls regarding the handling and purchase of ammonium nitrate fertilizer in order to ensure American farmers continue to have access to this valued input. Today, with my colleague from Arkansas Mr. PRYOR, my colleague from Georgia Mr. CHAMBLISS, and my colleague from Kansas Mr. ROBERTS, I am pleased to introduce legislation that provides a practical and workable solution to enhance the secure handling of ammonium nitrate ensuring that ammonium nitrate remains available for agricultural use.

The legislation is entitled ''The Secure Handling of Ammonium Nitrate Act of 2005.'' It calls for Federal and State cooperation to secure ammonium nitrate fertilizer. It requires any person who produces, stores, sells, or distributes ammonium nitrate to register their facility with their State department of agriculture and to maintain records of sales or distribution of the product. Additionally, it requires all purchasers of ammonium nitrate to register with their State department of agriculture.

We believe these requirements are necessary measures to help provide additional security for ammonium nitrate fertilizer and will not unduly burden agriculture professionals or farmers who use ammonium nitrate. Furthermore, we believe this important legislation will effectively enhance ongoing security measures and help to keep ammonium nitrate out of the hands of those who wish to harm our Nation.

I urge Senators to support this legislation.

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. 1141

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 ''Secure Handling of Ammonium Nitrate Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) ammonium nitrate is an important fertilizer used to produce a reliable and affordable food supply for the United States and the world;

(2) in the wrong hands, ammonium nitrate may be used for illegal activities;

(3) the production, importation, storage, sale, and distribution of ammonium nitrate affects interstate and intrastate commerce; and

(4) it is necessary to regulate the production, storage, sale, and distribution of ammonium nitrate.

SEC. 3. DEFINITIONS.

In this Act:

(1) AMMONIUM NITRATE.—The term ''ammonium nitrate'' means solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen, of which—

(A) 50 percent is in ammonium form; and

(B) 50 percent is in nitrate form.

(2) FACILITY.—

(A) IN GENERAL.—The term ''facility'' means any site where ammonium nitrate is produced, stored, or held for distribution, sale, or use.

(B) INCLUSIONS.—The term ''facility'' includes—

(i) all buildings or structures used to produce, store, or hold ammonium nitrate for distribution, sale, or use at a single site; and

(ii) multiple sites described in clause (i), if the sites are—

(I) contiguous or adjacent; and

(II) owned or operated by the same person.

(3) HANDLE.—The term ''handle'' means to produce, store, sell, or distribute ammonium nitrate.

(4) HANDLER.—The term ''handler'' means any person that produces, stores, sells, or distributes ammonium nitrate.

(5) PURCHASER.—The term ''purchaser'' means any person that purchases ammonium nitrate.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 4. REGULATION OF HANDLING AND PURCHASE OF AMMONIUM NITRATE.

(a) IN GENERAL.—The Secretary may regulate the handling and purchase of ammonium nitrate to prevent the misappropriation or use of ammonium nitrate in violation of law.

(b) REGULATIONS.—The Secretary may promulgate regulations that require—

(1) handlers—

(A) to register facilities;

(B) to sell or distribute ammonium nitrate only to handlers and purchasers registered under this Act; and

(C) to maintain records of sale or distribution that include the name, address, telephone number, and registration number of the immediate subsequent purchaser of ammonium nitrate; and

(2) purchasers to be registered.

(c) USE OF PREVIOUSLY SUBMITTED INFORMATION.—Prior to requiring a facility or handler to submit new information for registration under this section, the Secretary shall—

(1) request from the Attorney General, and the Attorney General shall provide, any information previously submitted to the Attorney General by the facility or handler under section 843 of title 18, United States Code; and

(2) at the election of the facility or handler—

(A) use the license issued under that section in lieu of requiring new information for registration under this section; and

(B) consider the license to fully comply with the requirement for registration under this section.

(d) CONSULTATION.—In promulgating regulations under this section, the Secretary shall consult with the Secretary to Agriculture to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

(e) DATA CONFIDENTIALITY.—

(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 272) or an amendment made by that Act, except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained from any facility, handler, or purchaser—

(A) regarding any action taken, or to be taken, at the facility or by the handler or purchaser to ensure the secure handling of ammonium nitrate; or

(B) that would disclose—

(i) the identity or address of any purchase of ammonium nitrate;

(ii) the quantity of ammonium nitrate purchased; or

(iii) the details of the purchase transaction.

(2) EXCEPTIONS.—The Secretary may disclose any information described in paragraph (1)—

(A) to an officer or employee of the United States, or a person that has entered into a contract with the United States, who needs to know the information to perform the duties of the officer, employee, or person, or to a State agency pursuant to an arrangement under section 6, under appropriate arrangements to ensure the protection of the information;

(B) to the public, to the extent the Secretary specifically finds that disclosure of particular information is required in the public interest; or

(C) to the extent required by order of a Federal court in a proceeding in which the Secretary is a party, under such protective measures as the court may prescribe.

SEC. 5. ENFORCEMENT.

(a) INSPECTIONS.—The Secretary, without a warrant, may enter any place during business hours that the Secretary believes may handle ammonium nitrate to determine whether the handling is being conducted in accordance with this Act, including regulations promulgated under this Act.

(b) PREVENTION OF SALE OR DISTRIBUTION ORDER.—In any case in which the Secretary has reason to believe that ammonium nitrate has been handled other than in accordance with this Act, including regulations promulgated under this Act, the Secretary may issue a written order preventing any person that owns, controls, or has custody of the ammonium nitrate from selling or distributing the ammonium nitrate.

(c) APPEAL PROCEDURES.—

(1) IN GENERAL.—A person subject to an order under subsection (b) may request a hearing to contest the order, under such administrative adjudication procedures as the Secretary may establish.

(2) RESCISSION.—If an appeal under paragraph (1) is successful, the Secretary shall rescind the order.

(d) IN REM PROCEEDINGS.—The Secretary may institute in rem proceedings in the United States district court for the district in which the ammonium nitrate is located to seize and confiscate ammonium nitrate that has been handled in violation of this Act, including regulations promulgated under this Act.

SEC. 6. ADMINISTRATIVE PROVISIONS.

(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or other State agency that regulates plant nutrients, to carry out this Act, including cooperating in the enforcement of this Act through the use of personnel or facilities.

(b) DELEGATION.—

(1) IN GENERAL.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this Act, including regulations promulgated under this Act.

(2) DELEGATION REQUIRED.—On the request of a Governor of a State, the Secretary shall delegate to the State the authority to carry out section 4 or 5, on a determination by the Secretary that the State is capable of satisfactorily carrying out that section.

(3) FUNDING.—If the Secretary enters into an agreement with a State under this subsection to delegate functions to the State, the Secretary shall provide to the State adequate funds to enable the State to carry out the functions.

(4) INAPPLICABILITY.—Notwithstanding any other provision of this subsection, this subsection does not authorize a State to carry out a function under section 4 or 5 relating to a facility or handler in the State that makes the election described in section 4(c)(2).

SEC. 7. CIVIL LIABILITY.

(a) UNLAWFUL ACTS.—It is unlawful for any person—

(1) to fail to perform any duty required by this Act, including regulations promulgated under this Act;

(2) to violate the terms of registration under this Act;

(3) to fail to keep any record, make any report, or allow any inspection required by this Act; or

(4) to violate any sale or distribution order issued under this Act.

(b) PENALTIES.—

(1) IN GENERAL.—A person that violates this Act (including a regulation promulgated under this Act) may only be assessed a civil penalty by the Secretary of not more than $50,000 per violation.

(2) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty shall be assessed under this Act unless the person charged has been given notice and opportunity for a hearing on the charge in the county, parish, or incorporated city of residence of the person charged.

(c) JURISDICTION OVER ACTIONS FOR CIVIL DAMAGES.—The district courts of the United States shall have exclusive jurisdiction over any action for civil damages against a handler for any harm or damage that is alleged to have resulted from the use of ammonium nitrate in violation of law that occurred on or after the date of enactment of this Act.

SEC. 8. STATE LAW PREEMPTION.

This Act preempts any State law (including a regulation) that regulates the handling of ammonium nitrate to prevent the misappropriation or use of ammonium nitrate in violation of law.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

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

Mr. PRYOR. Mr. President, I stand today in support of legislation that will better protect our homeland by securing the trade and handling of ammonium nitrate. While ammonium nitrate is well known in the agriculture community to be an important fertilizer, it has also become a common ingredient in creating highly explosive bombs like the one used in the unforgettable April 1995 bombing attack of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. A little more than a month ago, we reflected on the tenth anniversary of this tragic moment in our nation's history. Despite the enormous potential for misuse if in the wrong hands, the purchase and use of ammonium nitrate is still largely unregulated by the federal government. It is our hope that we can reduce this potential for misuse. By better securing the trade and handling of this chemical, we will make it more difficult for individuals and groups to misuse the chemical and threaten the lives of Americans. The purpose of our legislation is to protect our homeland from future threats and attacks that may be similar in nature to that of the Oklahoma City Bombing while still ensuring that law abiding citizens can use this valuable fertilizer for agricultural activities.

Fertilizer provides essential nutrients to the food we eat by providing an effective source of nitrogen that all crops need to grow. I recognize the importance of fertilizer to our Nation's farming community, and that is why I believe that we must continue the availability of ammonium nitrate fertilizer to farmers in order to maintain the economic, agronomic and environmental benefits that this product provides. I also understand the negative impact of that fertilizer can have on our people if misused by criminals intent on engaging in acts of terror.

Since the 1995 Oklahoma City tragedy, many studies have been conducted by the Federal Government to determine the feasibility and practicability of imposing controls on certain precursor chemicals, including ammonium nitrate. In addition, the fertilizer industry and the Bureau of Alcohol Tobacco and Firearms (ATF) created the ''America's Security Begins with You'' ammonium nitrate security campaign in 1995 as an effort to minimize possible misuse of ammonium nitrate fertilizer. These studies and campaigns have both led to show that it is impossible for the agricultural community to guarantee against the criminal misuse of ammonium nitrate under current laws and regulations and that more can and should be done to protect against this threat.

The agricultural community and the fertilizer industry both recognize that more can and should be done to strengthen the controls regarding the handling and purchase of ammonium nitrate fertilizer in order to ensure American farmers continue to have access to this valued input. I believe that the Federal government must do its part in helping to assure that ammonium nitrate fertilizer stays in the hands of agricultural professionals and encourage all who handle this chemical to protect their community and America by establishing effective security measures.

I am proud to join my colleague from Mississippi, Senator COCHRAN, in introducing this legislation along with Senator CHAMBLISS and Senator ROBERTS. I believe it provides a very practical and workable solution to enhance the secure handling of ammonium nitrate and ensure that ammonium nitrate remains available for agricultural use. ''The Secure Handling of Ammonium Nitrate Act of 2005'' calls for a federal and state cooperation to secure ammonium nitrate fertilizer. It requires the Department of Homeland Security to enter into cooperative agreements with state departments of agriculture to ensure that any person who produces, stores, sells, or distributes ammonium nitrate registers their facility and maintains records of sales or distribution of the product. As such, purchasers of ammonium nitrate would also be required to register with their state's department of agriculture.

My colleagues and I agree that these requirements are necessary measures that provide additional security for ammonium nitrate fertilizer and will not unduly burden agriculture professionals or farmers who use this product. Furthermore, we firmly believe that this legislation will effectively enhance ongoing security measures by helping to keep ammonium nitrate out of the hands of those who wish to harm our Nation.

I thank the Chairman of the Appropriations Committee, as well as the

Chairmen of the Agriculture and Intelligence Committees for their leadership on this issue, and I urge my colleagues in the Senate to support this important legislation.

Mr. CHAMBLISS. Mr. President, I would like to echo the comments of the senior Senator from Mississippi regarding the ''Secure Handling of Ammonium Nitrate Act of 2005.'' The importance of ammonium nitrate fertilizer to the agricultural industry cannot be understated. However, its use in acts of terror has led the industry and public alike searching for a way to further secure the handling and use of ammonium nitrate. I believe this legislation accomplishes that goal. If passed, this bill will help us to track both where this fertilizer is, and who is in possession of it. The answers to both of these very important questions will further ongoing efforts to keep our Nation safe from people who may wish to do it harm. I feel this legislation provides additional security for ammonium nitrate while maintaining its viability as an agricultural fertilizer.

I urge my colleagues to support this important legislation.

By Ms. LANDRIEU (for herself, Mr. GRAHAM, Mr. ALLEN, Mr. DURBIN, and Mr. LAUTENBERG):

S. 1142. A bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, over 50 years ago, Sir Winston Churchill uttered the immortal words, ''never in the field of human conflict has so much been owed by so many to so few.'' Although Prime Minister Churchill was referring to the selfless and courageous effort of the Royal Air Force in their defeat of the Germans in World War II, I would like to argue that these words apply equally to the men and women fighting to preserve democracy in Iraq and Afghanistan. These men and women are not only making it possible for each and every one of us to go about our daily lives under the blanket of safety and freedom to which Americans have become accustomed, but they are also striving to bring these benefits to people who have never had them before.

If you have had the opportunity to spend time with these men and women, as I have, you quickly observe that they embody everything good about America. Their patriotism, their unyielding commitment to serve their country, their selflessness and their sacrifice should serve as examples to us all. Perhaps what amazes me most, is that although these men and women are prepared to make the ultimate sacrifice for their country, they ask for little in return from it. It is therefore incumbent on us to recognize the debt we owe to them, and honor it.

Today there are 80,000 members of the National Guard and our Reserve armed forces serving bravely in the war on terror. In addition, close to 89,000 members of the Guard and Reserve have been activated in anticipation of being sent to Iraq, Afghanistan, or any other place their country calls on them to serve. While deployed, these citizen soldiers are asked, in a moment's notice, to leave their families, their jobs, and their communities behind, causing tremendous stress on the home front and in the workplace.

While having a loved one in harm's way is reason for stress alone, many of the families of these men and women have the added stress of trying to fill the void left. Many families have lost the main bread winner when a Guardsmen or Reservist gets deployed. As a result, they have trouble paying bills, the rent, the mortgage, or medicine for their children.

The primary reason these families cannot make ends meet is because for Guardsmen and Reservists military pay is often less than civilian pay. We call that the ''pay gap.'' According to the most recent Status of Forces Survey of Reserve Components, 51 percent of our citizen soldiers take a pay cut when they get deployed and 11 percent of them lose more than $2,500 per month.

We ask these men and women to make so many sacrifices on our behalf. I think that it is time that we be willing to make one in return. The least we can do is to help these families find relief from the financial woes caused by this gap. To help do this, my colleagues Senator GRAHAM, Senator ALLEN, Senator DURBIN, and myself are pleased to introduce the Helping Our Patriotic Employers at Helping our Military Employees Act of 2005. We call the bill by its nickname: HOPE at HOME. Our guard and reserve families have enough to worry about when a loved one gets called away, the least we can do is relieve some of the financial worry by encouraging employers to make up the pay gap. Let me describe for my colleagues how this legislation works.

HOPE at HOME will give a 50 percent tax credit to the thousands of employers around the country who have taken the patriotic step of continuing to pay the salary of their guard and reservists employees who have been called to active duty. There are literally thousands of employers out there who already take this noble step—they do it voluntarily, selflessly and at great sacrifice. The HOPE at HOME Act honors that sacrifice.

HOPE at HOME will also encourage companies that cannot afford to make up the pay-gap an incentive to do it. One survey found that only 173 of the Fortune 500 companies make up the pay gap. If the wealthiest companies cannot afford to help their active duty employees, imagine how difficult this is for smaller companies. HOPE at HOME will allow companies large and small to do the patriotic thing and reward those employees who are serving to keep us all free.

HOPE at HOME will also give small patriotic employers additional tax relief if they need to hire a worker to temporarily replace the active duty Guardsmen or Reservist. In addition, the bill clarifies the tax treatment of any pay-gap payments to make income tax filing easier for our Guard and Reservists.

A moment ago, I mentioned that thousands of employers make up the pay-gap for their employees. There is one employer, however, and it happens to be the Nation's largest, that does not make up the pay gap: Uncle Sam. The Federal Government, which should set the bar for patriotism in our country, does not do its part to help citizen soldiers. Senator DURBIN has been a leader in this area, so our bill includes language that he has been fighting to require the Federal Government to make up the pay gap. We cannot ask the private sector to do more than they are doing if the Federal Government is not willing to step up and do its part for our military men and women.

This is not only the right thing to do, it is the smart thing to do. Today our Nation relies on the Guard and Reserve to meet our armed forces needs more than at any other time in our history. At times in the war on terror, forty-percent of our troops in Iraq and Afghanistan were citizen soldiers. Many of them performed multiple tours of duty or found their duties extended.

All of the experts tell us that our need for our Guard and Reserve troops will only get greater. In the post-Cold War world, we have drastically reduced our standing Army from 800,000 in 1989 to approximately 482,000 today, a 40 percent decrease. The number of deployments has increased by over 300 percent. The Guard and Reserve have made it possible to meet these challenges. We still find ourselves stretched thin, but without the Guard and Reserve we would never be able to meet our obligation as guardians of freedom in the World.

But this over-reliance on the Guard and Reserve is starting to have a toll on our ability to recruit and retain these men and women. The percentage of Army Reserve personnel who plan to remain in the military after their tour of duty ends fell from 73 percent to 66 percent over 2004. The top reasons for leaving the Guard and Reserve, according to the Status of Forces Survey of Reserve Components, are family stress, the number and lengths of deployments, income loss, and conflict with civilian employment.

We are beginning to have recruitment problems as well for our standing military. Back in February, the Army and the National Guard and Reserve recruited 3,824 soldiers, but this was only 69 percent of their monthly goal. The numbers went up in March, but still fell short by 12 percent of the goal.

HOPE at HOME recognizes that a soldier who is worrying about how his or her family is paying the bills is not focusing on the mission at hand. A soldier who is worrying about whether the family is paying the rent, is not going

to reenlist. And every time one of our soldiers leaves, our Nation loses the experience and service of a highly trained, capable professional. We need to make every effort to keep our citizen soldiers in service to their country. HOPE at HOME is a first step to addressing our military's larger recruitment and retention issues.

During the Cold War we built our strength on having the biggest, best equipped standing army in the World. Now our military gathers its strength from a large reserve of qualified men and women in the Guard and Reserve who are ready to fight at a moment's call. We will lose that strength if we do not give our Guardsmen and Reservists and their families HOPE at HOME.

I hope my colleagues will join Senators ALLEN, GRAHAM, DURBIN and myself in supporting the HOPE at HOME Act.

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. 1142

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 ''Helping Our Patriotic Employers at Helping Our Military Employees Act of 2005'' or the ''HOPE at HOME Act of 2005''.

SEC. 2. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform service in the uniformed services for a period of more than 90 days shall be entitled to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service in the uniformed services.

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given in section 4303 of title 38;

''(2) the term 'service in the uniformed services' has the meaning given that term in section 4303 of title 38 and includes duty performed by a member of the National Guard under section 502(f) of title 32 at the direction of the Secretary of the Army or Secretary of the Air Force;

''(3) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(4) the term 'basic pay' includes any amount payable under section 5304.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after September 11, 2001.

SEC. 3. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45J. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATION.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

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

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in sections 10142 and 10101 of title 10, United States Code.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 52 shall apply.

''(e) PORTION OF CREDIT MADE REFUNDABLE.—

''(1) IN GENERAL.—In the case of an eligible employer of a Ready Reserve-National Guard employee, the aggregate credits allowed to a taxpayer under subpart C shall be increased by the lesser of—

''(A) the credit which would be allowed under this section without regard to this subsection and the limitation under section 38(c), or

''(B) the amount by which the aggregate amount of credits allowed by this subpart (determined without regard to this subsection) would increase if the limitation imposed by section 38(c) for any taxable year were increased by the amount of employer payroll taxes imposed on the taxpayer during the calendar year in which the taxable year begins.

The amount of the credit allowed under this subsection shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit otherwise allowable under subsection (a) without regard to section 38(c).

''(2) ELIGIBLE EMPLOYER.—For purposes of this subsection, the term 'eligible employer' means an employer which is a State or local government or subdivision thereof.

''(3) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'employer payroll taxes' means the taxes imposed by—

''(i) section 3111(b), and

''(ii) sections 3211(a) and 3221(a) (determined at a rate equal to the rate under section 3111(b)).

''(B) SPECIAL RULE.—A rule similar to the rule of section 24(d)(2)(C) shall apply for purposes of subparagraph (A).''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of

such Code (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) the Ready Reserve-National Guard employee credit determined under section 45J(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C(a) (relating to rule for employment credits) is amended by inserting ''45J(a),'' after ''45A(a),''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45I the following:

''Sec. 45J. Ready Reserve-National Guard employee credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding after section 30A the following new section:

''SEC. 30B. READY RESERVE-NATIONAL GUARD REPLACEMENT EMPLOYEE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year the sum of the employment credits for each qualified replacement employee under this section.

''(2) EMPLOYMENT CREDIT.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 50 percent of the lesser of—

''(A) the individual's qualified compensation attributable to service rendered as a qualified replacement employee, or

''(B) $12,000.

''(b) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

''(1) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

''(2) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(3) group health plan costs (if any) with respect to the qualified replacement employee.

''(c) QUALIFIED REPLACEMENT EMPLOYEE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified replacement employee' means an individual who is hired to replace a Ready Reserve-National Guard employee or a Ready Reserve-National Guard self-employed taxpayer, but only with respect to the period during which—

''(A) such Ready Reserve-National Guard employee is receiving an actual compensation amount (as defined in section 45J(b)) from the employee's employer and is participating in qualified active duty, including time spent in travel status, or

''(B) such Ready Reserve-National Guard self-employed taxpayer is participating in such qualified active duty.

''(2) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' has the meaning given such term by section 45J(d)(3).

''(3) READY RESERVE-NATIONAL GUARD SELF-EMPLOYED TAXPAYER.—The term 'Ready Reserve-National Guard self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as described in section 10142 and 10101 of title 10, United States Code.

''(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(e) LIMITATIONS.—

''(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(B) the tentative minimum tax for the taxable year.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the 2 succeeding taxable years.

''(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a small business employer or a Ready Reserve-National Guard self-employed taxpayer.

''(2) SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'small business employer' means, with respect to any taxable year, any employer who employed an average of 50 or fewer employees on business days during such taxable year.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(3) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' has the meaning given such term by section 45J(d)(1).

''(4) SPECIAL RULES FOR CERTAIN MANUFACTURERS.—

''(A) IN GENERAL.—In the case of any qualified manufacturer—

''(i) subsection (a)(2)(B) shall be applied by substituting '$20,000' for '$12,000', and

''(ii) paragraph (2)(A) of this subsection shall be applied by substituting '100' for '50'.

''(B) QUALIFIED MANUFACTURER.—For purposes of this paragraph, the term 'qualified manufacturer' means any person if—

''(i) the primary business of such person is classified in sector 31, 32, or 33 of the North American Industrial Classification System, and

''(ii) all of such person's facilities which are used for production in such business are located in the United States.

''(5) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(6) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.''.

(b) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits), as amended by this Act, is amended—

(1) by inserting ''or compensation'' after ''salaries'', and

(2) by inserting ''30B,'' before ''45A(a),''.

(c) CONFORMING AMENDMENT.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting ''30B(e)(1),'' after ''30(b)(3),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 30A the following new item:

''Sec. 30B. Credit for replacement of activated military reservists.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.

(a) IN GENERAL.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

''(i) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

''(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

''(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

''(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

''(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 2004.

SEC. 6. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.

(a) PENSION PLANS.—

(1) IN GENERAL.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

''(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

''(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

''(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

''(ii) the differential wage payment shall be treated as compensation, and

''(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

''(B) SPECIAL RULE FOR DISTRIBUTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

''(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

''(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

''(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(i)(2).''.

(2) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting ''AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY'' after ''USERRA''.

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: ''The term 'compensation' includes any differential wage payment (as defined in section 3401(i)(2)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect, and

(ii) such plan or contract amendment applies retroactively for such period.

By Mr. KENNEDY (for himself, Mr. SPECTER, Mr. SMITH, Mr. LEAHY, Ms. COLLINS, Mr. LIEBERMAN, Ms. SNOWE, Mr. WYDEN, Mr. JEFFORDS, Mr. SCHUMER, Mr. CHAFEE, Mr. AKAKA, Mr. ENSIGN, Mr. BAYH, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. COLEMAN, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. INOUYE, Mr. JOHNSON, Mr. KERRY, Ms. LANDRIEU, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. OBAMA, Mr. REED, Mr. SALAZAR, Mr. SARBANES, Ms. STABENOW, Mr. LAUTENBERG, Mr. PRYOR, and Mr. ROCKEFELLER):

S. 1145. A bill to provide Federal assistance to States and local jurisdictions to prosecute hate crimes; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, hate crimes are a violation of everything our country stands for. They send the poisonous message that some Americans deserve to be victimized solely because of who they are. They're basically acts of domestic terrorism. Hate crimes have an impact far greater than the impact on their individual victim. They're crimes against entire communities, against the whole Nation, and against the fundamental ideals on which America was founded.

The vast majority of Congress agrees. Last year, Senator SMITH and I offered the same measure. The Senate passed it as an amendment to the Defense Authorization Bill by a nearly 2–1 bi-partisan vote of 65–33. By a vote of 213–186, the House instructed its conferees to support it in the conference report on the bill. Unfortunately, House leaders insisted that the provision be dropped in conference. This week, Senator SMITH and I are introducing the identical bill.

The provision is supported by a broad coalition of law enforcement and civil rights groups, including the National Sheriff's Association, the International Association of Chiefs of Police, the Anti-Defamation League, and the National Center for Victims of Crime, and I'm optimistic the bill would have the same broad support it did before. Those who commit hate crimes prey on the vulnerable and terrorize them, because they can't protect themselves. If our Nation stands for anything, it's to protect the vulnerable.

We know that hate crimes are a serious problem that continues to plague us. According to FBI statistics, over 9,000 people were victims of hate crimes reported in the United States in 2003. That's almost 25 people victimized a day, every day, based on their race, religion, sexual orientation, ethnic background, or disability. Sadly, these F.B.I. statistics show only part of the problem, because many hate crimes go unreported. The Southern Poverty Law Center, a nonprofit organization that monitors hate groups and extremist activity, estimates that the actual number of hate crimes committed in the United States each year is closer to 50,000.

Congress can't ignore the problem. Our bill will strengthen the ability of Federal, State, and local governments to investigate and prosecute these vicious and senseless crimes. Current Federal law, obviously isn't adequate to protect our citizens.

It contains excessive restrictions requiring proof that victims were attacked because they were engaged in certain ''federally protected activities.'' It doesn't include violence committed because of person's sexual orientation, gender, or disability. It covers only hate crimes based on race, religion, or ethnic background.

The federally protected activity requirement is outdated, unwise, and unnecessary. In June 2003, three men saw 6 Latino teenagers in a family restaurant on Long Island. The teenagers, 3 boys and 3 girls, between 13–15 years old, knew each other from church and baseball teams. They were there together to celebrate the birthday of one of the girls, whose parents made her take her 13 year old sister along as ''chaperone.'' A parent dropped them all off in his mini-van and promised to pick them up after dinner and a movie. But, moments after leaving, he received a panicked phone call from one of the children, telling him they'd been attacked.

As the group entered the restaurant, three men were leaving the bar, after drinking there for hours. For no apparent reason, they assaulted the teenagers, pummeling one boy and severing a tendon in his hand with a sharp weapon. During the attack, the men screamed racial slurs and one identified himself as a skinhead. The children, who had never experienced anything like this, have been traumatized ever since.

Two of the defendants were tried under current Federal law for committing a hate crime and were acquitted. The Jurors said they acquitted them because the government had not proved the attack took place because the victims were engaged in a federally protected activity—using the restaurant.

The bill we introduce today eliminates the federally protected activity requirement. Under this bill, these defendants who walked out of the front door of the courthouse free that day would almost certainly have left in handcuffs through a different door.

The bill also recognizes that hate crimes are committed against people because of their sexual orientation, their gender, and their disability. Current Federal law didn't protect gay campers in Honolulu from attempted murder when their tents were doused

with a flammable liquid and set on fire because they were gay.

It didn't protect Brandon Teena, in Humboldt, NE who was raped and beaten by two male friends when they discovered that he was living as a male but was anatomically female. The local sheriff refused to arrest the offenders, and they later shot and stabbed Brandon to death.

Current law did not protect a 23-year-old mentally disabled man in Port Monmouth, New Jersey who was kidnapped by 9 men and women and tortured for three hours before being dumped in the woods because he was disabled.

Our bill will close all these flagrant loopholes. In addition to removing the federally protected activity requirement and expanding the class of protected people:

The bill protects State interests with a strict certification procedure that requires the Federal Government to consult with local officials before bringing a Federal case.

It offers Federal assistance to help State and local law enforcement investigate and prosecute hate crimes in any of the categories.

It offers training grants for local law enforcement.

It amends the Federal Hate Crime Statistics Act to add gender to the existing categories of race, religion, ethnic background, sexual orientation, and disability.

A strong Federal role in prosecuting hate crimes is essential for practical and symbolic reasons. In practical terms, the bill will have a real world impact on actual criminal investigations and prosecutions by State and Federal officials.

The presence or absence of the ''federally protected activity'' requirement frequently determines whether state and local resources must be used to prosecute these crimes or whether the Federal Government can bring its full weight to bear on the case.

Hate crime investigations tend to be expensive, requiring considerable law enforcement legwork and extensive use of investigative grand juries. State officials regularly seek federal assistance in bringing hate crime offenders to justice under current law. This bill expands the opportunity for the Justice Department to provide that support.

Our bill fully respects the primary role of State and local law enforcement in responding to violent crime. The vast majority of hate crimes will continue to be prosecuted at the state and local level. The bill authorizes the Justice Department to assist state and local authorities in hate crimes cases, it authorizes Federal prosecutions only when a State does not have jurisdiction, or when it asks the Federal Government to take jurisdiction, or when it fails to act against hate-motivated violence.

In other words, the bill establishes an appropriate back-up for State and local law enforcement to deal with hate crimes in cases where states request assistance, or cases that would not otherwise be effectively investigated and prosecuted.

The symbolic value of the bill is equally important. Hate crimes target whole communities, not just individuals. They are intended to send messages of fear that extend beyond the moment and beyond the individual victim of the attack. Attacking people because they are gay, or African-American, or Jewish, or any other criteria in the bill is bigotry at its worst. Hate crimes are designed to de-humanize and diminish, and we must say loud and clear to those inclined to commit them that they'll go to prison if they do.

The vast majority of us in Congress recognized the importance of making that statement last year. This year, we can make the statement even louder, by turning this bill into law.

Mr. SMITH. Mr. President, as I have done so many times before, I rise today to speak about the need for hate crimes legislation and to introduce the Local Law Enforcement Enhancement Act of 2005. I first sponsored this bill with my colleague, Senator KENNEDY, in 1999 and again in 2001 and 2003.

In the Senate, this legislation passed as an amendment to the Commerce, Justice, State appropriations bill in 1999 and the Defense Department authorization bill in 2000 and 2004, but removed in conference in each case. In 2003, it was introduced as an amendment to the Foreign Relations Authorization Act, but did not pass due to a procedural vote. Clearly, hate crimes legislation has strong support in the Senate.

Senator KENNEDY and I are reintroducing this bill again today because the need for Federal hate crimes legislation is greater than ever. The high prevalence of hate crimes is staggering. Every day there is another America that is attacked or even murdered in an act solely motivated by hate.

Hate crimes tear at the very fabric of our Nation by intimidating entire groups of Americans and creating fear across communities. No one in America should be victimized because of who they are, how they look, or what religion they worship. And the Federal Government should be able to come to the aid of those who have been wronged and protect victims.

Since 1969, Federal law has permitted prosecution of hate crimes motivated by race, religion, national origin, or color, if the victim was engaging in one of six ''Federally protected'' activities. It has become clear that the statue needs to be amended—and that is what our legislation does. Our legislation would expand on current laws to encompass sexual orientation, gender and disability. It would enable Federal prosecutors to pursue hate crimes cases where local authorities often lack the resources or the ability to prosecute such crimes.

Nobel laureate Eli Wiesel once said: ''To hate is to deny another person's humanity.'' As a Nation that serves as the beacon of justice, freedom and liberty everywhere, we simply cannot tolerate violence against our own citizens based on their race, color, religion, or national origin. No matter how far the United States has come and the progress we have made in protecting American's civil rights, much work remains. We cannot fight terror abroad and bow down to terror at home.

This legislation is a symbol that can become substance. As I have often said, the law is a teacher, and we should teach our fellow Americans that bigotry will not be tolerated. Our government must have the ability to persuade, to pursue, and to prosecute when hate is the motive of violence against another American, no matter their race, sexual orientation, religion, disability, or gender. By changing the law, I truly believe we can change hearts and minds as well.

I urge my colleagues to help me to change the hearts and minds and to make it widely known that we live in a society and a country that does not tolerate those who impose on the civil rights of others simply because they are different.

This year, Congress needs to act. I look forward to President Bush signing this legislation into law.

By Mrs. BOXER:

S. 1146. A bill to require the Federal Trade Commission to monitor and investigate gasoline prices under certain circumstances; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, in March 2000, I introduced legislation to deal with the high price of gasoline. At the time, the price of gasoline had reached a startlingly high $2.15 per gallon in California. Today, gasoline prices on average in California are $2.43 per gallon, 13 percent higher. The problem is getting worse, not better, and so today I am reintroducing my bill to control the manipulation of gasoline prices.

We have heard that higher gasoline prices are due solely to higher crude oil prices. I just do not buy it.

According to the U.S. Energy Information Administration, from January 17 through April 11, the cost of crude oil rose 10.8 percent. During the same time period, the average retail price of gasoline in the United States rose 24.9 percent. Something is not right.

Look at the profits that are being pocketed by the big oil companies. Compared to the same time last year, oil companies' first-quarter profits are dramatically higher.

Look at the number of mergers and acquisitions in the industry over the past several months. The continued consolidation only reduces competition and increases energy costs.

Look at the refiners that may be taking plants off-line at will for ''routine

maintenance,'' which is reminiscent of the electricity crisis when generators took their plants off-line for ''routine maintenance'' in order to artificially increase prices.

My legislation will shed light on manipulation and hopefully curtail it.

The bill requires the Federal Trade Commission to automatically investigate the gasoline market for manipulation anytime average gasoline prices increase in any State by 20 percent in a period of 3 months or less and remain at that level for 7 days or more.

Market manipulation would include, but it is not limited to, collusion or the creation of artificial shortages such as unnecessarily taking refineries off-line. In determining the trigger, the gasoline price used would be the Energy Information Agency's weekly pricing of regular grade gasoline. A report on the FTC's investigation would be due to Congress 14 days after the price trigger.

Under the bill, the FTC would be required within 2 weeks of issuing the report to hold a public meeting to discuss the findings. If the finings indicate that there is market manipulation, then the FTC would work with the State's attorney general to determine the penalties.

If the findings indicate that there is no market manipulation, then the U.S. Department of Energy must officially decide, within 2 weeks, the Strategic Petroleum Reserve should be used in order to ease prices and stabilize supply.

We need to deter market manipulation. Otherwise, we risk serious price gouging with no accountability to consumers. My legislation offers a reasonable standard for an investigation and a reasonable time frame in which to complete that investigation. I believe the threat of these investigations and the public light that would be shed on the system will keep gasoline prices down.

I urge my colleagues to cosponsor this bill.

By Mr. ROCKEFELLER (for himself, Ms. SNOWE, Mr. BAUCUS, Mr. BURNS, Mr. SCHUMER, Mr. BUNNING, and Ms. CANTWELL):

S. 1147. A bill to amend the Internal Revenue Code of 1986 to provide for the expensing of broadband Internet access expenditures, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am introducing legislation that would accelerate the deployment of advanced broadband internet access technologies in rural and underserved regions. This bipartisan legislation is very similar to bills that I have introduced in the last several Congresses. I want to thank Senators SNOWE, BAUCUS, BURNS, SCHUMER, CANTWELL, and BUNNING for cosponsoring this bill.

The convergence of computing and communications has fundamentally and forever changed the way Americans live and work. Individuals, businesses, schools, libraries, hospitals, and many others share information through computer networks. We shop online. Some of us work at home, or in other locations, using networked computers to interact with our colleagues and associates. Distance learning and telemedicine provide important services in remote locations. In our personal lives we look to our networked computers for entertainment and to communicate with family and friends. These trends are accelerating dramatically.

A decade ago, telephone-based low-bandwidth services met most of our limited data communications needs. Today this technology is obsolete. Most businesses and many individuals find that they require the ability to transmit information much faster, using what is commonly known as broadband communications. Several technologies compete to provide customers with broadband communications. Among the most prominent are optical fiber, wireless, digital-subscriber lines, cable modems, power line transmission, and satellites.

Indeed, as the need for faster services compounds, the technologies must be improved and even the definition of broadband communications must be revised and updated. The now-obsolete telephone-based systems transmit data at up to 56 thousand bits per second. Today, internet service providers commonly install first generation broadband systems that transmit data at rates between 256 thousand bits per second and 4 million bits per second. But we can now see clearly that these current-generation systems will be superseded by second-generation systems, already being installed in a few areas, which operate at data rates of up to 30 million bits per second. In other countries, services that transmit and receive data at 100 million bits per second are already available to individuals. Some industry experts predict that within 5 to 10 years there will be a substantial demand for systems that operate at 1 billion bits per second.

Despite the industry downturn over the past few years, America's telecommunications providers are working to make higher speed communications more widely available. Progress is fastest, and the business case for investment is most attractive, in affluent urban and suburban areas, especially newly developing areas. Rural areas are less fortunate. Low population densities, rugged terrain, and other factors make these areas difficult and expensive to serve. Similarly, the business case for providers to invest in underserved areas, mostly low income areas, is generally weak.

As was the case with electric power and telephone systems in the 20th century, financial incentives will be necessary to assure the extension of broadband communications infrastructure into rural and underserved regions. These incentives will also provide a substantial benefit to the American economy. In the same way that extending electric power systems into rural areas stimulated a new demand for electric appliances and other products, the wider availability of broadband communications will stimulate electronic commerce and new commercial services.

For my State of West Virginia, and other rural and low income States, the availability of advanced communications systems will allow residents to participate in the 21st century economy and have access to the economic and cultural benefits of urban living while retaining their cherished rural values and lifestyles.

The consequences of failing to act are serious. Businesses in infrastructure-rich regions will prosper at the expense of those in rural and underserved regions. New businesses will locate where the information infrastructure is strong. The migration of jobs to urban and affluent areas will accelerate and tax revenue in rural and underserved areas will continue to decline. Residents of West Virginia and other rural states will continue to be at an economic and educational disadvantage. The ''digital divide'' will widen and the gap between ''have'' and ''have-not'' regions will expand.

Decisions on how this country chooses to deploy information technology have the power to fundamentally transform the future of rural America. I firmly believe, and I am sure this view is shared by many of my colleagues, that rural communities deserve the same opportunities as their wealthier urban and suburban counterparts. We must make a commitment to them now, while there is still time, that their communications infrastructure will not always be a generation or more behind that of urban and suburban areas.

My bill would provide incentives for broadband deployment by allowing providers, under certain conditions, to treat their investments in broadband technologies as current-tax-year expenses. Under my legislation, the incentives provided by this bill would be differentiated to favor investments in technologies that will continue to meet communications needs further into the future.

Half of investments in systems that permit data to be received at rates of 1.0 million bits per second and transmitted at rates of 128 thousand bits per second would qualify. This is a substantial incentive to provide residents of rural and underserved areas the capabilities already enjoyed by individuals and businesses in urban and suburban areas.

Investments in systems that permit data to be received at 22 million bits per second and transmitted at 5 million bits per second would fully qualify. This more powerful incentive challenges internet service providers to provide the capabilities that they have already begun to introduce in urban and suburban areas. Forward-looking

providers will use this opportunity to invest in technologies that can be upgraded further as the demand grows.

Americans believe strongly in equal opportunity. This bill is just one part of an effort to make sure that all Americans have equal access to modern communications systems and the opportunities that those systems are bringing in the 21st century.

I hope that the Members of this body will support this important legislation.

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. 1147

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

SECTION 1. EXPENSING OF BROADBAND INTERNET ACCESS EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 190 the following new section:

''SEC. 191. BROADBAND EXPENDITURES.

''(a) TREATMENT OF EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to treat any qualified broadband expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction.

''(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary may prescribe by regulation.

''(b) QUALIFIED BROADBAND EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified broadband expenditure' means, with respect to any taxable year, any direct or indirect costs incurred after the date of the enactment of this Act and before the date which is 10 years after such date and properly taken into account with respect to—

''(A) the purchase or installation of qualified equipment (including any upgrades thereto), and

''(B) the connection of such qualified equipment to any qualified subscriber.

''(2) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any costs incurred with respect to the launching of any satellite equipment.

''(3) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of qualified equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in paragraph (1).

''(4) LIMITATION WITH REGARD TO CURRENT GENERATION BROADBAND SERVICES.—Only 50 percent of the amounts taken into account under paragraph (1) with respect to qualified equipment through which current generation broadband services are provided shall be treated as qualified broadband expenditures.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified broadband expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after the date of the enactment of this Act.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after the date of the enactment of this Act by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified broadband expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the amount of qualified broadband expenditures under subsection (a)(1) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

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

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of any digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) any residential subscriber.

''(15) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(16) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(17) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(18) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(19) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no deduction is allowed under subsection (a)(1).

''(20) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(21) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(22) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(23) UNDERSERVED AREA.—The term 'underserved area' means—

''(A) any census tract which is located in—

''(i) an empowerment zone or enterprise community designated under section 1391, or

''(ii) the District of Columbia Enterprise Zone established under section 1400, or

''(B) any census tract—

''(i) the poverty level of which is at least 30 percent (based on the most recent census data), and

''(ii) the median family income of which does not exceed—

''(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

''(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income.

''(24) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(f) SPECIAL RULES.—

''(1) PROPERTY USED OUTSIDE THE UNITED STATES, ETC., NOT QUALIFIED.—No expenditures shall be taken into account under subsection (a)(1) with respect to the portion of the cost of any property referred to in section 50(b) or with respect to the portion of the cost of any property specified in an election under section 179.

''(2) BASIS REDUCTION.—

''(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a)(1).

''(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a)(1) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(3) COORDINATION WITH SECTION 38.—No credit shall be allowed under section 38 with respect to any amount for which a deduction is allowed under subsection (a)(1).''.

(b) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 512(b) of the Internal Revenue Code of 1986 (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—A mutual or cooperative telephone company which for the taxable year satisfies the requirements of section 501(c)(12)(A) may elect to reduce its unrelated business taxable income for such year, if any, by an amount that does not exceed the qualified broadband expenditures which would be taken into account under section 191 for such year by such company if such company was not exempt from taxation. Any amount which is allowed as a deduction under this paragraph shall not be allowed as a deduction under section 191 and the basis of any property to which this paragraph applies shall be reduced under section 1016(a)(32).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) of the Internal Revenue Code of 1986 (relating to capital expenditures) is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by adding at the end the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 191.''.

(2) Section 1016(a) of such Code is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 191(f)(2).''.

(3) The table of sections for part VI of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 190 the following new item:

''Sec. 191. Broadband expenditures.''.

(d) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (16), (22), and (23) of section 191(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(19) of such section 191—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(e) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of eliminating or reducing any deduction or portion thereof allowed under section 191 of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the election to deduct qualified broadband expenditures under section 191 of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 191 of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified broadband expenditures satisfies the requirements of section 191 of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 191 of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after the date of the enactment of this Act.

By Ms. MIKULSKI (for herself, Ms. STABENOW, Mr. BINGAMAN, Mrs. MURRAY, Mr. CORZINE, Mr. JOHNSON, and Mr. INOUYE):

S. 1148. A bill to amend title XVIII of the Social Security Act to permit direct payment under the medicare program for clinical social worker services provided to residents of skilled nursing facilities; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, in honor of Older Americans' Mental Health Week, I rise today to introduce the Clinical Social Work Medicare Equity Act of 2005. I am proud to sponsor this legislation that will ensure that clinical social workers can receive Medicare reimbursements for the mental health services they provide in skilled nursing facilities. Under the current system, social workers may not be paid for services they provide. Psychologists and psychiatrists, who provide similar counseling, are able to separately bill Medicare for their services. Congressmen STARK and LEACH are introducing a companion bill today in the House of Representatives.

Since my first days in Congress, I have been fighting to protect and strengthen the safety of our Nation's seniors. Making sure that seniors have access to quality, affordable mental health care is an important part of this fight. I know that millions of seniors do not have access to, or are not receiving, the mental health services they urgently need. Nearly 6 million seniors are affected by depression, but only one-tenth ever gets treated. According to the American Psychiatric Association, up to 25 percent of the elderly population in the United States suffers from significant symptoms of mental illness and among nursing home residents the prevalence is as high as 80 percent. These mental disorders, which include severe depression and debilitating anxiety, interfere with the person's ability to carryout activities of daily living and adversely affect their quality of life. Furthermore, older people have a 20 percent suicide rate, the highest of any age group. Every year nearly 6,000 older Americans kill themselves. This is unacceptable and must be addressed.

As a former social worker, I understand the role that social workers play in the overall care of patients and seniors. This bill protects patients across the country and ensures that seniors living in underserved urban and rural areas, where clinical social workers are often the only available option for mental health care, continue to receive the treatment they need. Clinical social workers, much like psychologists and psychiatrists, treat and diagnose mental illnesses. In fact, clinical social workers are the primary mental health providers for nursing home residents and also seniors residing in rural environments. But unlike other mental health providers, clinical social workers cannot bill directly for the important services they provide to their patients. Protecting seniors' access to clinical social workers can help make sure that our most vulnerable citizens get the quality, affordable mental health care they need and deserve. This bill will correct this inequity and make sure clinical social workers get the payments and respect they deserve.

Before the Balanced Budget Act of 1997, clinical social workers billed Medicare Part B directly for mental health services provided in nursing facilities to each patient they served. Under the Prospective Payment System, services provided by clinical social workers are lumped, or ''bundled,'' along with the services of other health care providers for the purposes of billing and payments. Psychologists and psychiatrists, who provide similar counseling, were exempted from this system and continue to bill Medicare directly. This bill would exempt clinical social workers, like their mental health colleagues, from the prospective payment system, and would make sure that clinical social workers are paid for the services they provide to patients in skilled nursing facilities. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act addressed some of these concerns, but this legislation would remove the final barrier to ensuring that clinical social workers are treated fairly and equitably for the care they provide.

This bill is about more than paperwork and payment procedures. This billis about equal access to Medicare payments for the equal and important work done by clinical social workers. It is about making sure our Nation's most vulnerable citizens have access to quality, affordable mental health care. The overarching goal we should be striving to achieve for our seniors is an overall improved quality of life. Without clinical social workers, many nursing home residents may never get the counseling they need when faced with a life threatening illness or the loss of a loved one. I think we can do better by our Nation's seniors, and I'm fighting to make sure we do.

The Clinical Social Work Medicare Equity Act of 2005 is strongly supported by the National Association of Social Workers and the Association for Geriatric Psychiatry. I also want to thank Senators STABENOW, BINGAMAN, MURRAY, CORZINE, JOHNSON, and INOUYE for their cosponsorship of this bill. I look forward to working with my colleagues to enact this important legislation.

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

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

NATIONAL ASSOCIATION OF SOCIAL WORKERS—POLITICAL ACTION FOR CANDIDATE ELECTION,
Washington, DC, May 25, 2005.

Senator BARBARA MIKULSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MIKULSKI: I am writing on behalf of the National Association of Social Workers (NASW), the largest professional social work organization with over 153,000 members nationwide. NASW promotes, develops, and protects the affective practice of social work and social workers. NASW also seeks to enhance the well being of individuals, families, and communities through its work, service, and advocacy.

NASW strongly supports the Clinical Social Work Medicare Equity Act of 2005, which will end the unfair treatment of clinical social workers under the Medicare Part B Prospective Payment System (PPS) for Skilled Nursing Facilities (SNFs).

Section 4432 of the Balanced Budget Act of 1997 authorized the creation of the PPS, under which the cost of a variety of daily services provided to SNF patients is bundled into a single amount. Prior to PPS, a separate Medicare Part B claim was filed by the

provider for each individual service rendered to a patient. Congress made this change in an attempt to capitate the rapidly rising costs of additional patient services delivered by Medicare providers to SNF patients, with the precise target being physical, occupational, and speech-language therapy services. However, Congress recognized that some services, such as mental health and anesthesia, are best provided on an individual basis rather than as part of the bundle of services. Thus, the following types of providers are specifically excluded from the PPS: physicians, clinical psychologists, certified nurse-midwives, and certified registered nurse anesthetists. Unfortunately, due to an unintentional oversight during the drafting process, clinical social workers were not listed among the aforementioned providers in the legislation.

In 1996, Department of Health and Human Services Inspector General June Gibbs Brown published a report entitled ''Mental Health Services in Nursing Facilities''. The purpose of the report was to describe the types of mental health services provided in nursing facilities and identify potential vulnerabilities in the mental health services covered by Medicare. One critical finding of the report was 70% of nursing home respondents stated that permitting clinical social workers and clinical psychologists to bill independently had a beneficial effect on the provision of mental health services in nursing facilities. The Clinical Social Work Medicare Equity will maintain this beneficial effect on SNF patients by ensuring the continuation of direct Medicare billing by clinical social workers for mental health services rendered to SNF patients.

Your efforts on behalf of mental health patients and professional social workers nationwide are greatly appreciated by our members. We thank you for your strong interest in and commitment to this important issue as demonstrated by your sponsorship of the Clinical Social Work Medicare Equity Act. NASW looks forward to working with you on this and future issues of mutual concern.

Sincerely,

DAVID DEMPSEY,
Manager, Government Relations and PACE.

AMERICAN ASSOCIATION FOR GERIATRIC PSYCHIATRY,
Bethesda, MD, May 25, 2005.

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MIKULSKI: On behalf of the American Association for Geriatric Psychiatry (AAGP), I am writing to endorse the ''Clinical Social Work Medicare Equity Act of 2005.''

AAGP is a professional membership organization dedicated to promoting the mental health and well-being of older people and improving the care of those with late-life mental disorders. AAGP's membership consists of 2,000 geriatric psychiatrists, as well as other health professionals who focus on the mental health problems faced by senior citizens.

This legislation would permit direct payment under the Medicare program for clinical social worker services provided to residents of skilled nursing facilities. The numbers of mental health professionals available to treat older adults, including residents of nursing homes, are already inadequate, and as the baby boom generation ages, the needs will only increase. Clinical social workers constitute a crucial component of the team of mental health professionals who are able to deliver this care, and assuring that they are able to bill for their services in the same way as psychiatrists and psychologists is not only fair but also necessary if nursing home residents are to have access to the mental health care they need.

AAGP commends you for your introduction of this important legislation, and we look forward to working with you towards its enactment.

Sincerely,

CHRISTINE M. de VRIES,
Executive Director.

S. 1148

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 ''Clinical Social Work Medicare Equity Act of 2005''.

SEC. 2. PERMITTING DIRECT PAYMENT UNDER THE MEDICARE PROGRAM FOR CLINICAL SOCIAL WORKER SERVICES PROVIDED TO RESIDENTS OF SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''clinical social worker services,'' after ''qualified psychologist services,''.

(b) CONFORMING AMENDMENT.—Section 1861(hh)(2) of the Social Security Act (42 U.S.C. 1395x(hh)(2)) is amended by striking ''and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date that regulations relating to payment for physicians' services for calendar year 2005 take effect, but in no case later than the first day of the third month beginning after the date of the enactment of this Act.

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

S. 1149. A bill to amend the Federal Employees' Compensation Act to cover services provided to injured Federal workers by physician assistants and nurse practitioners, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. ISAKSON. Mr. President, I am pleased to rise and join Senator KENNEDY in introducing the Improving Access to Workers' Compensation for Injured Federal Workers Act.

One of Congress's biggest challenges year in and year out is providing access to affordable quality healthcare for the American people. Today, I am pleased to announce that Senator KENNEDY and I have found an opportunity to provide injured Federal workers with a better system of reimbursable healthcare for their workers compensation claims.

Physicians assistants and nurse practitioners are vital contributors to our healthcare system. Together, they provide economical quality medical care to the American people. Unfortunately, however, they are currently not recognized in the current FECA statute. When Federal workers' compensation claims are signed by NPs or PAs, the Federal Government denies these claims. With the introduction of this bill, Senator KENNEDY and I want to correct this hurdle to economical medical care.

The need for this straightforward legislation is clear. In some rural area health clinics, NPs and PAs are the only full-time providers of medical care. Likewise, NPs and PAs may be the only healthcare professionals onsite after hours at local clinics.

These professions are regulated by all States and are covered providers within Medicare, Tri-Care, and nearly all private insurance plans. Indeed, many Federal workers already regularly receive medical care from NPs and PAs through their Federal Employee Health Benefits Plan. NPs and PAs are also employed by the Federal Government, including the Department of Veterans Affairs, Department of State, Department of Defense, and the Public and Indian Health Services. In fact, most State workers' compensation programs cover NPs and PAs as reimbursable providers.

Again, I thank Senator KENNEDY for his cooperation in ensuring cost-effective quality medical care is available to injured Federal workers.

Mr. KENNEDY. Mr. President, today, with my distinguished colleague Senator ISAKSON, I am pleased to introduce the Improving Access to Workers' Compensation for Injured Federal Workers Act.

Our federal employees serve the American public. Day in and day out, they keep our homeland secure, protect our environment, and oversee and care for those in need. They ensure the safety of our food and our medicines, deliver our daily mail, and undertake countless other duties that, while they sometimes go unnoticed, should never be taken for granted.

More than two-and-a-half million of these workers are covered by the Federal Employees' Compensation Act (FECA). In addition to compensating workers for lost wages, FECA provides medical treatment to Federal workers injured on the job, to help them return to health and to work quickly.

FECA is an effective and fair compensation system. This bill will make it even better by expanding it to cover services provided by nurse practitioners and physician assistants. This will protect many workers who are now without access to needed care when a job-related injury strikes.

Nurse practitioners and physicians' assistants play growing role in medical care, with more than 100,000 nurse practitioners and 46,000 physicians' assistants across the country. They provide crucial services—diagnosing and treating illnesses, ordering and interpreting diagnostic and laboratory tests and educating and counseling patients and families. In many States they can also prescribe medications.

Nurse practitioners and physicians' assistants provide these top quality services in a cost-effective way. The Department of Health and Human Services reports that an office visit to see a nurse practitioner costs 10 percent to 40 percent less than comparable services from a physician, and the Bureau of Labor Statistics calls physicians' assistants ''cost-effective and

productive members of the healthcare team.''

While their impact is felt throughout our nation, these care providers play a particularly important role in rural and low-income urban areas, which are often underserved by doctors. In fact, in some rural areas, an injured Federal worker may be required to travel more than one-hundred miles to see a physician and receive care that is covered under FECA. This bill would expand Federal workers' service options to include physicians' assistants or nurse practitioners who are more likely to be located nearby.

I urge my colleagues to join me in supporting this bill and recognizing the invaluable work done by our Federal employees and the high-quality cost-effective care provided by nurse practitioners and physicians' assistants.

By Mrs. CLINTON:

S. 1150. A bill to increase the security of radiation sources, and for other purposes; to the Committee on Environment and Public Works.

Mrs. CLINTON. Mr. President, I rise to discuss the Dirty Bomb Prevention Act of 2005, which I am introducing today in the Senate, and Congressman MARKEY is introducing in the House.

Since September 11, we have increased our focus on dirty bombs, and rightly so.

Most Americans are not aware of how common this radioactive material is in our country. Often we think of warheads or rods used in nuclear reactors. However, we use less radioactive materials in positive ways in our hospitals, research laboratories, food irradiation plants, oil drilling facilities, airport runway lighting, and even in smoke detectors.

And although these materials have beneficial uses, the fact is that some of them, in the hands of a terrorist, could be used to make a dirty bomb that could be used to contaminate a wide area in New York City or in many other places across the country.

According to the Federation of American Scientists, ''material that could easily be lost or stolen from U.S. research institutions and commercial sites could contaminate tens of city blocks at a level that would require prompt evacuation . . . Areas as large as tens of square miles could be contaminated at levels that exceed recommended civilian exposure limits. ''

Even if such contamination caused by a dirty bomb did not pose severe health threats, efforts to determine the extent of contamination and clean it up would be both expensive and disruptive.

And we know that radiation sources are numerous in the United States. The Nuclear Regulatory Commission (NRC) reports that about 157,000 general and specific licenses have been issued authorizing the use of radioactive materials for industrial, medical, and other uses. About 1.8 million devices containing radioactive sources have been distributed under these licenses.

And we know that some of these sources get lost or stolen. A 2003 GAO report found that since 1998, there have been more than 1,300 incidents where radiation sources were lost, stolen or abandoned.

While not all of these sources and incidents present potential dirty bomb threats, it's clear that we need to do a better job.

This legislation fills in remaining gaps to enable the U.S. to more effectively control radiation sources.

First, the bill would give the Nuclear Regulatory Commission the authority and the mandate to control Radium-226 and other naturally occurring radioactive materials that for historical reasons have remained outside of federal control.

Radium-226 is of particular concern, as it is on the list of radiation sources that the United States has agreed to control as part of adhering to the International Atomic Energy Agency Code of Conduct on the Safety and Security of Radioactive Sources.

Radium-226 was used in medicine, starting early in the 20th century. Its use increased until the 1950s, when there were more than 5,000 radium users in the U.S. Since then, its use declined, and we don't have a good handle on what is left out there. Because it is naturally occurring, it has stayed out federal regulatory net. So we need to give the NRC the authority to go out and get control of it.

Second, the bill requires the NRC to develop within 6 months of enactment a ''cradle-to-grave'' tracking system to ensure that we know where radiation sources of concern are at all times. That's just common sense, and if FedEx can do it, I think we ought to be able to do it for materials that could be used in a dirty bomb.

Third, the bill requires the establishment of import and export controls for radiation sources. This is obvious—we need to know what's coming and going as part of our efforts to control these materials.

These 3 provisions are fundamental steps that we know we need to take today to reduce the risk that radioactive materials will fall into the wrong hands.

But the bill also looks forward in several ways.

First, the bill requires an inter-agency task force on radiation source protection to make periodic recommendations to Congress and the NRC about the safety and security of radiation sources. That way we will know how we're doing, and what we need to do in the future.

Second, the bill requires a National Academy of Sciences study of whether some current industrial uses of radiation sources could be replaced with non-radioactive or less dangerous radioactive materials. As I stated early on, there are many beneficial and necessary uses of radioactive materials, such as in medicine.

But there are some cases where use of radioactive materials can be replaced with newer technologies. Just to give one example, some steel mills have been replacing nuclear process gauges with other technologies.

By exploring other opportunities to reduce the use of radioactive materials where possible and appropriate, we can shrink the pool of radioactive materials that are available to make a dirty bomb in the future.

So I hope we can take action on this legislation soon. Here in the Senate I will be working with my colleagues to see whether we can include this legislation in a nuclear plant security bill that the committee will be marking up in June.

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

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

S. 1150

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 ''Dirty Bomb Prevention Act''.

SEC. 2. RADIATION SOURCE PROTECTION.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

''SEC. 170C. RADIATION SOURCE PROTECTION. —

''a. NUCLEAR REGULATORY COMMISSION APPROVAL.—Not later than 180 days after the date of enactment of this section, the Nuclear Regulatory Commission shall issue regulations prohibiting a person from—

''(1) exporting a radiation source unless the Nuclear Regulatory Commission has specifically found, with respect to that export, that—

''(A) the appropriate regulatory agency in the recipient country—

''(i) has been informed of the proposed export; and

''(ii) has determined that the proposed export will be made in accordance with the recipient nation's laws and regulations;

''(B) the recipient nation has the appropriate technical and administrative capability, resources, and regulatory structure to ensure that the radiation source will be managed in a safe and secure manner; and

''(C) the person exporting the radiation source has made arrangements to retake possession of it when the recipient is no longer using it;

''(2) importing a radiation source unless the Nuclear Regulatory Commission has specifically found, with respect to that import, that—

''(A) the proposed recipient is authorized under law to receive the shipment; and

''(B) the shipment will be made in accordance with all applicable Federal and State laws and regulations; and

''(3) selling or otherwise transferring ownership of a radiation source unless the Nuclear Regulatory Commission has specifically found, with respect to that sale or transfer, that—

''(A) the proposed recipient is authorized under law to receive the radiation source; and

''(B) the transfer will be made in accordance with all applicable Federal and State laws and regulations.

''b. TRACKING SYSTEM.—Not later than 180 days after the date of enactment of this section, the Nuclear Regulatory Commission

shall issue regulations establishing a mandatory tracking system for all radiation sources in the United States. Such system shall—

''(1) enable the identification of each radiation source by serial number or other unique identifier;

''(2) require reporting within 24 hours of any change of geographic location or ownership of a radiation source, including any change of geographic location that occurs while the radiation source is being transported;

''(3) require reporting within 24 hours of any loss of control of or accountability for a radiation source; and

''(4) provide for reporting through a secure Internet connection.

''c. PENALTY.—Each violation of regulations issued under subsection a. or b. shall be punishable by a civil penalty of up to $1,000,000.

''d. NATIONAL ACADEMY OF SCIENCES STUDY.—Not later than 60 days after the date of enactment of this section, the Nuclear Regulatory Commission shall enter into an arrangement with the National Academy of Sciences for a study of industrial, research, and commercial uses for radiation sources. The study shall review the current uses for radiation sources, identifying industrial or other processes that utilize radiation sources that could be replaced with economically and technically equivalent (or improved) processes that do not require the use of radiation sources, or that can be used with radiation sources that would pose a lesser risk to public health and safety in the event of an accident or attack involving the radiation source. The Nuclear Regulatory Commission shall transmit the results of the study to Congress not later than 24 months after the date of enactment of this section.

''e. COMMISSION ACTIONS.—Not later than 60 days after receipt by Congress and the President of a report required under subsection f.(3)(B), the Nuclear Regulatory Commission, in accordance with the recommendations of the task force, shall take any appropriate actions, including commencing revision of its system for licensing radiation sources, and shall take necessary steps to ensure that States that have entered into an agreement under section 274 b. establish compatible programs in a timely manner.

''f. TASK FORCE ON RADIATION SOURCE PROTECTION AND SECURITY.—

''(1) ESTABLISHMENT.—There is hereby established a task force on radiation source protection and security.

''(2) MEMBERSHIP.—The task force shall be headed by the Chairman of the Nuclear Regulatory Commission or the Chairman's designee. Its members shall be the following:

''(A) The Secretary of Homeland Security or the Secretary's designee.

''(B) The Secretary of Defense or the Secretary's designee.

''(C) The Secretary of Energy or the Secretary's designee.

''(D) The Secretary of Transportation or the Secretary's designee.

''(E) The Attorney General or the Attorney General's designee.

''(F) The Secretary of State or the Secretary's designee.

''(G) The Director of National Intelligence or the Director's designee.

''(H) The Director of the Central Intelligence Agency or the Director's designee.

''(I) The Director of the Federal Emergency Management Agency or the Director's designee.

''(J) The Director of the Federal Bureau of Investigation or the Director's designee.

''(3) DUTIES.—

''(A) IN GENERAL.—The task force, in consultation with other State, Federal, and local agencies and appropriate members of the public, after public notice and an opportunity for public comment, shall evaluate and provide recommendations to ensure the security of radiation sources from potential terrorist threats, including acts of sabotage, theft, or use of such radiation sources in a radiological dispersal device.

''(B) RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—Not later than 1 year after the date of enactment of this section, and not less than once every 3 years thereafter, the task force shall submit a report to Congress and to the President, in unclassified form with a classified annex if necessary, providing recommendations, including recommendations for appropriate regulatory and legislative changes, for—

''(i) a list of additional radiation sources that should be required to be secured under this Act, based on their potential attractiveness to terrorists and the extent of the threat to public health and safety, taking into account radiation source radioactivity levels, dispersability, chemical and material form, and, for radiopharmaceuticals, the availability of these substances to physicians and patients whose medical treatments relies on them, and other factors as appropriate;

''(ii) the establishment of or modifications to a national system for recovery of radiation sources that have been lost or stolen;

''(iii) the storage of radiation sources not currently in use in a safe and secure manner;

''(iv) modification to the national tracking system for radiation sources;

''(v) the establishment of or modifications to a national system to impose fees to be collected from users of radiation sources, to be refunded when the radiation sources are properly disposed of, or any other method to ensure the proper disposal of radiation sources;

''(vi) any modifications to export controls on radiation sources necessary to ensure that foreign recipients of radiation sources are able and willing to control United States-origin radiation sources in the same manner as United States recipients;

''(vii) whether alternative technologies are available that can perform some or all of the functions currently performed by devices or processes that employ radiation sources, and if so, the establishment of appropriate regulations and incentives for the replacement of such devices or processes with alternative technologies in order to reduce the number of radiation sources in the United States, or with radiation sources that would pose a lesser risk to public health and safety in the event of an accident or attack involving the radiation source; and

''(viii) the creation of or modifications to procedures for improving the security of radiation sources in use, transportation, and storage, which may include periodic Nuclear Regulatory Commission audits or inspections to ensure that radiation sources are properly secured and can be fully accounted for, Nuclear Regulatory Commission evaluation of security measures, increased fines for violations of Nuclear Regulatory Commission regulations relating to security and safety measures applicable to licensees who possess radiation sources, criminal and security background checks for certain individuals with access to radiation sources (including individuals involved with transporting radiation sources), assurances of the physical security of facilities that contain radiation sources (including facilities used to temporarily store radiation sources being transported), requirements and a mechanism for effective and timely exchanges of information regarding the results of such criminal and security background checks between the Nuclear Regulatory Commission and States with which the Commission has entered into an agreement under section 274 b., and the screening of shipments to facilities particularly at risk for sabotage of radiation sources to ensure that they do not contain explosives.

''g. DEFINITION.—For purposes of this section, the term 'radiation source' means any sealed or unsealed source whose activity levels are within Category 1, Category 2, or Category 3 as defined under the Code of Conduct on the Safety and Security of Radioactive Sources, approved by the Board of Governors of the International Atomic Energy Agency on September 8, 2003.''.

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 14 the following new items:

''Sec. 170B. Uranium supply

''Sec. 170C. Radiation source protection''.

SEC. 3. TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BY-PRODUCT MATERIAL.

(a) DEFINITION OF BYPRODUCT MATERIAL.—Section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(1) by striking ''means (1) any radioactive'' and inserting ''means—

''(1) any radioactive'';

(2) by striking ''material, and (2) the tailings'' and inserting ''material;

''(2) the tailings''; and

(3) by striking ''content.'' and inserting ''content;

''(3)(A) any discrete source of radium that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use in commercial, medical, or research activity; or

''(B) any material that—

''(i) has been made radioactive by use of a particle accelerator; and

''(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use in commercial, medical, or research activity; and

''(4) any discrete source of naturally occurring radioactive material, other than source material, that—

''(A) has been removed from the natural environment and has been concentrated to levels greater than that found in the natural environment due to human activities; and

''(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction for use in commercial, medical, or research activity.''.

(b) AGREEMENTS.—Section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) byproduct materials (as defined in section 11 e.);'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Nuclear Regulatory Commission, after consultation with States and other stakeholders, shall promulgate final regulations as the Commission considers necessary to implement this Act and the amendments made by this Act. Such regulations shall include a definition of the term ''discrete'' for purposes of paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) that is designed to ensure that byproduct material is controlled in a manner consistent with other materials that pose the same threat to public health and safety and the common defense and security.

(2) COOPERATION.—The Commission shall cooperate with the States in formulating the regulations under paragraph (1), and to the extent practicable shall use existing State consensus standards.

(3) TRANSITION.—To ensure an orderly transition of regulatory authority with respect to byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)), the regulations promulgated under paragraph (1) shall include a transition plan, developed in coordination with States, for—

(A) States that have not, before such plan is issued, entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); and

(B) States that have entered into such an agreement with the Commission, including, in the case of a State that has entered into such an agreement and has certified that it has an existing State program for licensing of the byproduct material defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (as added by subsection (a)) that is adequate to protect public health and safety, provision for assumption by the State of regulatory responsibility for such byproduct material through an administrative process that—

(i) provides interim provisional recognition of an existing State program for licensing the byproduct material until adoption of an amended agreement under section 274 b.; and

(ii) requires that the byproduct material is included in the periodic reviews of the State programs for adequacy and compatibility required under section 274 j.(1).

(4) AVAILABILITY OF RADIOPHARMACEUTICALS.—In its promulgation of final rules under paragraph (1), the Commission shall consider the impact on the availability of radiopharmaceuticals to the physicians and patients whose medical treatment relies on them.

(d) WASTE DISPOSAL.—

(1) IN GENERAL.—Section 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2111) is amended by adding at the end the following: ''Byproduct material may only be transferred to and disposed of in a disposal facility licensed by the Commission, if the disposal facility meets the licensing requirements of the Commission and is adequate to protect public health and safety, or a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274 b., if the disposal facility meets requirements of the State that are compatible with the licensing requirements of the Commission and is adequate to protect public health and safety.''.

(2) BYPRODUCT MATERIAL NOT CONSIDERED LOW-LEVEL RADIOACTIVE WASTE.—Section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)) is amended by adding after subparagraph (B) the following:

''Such term shall not include byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954.''.

(e) EFFECTIVE DATE.—Subsections (a), (b), and (d) shall take effect 1 year after the date of enactment of this Act.

SEC. 4. RADIATION SOURCES CONTROLLED BY DEPARTMENT OF ENERGY.

(a) NUCLEAR FUEL.—

(1) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report accounting for the location and status of all nuclear fuel that has been exported by the Federal Government.

(2) REACQUISITION.—

(A) IN GENERAL.—The Secretary of Energy shall, to the maximum extent practicable, reacquire nuclear fuel described in paragraph (1) for disposal, giving highest priority to nuclear fuel that is—

(i) in a location that is not secure; or

(ii) in a country that does not have sufficient resources to either properly dispose of the nuclear fuel or return the nuclear fuel to the United States for disposal.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $50,000,000 for each of the fiscal years 2006 through 2010 for carrying out subparagraph (A).

(b) RADIATION SOURCES AND SEALED SOURCES OF PLUTONIUM.—

(1) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report accounting for the location and status of all radiation sources (as defined in section 170C(g) of the Atomic Energy Act of 1954, as added by section 1 of this Act) and sealed sources of plutonium weighing more than 1 gram that have been exported by the Federal Government.

(2) REACQUISITION.—

(A) IN GENERAL.—The Secretary of Energy shall, to the maximum extent practicable, reacquire radiation sources and sealed sources of plutonium described in paragraph (1) for disposal that are—

(i) in a location that is not secure; or

(ii) in a country that does not have sufficient resources to either properly dispose of the radiation sources and sealed sources of plutonium or return the radiation sources and sealed sources of plutonium to the United States for disposal.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $30,000,000 for each of the fiscal years 2006 through 2010 for carrying out subparagraph (A).

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

S. 1151. A bill to provide for a program to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, to support the deployment of new climate change-related technologies, and ensure benefits to consumers; to the Committee on Environment and Public Works.

Mr. MCCAIN. Mr. President, I am pleased to join with Senator LIEBERMAN today in introducing an amended version of the Climate Stewardship Act, which we introduced in February.

The legislation we submit today incorporates the provisions of S. 342, the Climate Stewardship Act of 2005, in its entirety, along with a new comprehensive title regarding the development and deployment of climate change reduction technologies. This new title, when combined with the ''cap and trade'' provisions of the previously introduced bill, will promote the commercialization of technologies that can significantly reduce greenhouse gas emissions, mitigate the impacts of climate change, and increase the Nation's energy independence. And, it will help to keep America at the cutting edge of innovation where the jobs and trade opportunities of the new economy are to be found.

In fact, the ''cap and trade'' provisions and the new technology title are complementary parts of a comprehensive program that will allow us to usher in an new energy era, an era of responsible and innovative energy production and use that will yield enormous environmental, economic, and diplomatic benefits. The ''cap and trade'' portion provides the economic driver for existing and new technologies capable of supplying reliable and clean energy and making the best use of America's available energy resources. Because of the multiple benefits promised by this comprehensive program, we expect that the new bill will attract additional support for the vital purposes of the Climate Stewardship Act. We simply need the political will to match the public's concern about climate change, the economic interests of business and consumers, and American technological ingenuity and expertise.

Our comprehensive bill sets forth a sound course toward a productive, secure, and clean energy future. Its provisions are based on the important efforts undertaken by academia, Government, and business over the past decade to determine the best ways and means towards This energy future. Most of these studies have shared two common findings. First, significant reductions in greenhouse gases—well beyond the modest goals of our bill—are feasible over the next 10 to 20 years using technologies available today. Second, the most important technological deployment opportunities to reduce emissions over the next two decades lie with energy efficient technologies and renewable energy sources, including solar, wind, and biofuels. For example, in the electric power sector, which accounts for one-third of U.S. emissions, major pollution reductions can be achieved by improving the efficiency of existing fossil fuel plants, adding new reactors designs for nuclear power, expanding use of renewable power sources, and significantly reducing electricity demand with the use of energy-saving technologies currently available to residential and commercial consumers. These clean technologies need to be promoted and that is what spurs our action today.

Before describing the details of this legislation, I think it is important to talk about what has occurred since the Senate vote on this issue in October 2003. For example, the scientific evidence of human-induced climate change has grown even more abundant. But just since February of this year, when I highlighted the results of the Arctic Climate Impact Assessment, even more startling evidence about the Arctic region has been revealed. In a recent Congressional briefing, Dr. Robert Corell, chair of Arctic Climate Impact Assessment, presented recent data indicating that climate change in the Arctic is occurring more rapidly than previously thought. Annual average arctic temperatures have increased at

twice the rate of global temperatures over the past several decades, with some regions increasing by five to ten times the global average.

The latest observations show Alaska's 2004 June–July–August mean temperature to be nearly 5 degrees Fahrenheit, 2.8 degrees Celsius, above the 1971–2000 historic mean, and permafrost temperature increasing enough to cause it to start melting. Dr. Corell said the Greenland ice sheet is melting more rapidly than thought even 5 years ago, and that the climate models indicate that warming over Greenland is likely to be up to three times the global average, with warming projected to be in the range of 5 to 11 degrees Fahrenheit, 3 to 6 degrees Celsius, which will most certainly lead to sea-level rise. These are remarkable new scientific findings.

It isn't surprising that just this past Tuesday, indigenous leaders from Arctic regions called on the European Union to do more to fight global warming and to consider giving aid to their peoples, saying their way of life is at risk. Global warming is said to be causing the arrival in the far north of mosquitoes bearing infectious diseases. And in Scandinavia, more frequent rains in the winter are causing sheets of ice to develop on top of snow, causing animals to die of hunger because they cannot reach the grass underneath.

We are not asking for sympathy, said Larisa Abrutina of the Russian Association of Indigenous Peoples of the North. We are asking each country in the world to examine if it is truly doing its part to slow climate change.

The efforts taking place globally to address climate change have gained even greater prominence. For example, British Prime Minister Tony Blair has made climate change one of his top two issues during his Presidency of the G8. Mr. Blair's commitment to addressing climate change should be commended. He has chosen to take action and not to hide behind the uncertainties that the science community will soon resolve. The Prime Minister made it clear in a January speech at World Economic Forum in Davos as to his intentions when he said:

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

The top two issues that Prime Minister Blair has chosen to deal with are climate change and poverty in Africa. It is interesting to note that a recent article in the New York Times highlighted the connection between the two issues. The article highlights that a 50-year-long drying trend is likely to continue and appears to be tightly linked to substantial warming of the Indian Ocean. According to Dr. James Hurrell, a scientist at the National Center for Atmospheric Research:

. . . the Indian Oceans shows very clear and dramatic warming into the future, which means more and more drought for southern Africa. It is consistent with what we would expect from an increase in greenhouse gases.

It appears that Mr. Blair's two priorities are quickly becoming one enormous challenge.

In its September 2004 issue, The National Geographic devotes 74 pages laying out in great detail the necessity of tackling our planet's problem of global warming. In an introductory piece, Editor-in-Chief Bill Allen described just how important he thinks this particular series of articles is:

Why would I publish articles that make people angry enough to stop subscribing? That's easy. These three stories cover subjects that are too important to ignore. From Antarctica to Alaska to Bangladesh, a global warming trend is altering habitats, with devastating ecological and economic effects. . . This isn't science fiction or a Hollywood movie. We're not going to show you waves swamping the Statue of Liberty. But we are going to take you all over the world to show you the hard truth as scientists see it. I can live with some canceled memberships. I'd have a harder time looking at myself in the mirror if I didn't bring you the biggest story in geography today.

The articles highlight many interesting facts. Dr. Lonnie Thompson of Ohio State University collects ice cores from glaciers around the world, including the famed snows of Kilimanjaro, which could vanish in 15 years. According to Dr. Thompson, ''What glaciers are telling us, is that it is now warmer than it has been in the past 2,000 years over vast areas of the planet.'' Many of the ice cores he has in his freezer may soon contain the only remains of the glaciers from which they came from.

Highlighted quotes from the articles include: Things that normally happen in geologic time are happening during the span of a human lifetime. The future breakdown of the thermohaline circulation remains a disturbing possibility. More than a hundred million people worldwide live within 3 feet of mean sea level. At some point, as temperatures continue to rise, species will have no room to run. The natural cycles of interdependent creatures may fall out of sync. We will have a better idea of the actual changes in 30 years. But it is going to be a very different world.

Global warming demands urgent action on all fronts, and we have an obligation to promote the technologies that can help us meet the challenge. Our aim has never been simply to introduce climate stewardship legislation. Rather our purpose is to have legislation enacted to begin to address the urgent global warming crisis that is upon us. This effort cannot be about political expediency. It must be about practical realities and addressing the most pressing issue facing not only our nation, but the world. We believe that our legislation offers practical and effective solutions and we urge each members careful consideration and support.

I will include for the Record a more detailed description of the various components of the new technology title. However, I do want to describe some of the key provisions designed to enhance innovation and commercialization in key areas. These include zero and low greenhouse gas emitting power generation, such as nuclear, coal gasification, solar and other renewables, geological carbon sequestration, and biofuels:

The bill directs the Secretary of Commerce, through the former Technology Administration, which would be renamed the Innovation Administration, to develop and implement new policies that foster technological innovation to address global warming. These new directives include: developing and implementing strategic plans to promote technological innovation; identifying and removing barriers to the research, development, and commercialization of key technologies; prioritizing and maximizing key federal R&D programs to aid innovation; (establishing public/private partnerships to meet vital innovation goals; and promoting national infrastructure and educational initiatives that support innovation objectives.

It also authorizes the Secretary of Energy to establish public/private partnerships to promote the commercialization of climate change technologies by working with industry to advance the design and demonstration of zero and low emission technologies in the transportation and electric generation sectors. Specifically, the Secretary would be authorized to partner with industry to share the cost, 50/50, of ''first-of-a-kind'' designs for advanced coal, nuclear energy, solar and biofuels. Moreover, each time that a utility builds a plant based on the ''first-of-a-kind engineering'' design authorized by this bill, a ''royalty'' type payment will be paid by the utility to reimburse the original amount provided by the Government.

After the detail design phase is complete, the Secretary would be able to provide loans or loan guarantees, Up to 80 percent, for the construction of these new designs including three nuclear plant designs certified by the NRC that would produce zero greenhouse gas emissions; three advanced coal gasification plants with carbon capture and storage that make use of our abundant coal resources while storing carbon emissions underground; three large scale solar energy plants to begin to tap the enormous potential of this completely clean energy source; and three large scale facilities to produce the clean, efficient, and plentiful biofuel of the future—cellulosic ethanol.

The loan program will be administered by a Climate Technology Financing Board, whose membership will include the Secretary of Energy, a representative from the Climate Change Credit Corporation, as would be created in the bill, and others with pertinent expertise. Once each plant is operational, the private partner will be obligated to pay back these loans from the government, as is the case with any construction loan.

I think it is important to be very clear about this ambitious, but necessary, technology title. We intend that much, if not all, of the costs of the demonstration initiatives, along with the loan program, will be financed by the early sale of emission allowances through the Climate Change Credit Corporation under the cap and trade program, so that industry and the market will foot much of the bill, not the taxpayers. And, as I already mentioned, the bill requires that any Federal money used to build plants will be repaid by the utility when the plant becomes operational.

Finally, the bill contains a mechanism requiring utilities to pay reimbursement ''royalties'' as they build plants based on zero and low emission designs created with Federal assistance. These funding provisions are more fair and certain than requiring taxpayers to cover the entire costs of these programs and depending upon future appropriations. But there will be some costs involved. That is why it is important to weigh these expenditures against the staggering cost of inaction on global warming. I think we will find more than a justified cost-benefit outcome.

In addition to promoting new or underutilized technologies, the bill also includes a provision to aid in the deployment of available and efficient energy technologies. This would be accomplished through a ''reverse auction'' provision, which would establish a cost effective and proven mechanism for Federal procurement and incentives. Providers' ''bids'' would be evaluated by the Secretary on their ability to reduce, eliminate, or sequester greenhouse gas emissions.

The ''reverse auction'' program would be funded initially by the taxpayers but eventually would be funded by the proceeds from the annual auction of tradeable allowances conducted by the Climate Change Credit Corporation under the cap and trade program.

I want to clarify that this bill doesn't propose to dictate to industry what is economically prudent for their particular operations. Rather, it provides a basis for the selection and implementation of their own market-based solutions, using a flexible emissions trading system model that has successfully reduced acid rain pollution under the Clean Air Act at a fraction of anticipated costs—less than 10 percent of the costs that some had predicted when the legislation was enacted. That successful model can and must be used to address this urgent and growing global warming crisis.

The ''cap and trade'' approach to emission management is a method endorsed by Congress and free-market proponents for over 15 years after it was first applied to sulfur dioxide pollution. Applying the same model to carbon dioxide and other greenhouse gases is a matter of good policy and simple, common sense. It is an approach endorsed by industry leaders such as Jeffrey Immelt, CEO of General Electric, one of the largest companies in the U.S.

Moreover, using the proven market principles that underlie cap and trade will harness American ingenuity and innovation and do more to spur the innovation and commercialization of advanced environmental technologies than any system of previous energy-bill style subsidies that Congress can devise.

Three decades of assorted energy bills prove that while subsidies to promote alternative energy technologies may sometimes help, alone they are not transformational. In the 1970s, Americans were waiting in line for limited supplies of high priced gasoline. We created a Department of Energy to help us find a better way. Yet today, 30 years later, we remain wedded to fossil fuels, economically beholden to the Middle East and we continue to alter the makeup of the upper atmosphere with the ever-increasing volume of greenhouse gas emissions. Our dividend is continued energy dependence and global warming that places our nation and the globe at enormous environmental and economic risk. Not a very good deal.

Cap and trade is the transformational mechanism for reducing carbon dioxide emissions, protecting the global environment, diversifying the Nation's energy mix, advancing our economy, and spurring the development and deployment of new and improved technologies that can do the job. It is indispensable to the task before us.

The Climate Stewardship and Innovation Act does not prescribe the exact formula by which allowances will be allocated under a cap and trade system. This should be determined administratively through a process developed with great care to achieve the principles and purposes of the Act. This includes assuring that high emitting utilities have ample incentives to clean up and can make emission reductions economically and that low emitting utilities are treated justly and recognized for their efficiency. Getting this balance right will not be easy, but it can and must be done.

The fact remains that, if enacted, the bill's emission cap will not go into effect for another 5 years. In the interim there is much that the country can and should do to promote the most environmentally and economically promising technologies. This includes removing unnecessary barriers to commercialization of new technologies so that new plants, products, and processes can move more efficiently from design and development, to demonstration and, ultimately, to the marketplace. Again, without cap and trade, these efforts will pale, but the new technology title we propose will work hand in glove with the emission cap and trade system to meet our objectives.

As I mentioned, the new title contains a host of measures to promote the commercialization of zero and low-emission electric generation technologies, including nuclear, clean coal, solar and other renewable energies, and biofuels.

I want to take some time to address the bill's nuclear provisions. Although these provisions are only part of the comprehensive technology package, I am sure they will be the focus of much attention.

I know that some of our friends in the environmental community maintain strong objections to nuclear energy, even though it supplies nearly 20 percent of the electricity generated in the U.S. and much higher proportions in places such as France, Belgium, Sweden and Switzerland—countries that aren't exactly known for their environmental disregard. But the fact is, nuclear is clean, producing zero emissions, while the burning of fossil fuels to generate electricity produces approximately 33 percent of the greenhouse gases accumulating in the atmosphere, and is a major contributor to air pollution affecting our communities

The idea that nuclear power should play no role in our energy mix is an unsustainable position, particularly given the urgency and magnitude of the threat posed by global warming which most regard as the greatest environmental threat to the planet.

The International Energy Agency estimates that the world's energy consumption is expected to rise over 65 percent within the next 15 years. If the demand for electricity is met using traditional coal-fired power plants, not only will we fail to reduce carbon emissions as necessary, the level of carbon in the atmosphere will skyrocket, intensifying the greenhouse effect and the global warming it produces.

As nuclear plants are decommissioned, the percentage of U.S. electricity produced by this zero emission technology will actually decline. Therefore, at a minimum, we must make efforts to maintain nuclear energy's level of contribution, so that this capacity is not replaced with higher emitting alternatives. I, for one, believe it can and should play an even greater role, not because I have some inordinate love affair with splitting the atom, but for the very simple reason that we must support sustainable, zero-emission alternatives such as nuclear if we are serious about addressing the problem of global warming.

I would like to submit for the record a piece written by Nicholas Kristof of the New York Times. Mr. Kristof made the following observation: ''It's increasingly clear that the biggest environmental threat we face is actually global warming and that leads to a corollary: nuclear energy is green.'' He goes on to quote James Lovelock, a British scientist who created the Gaia principle that holds the earth is a self-regulating organism. He quoted Mr. Lovelock as follows:

I am a Green, and I entreat my friends in the movement to drop their wrongheaded objection to nuclear energy. Every year that we continue burning carbon makes it worse for our descendents. Only one immediately available source does not cause global warming, and that is nuclear energy.

I have always been and will remain a committed supporter of solar and renewable energy. Renewables hold great promise, and, indeed, the technology title contains equally strong incentives in their favor. But today solar and renewables account for only about 3 percent our energy mix. We have a long way to go, and that is one of the objectives of this legislation—to help promote these energy technologies.

I want to stress nothing in this title alters, in any way, the responsibilities and authorities of the Nuclear Regulatory Commission. Safety and security will remain, as they should, paramount in the citing, design, construction and operation of nuclear power plants. And the winnowing effect of the free market, as it should, will still determine which technologies succeed or fail in the market place. But the idea that a zero-emission technology such as nuclear has little or no place in our energy mix is just as antiquated, out-of-step and counter-productive as our continued dependence on fossil fuels. Should it prevail, our climate stewardship and clean air goals will be virtually impossible to meet.

The environmental benefit of nuclear energy is exactly why during his tenure, my friend, Morris Udall, one of the greatest environmental champions the United States has ever known, sponsored legislation in the House, as I did in the Senate, to develop a standardized nuclear reactor that would maximize safety, security, and efficiency. The Department of Energy has done much of the work called for by that legislation. Now it is time for the logical next steps. The new title of this legislation promotes these steps by authorizing Federal partnership to develop first of a kind engineering for the latest reactor designs, and then to construct three demonstration plants. Once the demonstration has been made, free-market competition will take it from there. And the bill provides similar partnership mechanisms for the other clean technologies, so we are in no way favoring one technology over another.

No doubt, some people will object to the idea of the Federal Government playing any role in helping demonstrate and commercialize new and beneficial nuclear designs. I have spent 20 years in this body fighting for the responsible use of taxpayer dollars and against porkbarrel spending and corporate welfare. I will continue to do so.

The fact remains that fossil fuels have been subsidized for many decades at levels that can scarcely be calculated. The enormous economic costs of damage caused by air pollution and greenhouse gas emissions to the environment and human health are not factored into the price of power produced by fossil-fueled technologies. Yet it is a cost that we all bear, too often in terms of ill-health and diminished quality of life. That is simply a matter of fact.

It is also inescapable that the ability to ''externalize'' these costs places clean competitors at a great disadvantage. Based on that fact, and in light of the enormous environmental and economic risk posed by global warming, I believe that providing zero and low emission technologies such as nuclear a boost into the market place where they can compete, and either sink or swim, is responsible public policy, and a matter of simple public necessity, particularly, as we enact a cap on carbon emissions.

The Navy has operated nuclear powered submarine for more than 50 years and has an impressive safety and performance record. The Naval Reactors program has demonstrated that nuclear power can be done safely. One of the underpinning of its safety record is the approach used in its reactor designs, which is to learn and build upon previous designs. Unfortunately for the commercial nuclear industry, they have not had the opportunity to use such an approach since the industry has not been able to build a reactor in over the past 25 years. This lapse in construction has led us to where we are today with the industry's aging infrastructure. As we have learned from other industries, this in itself represents a great risk to public safety.

I want to close my comments on the nuclear provisions with two thoughts. A recent article in Technology Review seems particularly pertinent to those with reservations about nuclear power. It stated:

The best way for doubters to control a new technology is to embrace it, lest it remain in the hands of the enthusiasts.

This is particularly sage advice because, frankly, the facts make it inescapably clear—those who are serious about the problem of global warming are serious about finding a solution. And the rule of nuclear energy which has no emissions has to be given due consideration.

Mr. President, don't simply take my word regarding the magnitude of the global warming problem. Consider the National Academy of Sciences which reported in 2001 that:

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

Also consider the warning on NASA's website which states:

With the possible exception of another world war, a giant asteroid, or an incurable plague, global warming may be the single largest threat to our planet.

Consider the words of the EPA that

Rising global temperatures are expected to raise sea level, and change precipitation and other local climate conditions. Changing regional climate could alter forest, crop yields and water supplies. . . .

And, let's consider the views of President Bush's Science Advisor, Dr. John Marburger who says that,

Global warming exists, an we have to do something about it, and what we have to do about it is reduce carbon dioxide.

Again, the chief science advisor to the President of the United States says that global warming exists, and what we have to do about it is to reduce carbon dioxide.

The road ahead on climate change is a difficult and challenging one. However, with the appropriate investments in technology and the innovation process, we can and will prevail. Innovation and technology have helped us face many of our national challenges in the past, and can be equally important in this latest global challenge.

Advocates of the status quo seem to suggest that we do nothing, or next to nothing, about global warming because we don't know how bad the problem might become, and many of the worst effects of climate change are expected to occur in the future. This attitude reflects a selfish, live-for-today attitude unworthy of a great nation, and thankfully, not one practiced by preceding generations of Americans who devoted themselves to securing a bright and prosperous tomorrow for future generations, not just their own.

When looking back at Earth from space, the astronauts of Apollo 11 could see features such as the Great Wall of China and forest fires dotting the globe. They were moved by how small, solitary and fragile the earth looked from space. Our small, solitary and fragile planet is the only one we have and the United States of America is privileged to lead in all areas bearing on the advance of mankind. And lead again, we must, Mr. President. It is our privilege and sacred obligation as Americans.

I ask unanimous consent an editorial from the New York Times be printed in the RECORD.

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

[From the New York Times, Apr. 12, 2005]

NUCLEAR POWER HAS BECOME A GREEN SOURCE OF ENERGY

(By Nicholas Kristof)

If only one thing used to be crystal clear to any environmentalist, it was that nuclear energy was the deadliest threat this planet faced. That's why Dick Gregory pledged at a huge antinuke demonstration in 1979 that he would eat no solid food until all U.S. nuclear plants were shut down.

Gregory may be getting hungry.

But it's time for the rest of us to drop that hostility to nuclear power. It's increasingly clear that the biggest environmental threat we face is actually global warming, and that leads to a corollary: Nuclear energy is green.

Nuclear power, in contrast to other sources, produces no greenhouse gases. President Bush's overall environmental policy gives me the shivers, but he's right to push ahead for nuclear energy. There haven't been any successful orders for new nuclear plants since 1973, but several proposals for new plants are now moving ahead—and that's good for the world we live in.

Global energy demand will rise 60 percent during the next 25 years, according to the International Energy Agency, and nuclear power is the cleanest and best bet to fill that gap.

Solar power is a disappointment, still accounting for only about one-fifth of 1 percent of the nation's electricity and costing about five times as much as other sources. Wind is promising because its costs have fallen 80 percent, but it suffers from one big problem: Wind doesn't blow all the time. It's difficult to rely on a source that comes and goes.

In contrast, nuclear energy already makes up 20 percent of America's power, not to mention 75 percent of France's. A sensible energy plan must encourage conservation—far more than Bush's plans do—and promote things like hybrid vehicles and hydrogen fuel cells. But for now, nuclear power is the only source that doesn't contribute to global warming and that can quickly become a mainstay of the grid.

Is it safe? No, not entirely. Three Mile Island and Chernobyl demonstrated that, and there are also risks from terrorists.

Then again, the world now has a half-century of experience with nuclear power plants, 440 of them around the world, and they have proved safer so far than the alternatives. America's biggest power source is now coal, which kills about 25,000 people a year through soot in the air.

To put it another way, nuclear energy seems much safer than our dependency on coal, which kills more than 60 people every day.

Moreover, nuclear technology has become far safer through the years. The future may belong to pebble-bed reactors, a new design that promises to be both highly efficient and incapable of a meltdown.

Radioactive wastes are a challenge. But burdening future generations with nuclear wastes in deep shafts is probably more reasonable than burdening them with a warmer world in which Manhattan is under water.

Right now, the only significant U.S. source of electricity that does not involve carbon emissions is hydropower. But salmon runs have declined so much that we should be ripping out dams, not adding more.

What killed nuclear power in the past was cold economics. Major studies at MIT and elsewhere show that nuclear power is still a bit more expensive than new coal or natural gas plants, but in the same ballpark if fossil fuel prices rise. And if a $200-per-ton tax were imposed on carbon emissions, nuclear energy would become cheaper than coal from new plants.

So it's time to welcome nuclear energy as green (though not to subsidize it with direct handouts, as the nuclear industry would like). Indeed, some environmentalists are already climbing onboard. For example, the National Commission on Energy Policy, a privately financed effort involving environmentalists, academics and industry representatives, issued a report in December that favors new nuclear plants.

One of the most eloquent advocates of nuclear energy is James Lovelock, the British scientist who created the Gaia hypothesis, which holds that Earth is, in effect, a self-regulating organism.

''I am a Green, and I entreat my friends in the movement to drop their wrongheaded objection to nuclear energy,'' Lovelock writes, adding: ''Every year that we continue burning carbon makes it worse for our descendents. Only one immediately available source does not cause global warming, and that is nuclear energy.''

Mr. LIEBERMAN. Mr. President, I rise today with my friend and colleague Senator JOHN MCCAIN to introduce a second version of our Climate Stewardship Act with improvements—the Climate Stewardship AND Innovation Act (CSIA).

In the computer age, we might call this Climate Stewardship 2.0. In this new version we take the time-tested strengths of the Climate Stewardship Act—like the emissions cap and trade program—and add new features to spur innovation and lead us into a 21st Century energy economy that prizes zero- or low-carbon emission technologies.

And we do all this with market-driven programs that will promote a competition for efficient technologies and that don't drain the federal budget.

Let me start with the basics.

Climate change is real and its costs to the economy will be devastating if we don't act.

Consider this very real example: 184 Alaskan coastal villages already need to be relocated because their land and infrastructure are being destroyed by advancing seas and warmer temperatures that are melting the permafrost.

It will cost more than $100 million to relocate just one of these towns.

What would be the price if we needed to do the same for New Orleans, Miami, or Santa Cruz, California?

SwissRe, North America's leading reinsurer, projects that climate driven disasters could cost global financial centers more than $150 billion per year within the next ten years.

The original Climate Stewardship Act asked the American people and businesses to reduce their carbon emissions to 2000 levels—which were quite close to today's levels by the end of the decade.

All we are saying is ''Don't make the problem worse! Do no further harm.''

Our proposal—then and now—will reduce carbon emissions by putting a price on them with a cap and trade policy similar to the one used so successfully in the Clean Air Act of 1990 which reduced acid rain.

Simply put, a business that doesn't reach its emissions target can buy emissions credits from those under the target.

And, by the way, at the time we debated the acid rain program, industry estimated it would cost $1,000 a ton to comply and would ruin the economy. Today those emissions credits sell for between $100 and $200 a ton.

America's innovators found a way to make it work for the economy and the environment—twin challenges that can and must move together in concert, not conflict.

Because ''cap-and-trade'' creates a price for greenhouse emissions, it exposes the true cost of burning fossil fuels and will drive investment toward lower-emitting technologies.

If we are going to meet the challenge of climate change, while making sure that our economy remains strong, we need a program that gives business and industry both a push and pull.

The push will come from requiring business and industry to cut their greenhouse gas pollution; the pull from giving them incentives to innovate, along with financial support for bringing the best innovations forward.

There are many actions we can take today to meet the targets set in our original bill, ranging from increasing the efficiency of our operations, to boosting the use of renewable energy, for which so many states are now admirably pushing. But to advance beyond this goal and maintain emissions reductions in the future with a growing economy, we will need to push both innovation and the deployment of climate friendly technologies that already exist.

While we're on the subject of technology and investment, I want to be sure that everybody sees that our emissions trading market itself will unleash a multi-billion dollar flow of capital into technology and innovation. Our opponents insist that everybody see the emissions reduction requirements of this bill as costs. The truth is that these so-called costs are vital investment flows necessary to bring about innovation, invention and technological change in an era where our climate, our economy and even our national security depend on our ability to wean ourselves from our dependence on oil, so much of which is imported from unstable regions in the world.

Because technological change and innovation are so important for both climate change and energy independence, our bill creates a dedicated public sector mechanism for ensuring that some of that investment flow is directed at the technologies we need—including, for example, biofuels and clean ways of burning coal, to name just two examples from a potentially open-ended menu of climate-friendly technology choices.

The new bill we are introducing today helps assure that the most important and efficient technological alternatives are supported. We do not pick winners or losers. That's for the market to do. Our bill is technology neutral, but does make sure that if there are barriers to developing or using new technologies, the resources are available to knock those barriers down.

This bill provides support for first-of-its-kind innovation or early-adoption of new energy technologies with minimal cost to the federal budget.

Instead of turning to the taxpayer, our bill uses a self-funding mechanism by empowering the Secretary of Energy to use some of the money generated through the purchase of emissions credits, funneled through a new public corporation our bill creates, to help bring innovations to market. And this is not small change. It is a substantial multibillion dollar contribution every year.

Mr. President, this kind of public sector support has many encouraging precedents.

From the telegraph to the Internet, it was the timely intervention of the

federal government that helped bring new technologies to market.

And, if we don't help bring these new low-carbon or zero-carbon technologies to market, we will be buying them from the nations that do.

We only need look at the popular hybrid cars—low-emitting vehicles that consumers have shown they want by the long waiting lists that exist to buy them. And then remember that American manufacturers must license this technology from Japan.

Our bill also ensures that assistance is provided to help with the transition to new technology and energy production with programs to reduce consumer costs, to help dislocated workers and communities, and to substantially support the deployment of climate friendly technology and energy production.

We also know that some regions—like my State of Connecticut—and businesses like DuPont, BP, and Kodak have already acted pro actively and are working to reduce emissions on their own. We commend these actions. Even more important, our bill ensures that credit will be given to them for their good work.

Just a few months ago, the head of the international panel on climate change, Dr. R. Pachauri, said that ''we are already at a dangerous point when it comes to global warming. . . . Immediate and very deep cuts in greenhouse gases are needed if humanity is to survive.''

Let me repeat those last words, ''If humanity is to survive.''

When I quoted Dr. Pachauri on this floor in February, I reminded the Senate that the Bush Administration lobbied heavily for Dr. Pachauri's appointment to the IPCC leadership because it considered him a more cautious and pragmatic scientist.

I quote him today because his warning words are so clear and strong.

Global warming is truly one of the great challenges of our age—a challenge where the Heavens and the Earth meet.

It is a challenge of Biblical proportions—to meet God's call in Corinthians to be ''stewards'' of His mysteries—and in Genesis to go forth and ''replenish the earth'' to both work and guard the garden.

If we don't take these simple steps now—steps that are well within both our technological and financial grasp—the generations to come will rightfully look back at us with scorn and ask why we acted so selfishly . . . why we cared only for our own short-term profits and comforts . . . and why we left them a world environment in danger. We must act on our vision of a better future, a future that is most definitely within our reach.

That is what Senator MCCAIN and I are convinced our CSIA will do.

We put forth this innovation and technology proposal to start a conversation here in the Senate with colleagues whose support we need to get to a majority, and to provide some ideas for how to accelerate and build a climate friendly future. We hope that our colleagues will join us in this conversation so we can put forth—and pass—the best proposal possible.

By Ms. SNOWE (for herself, Mr. KERRY, Mr. SMITH, and Ms. COLLINS):

S. 1152. A bill to amend title XVIII of the Social Security Act to eliminate discriminatory copayment rates for outpatient psychiatric services under the Medicare Program; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicare Mental Health Copayment Equity Act of 2005 with my colleagues, Senator JOHN KERRY, Senator GORDON SMITH, and Senator SUSAN COLLINS.

Briefly, our bill would correct a serious disparity in Medicare payment policy for mental health treatment. Medicare beneficiaries typically pay 20 percent of the cost of covered outpatient services, including doctor's visits, as a ''copayment'' or coinsurance, and Medicare pays the remaining 80 percent. But Medicare law imposes a special limitation for outpatient mental health services which requires patients to pay a much higher copayment, 50 percent. As a result, Medicare beneficiaries pay two and a half times as much—50 percent coinsurance—for treatment of any mental disorders.

Our bill will eliminate the disparity in payment by reducing this discriminatory copayment over a 6-year period, starting in 2006, from the current 50 percent to the standard 20 percent. This means that, in 2012, patients seeking outpatient treatment for mental illness will pay the same 20 percent copayment that is required of Medicare patients today who receive outpatient treatment for other illnesses. The goal of our bill is ultimately to achieve ''copayment equity'' for Medicare mental health services.

Let me give an example of the current disparity in copayments. If a Medicare patient sees a doctor in an office for treatment of cancer, heart disease, or the flu, the patient must pay 20 percent of the fee for the visit. But if a Medicare patient sees a psychiatrist, psychologist, social worker, or other professional in an office for treatment of depression, schizophrenia, or any other type of mental illness, the patient must pay 50 percent of the fee. What sense does this make?

Indeed, our bill has a larger purpose, to help end an outdated distinction—between treatment of physical and mental disorders—and to ensure that Medicare beneficiaries have equal access to treatment for all their health conditions. Perhaps this disparity would not matter so much if mental disorders were less prevalent. But the Surgeon General has told us otherwise.

A landmark report of the Surgeon General in 1999 emphasized the importance of access to treatment for mental disorders. The Surgeon General found that mental illness was a leading cause—second only to cardiovascular diseases—of otherwise healthy years of life lost to premature death or disability. The Surgeon General found that the occurrence of mental illness among older adults is widespread, with a substantial portion of the population aged 55 and older—almost 20 percent—experiencing specific disorders that are not a part of ''normal'' aging.

Older Americans also have the highest rate of suicide in the country, and the risk of suicide increases with age. In fact, in the State of Maine, the suicide rate for seniors is three times as high as the rate for adolescents. It is not surprising, therefore, to find that untreated depression among the elderly has substantially increased their risk of death by suicide.

Another sad irony involves individuals with disabilities. Medicare is often viewed as health insurance for people over age 65 but it also provides health insurance for those with severe disabilities. The single most frequent cause of disability for both Social Security and Medicare benefits is mental disorders—affecting almost 1.4 million of 6 million Americans who receive Social Security disability benefits. Yet, Medicare pays far less for the critical mental health services needed by these beneficiaries than it does for medical treatment for their physical disabilities.

However, the good news is that, today, there are increasingly effective treatments for mental illness. The majority of people with mental disorders who receive proper treatment can lead productive lives. Congress should remove disincentives that inhibit access to mental health services so that those seeking treatment for these disorders do not have to face financial barriers to care. It is time to remove stigmas and overcome the lack of understanding of mental disorders by equalizing Medicare copayment requirements for mental health services.

I urge my colleagues to join with me and bring Medicare payment policy into the 21st century.

I would also like to submit letters from the American Psychiatric Association and the Mental Health Liaison Group, 36 national organizations supporting this legislation, and I ask unanimous consent that these letters of support be printed in the RECORD.

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

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, May 26, 2005.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

Hon. JOHN KERRY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SNOWE AND SENATOR KERRY: Later today you will receive a letter, initiated by the American Psychiatric Association, from some 35 members of the Mental Health Liaison Group (MHLG) thanking you for your leadership in again introducing legislation to phase out Medicare's discriminatory 50 percent coinsurance.

We are of course a cosigner of the MHLG letter, but I wanted to add my own personal thanks for your tireless efforts to end 40 years of discrimination against patients seeking outpatient mental health services under Medicare Part B. It should be simply unacceptable to compel such patients to pay 50 percent of the cost of their care out of their own pockets. The real ''winners'' under your legislation are patients.

I also wish to specifically acknowledge the hard work and dedication of Sue Walden, Heather Mizeur, and Aaron Jenkins of your staffs. You are each extremely well served by their efforts.

Sincerely,

JAMES H. SCULLY, Jr.,
Medical Director.

MENTAL HEALTH LIAISON GROUP,
Washington, DC, May 26, 2005.

Hon. OLYMPIA SNOWE,
Russell Senate Office Building,
Washington, DC.
Hon. JOHN KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS SNOWE AND KERRY: The undersigned organizations in the Mental Health Liaison Group, representing patients, health professionals and family members, are pleased to support your legislation, the Medicare Mental Health Copayment Equity Act. Under your legislation, Medicare's historic discriminatory 50 percent coinsurance for outpatient mental health care would be reduced over six years to 20 percent, bringing the coinsurance into line with that required of Medicare beneficiaries for other Part B services.

Simply put, current law discriminates against Medicare beneficiaries who seek treatment for mental illness. This affects elderly and non-elderly Medicare beneficiaries alike when they seek mental health care. According to the 1999 U.S. Surgeon General's report on mental health, almost 20 percent of elderly individuals have some type of mental disorder uncommon in typical aging. In addition, elderly individuals have the highest rate of suicide in the U.S., often the result of depression. The Surgeon General's report states, ''Late-life depression is particularly costly because of the excess disability that it causes and its deleterious interaction with physical health. Older primary care patients with depression visit the doctor and emergency rooms more often, use more medication, incur higher outpatient charges, and stay longer at the hospital.''

The 50 percent coinsurance requirement also is unfair to the non-elderly disabled Medicare population. Because many of these individuals have severe mental illnesses combined with low incomes and high medical expenses, a 50 percent coinsurance obligation is a serious patient burden. For elderly and non-elderly Medicare beneficiaries alike, Medicare is a critical source of care. Your legislation to ensure that Medicare beneficiaries needing mental health care incur only the same cost-sharing obligations as required of all other Medicare patients would end the statutory discrimination against Medicare beneficiaries seeking treatment for mental disorders.

Thank you for your leadership in addressing this important issue for the nation's 40 million Medicare patients.

Sincerely,

Alliance for Children and Families; American Academy of Child and Adolescent Psychiatry; American Association for Geriatric Psychiatry; American Association of Children's Residential Centers; American Association of Pastoral Counselors; American Association of Practicing Psychiatrists; American Group Psychotherapy Association; American Managed Behavioral Healthcare Association; American Mental Health Counselors Association; American Occupational Therapy Association; American Psychiatric Association; American Psychiatric Nurses Association.

American Psychoanalytic Association; American Psychological Association; American Psychotherapy Association; Anxiety Disorders Association of America; Association for the Advancement of Psychology; Association for Ambulatory Behavioral Healthcare; Bazelon Center for Mental Health Law; Children and Adults with Attention-Deficit/Hyperactivity Disorder; Clinical Social Work Federation; Clinical Social Work Guild; Depression and Bipolar Support Alliance; Eating Disorders Coalition for Research, Policy & Action.

Ensuring Solutions to Alcohol Problems; International Society of Psychiatric-Mental Health Nurses; NAADAC, The Association for Addiction Professionals; National Alliance for the Mentally Ill; National Association for Children's Behavioral Health; National Association for Rural Mental Health; National Association of Anorexia Nervosa and Associated Disorders (ANAD); National Association of Mental Health Planning & Advisory Councils; National Association of Protection and Advocacy Systems; National Association of Psychiatric Health Systems; National Mental Health Association; and Suicide Prevention Action Network USA.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. 1154. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. COLLINS. Mr. President, I rise today to introduce the Acadia National Park Improvement Act of 2005. This legislation takes important steps to ensure the long-term health of one of America's most beloved national parks. It would increase the land acquisition ceiling at Acadia by $10 million; facilitate an off-site intermodal transportation center for the Island Explorer bus system; and extend the Acadia National Park Advisory Commission.

In 1986, Congress enacted legislation designating the boundary of Acadia National Park. However, many private lands were contained within the permanent authorized boundary. Congress authorized the Park to spend $9.1 million to acquire those lands from willing sellers only. While all of that money has now been spent, rising land prices have prevented the money from going as far as Congress originally intended.

There are over 100 private tracts left within the official park boundary. Nearly 20 of these tracts are currently available from willing sellers, but the park does not have the funds to purchase them. My legislation would authorize an additional $10 million to help acquire these lands. Since these lands already fall within the congressionally authorized boundary, this effort would ''fill in the holes'' at Acadia, rather than enlarging the park.

My legislation will also facilitate the development of an intermodal transportation center as part of the Island Explorer bus system. The Island Explorer has been extremely successful over its first 5 years. These low-emission propane-powered vehicles have carried more than 1.5 million riders since 1999. In doing so, they removed 424,000 vehicles from the park and reduced pollution by 24 tons.

Unfortunately, the system lacks a central parking and bus boarding area. As a result, day use visitors do not have ready access to the Island Explorer. My legislation would authorize the Secretary of the Interior to provide assistance in the planning, construction, and operation of an intermodal transportation center in Trenton, ME. This center will include parking for day users, a visitor orientation facility highlighting park and regional points of interest, a bus boarding area, and a bus maintenance garage. This center, which will be built in partnership with the Federal Highway Administration, U.S. Department of Transportation, Maine Department of Transportation, and other partners, will reduce traffic congestion, preserve park resources and the visitor experience, and ensure a vibrant tourist economy.

Finally, my legislation would extend the 16-member Acadia National Park Advisory Commission for an additional 20-year period. This commission was created by Congress in 1986 and is currently due to expire in 2006. That would be a mistake. The commission consists of three Federal representatives, three State representatives, four representatives from local towns on Mount Desert Island, three from adjacent mainland communities, and three from adjacent offshore islands. These representatives have provided invaluable advice relating to the management and development of the Park. The commission has proven its worth many times over and deserves to be extended for an additional 20 years.

Acadia National Park is a true gem of the Maine coastline. The park is one of Maine's most popular tourist destinations, with nearly 3 million visitors every year. While unsurpassed in beauty, the park's ecosystem is also very fragile. Unless we are careful, we risk substantial harm to the very place that Mainers and Americans hold so dear.

In 11 years, Acadia will be 100 years old. Age has brought both increasing popularity and greater pressures. By providing an extra $10 million to protect sensitive lands, expanding the highly successful Island Explorer transportation system, and extending the Acadia National Park Advisory Commission, this legislation will help make the park stronger and healthier than ever on the occasion of its centennial anniversary.

Ms. SNOWE. Mr. President, I rise today to offer my cosponsorship to the Acadia National Park Improvement Act of 2005. For those of you who have not had the good fortune to visit one of the crown jewels in the National Park system, Acadia National Park, the first national park established east of the

Mississippi, is located on the rugged coast of Maine, encompassing over 47,000 acres that follow the shoreline, go up mountains of sheer granite, dotted with numerous lakes and ponds, diverse habitats that create striking scenery and make the park a haven for wildlife and plants. This past Earth Day was celebrated by one of my staff members along with devotees of the Park on the South Ridge Trail of Cadillac Mountain, the highest point on the U.S. Atlantic coast, on the same ground where the Wabanaki Indians walked over 6,000 years ago. They called the surrounding Mount Desert Island Pemetic, ''the sloping land''.

Acadia National Park certainly covers a land of contrast and diversity, with a variety of freshwater, estuarine, forest and intertidal resources and is one of the most visited Parks in the national park system, and rightfully so, as it offers magnificent views from Cadillac Mountain that sweep down 1,530 feet to the rocky coast and ocean below. Besides its natural beauty, the Park brings in $130 million a year into the State's economy.

It is because of the great beauty of the Park and its scenic views that I have continued my efforts to achieve cleaner air for the area and for the entire State. The pristine Park is, unfortunately, a good example of how the State is affected by dirty air that blows in from away, estimated to be around 80 percent, that is affecting both the air we breathe and our ability to enjoy the natural beauty of the 47,000 acres of the Park.

I am a devoted fan of the Island Explorer bus system, whose clean propane-powered vehicles offer visitors and residents free transportation to hiking trails, the unique carriage roads, the island beaches and for in-town shopping. It is estimated that the Island Explorer buses took the place of an estimated 300,000 vehicles during the last four years, and prevented the release of 24 tons of nitrogen oxide and volatile organic compounds from car exhaust. I understand that other national parks are considering using the positive benefits of the Island Explorer system as a transportation model for parks all around the country. A great deal of thanks should go to the surrounding towns and to L.L. Bean for financing this successful system that helps to make the air cleaner and adds to our enjoyment of the activities the Park provides.

The legislation introduced today will help the Park in three specific areas; one, it will help the Park by extending the Acadia National Park Advisory Commission for 20 years giving local residents the opportunity for input into the management of the Park; two, it will increase the authorized ceiling for land acquisition funding by $10 million to $28 million to realize the sharp rise in real estate prices so that properties from willing sellers within the Park's boundaries can be included into the Park; and, three, the legislation will allow the Park to locate an intermodal center outside of park boundaries off of Mt. Desert Island to give even more assistance to the one road entering and exiting the Park by alleviating auto traffic to and on the island and to achieve cleaner air.

I will continue to take actions for additions within the Park boundaries, for local input into the management process, for a better public transportation system for the Island that will create a healthier environment, and better support the Park's ecological protections. I look forward to continue working with the people of Mt. Desert Island, the Park's Supervisor, and the Friends of Acadia, a devoted, independent philanthropy that has raised $15 million in private endowments for the Park, on issues important to all of us for the preservation of the beautiful landscape, the ocean's coastline, and for environmental improvements in Acadia National Park, the very place where the first light of day shines on our glorious Nation.

By Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BUNNING, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. MCCAIN, Mr. SANTORUM, Mr. SESSIONS, Mr. SUNUNU, Mr. TALENT and Mr. THUNE):

S. 1155. A bill to establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BROWNBACK. Mr. President, I rise today to introduce the Commission on the Accountability and Review of Federal Agencies, CARFA, Act with over 20 original cosponsors.

This is an important measure that I have been developing and advocating over the past few years. CARFA's premise is simple: Members of Congress need a tool that will help them use taxpayer dollars more efficiently.

Members of Congress need a tool like CARFA because the special interest in keeping a program alive is almost always more powerful than the general interest to realign or even end a Federal program.

A good example of this is tobacco. While there is a general interest in discouraging smoking—and while we spend many taxpayer dollars to this end—there is also strong special interest pressure to keep taxpayer tobacco subsidies alive. Thus, the Federal Government both subsidizes and discourages tobacco.

CARFA is the tool that would give members a chance to advance the general interest. CARFA would take all Federal Government agencies and programs—both discretionary and entitlement—and put them under the review of a bipartisan commission. Members of the commission would be appointed by both majority and minority leaders in both House of Congress and by the President.

The commission would review Federal agencies and programs in order to present draft legislation to the Congress that would realign or eliminate duplicative, wasteful, inefficient, outdated, irrelevant, or failed agencies and programs.

Each House of Congress would get one vote on the draft legislation—up or down—without amendment.

CARFA would create a new approach to increase the efficiency of the Federal Government by giving the general interest a stronger voice in the system. For example, there might be a program that is important to my home State of Kansas that would be cut by the proposed legislation, but I only get one vote and there are a variety of other programs that I really do think need to be eliminated.

Since I only have one vote, I can justify voting for the measure when I go back home by showing to my constituents that there were a number of other programs that needed to be realigned or cut. Thus, CARFA makes the overall goal of balancing the Federal budget more achievable.

We need CARFA now more than ever. The Federal Government spends $2,292,000,000 per year on discretionary and mandatory spending. That is a lot of money. My Kansas constituents often say: ''I don't mind paying my taxes, but make sure my hard-earned money is well spent.'' At a time when Federal spending is at an all time high, topping $20,000 per household, we owe our constituents the accountability that would result from CARFA.

Last year, we had a bipartisan hearing on CARFA, at which all witnesses supported the CARFA concept. We have incorporated some of the suggestions made at that hearing, and I believe this year's version of CARFA is even better.

I am pleased that the Senate is already on record supporting the CARFA concept through Section 502 of this year's budget resolution, and it is my hope that we will be able to work with leadership to see CARFA become a reality this year.

By Mr. HATCH:

S. 1156. A bill to amend the Internal Revenue Code of 1986 to extend the credit period for electricity produced from renewable resources at certain facilities, to extend the credit for electricity produced from certain renewable resources, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill, S. 1156, to extend and enhance a provision in the Internal Revenue Code that gives tax incentives for the production of electricity from renewable resources.

The legislation I am introducing today is central to our Nation's goal of achieving energy independence, which is at the heart of the energy bill that will soon be considered by the Senate. The Committee on Energy and Natural Resources has included in its energy bill a renewable energy title that directs the Federal Government ''to the extent economically feasible and technically practicable'' to implement programs that will produce at least 7.5 percent of the electricity from renewable sources by 2013.

The Senate Committee on Finance, on which I serve, will soon consider an energy tax bill to complement the bill from the Energy and Natural Resources Committee. The legislation I am introducing today is designed to provide incentives to help us reach this level of renewable energy production.

Specifically, my bill would amend the Internal Revenue Code to extend the Section 45 production tax credit for electricity produced from renewable resources for facilities placed in service before January 1, 2011, pursuant to a written binding contract in effect on December 31, 2007. This extension is designed to take into account the extended length of time it takes for many renewable energy facilities, particularly geothermal facilities, to be built.

In addition, my bill would provide for a 10-year credit period for all renewable energy sources covered by this tax credit. Current law allows a 10-year credit period for certain renewable sources, such as wind, but only a 5-year credit period for other renewable sources, such as geothermal. This results in an uneven playing field under current law that tilts investors toward certain renewable energy resources over others. This represents poor energy policy and it represents poor tax policy.

I believe this disparity in credit periods undermines the development of all of our renewable energy resources and thereby inhibits our goal of energy independence. This legislation would equalize the tax credit period for all renewable resources and even up the playing field.

I would like my colleagues to know more about the importance of our Nation's vast supply of geothermal energy resources. Geothermal is a clean, renewable energy resource that presently contributes over 2,718 megawatts to the U.S. energy supply. Renewable energy, excluding hydroelectric, makes up 2 percent of U.S. energy consumption; of that 2 percent, geothermal energy accounts for .44 percent, solar .06 percent and wind 1 percent. Geothermal technology is used in commercial, industrial and residential application in 26 States.

However, geothermal energy generation has not been fully exploited. According to the U.S. Department of Energy, there is almost 25,000 megawatts of undeveloped geothermal energy production potential in the United States. This is enough power to serve more than 22 million homes. Furthermore, this is an energy source that is not subject to the price and supply volatility of fossil fuels. Our energy policy should not overlook this potential or sell short its potential.

My home State of Utah has an abundance of high and low temperature geothermal resources that this bill would allow to be economically developed. For example, a new 36 megawatt geothermal plant near Cove Fort, UT, is scheduled to be under construction by the spring of 2006 with completion expected by the end of 2007. Without this legislation, it is unlikely that this plant, as well as others around the Nation, would be able to be built. That would be very unfortunate.

The area around Cove Fort has one of the largest, proven geothermal resources in the Nation. There are 3,000 contiguous acres of leased land associated with the project now on the drawing boards. At 2,000 feet underground, the geothermal resource there is relatively shallow and is considered by most geologic experts to be one of the largest underground hot water reservoirs in North America. A leading geothermal engineering company recently issued a report indicating that the Cove Fort hot water resource can support and sustain power production in excess of 100 megawatts.

Utah is but one State with geothermal resources that can help lead our Nation toward energy independence. Other States with considerable geothermal resources include Nevada, California, Montana, Washington, Oregon, Idaho, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Arizona, New Mexico, Texas, Pennsylvania, West Virginia, Louisiana, Hawaii, and Kansas. We need to get the process of developing these resources started, and the bill I am introducing today would make sure that happens.

This legislation would provide the necessary boost to the development of our geothermal energy resources as well as all other renewable energy resources available to our Nation. I urge my colleagues to join me by cosponsoring this bill.

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

S. 1156

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

SECTION 1. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING ELECTRICITY FROM RENEWABLE RESOURCES.

(a) EXTENSION OF CREDIT PERIOD FOR ELECTRICITY PRODUCED AT CERTAIN FACILITIES.—Subparagraph (B) of section 45(b)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) CREDIT PERIOD.—In the case of any facility described in subsection (d)(3)(A)(ii) placed in service before October 22, 2004, the 5-year period beginning on October 22, 2004, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

(b) EXTENSION OF CREDIT.—Subsection (d) of section 45 of the Internal Revenue Code of 1986 (relating to qualified facilities) is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2008''.

(c) BINDING CONTRACTS FOR FACILITIES.—Subsection (d) of section 45 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''For purposes of this subsection, a facility shall be treated as placed in service before January 1, 2008, if such facility is placed in service before January 1, 2011, pursuant to a written binding contract in effect on December 31, 2007, and at all times thereafter before such facility is placed in service.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(2) SUBSECTION (a).—The amendment made by subsection (a) shall apply to electricity produced and sold after December 31, 2004, in taxable years ending after such date.

By Mr. KENNEDY (for himself, Mr. AKAKA, and Mr. LAUTENBERG):

S. 1158. A bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the bill we are introducing today is urgently needed to protect the pension benefits of workers across America.

A decent retirement in today's world depends on Social Security, private pensions, and private savings. But today's working families find their retirement severely threatened. President Bush wants to privatize Social Security. Private savings are at an all-time low, and now private pensions are in great jeopardy, too.

This challenge has been brought home all too clearly by United Airlines' recent announcement that it intends to end its pension plans and turn them over to the Pension Benefit Guaranty Corporation. The pensions of over 120,000 workers are at stake. Over $3 billion in their benefits are not guaranteed by the corporation, and the future pensions they have been promised will be lost as well.

These hard-working Americans include thousands of flight attendants like Patrice Anderson, who have made only a modest wage throughout their working lives and for whom ''the possible loss of hundreds of dollars a month in old age changes a dignified retirement into a subsistence-level retirement.''

The loss is particularly painful because so many of the employees have accepted lower pay or given back wages and other benefits in order to keep their pension plans. Marilyn King of California worked for United for 25 years. She says: ''I used to be proud of working for United. Now, I am embarrassed and angry. I am angry that we

took 25 percent in pay cuts, that we gave other concessions; and then our COO and CEO get their bonuses and perks.''

We have heard from families and workers across the country. In Massachusetts, Kevin Creighan and his wife Cathy Hampton in Lynn have spent a lifetime with United, ''working hard, earning a living, and all along expecting a pension.'' They hoped to retire in 7 years, with a combined 70 years of loyal service between them. Now, if they want the retirement they were promised by the United Airlines pension plan, they will have to work for an additional 15 years.

George Raymond of Arizona retired at the age of 60 after 38 years. He writes that because of this pension termination, he will not be able to afford his medical bills. Richard Myer of California retired after 32 years as a United pilot, and now he has to go back to work and sell his home to support his children and his elderly father-in-law.

Americans who work hard and play by the rules should not be victimized by these broken promises. No wonder they feel betrayed. They share the view of Robert Lamica of Virginia, who says, ''I kept my promise to United for 36 years by working in rain, snow, heat, and whatever else nature would throw our way . . . My back and knees have been destroyed along with my ability to get another job . . . We need not be left on the curb just because United can.''

These loyal men and women cannot turn back the clock and make different decisions. But Congress can stop that clock and reach a fair solution.

This legislation we are introducing will prevent bankrupt companies from abandoning their pension plans for the next 6 months.

Our action will also ease the growing threat to all defined benefit pension plans. The Pension Benefit Guaranty Corporation estimates that if it takes over the remaining airline defined benefit pension plans, 90 percent of the claims it must cover will come from airline companies or steel companies, even though such plans include only 5 percent of the employees covered by the corporation. The legislation will buy time for us to develop real solutions for the serious problems of these ailing industries.

I urge my colleagues to join me in support of this bill. We owe it to all these hard working Americans whose retirement has been put at risk.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. SMITH, Mr. SCHUMER, Mr. CRAPO, Mr. LOTT, Mr. KYL, and Mrs. LINCOLN):

S. 1159. A bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce a bill, S. 1159, to make permanent a provision under subpart F of the Internal Revenue Code regarding active financial services income earned abroad. I am joined in this effort by my colleagues Senators BAUCUS, SMITH, SCHUMER, CRAPO, LOTT, KYL, and LINCOLN. Under current law, the provision will expire at the end of next year.

This legislation would ensure that U.S. financial services firms and U.S. manufacturing companies with financial services operations are subject to U.S. tax on income from their active overseas financial services operations only when such earnings are sent home to the U.S. parent company. As my colleagues know, this is the treatment provided under the U.S. tax law for other active business income earned overseas. Our legislation simply extends, on a permanent basis, the expiring provision that ensures this same treatment for the financial services industry.

The permanent extension of this provision is critically important in today's global marketplace. Over the last few years, the financial services industry has seen technological and global changes that have altered the very nature of the way these corporations do business, both here and abroad. The U.S. financial industry is a worldwide leader that plays a pivotal role in maintaining confidence in the international marketplace and positively contributes to the U.S. international trade balance. We believe it is essential that our tax laws not impose anti-competitive burdens on this important U.S. industry.

If we allow the active financial services provision to lapse, U.S. companies would have to pay both local tax and current U.S. tax on the financial services income they generate overseas. While some of this double taxation is often alleviated by the foreign tax credit, we all know that this system works imperfectly. The result is that U.S. firms end up with a cost that is not borne by their European and Asian competitors, because companies based in these areas do not face current home country taxation on financial services income. In an industry where companies compete on price and a few basis points can mean the difference between getting the business or losing it to a competitor, the imposition of this additional tax cost on U.S.-based companies would translate into a competitive disadvantage for U.S. companies and a competitive advantage for their foreign counterparts. Given the thousands of U.S. jobs at stake, many of them in Utah, we do not believe our tax policy should allow this to happen.

While this provision may seem far removed from the average Utahn or the average American, I can assure you that this is not true. For example, the Salt Lake City area serves as the headquarters location for the banking operations of American Express Centurion Bank and American Express Bank, FSB, which are important parts of the worldwide American Express Card system. Salt Lake City is also the headquarters of American Express Travelers Cheques, with its Utah facility servicing Travelers Cheques clients on a worldwide basis. Thousands of Utahns are employed by these companies.

These businesses are tied to the international marketplace through the competitive strength of the American Express global franchise. For American Express and other U.S. companies to compete on par with their foreign competitors, the U.S. tax rules need to provide fair and equitable treatment of their overseas operations. To the extent foreign competitors can take business away from U.S. firms because of an uneven playing field, U.S. jobs are at risk.

The bill we are introducing today would provide equitable and consistent tax treatment for this important component of our economy. Making this provision permanent would provide American companies much-needed stability. The current provision has been renewed several times, most recently for 5 years in the Job Creation and Worker Assistance Act of 2002. Our ''on-again, off-again'' habit of extensions prevents U.S.-based firms from competing fully in the global marketplace by interfering with their ability to make business decisions and plan on a long-term basis. The permanent extension of this subpart F provision would ensure that the U.S. financial services industry is on a competitive footing with their foreign-based competitors and would provide tax treatment that is consistent with the tax treatment accorded other U.S. businesses.

The Congress and the administration took an important step toward modernizing our international tax rules with the enactment of the American Jobs Creation Act of 2004. The legislation we introduce today furthers that act's goals of ensuring that American firms can compete in the 21st century economy.

I urge my colleagues to support this important bill and ask 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. 1159

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

SECTION 1. PERMANENT EXTENSION OF SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—Section 954(h)(9) of the Internal Revenue Code of 1986 is amended by striking ''and before January 1, 2007,''.

(b) CONFORMING AMENDMENTS.—Section 953(e)(10) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and before January 1, 2007,'', and

(2) by striking the second sentence thereof.

Mr. BAUCUS. Mr. President, today I am pleased to join my friend and colleague, Senator HATCH, in introducing legislation to make permanent the subpart F provision for active financial serviced income earned abroad.

The legislation we are filing today is identical to a bill we filed in the 107th Congress. Since then, this exemption has been temporarily extended but that will expire at the end of next year. This exemption ensures that the active financial services income earned abroad by U.S. financial services companies, or U.S. manufacturing firms with a financial service operation, is not subject to U.S. tax until that income is brought home to the U.S. parent company.

By making this provision permanent, our legislation will put the U.S. financial services industry on an equal footing with its foreign-based competitors, which do not face current home country taxation on active financial services income. I will tell my colleagues that this bill is about jobs in Montana, and in each of our States. In fact, one of these competitive U.S. financial services companies employs hundreds of Montanans in Great Falls alone, so the health of that company is critically important to my constituents.

American financial services companies successfully compete in world financial markets. We need to make sure, however, that the U.S. tax rules do not change that situation and make them less competitive in the world arena. This legislation will extend a provision that I believe preserves the international competitiveness of U.S.-based financial service companies, including finance and credit companies, commercial banks, securities firms, and insurance companies. This provision also contains appropriate safeguards to ensure that only truly active businesses benefit.

As my colleagues have heard year after year, the active financial services provision is critically important in today's global economy. Our U.S. financial services industry is a global leader playing a pivotal role in maintaining confidence in the international marketplace. It is a fiercely competitive business. And U.S.-based companies would surely be disadvantaged with an additional tax burden if we allow this exemption to lapse. Through our network of trade treaties, we have made tremendous progress in gaining access to new foreign markets for this industry in recent years. Our tax laws should complement, rather than undermine, this effort.

The temporary nature of the active financial services provision, like other expiring provisions, denies U.S. companies the stability enjoyed by their foreign competitors. It is time to make permanent this subpart F active financial services provision in order to allow U.S. business companies to make business decisions on a long-term basis. I ask my colleagues to join us in supporting this legislation, providing consistent, equitable, and stable tax treatment for the U.S. financial services industry.

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

S. 1128. A bill to amend title XIX of the Social Security Act to provide for increased rebates under the medicaid program for prescription drugs that are directly advertised to consumers, to require other Federal programs purchasing or reimbursing for such drugs to establish payment and reimbursement mechanisms that reduce the costs of those drugs, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Madam President, the cost of medicine is a matter of concern to every Senator. Today, Senator SUNUNU and I have introduced legislation to take a fresh approach to holding down the cost of medicines in our country. Under our bipartisan legislation, the Federal Government would pay less for pharmaceuticals that are advertise when the Federal Government buys those medicines for Medicaid, the Veterans' Administration, the Department of Defense, and the Public Health Service.

One can barely turn on the television or open a magazine these days without getting the hard sale on a hot new medicine. There is no doubt that medical science is making miracles for our citizens who need help with their health. For that, we are, of course, grateful. But the advent of advertising for prescription drugs presents pitfalls as well, not just for patients but for every American taxpayer.

Senator SUNUNU and I introduced our legislation today because as the marketing gets savvier, the Federal Government needs to get smarter and contain costs wherever possible for these popular and expensive drugs. The fresh approach that Senator SUNUNU and I unveil today will amp up the Government's purchasing power on prescription drugs that are advertised directly to consumers. The Pharmaceutical Advertising and Prudent Purchasing Act will reduce drug costs for the beneficiaries of Medicaid and other Federal programs. It will ease the burden on States struggling to stretch their health care dollars through Medicaid, and it will lower the overall costs for taxpayers footing the bill for these advertised drugs.

When a drug company figures the price of a pill, it passes along the advertising costs to consumers. Right now, Medicare and Medicaid pay that cost like any other consumer. But it is time to take the advertising costs out of the equation for taxpayer funded programs. The Federal Government, of course, gives drug companies a tax break for advertising which, of course, every other American company gets for its business expenses. There is no need for a double subsidy. There is a need for more prudent purchasing of prescription drugs by the Federal Government. If that is going to happen, the changes in the pharmaceutical market that have been caused by the explosion of advertising cannot be ignored any longer.

I do not have to tell our colleagues that drug advertising in the United States is an immense and growing industry. The Wall Street Journal reported last week that the pharmaceutical industry spent nearly $4.5 billion on advertising to consumers. The penetration of this advertising may be more than most people realize. A recent Kaiser Family Foundation poll found that 90 percent of Americans had seen or heard an advertisement for prescription drugs. Today, more and more Americans can go to their doctor and ask to have a medication they have seen advertised on TV, in a magazine, on the radio or on the Internet. Of course, that is what is happening.

There is a proven direct connection between the advertising of drugs and a big uptick in the rate of prescriptions written for them. Take a look at the 10 most advertised drugs in the United States. That is 2003, and I would guess that few Americans would say they have not heard of any of these drugs.

On each of these drugs, at least $100 million was spent in 2003 alone on direct consumer advertising. The advertising works. A study published in the April issue of the Journal of the American Medical Association demonstrates the link. Researchers sent actors to doctors' offices to complain of mild depression. Those who mentioned seeing an ad were five times more likely to get a prescription for an antidepressant as those who simply described their supposed symptoms without talking about a drug ad they had seen. It is no wonder the heavily advertised drugs make up most of the top 10 medicines prescribed under Federal health programs like Medicare, Medicaid, and others. Take a look.

These are the 10 drugs on which Medicare spends the most total money for outpatient care. Nine are advised directly to consumers.

Here are the 10 drugs on which Medicaid spends the most money. Four of the ten are advised directly to consumers. The next 4 drugs, Nos. 11 through 14, are advertised as well. It is the view of Senator SUNUNU and I that the Federal Government is one consumer that does not need to receive advertising from the drug companies.

The Federal Government is buying medicine for a lot of people with a limited pool of funds. It is vital to get a handle now on the connection between advertising and increased sales and to insist on more prudent purchasing.

Our legislation does just that. It makes the Government a more prudent purchaser in a straightforward way. It will require Medicaid and other vital programs under Health and Human Services and the Veterans' Administration to get a discount that cuts out the advertising costs figured in each pill. In Medicaid, this would be done by adjustments in the Medicaid rebate program. That is an existing program that requires a pricing agreement between drug manufacturers and the Federal Government for any drug to be sold through the Medicaid program.

The Health and Human Services Secretary and the VA Secretary will also

be able to negotiate reduced prices for other Federal programs such as the Public Health Service, programs administered by the Indian Health Service, the Department of Veterans Affairs, the Department of Defense and the Defense Health Program.

This is smart and effective spending. It ends the spending of taxpayer dollars to fund advertising that has already received a tax break. It is a commonsense step, the kind of common sense that is all too uncommon when the Federal Government buys drugs.

Our legislation will address another issue that speaks both to the taxpayers' interests and the health of patients in these programs. When advertised drugs are purchased, it is not enough to make sure the price is right, although that is important. It is vital the drug is right for the patient's particular problem. Taxpayer dollars should buy drugs that will work best for patients by a doctor's best judgment. Just because a patient recognizes a drug's name enough to request it from their provider does not mean it is the best medicine.

More and more drug companies are treating doctors as a middleman they wish to skip. They make a lot more money if patients, without medical degrees, are encouraged to start writing their own prescriptions, whether the drug is the right one or not. Medicare, Medicaid, and other Federal programs have a charge to keep for their patients and a trust to maintain with American taxpayers. They should not be exploited financially by the pharmaceutical ''flavor of the month.''

I close by expressing my thanks to the Senator from New Hampshire. This is a bipartisan approach that is going to hold down the cost of medicine for taxpayers in our country. It will be a benefit to beneficiaries certainly at a time when the Medicaid Commission is trying to find responsible savings. We ensure that we take the time to study how this approach would work for other programs such as Medicare. And because I see my friend in the Chamber, I will wrap up simply by saying that it is time to take out a sharp pencil and eliminate the hidden costs for taxpayers from advertised drugs.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Madam President, I am pleased to join Senator WYDEN in the introduction of this legislation, which is a good-faith effort to try to find that fresh approach Senator WYDEN talked about, a fresh approach to deal with costs in health care, specifically in those areas where the Federal Government is directly purchasing pharmaceuticals: in the VA, where we have a very large direct purchase program that exists today, and within Medicaid, where both the Federal Government and the States are directly involved in purchasing and negotiating the pricing of drugs.

We are focusing on direct-to-consumer advertising. This is an area where activity and cost have exploded over the last 6 or 7 years. Since 1997, when the Federal Government changed the regulations associated with direct-to-consumer advertising, we have seen advertising outlays for pharmaceuticals go from a little bit over $1 billion to nearly $5 billion per year this year. Those costs, as any costs would be, are passed on to consumers. In the case of these programs where the Federal Government is purchasing the pharmaceuticals in the VA and in Medicaid, that means that the cost, the impact, is disproportionately felt by the taxpayer.

This is an effort to try to find a way to reduce those costs, to give the Federal Government the power to make a distinction, as they negotiate prices—to make a distinction between those drugs that are advertised directly to consumers or marketed directly to consumers and those that are not, and to provide discounts to those companies or those drugs that avoid the additional costs of advertising.

This advertising, as I say, is expensive. The cost is passed on to taxpayers in these particular programs. I think there are also a lot of questions about the value that a flood of advertising might provide.

We have all been inundated by different types of advertisement, on TV or in magazines. It is costly, as I mentioned, but it also carries with it some risk of overutilization; of, in some cases, encouraging or leading consumers to believe that they need or would benefit by a particular medicine when it is not necessarily the best approach for them.

In some cases it is clear this advertising has been used to drive consumers away from lower priced generic drugs. I think this is one of the most problematic areas, and that has been seen and discussed at some length in the States, in their Medicaid programs.

This legislation presents an opportunity to get our hands around the cost issue, to fund some important studies, to take a closer look at questions of overutilization and the substitution I described. It represents a good start, I think, opening the debate with this discussion about dealing directly with health care costs in areas of the Federal Government as the principal purchaser.

There may be other options. In fact, Senator WYDEN and I talked about a few other approaches that are not included in this legislation. I think I can speak for the Senator from Oregon when I say we look forward to talking to our colleagues about other ideas that might be out there. We look forward to sharing ideas and information with producers themselves who, I hope, are willing to look at ways to help save the consumers money, help save taxpayers money, and help deal with direct-to-consumer advertising in a more responsible way.

We are going to do a Medicaid bill this year in the Senate. While we also deal with some issues at HHS and the VA in this bill, certainly the costs associated with Medicaid and our recommendations with regard to Medicaid are a central part of the bill. I will work with Senator WYDEN and any of my interested colleagues to try to include and capture some of these ideas in Medicaid legislation this year.

It is a great opportunity to look at the issue of health costs and drug costs in a fresh way, in a different way. I very much appreciate the work Senator WYDEN has done in helping to craft this legislation and his willingness to lend his strong support, as a longstanding and more senior Member than I, as a member of the Senate Finance Committee, and as a Member of the Senate on the other side of the aisle.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 157—CONGRATULATING CARRIE UNDERWOOD FOR WINNING THE ''AMERICAN IDOL'' TELEVISION PROGRAM AND THANKING HER FOR BEING A POSITIVE ROLE MODEL

Mr. COBURN (for himself and Mr. INHOFE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 157

Whereas Carrie Underwood was born in Muskogee, Oklahoma, on March 10, 1983, but Checotah, Oklahoma, lays complete claim to her as a native;

Whereas Carrie's parents are Stephen and Carole Underwood of the Onapa area of Oklahoma;

Whereas Carrie has two older sisters, Shanna Underwood Means, who teaches in Liberty Mounds, Oklahoma, and Stephanie Underwood Shelton, who teaches in Arkhoma, Oklahoma;

Whereas Carrie has delighted the residents of Checotah with her singing since her elementary school days;

Whereas during high school, Carrie sang in the Checotah High School's award winning chorus and excited audiences every year at the Robbin Emerson Memorial Talent Show, which raises money for scholarships;

Whereas Carrie was often kind enough to sing the National Anthem at high school basketball games;

Whereas Carrie excelled academically in high school and was the salutatorian of her 2001 Checotah High School graduating class;

Whereas Carrie began attending Northeastern State University after high school, where she is a senior majoring in mass communications with an emphasis in journalism;

Whereas Carrie performed for 2 years in Northeastern's Downtown Country Show in Tahlequah, Oklahoma;

Whereas Carrie auditioned in August 2004, in St. Louis, Missouri, for the ''American Idol'' television show;

Whereas Carrie was named to the top 24 on ''American Idol'' in mid-February 2005, and has been in Hollywood, California, performing weekly since;

Whereas although people in Checotah and Oklahoma are extremely proud of Carrie's phenomenal talent, they are even more proud of the kind of young person she has always been; and

Whereas Carrie Underwood is intelligent, kind, and considerate—undoubtedly one of