

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. LIEBERMAN):

S. 1268. A bill to expedite the transition to digital television while helping consumers to continue to use their analog televisions; to the Committee on Commerce, Science, and Transportation.

Mr. McCAIN. Mr. President, I rise today to introduce a bill to support the Nation's finest: our police, fire fighters and other emergency response personnel. The "Spectrum Availability for Emergency-response and Law-enforcement to Improve Vital Emergency Services Act," otherwise known as "The SAVE LIVES Act of 2005." This bill is drafted in response to the 9/11 Commission's Final Report, which recommended the "expedited and increased assignment of radio spectrum for public safety purposes."

To meet this recommendation, the SAVE LIVES Act would set a date certain for the allocation of spectrum to public safety agencies, specifically the 24 MHz of spectrum in the 700 MHz band that Congress promised public safety agencies in 1997. This is a promise Congress has yet to deliver to our Nation's first responders. Access to this specific spectrum is essential to our Nation's safety and welfare as emergency communications sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

In addition to setting a date certain, this bill would authorize funds for public safety agencies to purchase emergency communications equipment and ensure that Congress has the ability to consider whether additional spectrum should be provided for public safety communications prior to the recovered spectrum being auctioned. The bill contains significant language concerning consumer education in anticipation of the digital television transition. The bill would mandate that warning labels be displayed on analog television sets sold prior to the transition, require warning language to be displayed at television retailers, command the distribution at retailers of brochures describing the television set options available to consumers, and call on broadcasters to air informational programs to better prepare consumers for the digital transition.

The bill would ensure that no television viewer's set would go "dark" by providing digital-to-analog converter boxes to over-the-air viewers with a household income at or below 200 percent of the poverty line and by allowing cable companies to down convert digital signal signals if necessary. I continue to believe that broadcast television is a powerful communications tool and important information source for citizens. I know that on 9/11, I learned about the attack on the Twin Towers and the Pentagon by watching

television like most Americans. Therefore, this bill seeks to not only protect citizens' safety, but also the distribution of broadcast television.

Lastly, the bill would require the Environmental Protection Agency to report to Congress on the need for a national electronic waste recycling program.

The 9/11 Commission's final report contained harrowing tales about police officers and fire fighters who were inside the twin towers and unable to receive evacuation orders over their radios from commanders. In fact, the report found that this inability to communicate was not only a problem for public safety organizations responding at the World Trade Center, but also for those responding at the Pentagon and Somerset County, Pennsylvania crash sites where multiple organizations and multiple jurisdictions responded. Therefore, the Commission recommended that Congress accelerate the availability of additional spectrum for public safety.

The SAVE LIVES Act would implement that important recommendation and ensure that WHEN our Nation experiences another attack, or other critical emergencies occur, our police, fire fighters and other emergency response personnel will have the ability to communicate with each other and their commanders to prevent another catastrophic loss of life. Now is the time for Congressional action before another national emergency or crisis takes place.

Several lawmakers attempted to act last year during the debate on the Intelligence reform bill, but our efforts were thwarted by the powerful National Association of Broadcasters. This year, I hope we can all work together and pass a bill that ensures the country is not only better prepared in case of another attack, but also protects the vital communications outlet of broadcast television. I believe the SAVE LIVES Act achieves both goals.

In an effort to expeditiously retrieve the spectrum for the Nation's first responders, to preserve over-the-air television accessibility to consumers and to ensure the adequate funding of both, I urge the enactment of The SAVE LIVES Act. Additionally, 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. 1268

*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 "Spectrum Availability for Emergency-Response and Law-Enforcement to Improve Vital Emergency Services Act" or the "SAVE LIVES Act".

## SEC. 2. SETTING A SPECIFIC DATE FOR THE AVAILABILITY OF SPECTRUM FOR PUBLIC SAFETY ORGANIZATIONS AND CREATING A DEADLINE FOR TRANSITION TO DIGITAL TELEVISION.

(a) AMENDMENTS.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) in subparagraph (A), by striking "December 31, 2006" and inserting "December 31, 2008";

(2) by striking subparagraph (B);

(3) in subparagraph (C)(i)(I), by striking "or (B)";

(4) in subparagraph (D), by striking "(C)(i)" and inserting "(B)(i)"; and

(5) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) IMPLEMENTATION.—

(1) FINAL DTV ALLOTMENT TABLE OF IN-CORE CHANNELS FOR FULL-POWER STATIONS.—The Federal Communications Commission (in this Act referred to as the "Commission") shall—

(A) release by December 31, 2006, a report and order in MB Docket No. 03-15 assigning all full-power broadcast television stations authorized in the digital television service a final channel between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive); and

(B) conclude by July 31, 2007, any reconsideration of such report and order.

(2) STATUS REPORTS.—Beginning February 1, 2006, and ending when international coordination with Canada and Mexico of the DTV table of allotments is complete, the Commission shall submit reports every 6 months on the status of that international coordination to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

(3) TERMINATIONS OF ANALOG LICENSES AND BROADCASTING.—The Commission shall take such actions as may be necessary to terminate all licenses for full-power broadcasting stations in the analog television service and to require the cessation of broadcasting by full-power stations in the analog television service by January 1, 2009.

## SEC. 3. AUCTION OF RECOVERED SPECTRUM.

(a) DEADLINE FOR AUCTION.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), as amended by section 2, is amended in subparagraph (B)—

(1) in clause (ii), by striking the second sentence; and

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

"(iii) ADDITIONAL DEADLINES FOR RECOVERED ANALOG SPECTRUM.—

"(I) IN GENERAL.—Not earlier than 1 year after the date on which the Commission submits to Congress the report required under section 7502(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3855), and not later than April 1, 2008, the Commission shall—

"(aa) conduct the auction of the licenses for recovered analog spectrum; and

"(bb) not later than June 30, 2008, deposit the proceeds of such auction in accordance with paragraph (8), except for those funds authorized to be used in accordance with sections 4(f) and 5 of the SAVE LIVES Act.

"(II) RECOVERED ANALOG SPECTRUM DEFINED.—In this clause, the term 'recovered analog spectrum' means the spectrum reclaimed from analog television service broadcasting under this paragraph, other than—

"(aa) the spectrum required by section 337 to be made available for public safety services;

“(bb) the spectrum auctioned prior to the date of enactment of the SAVE LIVES Act; and

“(cc) any spectrum designated by Congress for use by public safety services between the date of enactment of the SAVE LIVES Act and the auction described in subclause (I).”.

(b) **EXTENSION OF AUCTION AUTHORITY.**—Paragraph (11) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking “September 30, 2007” and inserting “September 30, 2009”.

#### SEC. 4. DIGITAL TRANSITION PROGRAM.

(a) **IN GENERAL.**—Beginning no earlier than January 1, 2008, and not later than July 1, 2008, the Commission, in consultation with commercial television broadcast licensees, shall distribute to eligible persons digital-to-analog converter devices that will enable television sets that operate only with analog signal processing to continue to operate when receiving a digital signal.

(b) **APPLICATION.**—Each eligible person seeking a digital-to-analog converter device under subsection (a) shall submit an application to the Commission at such times, in such manner, and containing such information as the Commission requires.

(c) **PROCUREMENT.**—The provisions, rules, and regulations of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to the procurement, by the Comptroller General of the United States, of the digital-to-analog converter devices described in subsection (a).

(d) **STUDY.**—Not later than 12 months after the date of enactment of this Act, the Commission shall, in consultation with commercial television broadcast licensees, consumer groups, and other interested parties, complete a study of—

(1) the geographic location of eligible persons by Nielsen Designated Market Areas;

(2) the use of not only broadcast studios for distribution of such digital-to-analog converter devices, but the ability of commercial television broadcast licensees to partner with grocery stores, electronics stores, and post offices to serve as distribution centers for such devices; and

(3) the ability of the Commission and commercial television broadcast licensees to partner together to develop a public communications campaign to inform over-the-air viewers of—

(A) the need for a digital-to-analog converter device; and

(B) the availability of such a digital-to-analog converter device free of charge for eligible persons.

(e) **ELIGIBLE PERSON DEFINED.**—In this section, the term “eligible person” means any person relying exclusively on over-the-air television broadcasts with a household income that does not exceed 200 percent of the poverty line, as such line is published in the Federal Register by the Department of Health and Human Services under the authority of section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

#### (f) AUTHORIZATION OF APPROPRIATIONS.—

(1) **IN GENERAL.**—There are authorized to be appropriated \$468,000,000 from the proceeds of the auction of licenses for recovered analog spectrum under section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).

(2) **DISTRIBUTION.**—Of the funds authorized to be appropriated under paragraph (1)—

(A) \$463,000,000 shall be available to procure digital-to-analog converter devices; and

(B) \$5,000,000 shall be available to to cover the costs of administration of the digital transition program established under this section.

#### SEC. 5. ESTABLISHMENT AND AUTHORIZATION OF APPROPRIATIONS FOR GRANT PROGRAM TO PROVIDE ENHANCED INTEROPERABILITY OF COMMUNICATIONS FOR FIRST RESPONDERS.

(a) **ESTABLISHMENT OF PROGRAM TO ASSIST FIRST RESPONDERS.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall establish a program to help State, local, tribal, and regional first responders—

(A) acquire and deploy interoperable communications equipment;

(B) purchase such equipment; and

(C) train personnel in the use of such equipment.

(2) **COMMON STANDARDS.**—The Secretary, in cooperation with the heads of other Federal departments and agencies who administer programs that provide communications-related assistance programs to State, local, and tribal public safety organizations, shall develop and implement common standards to the greatest extent practicable.

(b) **APPLICATIONS.**—To be eligible for assistance under the program established in subsection (a), a State, local, tribal, or regional first responder agency shall submit an application, at such time, in such form, and containing such information as the Under Secretary of Homeland Security for Science and Technology may require, including—

(1) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure interoperability with other appropriate Federal, State, local, tribal, and regional agencies in a regional or national emergency;

(2) assurance that the equipment and system would—

(A) not be incompatible with the communications architecture developed under section 7303(a)(1)(E) of the Intelligence Reform Act of 2004;

(B) would meet any voluntary consensus standards developed under section 7303(a)(1)(D) of that Act; and

(C) be consistent with the common grant guidance established under section 7303(a)(1)(H) of that Act.

(c) **REVIEW.**—The Under Secretary of Homeland Security for Science and Technology shall review and approve, in the discretion of the Under Secretary, all applications submitted under subsection (b).

(d) **SINGLE GRANTS.**—The Secretary of Homeland Security, pursuant to an application approved by the Under Secretary of Homeland Security for Science and Technology, may make the assistance provided under the program established in subsection (a) available to all approved applicants in the form of a single grant for a period of not more than 3 years.

(e) **REPORT.**—Not later than January 1, 2008, the Commission shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the amount required to carry out the program described in section 4.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—To the extent that proceeds from the auction of licenses for recovered analog spectrum under section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) are available and exceed the amount required to carry out the program described in section 4, there are authorized to be appropriated from such proceeds such sums as are available to fund the grant program established under this section.

#### SEC. 6. CONSUMER EDUCATION REGARDING THE DIGITAL TELEVISION TRANSITION.

(a) **COMMISSION AUTHORITY.**—Section 303 of the Communications Act of 1934 (47 U.S.C.

303) is amended by adding at the end the following new subsection:

“(z) Require the consumer education measures specified in section 330(d) in the case of apparatus designed to receive television signals that—

“(1) are shipped in interstate commerce or manufactured in the United States after 180 days after the date of enactment of the SAVE LIVES Act; and

“(2) are not capable of receiving and displaying broadcast signals in the digital television service on the channels allocated to such broadcasts.”.

(b) **CONSUMER EDUCATION REQUIREMENTS.**—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) in subsection (d), by striking “sections 303(s), 303(u), and 303(x)” and inserting “subsections (s), (u), (x), and (z) of section 303”; and

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following new subsection:

“(d) **CONSUMER EDUCATION REGARDING EQUIPMENT, TELEVISION RECEIVERS, AND OTHER MATERIALS RELATED TO THE DIGITAL TO ANALOG CONVERSION.**—

“(1) **REQUIREMENTS FOR MANUFACTURERS.**—Any manufacturer of any apparatus described in section 303(z) shall—

“(A) place on the screen of any such apparatus that such manufacturer ships in interstate commerce or manufactures in the United States after 180 days after the date of enactment of the SAVE LIVES Act, a removable label containing the warning language required by paragraph (3); and

“(B) also include such warning language on the outside of the retail packaging of such apparatus in a manner that cannot be removed.

“(2) **REQUIREMENTS FOR RETAIL DISTRIBUTORS.**—Any retail distributor shall place adjacent to each apparatus described in section 303(z) that such distributor displays for sale or rent after 180 days after the date of enactment of the SAVE LIVES Act, a separate sign containing the warning language required by paragraph (3).

“(3) **WARNING LANGUAGE.**—

“(A) **RULEMAKING PROCEEDING.**—Not later than 120 days after the date of enactment of this Act, the Commission, in consultation with consumers and representatives from the broadcast, cable, and satellite industries, shall complete a rulemaking proceeding to develop warning language to be used by manufacturers and retail distributors concerning the size and format of the warning language required by this paragraph.

“(B) **CONTENT OF WARNING.**—The warning language required by this paragraph shall clearly inform consumers, in plain English understandable to the average consumer, of the following:

“(i) After December 31, 2008, television broadcasters will cease analog over-the-air broadcasts and will broadcast only in digital format.

“(ii) That a television set carrying the label required under paragraph (1) will no longer be able to receive broadcast programming unless it is connected to a digital tuner, a digital-to-analog converter device, or cable, satellite, or other multichannel video services.

“(iii) Beyond December 31, 2008, a television set carrying the label required under paragraph (1) will, however, continue to display images from devices such as DVD recorders and video game consoles or content recorded for display on an analog television using devices such as VCRs, digital video recorders, or DVD recorders.

“(iv) For more information regarding the transition to digital television consumers should call the Federal Communications

Commission at 1-888-225-5322 (TTY: 1-888-835-5322) or visit the Commission's website at: [www.fcc.gov](http://www.fcc.gov).

“(4) ENFORCEMENT.—Any violation of the requirements of this section, shall be enforced by the Federal Trade Commission as if it were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

“(5) SUNSET.—The warning language required by paragraph (3) shall not apply to any manufacturer or retail distributor on or after January 1, 2009.

“(6) COMMISSION OUTREACH.—Beginning not later than 1 month after the date of enactment of the SAVE LIVES Act, the Commission shall engage in a public outreach program to educate consumers about—

“(A) the deadline for termination of analog television broadcasting; and

“(B) the options consumers have after such termination to continue to receive broadcast programming.”

(c) PRESERVING AND EXPEDITING DIGITAL TELEVISION TUNER MANDATES.—

(1) IN GENERAL.—The Commission shall require not later than—

(A) July 1, 2005, that digital television tuners be integrated into television receivers having analog tuners in the case of television sets with screen sizes 36 inches or greater;

(B) March 1, 2006, that digital television tuners be integrated into television receivers having analog tuners in the case of television sets with screen sizes between 25 inches and 35 inches; and

(C) March 1, 2007, that digital television tuners be integrated into television receivers having analog tuners in the case of television sets with screen sizes between 14 inches and 24 inches.

(2) STUDY.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall conduct a study to determine whether digital television tuners are necessary in television sets with screen sizes 13 inches or smaller.

(B) MANDATES FOR TELEVISION SETS WITH SCREEN SIZES 13 INCHES OR SMALLER.—Upon completion of the study required under subparagraph (A), if the Commission determines that digital television tuners are necessary in television sets with screen sizes 13 inches or smaller, the Commission shall enact, not later than July 1, 2008, digital television tuner mandates for such television sets.

(d) INFORMED CONSUMER REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Consumer and Governmental Affairs Bureau of the Commission shall develop and distribute to all consumers seeking to purchase a television set a brochure that clearly describes the different options available to a consumer, including information that—

(1) in order for a consumer to receive and display a digital television signal, a consumer must have—

(A) both a digital television display or monitor and a digital tuner; or

(B) an integrated digital television set;

(2) there is a difference between a digital television and high-definition digital television signals and a digital television and high-definition digital television set; and

(3) current televisions—

(A) are not obsolete;

(B) can receive digital television signals with the use of a digital-to-analog converter device and will display such signals in an analog format; and

(C) will continue to work with cable, satellite, VCRs, DVD recorders, and other devices.

## SEC. 7. DIGITAL TO ANALOG CONVERSION AVAILABLE FOR CABLE SUBSCRIBERS.

(a) DIGITAL TO ANALOG CONVERSION PERMITTED.—Section 614(b) of the Communications Act of 1934 (47 U.S.C. 534(b)) is amended by adding at the end the following new paragraph:

“(11) DIGITAL.—

“(A) DIGITAL PRIMARY VIDEO SIGNAL.—A cable operator shall carry the primary video of the digital signal of a local broadcast station in its originally broadcast format without material degradation upon such local broadcast station's—

“(i) cessation of analog broadcasting; and

“(ii) election of cable carriage under this section or section 615.

“(B) DIGITAL TO ANALOG CONVERSIONS PERMITTED.—Notwithstanding subparagraph (A), the conversion by a cable operator, at any location from the cable headend through equipment on the premises of a subscriber, of a digital television signal into a signal capable of being viewed by such subscriber with an analog television receiver shall be permitted subject to the conditions described in subparagraph (C).

“(C) CONDITIONS ON PERMITTED DOWNCONVERSION.—If a cable operator provides a converted signal for any station in a local market under subparagraph (B), that—

“(i) is carried under this section or section 615; and

“(ii) has ceased to broadcast in the analog television service;

such cable operator shall provide such a converted signal for each such station that is located within the same local market.

“(D) CONVERSION SUNSET.—

“(i) IN GENERAL.—Subject to clause (ii), beginning not earlier than December 31, 2011 and not later than December 31, 2012, the Commission shall cease to impose on a cable operator the requirement under subparagraph (B), if the Commission determines that such requirement is not necessary to ensure the continued ability of the audiences for foreign-language and religious television broadcast stations to view the signals of such stations.

“(ii) CONSIDERATIONS.—In making a determination under clause (i), the Commission shall take into consideration—

“(I) the penetration of digital televisions, digital receivers, and digital-to-analog converter devices among audiences of foreign-language and religious television broadcast stations; and

“(II) the market incentives of cable operators, in the absence of the requirement under subparagraph (B), to carry the signals of foreign-language and religious television broadcast stations in the format most available to be viewed by the audiences of such stations.

“(E) REVIEW.—Not later than 1 year after the date of enactment of the SAVE LIVES Act, and every 2 years thereafter until December 31, 2012, the Commission shall review the considerations described in subparagraph (D)(ii).”

(b) TIERING.—

(1) AMENDMENT TO COMMUNICATIONS ACT.—Section 623(b)(7)(A)(iii) of the Communications Act of 1934 (47 U.S.C. 543(b)(7)(A)(iii)) is amended—

(A) by striking “Any signal” and inserting “Any analog signal”; and

(B) by inserting “and a single digital video programming stream, designated by such station, that is transmitted over-the-air by such station, and” after “television broadcast station”.

(2) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on January 1, 2009.

## SEC. 8. STUDY OF NATIONWIDE RECYCLING PROGRAM.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with appropriate executive agencies (as determined by the Administrator), shall conduct a study of the feasibility of establishing a nationwide recycling program for electronic waste that preempts any State recycling program.

(2) INCLUSIONS.—The study shall include an analysis of multiple programs, including programs involving—

(A) the collection of an advanced recycling fee;

(B) the collection of an end-of-life fee;

(C) producers of electronics assuming the responsibility and the cost of recycling electronic waste; and

(D) the extension of a tax credit for recycling electronic waste.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report describing the results of the study conducted under subsection (a);

## SEC. 9. COMPLETION OF CERTAIN PENDING PROCEEDINGS.

(a) IN GENERAL.—The Commission shall complete action on and issue a final decision not later than—

(1) July 31, 2007, in the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 03-15;

(2) July 31, 2007, should the Commission begin a Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television;

(3) December 31, 2007, in the Matter of Public Interest Obligations of Television Broadcast Licensees, MM Docket No. 99-360;

(4) December 31, 2007, in the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MM Docket No. 00-168;

(5) December 31, 2007, in the Matter of Children's Television Obligations Of Digital Television Broadcasters, Further Notice of Proposed Rulemaking, MM Docket No. 00-167;

(6) December 31, 2007, in the proceeding on rules regarding the use of distributed transmission system technologies as referenced in paragraph 5 of MB Docket No. 03-15; and

(7) December 31, 2007, in the proceeding adopting digital standards for an Emergency Alert System.

(b) TWO-WAY DEVICES.—

(1) REPORT.—Not later than 30 days after the date of enactment of this Act, and every 3 months thereafter until July 1, 2007, the parties in the matter of the Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Second Report and Order, CS Docket No. 97-80, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of negotiations for two-way devices.

(2) FINAL ORDER.—Not later than December 31, 2007, the Commission shall complete action on and issue a final decision in the matter of the Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Second Report and Order, CS Docket No. 97-80.

## SEC. 10. EXCEPTION TO REMOVAL AND RELOCATION OF INCUMBENT BROADCAST LICENSEES OPERATING BETWEEN 746 AND 806 MEGAHERTZ.

Section 337(e) of the Communications Act of 1934 (47 U.S.C. 337(e)) is amended by adding at the end the following new paragraph:

“(3) EXCEPTIONS.—Paragraph (1) shall not apply to—

- “(A) television translator stations;  
 “(B) low-power television stations; or  
 “(C) class A television stations.”.

By Mr. INHOFE (for himself, Mrs. LINCOLN, Mr. CRAPO, Mr. BOND, Mr. CHAMBLISS, Mr. COCHRAN, Mr. ISAKSON, Mr. THOMAS, Mr. HAGEL, Mr. CRAIG, and Mr. ROBERTS):

S. 1269. A bill to amend the Federal Water Pollution Control Act to clarify certain activities the conduct of which does not require a permit; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I rise today to introduce the Pest Management and Fire Suppression Flexibility Act. I am proud to be joined by ten of my colleagues, Senators LINCOLN, CRAPO, BOND, ISAKSON, CRAIG, CHAMBLISS, COCHRAN, THOMAS, HAGEL and ROBERTS. This legislation codifies long-standing Democratic and Republican Administration policy of not requiring a Clean Water Act permit for pesticides in full compliance with their EPA-approved label. It will further affirm historic a Federal practices with regard to the Clean Water Act and fire suppression and other forest management activities.

In 1972, Congress enacted both the Clean Water Act and the Federal Insecticide, Fungicide and Rodenticide Act. CWA authorized the Environmental Protection Agency to protect the Nation's waterways by regulating discharges of large industrial operations and wastewater facilities through the National Pollutant Discharge Elimination System. FIFRA provided the EPA with the authority to regulate the sale and use of pesticides through a comprehensive registration and labeling protocol.

Until some recent court decisions, the application of agricultural and other pesticides in full compliance with labeling requirements did not require NPDES permits. Because pesticides undergo lengthy testing under FIFRA including tests to ensure water quality and aquatic species preservation, a NPDES permit was considered unnecessary and duplicative. These court decisions commonly known as Talent and Forsgren contradict years of Federal policy and undermine the manner in which the Federal Government regulates farmers, foresters, irrigators, mosquito abatement officials, and other pesticide applicators.

Similar cases are pending. Groups are now using the notice of intent to sue to intimidate farmers, mosquito abatement districts and Federal and State agencies into stopping or reducing West Nile virus prevention and crop loss rangeland protection operations. While EPA has proposed a rule to ensure that pesticides sprayed to, near, or over waters do not need a permit, the rule needs to be codified in statute. Environmentalists who filed notices of intent to sue Maine's two largest blueberry farmers have indicated that they plan on threatening others with law-

suits including more farmers and foresters.

Our legislation fills this regulatory gap left by EPA. While the agency's rule is a step in the right direction, our legislation codifies the agency's long-standing policy that the application of agricultural and other pesticides, in accordance with their label, does not require an NPDES permit. Moreover, the rule does not protect farmers, irrigators, mosquito abatement districts, fire fighters, Federal and State agencies, pest control operators or foresters vulnerable to citizen's suits, simply for performing long-practiced, expressly approved and already heavily regulated pest management and public health protection activities. Without such protection, those who protect us from mosquito borne illnesses and other pest outbreaks or combat destructive and potentially deadly forest fires will continue to be potential victims of mischievous citizen's suits.

My bill codifies EPA's rulemaking, as well as affirms Congressional intent and the long-held positions of Republican and Democratic administrations with regard to the CWA and pesticide applications generally, as well as fire suppression and other forest management activities. I am pleased to be joined by so many of my colleagues in this effort and encourage others to co-sponsor our proposal.

By Mr. NELSON of Nebraska:

S. 1272. A bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II; to the Committee on Veterans' Affairs.

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

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

S. 1272

*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 “Belated Thank You to the Merchant Mariners of World War II Act of 2005”.

#### SEC. 2. MONTHLY BENEFIT FOR WORLD WAR II MERCHANT MARINERS AND SURVIVORS UNDER TITLE 46, UNITED STATES CODE.

(a) MONTHLY BENEFIT.—Chapter 112 of title 46, United States Code, is amended—

(1) by inserting after the table of sections the following new subchapter heading:

“SUBCHAPTER I—VETERANS’ BURIAL AND CEMETERY BENEFITS”; AND

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

“SUBCHAPTER II—MONTHLY BENEFIT

#### “§ 11205. Monthly benefit

“(a) PAYMENT.—The Secretary of Veterans Affairs shall pay to each person issued a certificate of honorable service pursuant to sec-

tion 11207(b) of this title a monthly benefit of \$1,000.

“(b) SURVIVING SPOUSES.—

“(1) PAYMENT TO SURVIVING SPOUSES.—The Secretary of Veterans Affairs shall pay to the surviving spouse of each person issued a certificate of honorable service pursuant to section 11207(b) of this title a monthly benefit of \$1,000.

“(2) EXCLUSION.—No benefit shall be paid under paragraph (1) to a surviving spouse of a person issued a certificate of honorable service pursuant to section 11207(b) unless the surviving spouse was married to such person for no less than 1 year.

“(c) EXEMPTION FROM TAXATION.—Payments of benefits under this section are exempt from taxation as provided in section 5301(a) of title 38.

#### “§ 11206. Qualified service

“For purposes of this subchapter, a person shall be considered to have engaged in qualified service if, between December 7, 1941, and December 31, 1946, the person—

“(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crewmember of a vessel that was—

“(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of such Administration or Office);

“(B) operated in waters other than—

“(i) inland waters;

“(ii) the Great Lakes; and

“(iii) other lakes, bays, and harbors of the United States;

“(C) under contract or charter to, or property of, the Government of the United States; and

“(D) serving the Armed Forces; and

“(2) while serving as described in paragraph (1), was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

#### “§ 11207. Documentation of qualified service

“(a) APPLICATION FOR SERVICE CERTIFICATE.—A person seeking benefits under section 11205 of this title shall submit an application for a service certificate to the Secretary of Transportation, or in the case of personnel of the Army Transport Service or the Naval Transport Service, the Secretary of Defense.

“(b) ISSUANCE OF SERVICE CERTIFICATE.—The Secretary who receives an application under subsection (a) shall issue a certificate of honorable service to the applicant if, as determined by that Secretary, the person engaged in qualified service under section 11206 of this title and meets the standards referred to in subsection (d) of this section.

“(c) TIMING OF DOCUMENTATION.—A Secretary receiving an application under subsection (a) shall act on the application not later than 1 year after the date of that receipt.

“(d) STANDARDS RELATING TO SERVICE.—In making a determination under subsection (b), the Secretary acting on the application shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

#### “§ 11208. Definitions

“In this subchapter, the term ‘surviving spouse’ has the meaning given such term in section 101 of title 38, except that in applying the meaning in this subchapter, the term ‘veteran’ shall include a person who performed qualified service as specified in section 11206 of this title.

**§ 11209. Authorization of appropriations**

"There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary for the purpose of carrying out this subchapter."

(b) CONFORMING AMENDMENTS.—Subsection (c) of section 11201 of title 46, United States Code, is amended—

(1) in paragraph (1), by striking "chapter" and inserting "subchapter"; and

(2) in paragraph (2), by striking "chapter" the second place it appears and inserting "subchapter".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 112 of title 46, United States Code, is amended—

(1) by inserting at the beginning the following new item:

"SUBCHAPTER I—VETERANS' BURIAL AND CEMETERY BENEFITS";

and

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

"SUBCHAPTER II—MONTHLY BENEFIT

"11205. Monthly benefit

"11206. Qualified service

"11207. Documentation of qualified service

"11208. Definitions

"11209. Authorization of appropriations".

(d) EFFECTIVE DATE.—Subchapter II of chapter 112 of title 46, United States Code, as added by subsection (a) of this section, shall take effect with respect to payments for periods beginning on or after the date of the enactment of this Act, regardless of the date of application for benefits.

**SEC. 3. BENEFITS FOR WORLD WAR II MERCHANT MARINERS UNDER TITLE II OF THE SOCIAL SECURITY ACT.**

(a) BENEFITS.—Section 217(d) of the Social Security Act (42 U.S.C. 417(d)) is amended by adding at the end the following new paragraph:

"(3) The term 'active military or naval service' includes the service, or any period of forcible detention or internment by an enemy government or hostile force as a result of action against a vessel described in subparagraph (A), of a person who—

"(A) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crewmember of a vessel that was—

"(i) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of such Administration or Office);

"(ii) operated in waters other than—

"(I) inland waters;

"(II) the Great Lakes; and

"(III) other lakes, bays, and harbors of the United States;

"(iii) under contract or charter to, or property of, the Government of the United States; and

"(iv) serving the Armed Forces; and

"(B) while serving as described in subparagraph (A), was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to benefits for months beginning on or after the date of the enactment of this Act.

By Mr. REID:

S. 1273. A bill to provide for the sale and adoption of excess wild free-roaming horses and burros; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise on behalf of myself and Senator ENSIGN to offer legislation that will give great-

er protections to our Nation's wild horses and make needed improvements to the Bureau of Land Management's wild horse and burro adoption program.

Right now there are an estimated 32,000 wild horses on our Nation's public lands. This is 4,000 more horses than our rangeland can sustain. The Bureau of Land Management has established that nationwide, the Appropriate Management Level for wild horses and burros is 28,000. Unfortunately, after many years of trying, the BLM has been unable to reach this benchmark, even after many significant budget increases for the wild horse and burro program. This situation is compounded by the fact that wild horses naturally reproduce at a rate of 20 percent per annum, adding to management difficulties and placing greater strain on our public rangelands.

In Nevada, we feel the failures of the wild horse and burro program most acutely. Of the 32,000 horses on America's public lands, roughly half are in Nevada. So when the program fails, it hits us hard. In recent years, the program's shortcomings have been amplified by an ongoing drought in the Southwest that has, in places, seriously jeopardized the health and well-being of wild horses and burros and has devastated the rangeland upon which they depend for their survival.

At present, the wild horse program is failing on both ends. The BLM is struggling to remove sufficient numbers of horses from the range and many of the horses that are removed are placed into an adoption program that is not locating a sufficient number of willing adopters. This means that more horses stay in Government hands, driving the cost of this troubled program ever higher. As a result, today we have nearly 22,000 wild horses sitting in long-term holding facilities in the Midwest, costing the U.S. taxpayer approximately \$465 per horse, per year. And this is only part of the roughly \$40 million we are spending this year to manage our Nation's wild horses and burros. Add this to the fact that the cost of running this program has doubled in the last five years and it becomes clear that reform is needed.

Last year, Congress passed language that allowed the BLM to sell a limited number of the horses that are held in long-term holding facilities. Unfortunately, this additional management tool has been abused by a handful of people and a small number of horses ended up at slaughter. These unfortunate events have led to calls for greater protections for wild horses that are being offered to the public under the sale program.

Mr. President, the legislation that we offer today provides that greater protection for wild horses, while also giving the BLM greater leverage to put more horses into the hands of good, caring owners.

Currently, wild horses that are acquired through the BLM's adoption program are federally protected for 1 year. This is the strongest protection available to wild horses that are placed

into private ownership and our bill extends this protection to horses that are acquired under sale authority.

Our legislation also gives the BLM more flexibility in finding good homes for wild horses. We do this by giving the BLM the authority to make all horses that are not suitable for the adoption program available for purchase by caring owners.

We also lift the limit on the number of horses that an approved adopter can take title to in a single year, and we lower the minimum adoption fee from \$125 to \$25. It is our firm belief that when good people want to adopt horses and meet the requirements set forth by the BLM, they should have as few barriers to overcome as possible. By increasing the number of horses that can be adopted and lowering the adoption fee, we believe that we can put more horses into the hands of more quality owners.

Our goal is to give all wild horses the maximum protection available under our current system and to provide the BLM with the management tools they need to get tens of thousands of wild horses and burros into safe and caring homes. We believe that this is the right thing to do. I look forward to working with the Energy Committee and the Senate to move this legislation expeditiously.

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. 1273

*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 "Wild Free-Roaming Horses and Burros Sale and Adoption Act of 2005".

**SEC. 2. SALE AND ADOPTION OF WILD FREE-ROAMING HORSES AND BURROS.**

Section 3 of Public Law 92-195 (16 U.S.C. 1333) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (B), by striking "Provided" and all that follows through "adopting party"; and

(B) by striking subparagraph (C) and inserting the following:

"(C) Additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist shall be sold under subsection (e).";

(2) in subsection (c), by striking "not more than four animals" and inserting "excess animals transferred";

(3) in subsection (e)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

"(A) the Secretary determines that there is no adoption demand from qualified individuals for the excess animal";

(B) in paragraph (2), by striking "without limitation"; and

(C) by striking paragraph (4) and inserting the following:

"(4) EFFECT OF SALE.—At the end of the 1-year period following the sale of any excess animal under this subsection—

“(A) the Secretary shall grant to the transferee title to the excess animal; and

“(B) the excess animal transferred shall no longer be considered to be a wild free-roaming horse or burro for purposes of this Act.”; and

(4) by adding at the end the following:

“(f) MINIMUM FEES AND BIDS.—The minimum adoption fee required for the adoption of an excess animal under this section shall be \$25.”.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 176—CONGRATULATING CAM NEELY ON HIS INDUCTION INTO THE HOCKEY HALL OF FAME

Mr. KENNEDY submitted the following resolution; which was referred to the Committee on the Judiciary:

Mr. KENNEDY. Mr. President, earlier this month, Cam Neely of the Boston Bruins was elected to the Hockey Hall of Fame in Toronto, Canada, and he will be formally inducted into the Hall on November 7.

Cam has inspired a generation of ice hockey fans in Boston and New England, and throughout the Nation with his extraordinary skill and brilliant accomplishments. He is truly one of hockey's immortals, and he eminently deserves this high honor.

In addition, he is also well-known to all of us in Boston for his good citizenship and impressive participation in inspiring our community.

I am submitting a resolution today to honor Cam Neely for his on-ice accomplishments and also for his continuing commitment to charitable causes in the Commonwealth of Massachusetts.

#### S. RES. 176

Whereas on June 8, 2005, Cam Neely was elected to the Hockey Hall of Fame in Toronto, Canada, and will be formally inducted into the Hall of Fame on November 7, 2005;

Whereas as a member of the Boston Bruins, Cam Neely became one of ice hockey's greatest players, defining the position of “power forward”;

Whereas although his career was cut short when he retired at the age of 31 due to injury, Cam Neely scored 395 goals and had 299 assists in 726 games in his brilliant career;

Whereas Cam Neely led the Boston Bruins in goals for 7 seasons, led the team in scoring for 2 seasons, and was the team's all-time leader in goals during playoffs;

Whereas Cam Neely had three 50-goal seasons for the Boston Bruins, including back-to-back 50-goal seasons in 1989–1990 and 1991–1992;

Whereas Cam Neely, returning to the Boston Bruins after an injury in 1993–1994, scored 50 goals and was awarded the National Hockey League's Bill Masterton Trophy as the “player who best exemplifies the qualities of perseverance, sportsmanship, and dedication to hockey”;

Whereas Cam Neely, number 8, became the tenth Boston Bruin to be honored by having his uniform number retired;

Whereas Cam Neely continues to provide invaluable assistance to charitable causes in the Commonwealth of Massachusetts, including the establishment of the Neely House and the Neely Foundation, which comfort, support, and offer hope to cancer patients and their families: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the extraordinary achievements of Cam Neely during his brilliant career in ice hockey with the Boston Bruins;

(2) commends Cam Neely for his recent and eminently well-deserved induction into the Hockey Hall of Fame; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to:

(A) Cam Neely;

(B) Jeremy Jacobs, owner of the Boston Bruins;

(C) Harry Sinden, president of the Boston Bruins; and

(D) Mike Sullivan, head coach of the Boston Bruins.

#### SENATE RESOLUTION 177—ENCOURAGING THE PROTECTION OF THE RIGHTS OF REFUGEES

Mr. KENNEDY (for himself, Mr. BROWNBACK, Mr. LEAHY, Mr. DEWINE, Mr. LIEBERMAN, Ms. SNOWE, Mr. DURBIN, Mr. COLEMAN, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Foreign Relations:

#### S. RES. 177

Whereas the Convention Relating to the Status of Refugees dated July 28, 1951 (189 UST 150) (hereinafter referred to as the “Convention”) and the Protocol Relating to the Status of Refugees done at New York January 31, 1967 (19 UST 6223) (hereinafter referred to as the “Protocol”) provide that individuals who flee a country to avoid persecution deserve international protection;

Whereas such protection includes freedom from forcible return and the basic rights necessary for a refugee to live a free, dignified, self-reliant life, even while in exile;

Whereas such rights, as recognized in the Convention, include the right to earn a livelihood, to engage in wage-employment or self-employment, to practice a profession, to own property, to freedom of movement and residence, and to receive travel documents;

Whereas such rights are applicable to a refugee independent of whether a solution is available that would permit the refugee to return to the country that the refugee fled;

Whereas such rights are part of the core protection mandate of the United Nations High Commissioner for Refugees;

Whereas warehoused refugees have been confined to a camp or segregated settlement or otherwise deprived of their basic rights;

Whereas more than 50 percent of the refugees in the world are effectively warehoused in a situation that has existed for at least 10 years;

Whereas donor countries, including the United States, have typically offered less developed countries hosting refugees assistance if they keep refugees warehoused in camps or segregated settlements but have not provided adequate assistance to host countries that permit refugees to live and work among the local population; and

Whereas warehousing refugees not only violates the rights of the refugees but also debilitates their humanity, often reducing the refugees to enforced idleness, dependency, disempowerment, and despair: Now, therefore, be it

*Resolved*, That the United States Senate—

(1) expresses deep appreciation and gratitude for those States which have and continue to host refugees and offer refugee resettlement;

(2) denounces the practice of warehousing refugees, which is the confinement of refugees to a camp or segregated settlement or

other deprivation of the refugees' basic rights in a protracted situation, as a denial of basic human rights and a squandering of human potential;

(3) urges the Secretary of State to actively pursue models of refugee assistance that permit refugees to enjoy all the rights recognized in the Convention and the Protocol;

(4) urges the Secretary of State to encourage other donor nations and other members of the Executive Committee of the United Nations High Commissioner for Refugees' Programme to shift the incentive structure of refugee assistance and to build mechanisms into relief and development assistance to encourage the greater enjoyment by refugees of their rights under the Convention;

(5) encourages the international community, including donor countries, host countries, and members of the Executive Committee of the United Nations High Commissioner for Refugees' Programme, to denounce resolutely the practice of warehousing refugees in favor of allowing refugees to exercise their rights under the Convention;

(6) calls upon the United Nations High Commissioner for Refugees to monitor refugee situations more effectively for the realization of all the rights of refugees under the Convention, including those related to freedom of movement and the right to earn a livelihood;

(7) encourages those countries that have not yet ratified the Convention or the Protocol to do so;

(8) encourages those countries that have ratified the Convention or the Protocol, but have done so with reservations on key articles pertaining to the right to work and freedom of movement, to remove such reservations; and

(9) encourages all countries to enact legislation or promulgate policies to provide for the legal enjoyment of the basic rights of refugees as outlined in the Convention.

Mr. KENNEDY. Mr. President, today is World Refugee Day and I welcome this opportunity to reaffirm the fundamental rights embodied in the United Nations Refugee Convention of 1951. It is an honor to join my colleagues—Senators BROWNBACK, LEAHY, DEWINE, LIEBERMAN, SNOWE, DURBIN, COLEMAN, and LAUTENBERG—in introducing this bipartisan resolution to focus attention on the plight of millions of refugees throughout the world who are endlessly confined in refugee camps or segregated settlements. These “warehoused” refugees are denied basic rights under the Convention, such as the right to work, to move freely, and to receive a basic education. The deprivation goes on for years and in some cases, even for generations.

Worldwide, more than 7 million refugees have been restricted to camps or isolated settlements for 10 years or more. These populations constitute more than half of the refugees around the world.

In Tanzania, nearly 400,000 refugees from Burundi and the Democratic Republic of Congo are confined in 13 camps along the western border. Some of these camps have existed for more than a decade. Many refugees confined in these camps find it extremely difficult to find employment, let alone obtain other basic necessities of life. Other refugee populations have been warehoused and forgotten for over 20 years, such as Angolans in Zambia, Afghans in Iran and Pakistan, Bhutanese