Whereas Federal, State, and local governments—

(1) share a unique relationship with foster children; and

(2) have removed children from their homes to better provide for the safety, permanency, and well-being of the children;

Whereas unfortunately, studies indicate that Federal, State, and local governments have not been entirely successful in caring for foster children;

Whereas Congress recognizes the commitment of Federal, State, and local governments to ensure the safety and permanency of children placed in foster care programs; and

Whereas every child deserves a loving family: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) May 2006 as ''National Foster Care Month''; and

(B) that, during National Foster Care Month, the leaders of the Federal, State, and local governments should rededicate themselves to provide better care to the foster children of the United States; and

(2) resolves to provide leadership to help identify the role that Federal, State, and local governments should play to ensure that foster children receive appropriate parenting throughout their entire childhood.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3861. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, to amend the title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table.

SA 3862. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3863. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3864. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3865. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3866. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3867. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3868. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3869. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3870. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3871. Mrs. FEINSTEIN (for herself, Mr. DORGAN, Mr. BINGAMAN, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3872. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

SA 3873. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1955, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3861. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Local Law Enforcement Enhancement Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) The prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including—

(A) by impeding the movement of members of targeted groups and forcing such members to move across State lines to escape the incidence or risk of such violence; and

(B) by preventing members of targeted groups from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(7) Perpetrators cross State lines to commit such violence.

(8) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(9) Such violence is committed using articles that have traveled in interstate commerce.

(10) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(11) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct ''races''. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(12) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(13) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States and local jurisdictions.

SEC. 3. DEFINITION OF HATE CRIME.

In this Act, the term ''hate crime'' has the same meaning as in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note).

SEC. 4. SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of a law enforcement official of a State or Indian tribe; the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that—

(A) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(B) constitutes a felony under the laws of the State or Indian tribe; and

(C) is motivated by prejudice based on the race, color, religion, national origin, gender, sexual orientation, or disability of the victim, or is a violation of the hate crime laws of the State or Indian tribe.

(2) PRIORITY.—In providing assistance under paragraph (1), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than 1 State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(b) GRANTS.—

IN GENERAL.—The Attorney General may award grants to assist State, local, and Indian law enforcement officials with the extraordinary expenses associated with the investigation and prosecution of hate crimes.

(2) OFFICE OF JUSTICE PROGRAMS.—In implementing the grant program, the Office of Justice Programs shall work closely with the funded jurisdictions to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(3) APPLICATION.—

(A) IN GENERAL.—Each State that desires a grant under this subsection shall submit an application to the Attorney General at such time, in such manner, and accompanied by or containing such information as the Attorney General shall reasonably require.

(B) DATE FOR SUBMISSION.—Applications submitted pursuant to subparagraph (A) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(C) REQUIREMENTS.—A State or political subdivision of a State or tribal official applying for assistance under this subsection shall—

(i) describe the extraordinary purposes for which the grant is needed;

(ii) certify that the State; political subdivision, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(iii) demonstrate that, in developing a plan to implement the grant, the State, political subdivision, or tribal official has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(iv) certify that any Federal funds received under this subsection will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection.

(4) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(5) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single jurisdiction within a 1 year period.

(6) REPORT.—Not later than December 31, 2006, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this subsection, the award of such grants, and the purposes for which the grant amounts were expended.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2006 and 2007.

SEC. 5. GRANT PROGRAM.

(a) AUTHORITY TO MAKE GRANTS.—The Office of Justice Programs of the Department of Justice shall award grants, in accordance with such regulations as the Attorney General may prescribe, to State and local programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO ASSIST STATE AND LOCAL LAW ENFORCEMENT.

There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2006, 2007, and 2008 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by section 7.

SEC. 7. PROHIBITION OF CERTAIN HATE CRIME ACTS.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

§ 249. Hate crime acts

''(a) IN GENERAL.—

''(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN.—Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

''(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

''(I) death results from the offense; or

''(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(B) CIRCUMSTANCES DESCRIBED.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

''(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—

''(I) across a State line or national border; or

''(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

''(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

''(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

''(iv) the conduct described in subparagraph (A)—

''(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

''(II) otherwise affects interstate or foreign commerce.

''(b) CERTIFICATION REQUIREMENT.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that—

''(1) he or she has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

''(2) he or his designee or she or her designee has consulted with State or local law enforcement officials regarding the prosecution and determined that—

''(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

''(B) the State has requested that the Federal Government assume jurisdiction;

''(C) the State does not object to the Federal Government assuming jurisdiction; or

''(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

''(c) DEFINITIONS.—In this section—

''(1) the term 'explosive or incendiary device' has the meaning given the term in section 232 of this title; and

''(2) the term 'firearm' has the meaning given the term in section 921(a) of this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

''249. Hate crime acts''.

SEC. 8. DUTIES OF FEDERAL SENTENCING COMMISSION.

(a) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to the authority provided under section 994 of title 28, United States Code, the United States Sentencing Commission shall study the issue of adult recruitment of juveniles to commit hate crimes and shall, if appropriate, amend the Federal sentencing guidelines to provide sentencing enhancements (in addition to the sentencing enhancement provided for the use of a minor during the commission of an offense) for adult defendants who recruit juveniles to assist in the commission of hate crimes.

(b) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishments for substantially the same offense.

SEC. 9. STATISTICS.

Subsection (b)(1) of the first section of the Hate Crimes Statistics Act (28 U.S.C. 534 note) is amended by inserting ''gender,'' after ''race,''.

SEC. 10. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 3862. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Kids Come First Act of 2006''.

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

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) NEED FOR UNIVERSAL COVERAGE.—

(A) Currently, there are 9,000,000 children under the age of 19 that are uninsured. One out of every 8 children are uninsured while 1 in 5 Hispanic children and 1 in 7 African American children are uninsured. Three-quarters, approximately 6,800,000, of these children are eligible but not enrolled in the medicaid program or the State children's health insurance program (SCHIP). Long-range studies found that 1 in 3 children went without health insurance for all or part of 2002 and 2003.

(B) Low-income children are 3 times as likely as children in higher income families to be uninsured. It is estimated that 65 percent of uninsured children have at least 1 parent working full time over the course of the year.

(C) It is estimated that 50 percent of all legal immigrant children in families with income that is less than 200 percent of the Federal poverty line are uninsured. In States without programs to cover immigrant children, 57 percent of non-citizen children are uninsured.

(D) Children in the Southern and Western parts of the United States were nearly 1.7 times more likely to be uninsured than children in the Northeast. In the Northeast, 9.4 percent of children are uninsured while in the Midwest, 8.3 percent are uninsured. The South's rate of uninsured children is 14.3 percent while the West has an uninsured rate of 13 percent.

(E) Children's health care needs are neglected in the United States. One-quarter of young children in the United States are not fully up to date on their basic immunizations. One-third of children with chronic asthma do not get a prescription for the necessary medications to manage the disease.

(F) According to the Centers for Disease Control and Prevention, nearly ½ of all uninsured children have not had a well-child visit in the past year. One out of every 5 children has problems accessing needed care, and 1 out of every 4 children do not receive annual dental exams. One in 6 uninsured children had a delayed or unmet medical need in the past year. Minority children are less likely to receive proven treatments such as prescription medications to treat chronic disease.

(G) There are 7,600,000 young adults between the ages of 19 and 20. In the United States, approximately 28 percent, or 2,100,000 individuals, of this group are uninsured.

(H) Chronic illness and disability among children are on the rise. Children most at risk for chronic illness and disability are children who are most likely to be poor and uninsured.

(2) ROLE OF THE MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS.—

(A) The medicaid program and SCHIP serve as a crucial health safety net for 30,000,000 children. During the recent economic downturn and the highest number of uninsured individuals ever recorded in the United States, the medicaid program and SCHIP offset losses in employer-sponsored coverage. While the number of children living in low-income families increased by 2,000,000 between 2000 and 2003, the number of uninsured children fell due to the medicaid program and SCHIP.

(B) In 2003, 25,000,000 children were enrolled in the medicaid program, accounting for ½ of all enrollees and only 19 percent of total program costs.

(C) The medicaid program and SCHIP do more than just fill in the gaps. Gains in public coverage have reduced the percentage of low-income uninsured by a ⅓ from 1997 to 2003. In addition, a recent study found that publicly-insured children are more likely to obtain medical care, preventive care and dental care than similar low-income privately-insured children.

(D) Publicly funded programs such as the medicaid program and SCHIP actually improve children's health. Children who are currently insured by public programs are in better health than they were a year ago. Expansion of coverage for children and pregnant women under the medicaid program and SCHIP reduces rates of avoidable hospitalizations by 22 percent.

(E) Studies have found that children enrolled in public insurance programs experienced a 68 percent improvement in measures of school performance.

(F) Despite the success of expansions in general under the medicaid program and SCHIP, due to current budget constraints, many States have stopped doing aggressive outreach and have raised premiums and cost-sharing requirements on families under these programs. In addition, 8 States stopped enrollment in SCHIP for a period of time between April 2003 and July 2004. As a result, SCHIP enrollment fell by 200,000 children for the first time in the program's history.

(G) It is estimated that nearly 50 percent of children covered through SCHIP do not remain in the program due to reenrollment barriers. A recent study found that between 10 and 40 percent of these children are ''lost'' in the system. Difficult renewal policies and reenrollment barriers make seamless coverage in SCHIP unattainable. Studies indicate that as many as 67 percent of children who were eligible but not enrolled for SCHIP had applied for coverage but were denied due to procedural issues.

(H) While the medicaid program and SCHIP expansions to date have done much to offset what otherwise would have been a significant loss of coverage among children because of declining access to employer coverage, the shortcomings of previous expansions, such as the failure to enroll all eligible children and caps on enrollment in SCHIP because of under-funding, also are clear.

TITLE I—EXPANDED COVERAGE OF CHILDREN UNDER MEDICAID AND SCHIP

SEC. 101. STATE OPTION TO RECEIVE 100 PERCENT FMAP FOR MEDICAL ASSISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER MEDICAID OR SCHIP.

(a) STATE OPTION.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1939 as section 1940, and by inserting after section 1938 the following:

''STATE OPTION FOR INCREASED FMAP FOR MEDICAL ASSISTANCE FOR CHILDREN IN POVERTY IN EXCHANGE FOR EXPANDED COVERAGE OF CHILDREN IN WORKING POOR FAMILIES UNDER THIS TITLE OR TITLE XXI

''SEC. 1939. (a) 100 PERCENT FMAP.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, in the case of a State that, through an amendment to each of its State plans under this title and title XXI (or to a waiver of either such plan), agrees to satisfy the conditions described in subsections (b), (c), and (d) the Federal medical assistance percentage shall be 100 percent with respect to the total amount expended by the State for providing medical assistance under this title for each fiscal year quarter beginning on or after the date described in subsection (e) for children whose family income does not exceed 100 percent of the poverty line.

''(2) LIMITATION ON SCOPE OF APPLICATION OF INCREASE.—The increase in the Federal medical assistance percentage for a State under this section shall apply only with respect to the total amount expended for providing medical assistance under this title for a fiscal year quarter for children described in paragraph (1) and shall not apply with respect to—

''(A) any other payments made under this title, including disproportionate share hospital payments described in section 1923;

''(B) payments under title IV or XXI; or

''(C) any payments made under this title or title XXI that are based on the enhanced FMAP described in section 2105(b).

''(b) ELIGIBILITY EXPANSIONS.—The condition described in this subsection is that the State agrees to do the following:

''(1) COVERAGE UNDER MEDICAID OR SCHIP FOR CHILDREN IN FAMILIES WHOSE INCOME DOES NOT EXCEED 300 PERCENT OF THE POVERTY LINE.—

''(A) IN GENERAL.—The State agrees to provide medical assistance under this title or child health assistance under title XXI to children whose family income exceeds the medicaid applicable income level (as defined in section 2110(b)(4) but by substituting 'January 1, 2006' for 'March 31, 1997'), but does not exceed 300 percent of the poverty line.

''(B) STATE OPTION TO EXPAND COVERAGE THROUGH SUBSIDIZED PURCHASE OF FAMILY COVERAGE.—A State may elect to carry out subparagraph (A) through the provision of assistance for the purchase of dependent coverage under a group health plan or health insurance coverage if—

''(i) the dependent coverage is consistent with the benefit standards under this title or title XXI, as approved by the Secretary; and

''(ii) the State provides additional benefits under this title or title XXI.

''(C) DEEMED SATISFACTION FOR CERTAIN STATES.—A State that, as of January 1, 2006, provides medical assistance under this title or child health assistance under title XXI to children whose family income is 300 percent of the poverty line shall be deemed to satisfy this paragraph.

''(2) COVERAGE FOR CHILDREN UNDER AGE 21.—The State agrees to define a child for

purposes of this title and title XXI as an individual who has not attained 21 years of age.

''(3) OPPORTUNITY FOR HIGHER INCOME CHILDREN TO PURCHASE SCHIP COVERAGE.—The State agrees to permit any child whose family income exceeds 300 percent of the poverty line to purchase full or additional coverage under title XXI at the full cost of providing such coverage, as determined by the State.

''(4) COVERAGE FOR LEGAL IMMIGRANT CHILDREN.—The State agrees to—

''(A) provide medical assistance under this title and child health assistance under title XXI for alien children who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance in accordance with section 1903(v)(4) and 2107(e)(1)(E); and

''(B) not establish or enforce barriers that deter applications by such aliens, including through the application of the removal of the barriers described in subsection (c).

''(c) REMOVAL OF ENROLLMENT AND ACCESS BARRIERS.—The condition described in this subsection is that the State agrees to do the following:

''(1) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State agrees to—

''(A) provide presumptive eligibility for children under this title and title XXI in accordance with section 1920A;

''(B) treat any items or services that are provided to an uncovered child (as defined in section 2110(c)(8)) who is determined ineligible for medical assistance under this title as child health assistance for purposes of paying a provider of such items or services, so long as such items or services would be considered child health assistance for a targeted low-income child under title XXI.

''(2) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State agrees to provide that eligibility for assistance under this title and title XXI shall not be regularly redetermined more often than once every year for children.

''(3) ACCEPTANCE OF SELF-DECLARATION OF INCOME.—The State agrees to permit the family of a child applying for medical assistance under this title or child health assistance under title XXI to declare and certify by signature under penalty of perjury family income for purposes of collecting financial eligibility information.

''(4) ADOPTION OF ACCEPTANCE OF ELIGIBILITY DETERMINATIONS FOR OTHER ASSISTANCE PROGRAMS.—The State agrees to accept determinations (made within a reasonable period, as found by the State, before its use for this purpose) of an individual's family or household income made by a Federal or State agency (or a public or private entity making such determination on behalf of such agency), including the agencies administering the Food Stamp Act of 1977, the Richard B. Russell National School Lunch Act, and the Child Nutrition Act of 1966, notwithstanding any differences in budget unit, disregard, deeming, or other methodology, but only if—

''(A) such agency has fiscal liabilities or responsibilities affected or potentially affected by such determinations; and

''(B) any information furnished by such agency pursuant to this subparagraph is used solely for purposes of determining eligibility for medical assistance under this title or for child health assistance under title XXI.

''(5) NO ASSETS TEST.—The State agrees to not (or demonstrates that it does not) apply any assets or resources test for eligibility under this title or title XXI with respect to children.

''(6) ELIGIBILITY DETERMINATIONS AND REDETERMINATIONS.—

''(A) IN GENERAL.—The State agrees for purposes of initial eligibility determinations and redeterminations of children under this title and title XXI not to require a face-to-face interview and to permit applications and renewals by mail, telephone, and the Internet.

''(B) NONDUPLICATION OF INFORMATION.—

''(i) IN GENERAL.—For purposes of redeterminations of eligibility for currently or previously enrolled children under this title and title XXI, the State agrees to use all information in its possession (including information available to the State under other Federal or State programs) to determine eligibility or redetermine continued eligibility before seeking similar information from parents.

''(ii) RULE OF CONSTRUCTION.—Nothing in clause (i) shall be construed as limiting any obligation of a State to provide notice and a fair hearing before denying, terminating, or reducing a child's coverage based on such information in the possession of the State.

''(7) NO WAITING LIST FOR CHILDREN UNDER SCHIP.—The State agrees to not impose any numerical limitation, waiting list, waiting period, or similar limitation on the eligibility of children for child health assistance under title XXI or to establish or enforce other barriers to the enrollment of eligible children based on the date of their application for coverage.

''(8) ADEQUATE PROVIDER PAYMENT RATES.—The State agrees to—

''(A) establish payment rates for children's health care providers under this title that are no less than the average of payment rates for similar services for such providers provided under the benchmark benefit packages described in section 2103(b);

''(B) establish such rates in amounts that are sufficient to ensure that children enrolled under this title or title XXI have adequate access to comprehensive care, in accordance with the requirements of section 1902(a)(30)(A); and

''(C) include provisions in its contracts with providers under this title guaranteeing compliance with these requirements.

''(d) MAINTENANCE OF MEDICAID ELIGIBILITY LEVELS FOR CHILDREN.—

''(1) IN GENERAL.—The condition described in this subsection is that the State agrees to maintain eligibility income, resources, and methodologies applied under this title (including under a waiver of such title or under section 1115) with respect to children that are no more restrictive than the eligibility income, resources, and methodologies applied with respect to children under this title (including under such a waiver) as of January 1, 2006.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as implying that a State does not have to comply with the minimum income levels required for children under section 1902(l)(2).

''(e) DATE DESCRIBED.—The date described in this subsection is the date on which, with respect to a State, a plan amendment that satisfies the requirements of subsections (b), (c), and (d) is approved by the Secretary.

''(f) DEFINITION OF POVERTY LINE.—In this section, the term 'poverty line' has the meaning given that term in section 2110(c)(5).''.

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended by inserting before the period the following: '', and with respect to amounts expended for medical assistance for children on or after the date described in subsection (d) of section 1939, in the case of a State that has, in accordance with such section, an approved plan amendment under this title and title XXI''.

(2) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended—

(A) in subparagraph (C), by adding ''or'' after ''section 1611(b)(1),''; and

(B) by inserting after subparagraph (C), the following:

''(D) who would not receive such medical assistance but for State electing the option under section 1939 and satisfying the conditions described in subsections (b), (c), and (d) of such section,''.

SEC. 102. ELIMINATION OF CAP ON SCHIP FUNDING FOR STATES THAT EXPAND ELIGIBILITY FOR CHILDREN.

(a) IN GENERAL.—Section 2105 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following:

''(h) GUARANTEED FUNDING FOR CHILD HEALTH ASSISTANCE FOR COVERAGE EXPANSION STATES.—

''(1) IN GENERAL.—Only in the case of a State that has, in accordance with section 1939, an approved plan amendment under this title and title XIX, any payment cap that would otherwise apply to the State under this title as a result of having expended all allotments available for expenditure by the State with respect to a fiscal year shall not apply with respect to amounts expended by the State on or after the date described in section 1939(d).

''(2) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the purpose of paying a State described in paragraph (1) for each quarter beginning on or after the date described in section 1939(d), an amount equal to the enhanced FMAP of expenditures described in paragraph (1) and incurred during such quarter.''.

(b) CONFORMING AMENDMENTS.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by inserting ''subject to section 2105(h),'' after ''under this section,'';

(2) in subsection (b)(1), by inserting ''and section 2105(h)'' after ''Subject to paragraph (4)''; and

(3) in subsection (c)(1), by inserting ''subject to section 2105(h),'' after ''for a fiscal year,''.

TITLE II—STATE OPTIONS FOR INCREMENTAL CHILD COVERAGE EXPANSIONS

SEC. 201. STATE OPTION TO PROVIDE ADDITIONAL SCHIP COVERAGE TO CHILDREN WHO HAVE OTHER HEALTH COVERAGE.

(a) IN GENERAL.—Section 2110(b) of the Social Security Act (42 U.S.C. 1397jj(b)) is amended—

(1) in paragraph (1)(C), by inserting '', subject to paragraph (5),'' after ''under title XIX or''; and

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

''(5) STATE OPTION TO PROVIDE ADDITIONAL COVERAGE.—

''(A) IN GENERAL.—A State may waive the requirement of paragraph (1)(C) that a targeted low-income child may not be covered under a group health plan or under health insurance coverage in order to provide—

''(i) items or services that are not covered, or are only partially covered, under such plan or coverage; or

''(ii) cost-sharing protection.

''(B) ELIGIBILITY.—In waiving such requirement, a State may limit the application of the waiver to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

''(C) CONTINUED APPLICATION OF DUTY TO PREVENT SUBSTITUTION OF EXISTING COVERAGE.—Nothing in this paragraph shall be construed as modifying the application of section 2102(b)(3)(C) to a State.''.

(b) APPLICATION OF ENHANCED MATCH UNDER MEDICAID.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), in the fourth sentence, by striking ''subsection (u)(3)'' and inserting ''(u)(3), or (u)(4)''; and

(2) in subsection (u), by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

''(4) For purposes of subsection (b), the expenditures described in this paragraph are expenditures for items and services for children described in section 2110(b)(5).''.

(c) APPLICATION OF SECONDARY PAYOR PROVISIONS.—Section 2107(e)(1) of such Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

''(B) Section 1902(a)(25) (relating to coordination of benefits and secondary payor provisions) with respect to children covered under a waiver described in section 2110(b)(5).''.

SEC. 202. STATE OPTION TO ENROLL LOW-INCOME CHILDREN OF STATE EMPLOYEES IN SCHIP.

Section 2110(b)(2) of the Social Security Act (42 U.S.C. 1397jj(b)(2)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively and realigning the left margins of such clauses appropriately;

(2) by striking ''Such term'' and inserting the following:

''(A) IN GENERAL.—Such term''; and

(3) by adding at the end the following:

''(B) STATE OPTION TO ENROLL LOW-INCOME CHILDREN OF STATE EMPLOYEES.—At the option of a State, subparagraph (A)(ii) shall not apply to any low-income child who would otherwise be eligible for child health assistance under this title but for such subparagraph.''.

SEC. 203. OPTIONAL COVERAGE OF LEGAL IMMIGRANT CHILDREN UNDER MEDICAID AND SCHIP.

(a) MEDICAID PROGRAM.—Section 1903(v) of the Social Security Act (42 U.S.C. 1396b(v)) is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following:

''(4)(A) A State may elect (in a plan amendment under this title) to provide medical assistance under this title for aliens who are lawfully residing in the United States (including battered aliens described in section 431(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) and who are otherwise eligible for such assistance, within any of the following eligibility categories:

''(i) CHILDREN.—Children (as defined under such plan), including optional targeted low-income children described in section 1905(u)(2)(B).

''(B)(i) In the case of a State that has elected to provide medical assistance to a category of aliens under subparagraph (A), no debt shall accrue under an affidavit of support against any sponsor of such an alien on the basis of provision of assistance to such category and the cost of such assistance shall not be considered as an unreimbursed cost.

''(ii) The provisions of sections 401(a), 402(b), 403, and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not apply to a State that makes an election under subparagraph (A).''.

(b) TITLE XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following:

''(E) Section 1903(v)(4) (relating to optional coverage of permanent resident alien children), but only if the State has elected to apply such section to that category of children under title XIX.''.

SEC. 204. STATE OPTION FOR PASSIVE RENEWAL OF ELIGIBILITY FOR CHILDREN UNDER MEDICAID AND SCHIP.

(a) IN GENERAL.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended by adding at the end the following:

''(5) Notwithstanding any other provision of this title, a State may provide that an individual who has not attained 21 years of age who has been determined eligible for medical assistance under this title shall remain eligible for medical assistance until such time as the State has information demonstrating that the individual is no longer so eligible.''.

(b) APPLICATION UNDER TITLE XXI.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A), the following:

''(B) Section 1902(l)(5) (relating to passive renewal of eligibility for children).''.

TITLE III—TAX INCENTIVES FOR HEALTH INSURANCE COVERAGE OF CHILDREN

SEC. 301. REFUNDABLE CREDIT FOR HEALTH INSURANCE COVERAGE OF CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. HEALTH INSURANCE COVERAGE OF CHILDREN.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to so much of the amount paid during the taxable year, not compensated for by insurance or otherwise, for qualified health insurance for each dependent child of the taxpayer, as exceeds 5 percent of the adjusted gross income of such taxpayer for such taxable year.

''(b) DEPENDENT CHILD.—For purposes of this section, the term 'dependent child' means any child (as defined in section 152(f)(1)) who has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins and with respect to whom a deduction under section 151 is allowable to the taxpayer.

''(c) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified health insurance' means insurance, either employer-provided or made available under title XIX or XXI of the Social Security Act, which constitutes medical care as defined in section 213(d) without regard to—

''(A) paragraph (1)(C) thereof, and

''(B) so much of paragraph (1)(D) thereof as relates to qualified long-term care insurance contracts.

''(2) EXCLUSION OF CERTAIN OTHER CONTRACTS.—Such term shall not include insurance if a substantial portion of its benefits are excepted benefits (as defined in section 9832(c)).

''(d) MEDICAL SAVINGS ACCOUNT AND HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.—

''(1) IN GENERAL.—If a deduction would (but for paragraph (2)) be allowed under section 220 or 223 to the taxpayer for a payment for the taxable year to the medical savings account or health savings account of an individual, subsection (a) shall be applied by treating such payment as a payment for qualified health insurance for such individual.

''(2) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under section 220 or 223 for that portion of the payments otherwise allowable as a deduction under section 220 or 223 for the taxable year which is equal to the amount of credit allowed for such taxable year by reason of this subsection.

''(e) SPECIAL RULES.—

''(1) DETERMINATION OF INSURANCE COSTS.—The Secretary shall provide rules for the allocation of the cost of any qualified health insurance for family coverage to the coverage of any dependent child under such insurance.

''(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

''(3) COORDINATION WITH MEDICAL EXPENSE AND HIGH DEDUCTIBLE HEALTH PLAN DEDUCTIONS.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 or 224 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

''(4) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(5) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) if the credit under section 35 is allowed and no credit shall be allowed under 35 if a credit is allowed under this section.

''(6) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following new section:

''SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

''(a) IN GENERAL.—Any governmental unit or any person who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of a dependent child (as defined in section 36(b)) of such individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

''(B) the name, address, and TIN of each dependent child (as so defined) who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage, and

''(C) such other information as the Secretary may reasonably prescribe.

''(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term 'creditable health insurance' means qualified health insurance (as defined in section 36(c)).

''(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

''(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

''(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix), respectively, and by inserting after clause (xii) the following new clause:

''(xiii) section 6050U (relating to returns relating to payments for qualified health insurance),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of the next to last subparagraph, by striking the period at the end of the last subparagraph and inserting '', or'', and by adding at the end the following new subparagraph:

''(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Returns relating to payments for qualified health insurance.''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Health insurance coverage of children.

''Sec. 37. Overpayments of tax.''. Q

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 302. FORFEITURE OF PERSONAL EXEMPTION FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.

(a) IN GENERAL.—Section 151(d) of the Internal Revenue Code of 1986 (relating to exemption amount) is amended by adding at the end the following new paragraph:

''(5) REDUCTION OF EXEMPTION AMOUNT FOR ANY CHILD NOT COVERED BY HEALTH INSURANCE.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the exemption amount otherwise determined under this subsection for any dependent child (as defined in section 36(b)) for any taxable year shall be reduced by the same percentage as the percentage of such taxable year during which such dependent child was not covered by qualified health insurance (as defined in section 36(c)).

''(B) FULL REDUCTION IF NO PROOF OF COVERAGE IS PROVIDED.—For purposes of subparagraph (A), in the case of any taxpayer who fails to attach to the return of tax for any taxable year a copy of the statement furnished to such taxpayer under section 6050U, the percentage reduction under such subparagraph shall be deemed to be 100 percent.

''(C) NONAPPLICATION OF PARAGRAPH TO TAXPAYERS IN LOWEST TAX BRACKET.—This paragraph shall not apply to any taxpayer whose taxable income for the taxable year does not exceed the initial bracket amount determined under section 1(i)(1)(B).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

TITLE IV—MISCELLANEOUS

SEC. 401. REQUIREMENT FOR GROUP MARKET HEALTH INSURERS TO OFFER DEPENDENT COVERAGE OPTION FOR WORKERS WITH CHILDREN.

(a) ERISA.—

(1) 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. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

''(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

''(c) DEFINITION OF CHILD.—In this section, the term 'child' means an individual who has not attained 21 years of age.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001) is amended by inserting after the item relating to section 713 the following:

''Sec. 714. Requirement to offer option to purchase dependent coverage for children.''.

(b) PUBLIC HEALTH SERVICE ACT.—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. REQUIREMENT TO OFFER OPTION TO PURCHASE DEPENDENT COVERAGE FOR CHILDREN.

''(a) REQUIREMENTS FOR COVERAGE.—A group health plan, and a health insurance issuer providing health insurance coverage in connection with a group health plan, shall offer an individual who is enrolled in such coverage the option to purchase dependent coverage for a child of the individual.

''(b) NO EMPLOYER CONTRIBUTION REQUIRED.—An employer shall not be required to contribute to the cost of purchasing dependent coverage for a child by an individual who is an employee of such employer.

''(c) DEFINITION OF CHILD.—In this section, the term 'child' means an individual who has not attained 21 years of age.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after January 1, 2007.

SEC. 402. EFFECTIVE DATE.

Unless otherwise provided, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to child health assistance and medical assistance provided on or after that date without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

TITLE V—REVENUE PROVISION

SEC. 501. PARTIAL REPEAL OF RATE REDUCTION IN THE HIGHEST INCOME TAX BRACKET.

Section 1(i)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence:

''In the case of taxable years beginning during calendar year 2006 and thereafter, the final item in the fourth column in the preceding table shall be applied by substituting for '35.0%' such rate as the Secretary determines is necessary to provide sufficient revenues to offset the Federal outlays required to implement the provisions of, and amendments made by, the Kids Come First Act of 2006.''.

SA 3863. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2922 of the Public Health Service Act, as added by section 201 of the bill, strike subsection (a) and insert the following:

''(a) BENEFIT CHOICE OPTIONS.—

''(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement a standard benefit package as provided for in this part.

''(2) REQUIREMENT.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such coverage or plan provides for coverage of a standard benefit package as provided for in paragraph (3).

''(3) STANDARD BENEFIT PACKAGE.—A health insurance issuer described in paragraph (2) shall offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) a plan that, at a minimum, provides coverage for such benefits, services, and categories of providers as are required under the laws of at least 25 States, as determined by the Secretary.

''(4) PUBLICATION OF BENEFIT PACKAGE.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register

the standard benefit package required under this subsection. In making such publication the Secretary shall resolve any variations that exist in the scope of the benefits, services, and categories of providers required under the laws of the States considered by the Secretary for purposes of paragraph (3).

''(5) UPDATING OF BENEFIT PACKAGE.—Not later than 2 years after the date on which the standard benefit package is issued under paragraph (3), and every 2 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall update the package. The Secretary shall issue the updated package by regulation, and such updated package shall be effective upon the first plan year following the issuance of such regulation.

SA 3864. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

''(____) PROVISION OF MENTAL HEALTH BENEFITS.—The standard benefit package under this part shall require that health plans include coverage (and cost sharing if applicable) for mental health care in a manner that is comparable to the coverage (and cost sharing if applicable) provided under such plan for items and services relating to physical health.

SA 3865. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2922(a) of the Public Health Service Act, as added by section 201 of the bill, add at the end the following:

''(5) APPLICATION OF COST SHARING.—A health insurance issuer in a State that offers a basic option plan as provided for in paragraph (2) and an enhanced option plan as provided for in paragraph (3), shall ensure that any cost sharing required under either such option is comparable, with respect to dollar amounts, to the cost sharing required under the other such option.

SA 3866. Mr. SMITH submitted an amendment intended to be proposed by him to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

In section 2922(a) of the Public Health Service Act, as added by section 201 of the bill, add at the end the following:

''(5) PROVISION OF MENTAL HEALTH BENEFITS.—A health insurance issuer in a State that offers a basic option plan as provided for in paragraph (2) and an enhanced option plan as provided for in paragraph (3), shall ensure that each such plan provides coverage (and cost sharing if applicable) for mental health care in a manner that is comparable to the coverage (and cost sharing if applicable) provided under each such plan for items and services relating to physical health.

SA 3867. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1955 to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

(a) IN GENERAL.—Section 1860D–11 (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and inserting the following:

''(i) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—

''(1) IN GENERAL.—Subject to paragraph (4), in order to ensure that beneficiaries enrolled under prescription drug plans and MA–PD plans pay the lowest possible price, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers of covered part D drugs, consistent with the requirements and in furtherance of the goals of providing quality care and containing costs under this part.

''(2) MANDATORY RESPONSIBILITIES.—The Secretary shall be required to—

''(A) negotiate contracts with manufacturers of covered part D drugs for each fallback prescription drug plan under subsection (g); and

''(B) participate in negotiation of contracts of any covered part D drug upon request of an approved prescription drug plan or MA–PD plan.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be construed to limit the authority of the Secretary under paragraph (1) to the mandatory responsibilities under paragraph (2).

''(4) NO PARTICULAR FORMULARY OR PRICE STRUCTURE.—In order to promote competition under this part and in carrying out this part, the Secretary may not require a particular formulary or institute a price structure for the reimbursement of covered part D drugs.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SA 3868. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hospital Quality Report Card Act of 2006''.

SEC. 2. PURPOSE.

The purpose of this Act is to expand hospital quality reporting by establishing the Hospital Quality Report Card Initiative under the Medicare program to ensure that hospital quality measures data are readily available and accessible in order to—

(1) assist patients and consumers in making decisions about where to get health care;

(2) assist purchasers and insurers in making decisions that determine where employees, subscribers, members, or participants are able to go for their health care;

(3) assist health care providers in identifying opportunities for quality improvement and cost containment; and

(4) enhance the understanding of policy makers and public officials of health care issues, raise public awareness of hospital quality issues, and to help constituents of such policy makers and officials identify quality health care options.

SEC. 3. HOSPITAL QUALITY REPORT CARD INITIATIVE.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''SEC. 1898. HOSPITAL QUALITY REPORT CARD INITIATIVE.

''(a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Hospital Quality Report Card Act of 2006, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the 'Administrator') and in consultation with the Director of the Agency for Healthcare Research and Quality, shall, directly or through contracts with States, establish and implement a Hospital Quality Report Card Initiative (in this section referred to as the 'Initiative') to report on health care quality in subsection (d) hospitals.

''(b) SUBSECTION (d) HOSPITAL.—For purposes of this section, the term 'subsection (d) hospital' has the meaning given such term in section 1886(d)(1)(B).

''(c) REQUIREMENTS OF INITIATIVE.—

''(1) QUALITY MEASUREMENT REPORTS FOR HOSPITALS.—

''(A) QUALITY MEASURES.—Not less than 2 times each year, the Secretary shall publish reports on hospital quality. Such reports shall include quality measures data submitted under section 1886(b)(3)(B)(viii), and other data as feasible, that allow for an assessment of health care—

''(i) effectiveness;

''(ii) safety;

''(iii) timeliness;

''(iv) efficiency;

''(v) patient-centeredness; and

''(vi) equity.

''(B) REPORT CARD FEATURES.—In collecting and reporting data as provided for under subparagraph (A), the Secretary shall include hospital information, as possible, relating to—

''(i) staffing levels of nurses and other health professionals, as appropriate;

''(ii) rates of nosocomial infections;

''(iii) the volume of various procedures performed;

''(iv) the availability of interpreter services on-site;

''(v) the accreditation of hospitals, as well as sanctions and other violations found by accreditation or State licensing boards;

''(vi) the quality of care for various patient populations, including pediatric populations and racial and ethnic minority populations;

''(vii) the availability of emergency rooms, intensive care units, obstetrical units, and burn units;

''(viii) the quality of care in various hospital settings, including inpatient, outpatient, emergency, maternity, and intensive care unit settings;

''(ix) the use of health information technology, telemedicine, and electronic medical records;

''(x) ongoing patient safety initiatives; and

''(xi) other measures determined appropriate by the Secretary.

''(C) TAILORING OF HOSPITAL QUALITY REPORTS.—The Director of the Agency for Healthcare Research and Quality may modify and publish hospital reports to include quality measures for diseases and health conditions of particular relevance to certain regions, States, or local areas.

''(D) RISK ADJUSTMENT.—

''(i) IN GENERAL.—In reporting data as provided for under subparagraph (A), the Secretary may risk adjust quality measures to account for differences relating to—

''(I) the characteristics of the reporting hospital, such as licensed bed size, geography, teaching hospital status, and profit status; and

''(II) patient characteristics, such as health status, severity of illness, insurance status, and socioeconomic status.

''(ii) AVAILABILITY OF UNADJUSTED DATA.—If the Secretary reports data under subparagraph (A) using risk-adjusted quality measures, the Secretary shall establish procedures for making the unadjusted data available to the public in a manner determined appropriate by the Secretary.

''(E) COSTS.—The Secretary shall—

''(i) compile data relating to the average hospital cost for ICD-9 conditions for which quality measures data are collected; and

''(ii) report such information in a manner that allows cost comparisons between or among subsection (d) hospitals.

''(F) VERIFICATION.—Under the Initiative, the Secretary may verify data reported under this paragraph to ensure accuracy and validity.

''(G) DISCLOSURE.—The Secretary shall disclose the entire methodology for the reporting of data under this paragraph to all relevant organizations and all subsection (d) hospitals that are the subject of any such information that is to be made available to the public prior to the public disclosure of such information.

''(H) PUBLIC INPUT.—The Secretary shall provide an opportunity for public review and comment with respect to the quality measures to be reported for subsection (d) hospitals under this section for at least 60 days prior to the finalization by the Secretary of the quality measures to be used for such hospitals.

''(I) AVAILABILITY OF REPORTS AND FINDINGS.—

''(i) ELECTRONIC AVAILABILITY.—The Secretary shall ensure that reports are made available under this section in an electronic format, in an understandable manner with respect to various populations (including those with low functional health literacy), and in a manner that allows health care quality comparisons to be made between local hospitals.

''(ii) FINDINGS.—The Secretary shall establish procedures for making report findings available to the public, upon request, in a non-electronic format, such as through the toll-free telephone number 1–800–MEDICARE.

''(J) IDENTIFICATION OF METHODOLOGY.—The analytic methodologies and limitations on data sources utilized by the Secretary to develop and disseminate the comparative data under this section shall be identified and acknowledged as part of the dissemination of such data, and include the appropriate and inappropriate uses of such data.

''(K) ADVERSE SELECTION OF PATIENTS.—On at least an annual basis, the Secretary shall compare quality measures data submitted by each subsection (d) hospital under section 1886(b)(3)(B)(viii) with data submitted in the prior year or years by the same hospital in order to identify and report actions that would lead to false or artificial improvements in the hospital's quality measurements, including—

''(i) adverse selection against patients with severe illness or other factors that predispose patients to poor health outcomes; and

''(ii) provision of health care that does not meet established recommendations or accepted standards for care.

''(2) DATA SAFEGUARDS.—

''(A) UNAUTHORIZED USE AND DISCLOSURE.—The Secretary shall develop and implement effective safeguards to protect against the unauthorized use or disclosure of hospital data that is reported under this section.

''(B) INACCURATE INFORMATION.—The Secretary shall develop and implement effective safeguards to protect against the dissemination of inconsistent, incomplete, invalid, inaccurate, or subjective hospital data.

''(C) IDENTIFIABLE DATA.—The Secretary shall ensure that identifiable patient data shall not be released to the public.

''(d) GRANTS AND TECHNICAL ASSISTANCE.—The Secretary may award grants to national or State organizations, partnerships, or other entities that may assist with hospital quality improvement.

''(e) HOSPITAL QUALITY ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—The Administrator, in consultation with the Director of the Agency for Healthcare Research and Quality, shall establish the Hospital Quality Advisory Committee (in this subsection referred to as the 'Advisory Committee') to provide advice to the Administrator on the submission, collection, and reporting of quality measures data. The Administrator shall serve as the chairperson of the Advisory Committee.

''(2) MEMBERSHIP.—The Advisory Committee shall include representatives of the following (except with respect to subparagraphs (A) through (D), to be appointed by the Administrator):

''(A) The Agency for Healthcare Research and Quality.

''(B) The Health Resources and Services Administration.

''(C) The Department of Veterans Affairs.

''(D) The Centers for Disease Control and Prevention.

''(E) National membership organizations that focus on health care quality improvement.

''(F) Public and private hospitals.

''(G) Physicians, nurses, and other health professionals.

''(H) Patients and patient advocates.

''(I) Health insurance purchasers and other payers.

''(J) Health researchers, policymakers, and other experts in the field of health care quality.

''(K) Health care accreditation entities.

''(L) Other agencies and groups as determined appropriate by the Administrator.

''(3) DUTIES.—The Advisory Committee shall review and provide guidance and recommendations to the Administrator on—

''(A) the establishment of the Initiative;

''(B) integration and coordination of Federal quality measures data submission requirements, to avoid needless duplication and inefficiency;

''(C) legal and regulatory barriers that may hinder quality measures data collection and reporting; and

''(D) necessary technical and financial assistance to encourage quality measures data collection and reporting;

''(4) STAFF AND RESOURCES.—The Administrator shall provide the Advisory Committee with appropriate staff and resources for the functioning of the Advisory Committee.

''(5) DURATION.—The Advisory Committee shall terminate at the discretion of the Administrator, but in no event later than 5 years after the date of enactment of this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2007 through 2016.''.

(b) CONFORMING AMENDMENT.—Section 1886(b)(3)(B)(viii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(viii)), as added by section 5001 of the Deficit Reduction Act of 2005, is amended to read as follows:

''(VII) The Secretary shall use the data submitted under this clause for the Hospital Quality Report Card Initiative under section 1898.''.

SEC. 4. EVALUATION OF THE HOSPITAL QUALITY REPORT CARD INITIATIVE.

(a) IN GENERAL.—The Director of the Agency for Healthcare Research and Quality, directly or through contract, shall evaluate and periodically report to Congress on the effectiveness of the Hospital Quality Report Card Initiative established under section 1898 of the Social Security Act, as added by section 3, including the effectiveness of the Initiative in meeting the purpose described in section 2. The Director shall make such reports available to the public.

(b) RESEARCH.—The Director of the Agency for Healthcare Research and Quality, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall use the outcomes from the evaluation conducted pursuant to subsection (a) to increase the usefulness of the Hospital Quality Report Card Initiative, particularly for patients, as necessary.

SA 3869. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Health Care for Hybrids Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States imports over half the oil it consumes.

(2) According to present trends, the United States reliance on foreign oil will increase to 68 percent of its total consumption by 2025.

(3) With only 3 percent of the world's known oil reserves, the health of the United States economy is dependent on world oil prices.

(4) World oil prices are overwhelmingly dictated by countries other than the United States, thus endangering our economic and national security.

(5) Legacy health care costs associated with retiree workers are an increasing burden on the global competitiveness of American industries.

(6) American automakers have lagged behind their foreign competitors in producing

hybrid and other energy efficient automobiles.

(7) Innovative uses of new technology in automobiles in the United States will help retain American jobs, support health care obligations for retiring workers in the automotive sector, decrease America's dependence on foreign oil, and address pressing environmental concerns.

TITLE I—PROGRAM

SEC. 101. COORDINATING TASK FORCE.

Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of the Treasury shall establish, and appoint an equal number of representatives to, a task force (referred to in this Act as the ''task force'') to administer the program established under this Act.

SEC. 102. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the task force established under section 101 shall establish a program to provide financial assistance to eligible domestic automobile manufacturers for the costs incurred in providing health benefits to their retired employees.

(b) CONSULTATION.—In establishing the program under subsection (a), the task force shall consult with representatives from the domestic automobile manufacturers, unions representing employees of such manufacturers, and consumer and environmental groups.

(c) ELIGIBLE DOMESTIC AUTOMOBILE MANUFACTURER.—To be eligible to receive financial assistance under the program established under subsection (a), a domestic automobile manufacturer shall—

(1) submit an application to the task force at such time, in such manner, and containing such information as the task force shall require;

(2) certify that such manufacturer is providing full health care coverage to all of its domestic employees;

(3) provide an assurance that the manufacturer will invest an amount equal to not less than 50 percent of the amount of health savings derived by the manufacturer as a result of its retiree health care costs being covered under the program under this section, in—

(A) the domestic manufacture and commercialization of petroleum fuel reduction technologies, including alternative or flexible fuel vehicles, hybrids, and other state-of-the-art fuel saving technologies;

(B) the retraining of workers and retooling of assembly lines for such domestic manufacture and commercialization;

(C) research and development, design, commercialization, and other costs related to the diversifying of domestic production of automobiles through the offering of high performance fuel efficient vehicles; and

(D) assisting domestic automobile component suppliers to retool their domestic manufacturing plants to produce components for petroleum fuel reduction technologies, including alternative or flexible fuel vehicles, hybrid, advanced diesel, or other state-of-the-art fuel saving technologies; and

(4) provide additional assurances and information as the task force may require, including information needed by the task force to audit the manufacturer's compliance with the requirements of the program.

(d) LIMITATION.—The total amount of financial assistance that may be provided each year under the program under this section with respect to any single domestic automobile manufacturer shall not exceed an amount equal to 10 percent of the retiree health care costs of that manufacturer for that year.

SEC. 103. REPORTING.

Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the task force shall submit to Congress a report on any financial assistance provided under this program under this Act and the resulting changes in the manufacture and commercialization of fuel saving technologies implemented by auto manufacturers as a result of such financial assistance. Not later than 1 year after the date of enactment of this Act, the task force shall submit a report to Congress on the effectiveness of current consumer incentives available for the purchase of hybrid vehicles in encouraging the purchase of such vehicles and whether these incentives should be expanded.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, such sums as may be necessary in each fiscal year to carry out this Act.

SEC. 105. LIMITATION ON BACKSLIDING.

To be eligible to receive financial assistance under this title, a manufacturer shall provide assurances to the task force that fuel savings achieved with respect its average adjusted fuel economy will not result in decreases with respect to fuel economy elsewhere in the domestic fleet. The task force shall determine compliance with such assurances using accepted measurements of fuel savings.

SEC. 106. TERMINATION OF PROGRAM.

The program established under this title shall terminate on December 31, 2015.

TITLE II—OFFSETS

SEC. 201. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTION WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under title I with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by title I. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under title I.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 202. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 of the Internal Revenue Code of 1986 is amended by inserting after section 6662A the following new section:

''SEC. 6662A. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).

''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) of the Internal Revenue Code of 1986 is amended by inserting ''and without regard to items with respect to which a penalty is imposed by section 6662B'' before the period at the end.

(2) Subsection (e) of section 6662A of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by inserting ''and noneconomic substance transaction understatements'' after ''reportable transaction understatements'' both places it appears,

(B) in paragraph (2)(A), by inserting ''and a noneconomic substance transaction understatement'' after ''reportable transaction understatement'',

(C) in paragraph (2)(B), by inserting ''6662B or'' before ''6663'',

(D) in paragraph (2)(C)(i), by inserting ''or section 6662B'' before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting ''and section 6662B'' after ''This section'',

(F) in paragraph (3), by inserting ''or noneconomic substance transaction understatement'' after ''reportable transaction understatement'', and

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

''(3) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).''.

(3) Subsection (e) of section 6707A of the Internal Revenue Code of 1986 is amended—

(A) by striking ''or'' at the end of subparagraph (B), and

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

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

''(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,''.

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 203. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) of the Internal Revenue Code of 1986 (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking ''attributable'' and all that follows and inserting the following: ''attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''; and

(2) by inserting ''and noneconomic substance transactions'' after ''transactions''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

SA 3870. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Healthy Places Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act:

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

(2) BUILT ENVIRONMENT.—The term ''built environment'' means an environment consisting of all buildings, spaces, and products that are created or modified by people, including—

(A) homes, schools, workplaces, parks and recreation areas, greenways, business areas, and transportation systems;

(B) electric transmission lines;

(C) waste disposal sites; and

(D) land-use planning and policies that impact urban, rural, and suburban communities.

(3) DIRECTOR.—The term ''Director'' means the Director of the Centers for Disease Control and Prevention.

(4) ENVIRONMENTAL HEALTH.—The term ''environmental health'' means the health and well-being of a population as affected by—

(A) the direct pathological effects of chemicals, radiation, and some biological agents; and

(B) the effects (often indirect) of the broad physical, psychological, social, and aesthetic environment.

(5) HEALTH IMPACT ASSESSMENT.—The term ''health impact assessment'' means any combination of procedures, methods, tools, and means used under section 4 to analyze the actual or potential effects of a policy, program, or project on the health of a population (including the distribution of those effects within the population).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 3. INTERAGENCY WORKING GROUP ON ENVIRONMENTAL HEALTH.

(a) DEFINITIONS.—In this section:

(1) INSTITUTE.—The term ''Institute'' means the Institute of Medicine of the National Academies of Science.

(2) IWG.—The term ''IWG'' means the interagency working group established under subsection (b).

(b) ESTABLISHMENT.—The Secretary, in coordination with the Administrator, shall establish an interagency working group to discuss environmental health concerns, particularly concerns disproportionately affecting disadvantaged populations.

(c) MEMBERSHIP.—The IWG shall be composed of a representative from each Federal agency (as appointed by the head of the agency) that has jurisdiction over, or is affected by, environmental policies and projects, including—

(1) the Council on Environmental Quality;

(2) the Department of Agriculture;

(3) the Department of Commerce;

(4) the Department of Defense;

(5) the Department of Education;

(6) the Department of Energy;

(7) the Department of Health and Human Services;

(8) the Department of Housing and Urban Development;

(9) the Department of the Interior;

(10) the Department of Justice;

(11) the Department of Labor;

(12) the Department of State;

(13) the Department of Transportation;

(14) the Environmental Protection Agency; and

(15) such other Federal agencies as the Administrator and the Secretary jointly determine to be appropriate.

(d) DUTIES.—The IWG shall—

(1) facilitate communication and partnership on environmental health-related projects and policies—

(A) to generate a better understanding of the interactions between policy areas; and

(B) to raise awareness of the relevance of health across policy areas to ensure that the potential positive and negative health consequences of decisions are not overlooked;

(2) serve as a centralized mechanism to coordinate a national effort—

(A) to discuss and evaluate evidence and knowledge on the relationship between the general environment and the health of the population of the United States;

(B) to determine the range of effective, feasible, and comprehensive actions to improve environmental health; and

(C) to examine and better address the influence of social and environmental determinants of health;

(3) survey Federal agencies to determine which policies are effective in encouraging, and how best to facilitate outreach without duplicating, efforts relating to environmental health promotion;

(4) establish specific goals within and across Federal agencies for environmental health promotion, including determinations of accountability for reaching those goals;

(5) develop a strategy for allocating responsibilities and ensuring participation in environmental health promotions, particularly in the case of competing agency priorities;

(6) coordinate plans to communicate research results relating to environmental health to enable reporting and outreach activities to produce more useful and timely information;

(7) establish an interdisciplinary committee to continue research efforts to further understand the relationship between the built environment and health factors (including air quality, physical activity levels, housing quality, access to primary health care practitioners and health care facilities, injury risk, and availability of nutritional, fresh food) that coordinates the expertise of the public health, urban planning, and transportation communities;

(8) develop an appropriate research agenda for Federal agencies—

(A) to support—

(i) longitudinal studies;

(ii) rapid-response capability to evaluate natural conditions and occurrences; and

(iii) extensions of national databases; and

(B) to review evaluation and economic data relating to the impact of Federal interventions on the prevention of environmental health concerns;

(9) initiate environmental health impact demonstration projects to develop integrated place-based models for addressing community quality-of-life issues;

(10) provide a description of evidence-based best practices, model programs, effective guidelines, and other strategies for promoting environmental health;

(11) make recommendations to improve Federal efforts relating to environmental health promotion and to ensure Federal efforts are consistent with available standards and evidence and other programs in existence as of the date of enactment of this Act;

(12) monitor Federal progress in meeting specific environmental health promotion goals;

(13) assist in ensuring, to the maximum extent practicable, integration of the impact of environmental policies, programs, and activities on the areas under Federal jurisdiction;

(14) assist in the implementation of the recommendations from the reports of the Institute of Medicine entitled ''Does the Built Environment Influence Physical Activity? Examining the Evidence'' and dated January 11, 2005, and ''Rebuilding the Unity of Health and the Environment: A New Vision of Environmental Health for the 21st Century'' and dated January 22, 2001, including recommendations for—

(A) the expansion of national public health and travel surveys to provide more detailed information about the connection between the built environment and health, including expansion of such surveys as—

(i) the Behavioral Risk Factor Surveillance System, the National Health and Nutrition Examination Survey, and the National Health Interview Survey conducted by the Centers for Disease Control and Prevention;

(ii) the American Community survey conducted by the Census Bureau;

(iii) the American Time Use Survey conducted by the Bureau of Labor Statistics;

(iv) the Youth Risk Behavior Survey conducted by the Centers for Disease Control and Prevention; and

(v) the National Longitudinal Cohort Survey of American Children (the National Children's Study) conducted by the National Institute of Child Health and Human Development;

(B) collaboration with national initiatives to learn from natural experiments such as observations from changes in the built environment and the consequent effects on health;

(C) development of a program of research with a defined mission and recommended budget, concentrating on multiyear projects and enhanced data collection;

(D) development of interdisciplinary education programs—

(i) to train professionals in conducting recommended research; and

(ii) to prepare practitioners with appropriate skills at the intersection of physical activity, public health, transportation, and urban planning;

(15) not later than 2 years after the date of enactment of this Act, submit to Congress a report that describes the extent to which recommendations from the Institute of Medicine reports described in paragraph (14) were executed; and

(16) assist the Director with the development of guidance for the assessment of the potential health effects of land use, housing, and transportation policy and plans.

(e) MEETINGS.—

(1) IN GENERAL.—The IWG shall meet at least 3 times each year.

(2) ANNUAL CONFERENCE.—The Secretary, acting through the Director and in collaboration with the Administrator, shall sponsor an annual conference on environmental health and health disparities to enhance coordination, build partnerships, and share best practices in environmental health data collection, analysis, and reporting.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 4. HEALTH IMPACT ASSESSMENTS.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means any unit of State or local government the jurisdiction of which includes individuals or populations the health of which are or will be affected by an activity or a proposed activity.

(b) ESTABLISHMENT.—The Secretary, acting through the Director and in collaboration with the Administrator, shall—

(1) establish a program at the National Center of Environmental Health at the Centers for Disease Control and Prevention focused on advancing the field of health impact assessment, including—

(A) collecting and disseminating best practices;

(B) administering capacity building grants, in accordance with subsection (d);

(C) providing technical assistance;

(D) providing training;

(E) conducting evaluations; and

(F) awarding competitive extramural research grants;

(2) in accordance with subsection (f), develop guidance to conduct health impact assessments; and

(3) establish a grant program to allow eligible entities to conduct health impact assessments.

(c) GUIDANCE.—The Director, in collaboration with the IWG, shall—

(1) develop guidance for the assessment of the potential health effects of land use, housing, and transportation policy and plans, including—

(A) background on international efforts to bridge urban planning and public health institutions and disciplines, including a review of health impact assessment best practices internationally;

(B) evidence-based causal pathways that link urban planning, transportation, and housing policy and objectives to human health objectives;

(C) data resources and quantitative and qualitative forecasting methods to evaluate both the status of health determinants and health effects; and

(D) best practices for inclusive public involvement in planning decision-making;

(2) not later than 1 year after the date of enactment of this Act, promulgate the guidance; and

(3) present the guidance to the public at the annual conference described in section 3(e)(2).

(d) GRANT PROGRAM.—The Secretary, acting through the Director and in collaboration with the Administrator, shall establish a program under which the Secretary shall provide funding and technical assistance to eligible entities to prepare health impact assessments—

(1) to ensure that appropriate health factors are taken into consideration as early as practicable during any planning, review, or decision-making process; and

(2) to evaluate the effect on the health of individuals and populations, and on social and economic development, of decisions made outside of the health sector that result in modifications of a physical or social environment.

(e) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant under this section, an eligible entity shall submit to the Secretary an application in accordance with this subsection, in such time, in such manner, and containing such additional information as the Secretary may require.

(2) INCLUSION.—

(A) IN GENERAL.—An application under this subsection shall include an assessment by the eligible entity of the probability that an applicable activity or proposed activity will have at least 1 significant, adverse health effect on an individual or population in the jurisdiction of the eligible entity, based on the criteria described in subparagraph (B).

(B) CRITERIA.—The criteria referred to in subparagraph (A) include, with respect to the applicable activity or proposed activity—

(i) any substantial adverse effect on—

(I) existing air quality, ground or surface water quality or quantity, or traffic or noise levels;

(II) a significant habitat area;

(III) physical activity;

(IV) injury;

(V) mental health;

(VI) social capital;

(VII) accessibility;

(VIII) the character or quality of an important historical, archeological, architectural, or aesthetic resource (including neighborhood character) of the community of the eligible entity; or

(IX) any other natural resource;

(ii) any increase in—

(I) solid waste production; or

(II) problems relating to erosion, flooding, leaching, or drainage;

(iii) any requirement that a large quantity of vegetation or fauna be removed or destroyed;

(iv) any conflict with the plans or goals of the community of the eligible entity;

(v) any major change in the quantity or type of energy used by the community of the eligible entity;

(vi) any hazard presented to human health;

(vii) any substantial change in the use, or intensity of use, of land in the jurisdiction of the eligible entity, including agricultural, open space, and recreational uses;

(viii) the probability that the activity or proposed activity will result in an increase in tourism in the jurisdiction of the eligible entity;

(ix) any substantial, adverse aggregate impact on environmental health resulting from—

(I) changes caused by the activity or proposed activity to 2 or more elements of the environment; or

(II) 2 or more related actions carried out under the activity or proposed activity; and

(x) any other significant change of concern, as determined by the eligible entity.

(C) FACTORS FOR CONSIDERATION.—In making an assessment under subparagraph (A), an eligible entity may take into consideration any reasonable, direct, indirect, or cumulative effect relating to the applicable activity or proposed activity, including the effect of any action that is—

(i) included in the long-range plan relating to the activity or proposed activity;

(ii) likely to be carried out in coordination with the activity or proposed activity;

(iii) dependent on the occurrence of the activity or proposed activity; or

(iv) likely to have a disproportionate impact on disadvantaged populations.

(f) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity shall use assistance received under this section to prepare and submit to the Secretary a health impact assessment in accordance with this subsection.

(2) PURPOSES.—The purposes of a health impact assessment are—

(A) to facilitate the involvement of State and local health officials in community planning and land use decisions to identify any potential health concern relating to an activity or proposed activity;

(B) to provide for an investigation of any health-related issue addressed in an environmental impact statement or policy appraisal relating to an activity or a proposed activity;

(C) to describe and compare alternatives (including no-action alternatives) to an activity or a proposed activity to provide clarification with respect to the costs and benefits of the activity or proposed activity; and

(D) to contribute to the findings of an environmental impact statement with respect to the terms and conditions of implementing an activity or a proposed activity, as necessary.

(3) REQUIREMENTS.—A health impact assessment prepared under this subsection shall—

(A) describe the relevance of the applicable activity or proposed activity (including the policy of the activity) with respect to health issues;

(B) assess each health impact of the applicable activity or proposed activity;

(C) provide recommendations of the eligible entity with respect to—

(i) the mitigation of any adverse impact on health of the applicable activity or proposed activity; or

(ii) the encouragement of any positive impact of the applicable activity or proposed activity;

(D) provide for monitoring of the impacts on health of the applicable activity or proposed activity, as the eligible entity determines to be appropriate; and

(E) include a list of each comment received with respect to the health impact assessment under subsection (e).

(4) METHODOLOGY.—In preparing a health impact assessment under this subsection, an eligible entity—

(A) shall follow guidelines developed by the Director, in collaboration with the IWG, that—

(i) are consistent with subsection (c);

(ii) will be established not later than 1 year after the date of enactment of this Act; and

(iii) will be made publicly available at the annual conference described in section 3(e)(2); and

(B) may establish a balance, as the eligible entity determines to be appropriate, between the use of—

(i) rigorous methods requiring special skills or increased use of resources; and

(ii) expedient, cost-effective measures.

(g) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—Before preparing and submitting to the Secretary a final health impact assessment, an eligible entity shall request and take into consideration public and agency comments, in accordance with this subsection.

(2) REQUIREMENT.—Not later than 30 days after the date on which a draft health impact assessment is completed, an eligible entity shall submit the draft health impact assessment to each Federal agency, and each State and local organization, that—

(A) has jurisdiction with respect to the activity or proposed activity to which the health impact assessment applies;

(B) has special knowledge with respect to an environmental or health impact of the activity or proposed activity; or

(C) is authorized to develop or enforce any environmental standard relating to the activity or proposed activity.

(3) COMMENTS REQUESTED.—

(A) REQUEST BY ELIGIBLE ENTITY.—An eligible entity may request comments with respect to a health impact assessment from—

(i) affected Indian tribes;

(ii) interested or affected individuals or organizations; and

(iii) any other State or local agency, as the eligible entity determines to be appropriate.

(B) REQUEST BY OTHERS.—Any interested or affected agency, organization, or individual may—

(i) request an opportunity to comment on a health impact assessment; and

(ii) submit to the appropriate eligible entity comments with respect to the health impact assessment by not later than—

(I) for a Federal, State, or local government agency or organization, the date on which a final health impact assessment is prepared; and

(II) for any other individual or organization, the date described in subclause (I) or another date, as the eligible entity may determine.

(4) RESPONSE TO COMMENTS.—A final health impact assessment shall describe the response of the eligible entity to comments received within a 90-day period under this subsection, including—

(A) a description of any means by which the eligible entity, as a result of such a comment—

(i) modified an alternative recommended with respect to the applicable activity or proposed activity;

(ii) developed and evaluated any alternative not previously considered by the eligible entity;

(iii) supplemented, improved, or modified an analysis of the eligible entity; or

(iv) made any factual correction to the health impact assessment; and

(B) for any comment with respect to which the eligible entity took no action, an explanation of the reasons why no action was taken and, if appropriate, a description of the circumstances under which the eligible entity would take such an action.

(h) HEALTH IMPACT ASSESSMENT DATABASE.—The Secretary, acting through the Director and in collaboration with the Administrator, shall establish and maintain a health impact assessment database, including—

(1) a catalog of health impact assessments received under this section;

(2) an inventory of tools used by eligible entities to prepare draft and final health impact assessments; and

(3) guidance for eligible entities with respect to the selection of appropriate tools described in paragraph (2).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary.

SEC. 5. GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the Centers for Disease Control and Prevention, acting in collaboration with the Administrator and the Director of the National Institute of Environmental Health Sciences.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means a State or local community that—

(A) bears a disproportionate burden of exposure to environmental health hazards;

(B) has established a coalition—

(i) with not less than 1 community-based organization; and

(ii) with not less than 1—

(I) public health entity;

(II) health care provider organization; or

(III) academic institution;

(C) ensures planned activities and funding streams are coordinated to improve community health; and

(D) submits an application in accordance with subsection (c).

(b) ESTABLISHMENT.—The Director shall establish a grant program under which eligible entities shall receive grants to conduct environmental health improvement activities.

(c) APPLICATION.—To receive a grant under this section, an eligible entity shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may require.

(d) COOPERATIVE AGREEMENTS.—An eligible entity may use a grant under this section—

(1) to promote environmental health; and

(2) to address environmental health disparities.

(e) AMOUNT OF COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Director shall award grants to eligible entities at the 2 different funding levels described in this subsection.

(2) LEVEL 1 COOPERATIVE AGREEMENTS.—

(A) IN GENERAL.—An eligible entity awarded a grant under this paragraph shall use the funds to identify environmental health problems and solutions by—

(i) establishing a planning and prioritizing council in accordance with subparagraph (B); and

(ii) conducting an environmental health assessment in accordance with subparagraph (C).

(B) PLANNING AND PRIORITIZING COUNCIL.—

(i) IN GENERAL.—A prioritizing and planning council established under subparagraph (A)(i) (referred to in this paragraph as a ''PPC'') shall assist the environmental health assessment process and environmental health promotion activities of the eligible entity.

(ii) MEMBERSHIP.—Membership of a PPC shall consist of representatives from various organizations within public health, planning, development, and environmental services and shall include stakeholders from vulnerable groups such as children, the elderly, disabled, and minority ethnic groups that are often not actively involved in democratic or decision-making processes.

(iii) DUTIES.—A PPC shall—

(I) identify key stakeholders and engage and coordinate potential partners in the planning process;

(II) establish a formal advisory group to plan for the establishment of services;

(III) conduct an in-depth review of the nature and extent of the need for an environmental health assessment, including a local epidemiological profile, an evaluation of the service provider capacity of the community, and a profile of any target populations; and

(IV) define the components of care and form essential programmatic linkages with related providers in the community.

(C) ENVIRONMENTAL HEALTH ASSESSMENT.—

(i) IN GENERAL.—A PPC shall carry out an environmental health assessment to identify environmental health concerns.

(ii) ASSESSMENT PROCESS.—The PPC shall—

(I) define the goals of the assessment;

(II) generate the environmental health issue list;

(III) analyze issues with a systems framework;

(IV) develop appropriate community environmental health indicators;

(V) rank the environmental health issues;

(VI) set priorities for action;

(VII) develop an action plan;

(VIII) implement the plan; and

(IX) evaluate progress and planning for the future.

(D) EVALUATION.—Each eligible entity that receives a grant under this paragraph shall evaluate, report, and disseminate program findings and outcomes.

(E) TECHNICAL ASSISTANCE.—The Director may provide such technical and other non-financial assistance to eligible entities as the Director determines to be necessary.

(3) LEVEL 2 COOPERATIVE AGREEMENTS.—

(A) ELIGIBILITY.—

(i) IN GENERAL.—The Director shall award grants under this paragraph to eligible entities that have already—

(I) established broad-based collaborative partnerships; and

(II) completed environmental assessments.

(ii) NO LEVEL 1 REQUIREMENT.—To be eligible to receive a grant under this paragraph, an eligible entity is not required to have successfully completed a Level 1 Cooperative Agreement (as described in paragraph (2).

(B) USE OF GRANT FUNDS.—An eligible entity awarded a grant under this paragraph shall use the funds to further activities to carry out environmental health improvement activities, including—

(i) addressing community environmental health priorities in accordance with paragraph (2)(C)(ii), including—

(I) air quality;

(II) water quality;

(III) solid waste;

(IV) land use;

(V) housing;

(VI) food safety;

(VII) crime;

(VIII) injuries; and

(IX) healthcare services;

(ii) building partnerships between planning, public health, and other sectors, to address how the built environment impacts food availability and access and physical activity to promote healthy behaviors and lifestyles and reduce obesity and related comorbidities;

(iii) establishing programs to address—

(I) how environmental and social conditions of work and living choices influence physical activity and dietary intake; or

(II) how those conditions influence the concerns and needs of people who have impaired mobility and use assistance devices, including wheelchairs and lower limb prostheses; and

(iv) convening intervention programs that examine the role of the social environment in connection with the physical and chemical environment in—

(I) determining access to nutritional food; and

(II) improving physical activity to reduce morbidity and increase quality of life.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $25,000,000 for fiscal year 2007; and

(2) such sums as are necessary for the period of fiscal years 2008 through 2011.

SEC. 6. ADDITIONAL RESEARCH ON THE RELATIONSHIP BETWEEN THE BUILT ENVIRONMENT AND THE HEALTH OF COMMUNITY RESIDENTS.

(a) DEFINITION OF ELIGIBLE INSTITUTION.—In this section, the term ''eligible institution'' means a public or private nonprofit institution that submits to the Secretary and the Administrator an application for a grant under the grant program authorized under subsection (b)(2) at such time, in such manner, and containing such agreements, assurances, and information as the Secretary and Administrator may require.

(b) RESEARCH GRANT PROGRAM.—

(1) DEFINITION OF HEALTH.—In this section, the term ''health'' includes—

(A) levels of physical activity;

(B) consumption of nutritional foods;

(C) rates of crime;

(D) air, water, and soil quality;

(E) risk of injury;

(F) accessibility to healthcare services; and

(G) other indicators as determined appropriate by the Secretary.

(2) GRANTS.—The Secretary, in collaboration with the Administrator, shall provide grants to eligible institutions to conduct and coordinate research on the built environment and its influence on individual and population-based health.

(3) RESEARCH.—The Secretary shall support research that—

(A) investigates and defines the causal links between all aspects of the built environment and the health of residents;

(B) examines—

(i) the extent of the impact of the built environment (including the various characteristics of the built environment) on the health of residents;

(ii) the variance in the health of residents by—

(I) location (such as inner cities, inner suburbs, and outer suburbs); and

(II) population subgroup (such as children, the elderly, the disadvantaged); or

(iii) the importance of the built environment to the total health of residents, which is the primary variable of interest from a public health perspective;

(C) is used to develop—

(i) measures to address health and the connection of health to the built environment; and

(ii) efforts to link the measures to travel and health databases;

(D) distinguishes carefully between personal attitudes and choices and external influences on observed behavior to determine how much an observed association between the built environment and the health of residents, versus the lifestyle preferences of the people that choose to live in the neighborhood, reflects the physical characteristics of the neighborhood; and

(E)(i) identifies or develops effective intervention strategies to promote better health among residents with a focus on behavioral interventions and enhancements of the built environment that promote increased use by residents; and

(ii) in developing the intervention strategies under clause (i), ensures that the intervention strategies will reach out to high-risk populations, including low-income urban and rural communities.

(4) PRIORITY.—In providing assistance under the grant program authorized under paragraph (2), the Secretary and the Administrator shall give priority to research that incorporates—

(A) interdisciplinary approaches; or

(B) the expertise of the public health, physical activity, urban planning, and transportation research communities in the United States and abroad.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3871. Mrs. FEINSTEIN (for herself, Mr. DORGAN, Mr. BINGAMAN, and Ms. STABENOW) submitted an amendment intended to be proposed by her to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Drug Formulary Protection Act''.

SEC. 2. REMOVAL OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.

(a) LIMITATION ON REMOVAL OR CHANGE OF COVERED PART D DRUGS FROM THE PRESCRIPTION DRUG PLAN FORMULARY.—Section 1860D–4(b)(3)(E) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(E)) is amended to read as follows:

''(E) REMOVING A DRUG FROM FORMULARY OR IMPOSING A RESTRICTION OR LIMITATION ON COVERAGE.—

''(i) LIMITATION ON REMOVAL, LIMITATION, OR RESTRICTION.—

''(I) IN GENERAL.—Subject to subclause (II) and clause (ii), beginning with 2006, the PDP sponsor of a prescription drug plan may not remove a covered part D drug from the plan formulary or impose a restriction or limitation on the coverage of such a drug (such as through the application of a preferred status, usage restriction, step therapy, prior authorization, or quantity limitation) other than at the beginning of each plan year.

''(II) SPECIAL RULE FOR NEWLY ENROLLED INDIVIDUALS.—Subject to clause (ii), in the case of an individual who enrolls in a prescription drug plan on or after the date of enactment of this subparagraph, the PDP sponsor of such plan may not remove a covered part D drug from the plan formulary or impose a restriction or limitation on the coverage of such a drug (such as through the application

of a preferred status, usage restriction, step therapy, prior authorization, or quantity limitation) during the period beginning on the date of such enrollment and ending on December 31 of the immediately succeeding plan year.

''(ii) EXCEPTIONS TO LIMITATION ON REMOVAL.—Clause (i) shall not apply with respect to a covered part D drug that—

''(I) is a brand name drug for which there is a generic drug approved under section 505(j) of the Food and Drug Cosmetic Act (21 U.S.C. 355(j)) that is placed on the market during the period in which there are limitations on removal or change in the formulary under clause (i);

''(II) is a brand name drug that goes off-patent during such period;

''(III) is a drug for which the Commissioner of Food and Drugs issues a clinical warning that imposes a restriction or limitation on the drug during such period or removes the drug from the market;

''(IV) is a drug that the plan's pharmacy and therapeutic committee determines, based on scientific evidence, to be unsafe or ineffective during such period; or

''(V) is a drug for which the Secretary has determined an exception to such application is appropriate (such as to take into account new therapeutic uses and newly covered part D drugs).

''(iii) NOTICE OF REMOVAL UNDER APPLICATION OF EXCEPTION TO LIMITATION.—The PDP sponsor of a prescription drug plan shall provide appropriate notice (such as under subsection (a)(3)) of any removal or change under clause (ii) to the Secretary, affected enrollees, physicians, pharmacies, and pharmacists.''.

(b) NOTICE FOR CHANGE IN FORMULARY AND OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—

(1) IN GENERAL.—Section 1860D–4(a) of such Act (42 U.S.C. 1395w–104(a)) is amended by adding at the end the following new paragraph:

''(5) ANNUAL NOTICE OF CHANGES IN FORMULARY AND OTHER RESTRICTIONS OR LIMITATIONS ON COVERAGE.—Each PDP sponsor offering a prescription drug plan shall furnish to each enrollee at the time of each annual coordinated election period (referred to in section 1860D–1(b)(1)(B)(iii)) for a plan year a notice of any changes in the formulary or other restrictions or limitations on coverage of a covered part D drug under the plan that will take effect for the plan year.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to annual, coordinated election periods beginning after the date of the enactment of this Act.

SA 3872. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CREDIT FOR EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—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. 45N. EMPLOYEE HEALTH INSURANCE EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified small employer, the employee health insurance expenses credit determined under this section is an amount equal to the applicable percentage of the amount paid by the taxpayer during the taxable year for qualified employee health insurance expenses.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is—

''(1) 50 percent in the case of an employer with less than 10 qualified employees,

''(2) 25 percent in the case of an employer with more than 9 but less than 25 qualified employees, and

''(3) 20 percent in the case of an employer with more than 24 but less than 50 qualified employees.

''(c) PER EMPLOYEE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount of qualified employee health insurance expenses taken into account under subsection (a) with respect to any qualified employee for any taxable year shall not exceed—

''(A) $4,000 for self-only coverage, and

''(B) $10,000 for family coverage.

''(2) PHASEOUT OF PER EMPLOYEE DOLLAR LIMITATION.—

''(A) IN GENERAL.—The amount determined under paragraph (1) with respect to any qualified employee for any taxable year shall be reduced by the amount determined under subparagraph (B).

''(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph shall be the amount which bears the same ratio to such amount determined under paragraph (1) as—

''(i) the excess of—

''(I) the qualified employee's compensation from the qualified small employer for such taxable year, over

''(II) $30,000, bears to

''(ii) $20,000.

The rules of subparagraphs (B) and (C) of section 219(g)(2) shall apply to any reduction under this subparagraph.

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

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any small employer which—

''(i) provides eligibility for health insurance coverage (after any waiting period (as defined in section 9801(b)(4))) to all qualified employees of the employer under similar terms, and

''(ii) pays at least 50 percent of the cost of such coverage for each qualified employee.

''(B) SMALL EMPLOYER.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'small employer' means, with respect to any taxable year, any employer if—

''(I) the average gross receipts of such employer for the preceding 3 taxable years does not exceed $5,000,000, and

''(II) such employer employed an average of more than 1 but less than 50 employees on business days during the preceding taxable year.

''(ii) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—For purposes of clause (i)(II)—

''(I) a preceding taxable year may be taken into account only if the employer was in existence throughout such year, and

''(II) in the case of an employer which was not in existence throughout the preceding taxable year, the determination of whether such employer is a qualified small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current taxable year.

''(iii) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of this subparagraph.

''(iv) PREDECESSORS.—The Secretary may prescribe regulations which provide for references in this subparagraph to an employer to be treated as including references to predecessors of such employer.

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer for health insurance coverage to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(C) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term by section 9832(b)(1).

''(3) QUALIFIED EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified employee' means an employee of an employer who, with respect to any period, is not provided health insurance coverage under—

''(i) a health plan of the employee's spouse,

''(ii) title XVIII, XIX, or XXI of the Social Security Act,

''(iii) chapter 17 of title 38, United States Code,

''(iv) chapter 55 of title 10, United States Code,

''(v) chapter 89 of title 5, United States Code, or

''(vi) any other provision of law.

For purposes of clause (i), the Secretary shall prescribe by regulation the manner by which an employee's health insurance coverage under a health plan of the employee's spouse is certified to the employee's employer.

''(B) EMPLOYEE.—The term 'employee'—

''(i) means any individual, with respect to any calendar year, who is reasonably expected to receive at least $5,000, but not more than $50,000, of compensation from the employer during such year, and

''(ii) includes a leased employee within the meaning of section 414(n).

''(C) COMPENSATION.—The term 'compensation' means amounts described in section 6051(a)(3).

''(D) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of a taxable year beginning after 2007, the $50,000 amount in subparagraph (B)(i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.

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

''(1) IN GENERAL.—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 subsection (a) 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) EMPLOYER PAYROLL TAXES.—For purposes of this subsection—

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

''(i) subsections (a) and (b) of section 3111, and

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

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

''(f) DENIAL OF DOUBLE BENEFIT.—No deduction or credit under any other provision of this chapter shall be allowed with respect to qualified employee health insurance expenses taken into account under subsection (a).''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', plus'', and by adding at the end the following:

''(31) the employee health insurance expenses credit determined under section 45N.''.

(c) CONFORMING AMENDMENT.—Section 6211(b)(4)(A) of the Internal Revenue Code of 1986 is amended by striking ''and 34'' and inserting ''34, and 45N(e)''.

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

''Sec. 45N. Employee health insurance expenses.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

SA 3873. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1955, to amend title I of the Employee Retirement Security Act of 1974 and the Public Health Service Act to expand health care access and reduce costs through the creation of small business health plans and through modernization of the health insurance marketplace; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MEDICAL MALPRACTICE INSURANCE ANTITRUST PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the ''Medical Malpractice Insurance Antitrust Act of 2005''.

(b) PROHIBITION ON ANTI-COMPETITIVE ACTIVITIES.—Notwithstanding any other provision of law, nothing in the Act of March 9, 1945 (15 U.S.C. 1011 et seq., commonly known as the ''McCarran-Ferguson Act'') shall be construed to permit commercial insurers to engage in any form of price fixing, bid rigging, or market allocations in connection with the conduct of the business of providing medical malpractice insurance.

(c) APPLICATION TO ACTIVITIES OF STATE COMMISSIONS OF INSURANCE AND OTHER STATE INSURANCE REGULATORY BODIES.—This section does not apply to the information gathering and rate setting activities of any State commissions of insurance, or any other State regulatory body with authority to set insurance rates.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AVIATION

Mr. ENZI. Mr. President. I ask unanimous consent that the Senate Committee on Commerce Science and Transportation's Subcommittee on Aviation be authorized to meet on Tuesday, May 9, 2006, at 2:30 p.m. on the Department of Transportation's Notice of Proposed Rulemaking.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment and Workplace Safety, be authorized to hold a hearing during the session of the Senate on Tuesday, May 9, 2006 at 10 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial Nominations'' on Tuesday, May 9, 2006, at 2 p.m. in Room 226 of the Dirksen Senate Office Building. The witness list will be provided when it becomes available.

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

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing on ''An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization'' on Tuesday, May 9, 2006, at 9:30 a.m. in Room 226 of the Dirksen Senate Office Building.

Witness List:

Panel I: Chandler Davidson, Radoslav Tsanoff Professor Emeritus and Research Professor, Rice University, Houston, TX; Ted Shaw, Director-Counsel and President, NAACP Legal Defense and Educational Fund, Inc. (LDF), New York City, NY; Richard L. Hasen, William H. Hannon Distinguished Professor of Law, Loyola Law School, Los Angeles, CA; Laughlin McDonald, Director of the ACLU Voting Rights Project, Atlanta, GA; and Samuel Issacharoff, Reiss Professor of Constitutional Law, New York University School of Law, New York, NY.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on Tuesday, May 9, 2006, at 10 a.m. on Corporate Average Fuel Economy (CAFE) Standards.

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

PRIVILEGES OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that Elizabeth Hoffman, a fellow in my office, be granted the privileges of the floor for the duration of the debate on this legislation.

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

Mr. WYDEN. Mr. President, on behalf of Senator BAUCUS, I ask unanimous consent that the following interns and fellows be granted floor privileges during consideration of S. 1955: Leona Cutler, David Schwartz, Diedra Henry-Spires, Britt Sandler, Tiffany Smith, Tom Louthan, and Christal Edwards.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Courtney Wilcox of my staff be granted floor privileges for the duration of today's session.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, after consultation with the ranking member of the Senate Committee on Finance, pursuant to Public Law 106–170, announces the appointment of the following individual to serve as a member of the Ticket to Work and Work Incentives Advisory Panel: Katie Beckett of Iowa.

The Chair, on behalf of the majority leader, in consultation with the Democratic Leader, pursuant to Public Law 68–541, as amended by Public Law 102–246, appoints John Medveckis, of Pennsylvania, as a member of the Library of Congress Trust Fund Board for a term of 5 years.

NATIONAL FOSTER CARE MONTH

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 471 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 471) recognizing that, during National Foster Care Month, the leaders of the Federal, State, and local governments should provide leadership to improve the care given to children in foster care programs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the resolution