AMENDMENT NO. 4167

At the request of Mr. COLEMAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of amendment No. 4167 intended to be proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALENT:

S. 3061. A bill to extend the patent term for the badge of the American Legion Women's Auxiliary, and for other purposes; to the Committee on the Judiciary.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of S. 3061, 3062, and 3063 be printed in the RECORD.

There being no objection, the text of the bills were ordered to be printed in the RECORD, as follows:

S. 3061

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

SECTION 1. PATENT TERM EXTENSION FOR THE BADGE OF THE AMERICAN LEGION WOMEN'S AUXILIARY.

The term of a certain design patent numbered 55,398 (for the badge of the American Legion Women's Auxiliary) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

By Mr. TALENT:

S. 3062. A bill to extend the patent term for the badge of the American Legion, and for other purposes; to the Committee on the Judiciary.

S. 3062

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

SECTION 1. PATENT TERM EXTENSION FOR THE BADGE OF THE AMERICAN LEGION.

The term of a certain design patent numbered 54,296 (for the badge of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

By Mr. TALENT:

S. 3063. A bill to extend the patent term for the badge of the Sons of the American Legion, and for other purposes; to the Committee on the Judiciary.

S. 3063

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

SECTION 1. PATENT TERM EXTENSION FOR THE BADGE OF THE SONS OF THE AMERICAN LEGION.

The term of a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) is renewed and extended for a period of 14 years beginning on the date of enactment of this Act, with all the rights and privileges pertaining to such patent.

By Mr. NELSON of Florida:

S. 3114. A bill to establish a bipartisan commission on insurance reform; to the Committee on Banking, Housing, and Urban Affairs.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the text of these four bills, the Commission on Catastrophic Disaster Risk and Insurance Act of 2006, the Catastrophe Savings Accounts Act of 2006, the Policyholder Disaster Protection Act of 2006, and the Homeowners Protection Act of 2006, be printed in the RECORD.

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

S. 3114

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commission on Catastrophic Disaster Risk and Insurance Act of 2006''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Hurricanes Katrina, Rita, and Wilma, which struck the United States in 2005, caused over $200 billion in total economic losses, including insured and uninsured losses.

(2) Although private sector insurance is currently available to spread some catastrophe-related losses throughout the Nation and internationally, most experts believe there will be significant insurance and reinsurance shortages, resulting in dramatic rate increases for consumers and businesses, and the unavailability of catastrophe insurance.

(3) The Federal Government has provided and will continue to provide billions of dollars and resources to pay for losses from catastrophes, including hurricanes, volcanic eruptions, tsunamis, tornados, and other disasters, at huge costs to American taxpayers.

(4) The Federal Government has a critical interest in ensuring appropriate and fiscally responsible risk management of catastrophes. Mortgages require reliable property insurance, and the unavailability of reliable property insurance would make most real estate transactions impossible. In addition, the public health, safety, and welfare demand that structures damaged or destroyed in a catastrophe be reconstructed as soon as possible. Therefore, the inability of the private sector insurance and reinsurance markets to maintain sufficient capacity to enable Americans to obtain property insurance coverage in the private sector endangers the national economy and the public health, safety, and welfare.

(5) Multiple proposals have been introduced in the United States Congress over the past decade to address catastrophic risk insurance, including the creation of a national catastrophic reinsurance fund and the revision of the Federal tax code to allow insurers to use tax-deferred catastrophe funds, yet Congress has failed to act on any of these proposals.

(6) To the extent the United States faces high risks from catastrophe exposure, essential technical information on financial structures and innovations in the catastrophe insurance market is needed.

(7) The most efficient and effective approach to assessing the catastrophe insurance problem in the public policy context is to establish a bipartisan commission of experts to study the management of catastrophic disaster risk, and to require such commission to timely report its recommendations to Congress so that Congress can quickly craft a solution to protect the American people.

SEC. 3. ESTABLISHMENT.

There is established a bipartisan Commission on Catastrophic Disaster Risk and Insurance (in this Act referred to as the ''Commission'').

SEC. 4. MEMBERSHIP.

(a) MEMBERS.—The Commission shall be composed of the following:

(1) The Director of the Federal Emergency Management Agency or a designee of the Director.

(2) The Administrator of the National Oceanic and Atmospheric Administration or a designee of the Administrator.

(3) 12 additional members or their designees of whom one shall be—

(A) a representative of a consumer group;

(B) a representative of a primary insurance company;

(C) a representative of a reinsurance company;

(D) an independent insurance agent with experience in writing property and casualty insurance policies;

(E) a State insurance regulator;

(F) a State emergency operations official;

(G) a scientist;

(H) a faculty member of an accredited university with experience in risk management;

(I) a member of nationally recognized think tank with experience in risk management;

(J) a homebuilder with experience in structural engineering;

(K) a mortgage lender; and

(L) a nationally recognized expert in antitrust law.

(b) MANNER OF APPOINTMENT.—

(1) IN GENERAL.—Any member of the Commission described under subsection (a)(3) shall be appointed only upon unanimous agreement of—

(A) the majority leader of the Senate;

(B) the minority leader of the Senate;

(C) the Speaker of the House of Representatives; and

(D) the minority leader of the House of Representatives.

(2) CONSULTATION.—In making any appointment under paragraph (1), each individual described in paragraph (1) shall consult with the President.

(c) ELIGIBILITY LIMITATION.—Except as provided in subsection (a), no member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government or any State government may be appointed to be a member of the Commission.

(d) PERIOD OF APPOINTMENT.—

(1) IN GENERAL.—Each member of the Commission shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(e) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL ACTIONS.—All recommendations and reports of the Commission required by this Act shall be approved only by a majority vote of a quorum of the Commission.

(f) CHAIRPERSON.—The majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall jointly select 1 member appointed pursuant to subsection (a) to serve as the Chairperson of the Commission.

(g) MEETINGS.—The Council shall meet at the call of its Chairperson or a majority of its members at any time.

SEC. 5. DUTIES OF THE COMMISSION.

The Commission shall—

(1) assess—

(A) the condition of the property and casualty insurance and reinsurance markets in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, and the 4 major hurricanes that struck the United States in 2004; and

(B) the ongoing exposure of the United States to earthquakes, volcanic eruptions, tsunamis, and floods; and

(2) recommend and report, as required under section 6, any necessary legislative and regulatory changes that will—

(A) improve the domestic and international financial health and competitiveness of such markets; and

(B) assure consumers of the—

(i) availability of adequate insurance coverage when an insured event occurs; and

(ii) best possible range of insurance products at competitive prices.

SEC. 6. REPORT.

(a) IN GENERAL.—Not later than 90 days after the appointment of Commission members under section 4, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 5.

(b) CONSIDERATIONS.—In developing any recommendations under subsection (a), the Commission shall consider—

(1) the catastrophic insurance and reinsurance market structures and the relevant commercial practices in such insurance industries in providing insurance protection to different sectors of the American population;

(2) the constraints and opportunities in implementing a catastrophic insurance system that can resolve key obstacles currently impeding broader implementation of catastrophe risk management and financing with insurance;

(3) methods to improve risk underwriting practices, including—

(A) analysis of modalities of risk transfer for potential financial losses;

(B) assessment of private securitization of insurances risks;

(C) private-public partnerships to increase insurance capacity in constrained markets; and

(D) the financial feasibility and sustainability of a national catastrophe pool or regional catastrophe pools designed to provide adequate insurance coverage and increased underwriting capacity to insurers and reinsurers;

(4) approaches for implementing a public insurance scheme for low-income communities, in order to promote risk reduction and explicit insurance coverage in such communities;

(5) methods to strengthen insurance regulatory requirements and supervision of such requirements, including solvency for catastrophic risk reserves;

(6) methods to promote public insurance policies linked to programs for loss reduction in the uninsured sectors of the American population;

(7) methods to strengthen the risk assessment and enforcement of structural mitigation and vulnerability reduction measures, such as zoning and building code compliance;

(8) the appropriate role for the Federal Government in stabilizing the property and casualty insurance and reinsurance markets, with an analysis—

(A) of options such as—

(i) a reinsurance mechanism;

(ii) the modernization of Federal taxation policies; and

(iii) an ''insurance of last resort'' mechanism; and

(B) how to fund such options; and

(9) the merits of the 3 principle legislative proposals currently pending in the 109th Congress, namely:

(A) The creation of a Federal catastrophe fund to act as a backup to State catastrophe funds;

(B) Tax-deferred catastrophe accounts for insurers; and

(C) Tax-free catastrophe accounts for policyholders.

SEC. 7. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission or, at the direction of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this Act—

(1) hold such public hearings in such cities and countries, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths or affirmations as the Commission or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Commission or such subcommittee or member considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (a) shall bear the signature of the Chairperson of the Commission and shall be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Information obtained under a subpoena issued under subsection (a) which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information—

(i) shall be exempt from disclosure under section 552 of title 5, United States Code; and

(ii) shall not be published or disclosed unless the Commission determines that the withholding of such information is contrary to the interest of the United States.

(B) EXCEPTION.—The requirements of subparagraph (A) shall not apply to the publication or disclosure of any data aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(c) AUTHORITY OF MEMBERS OR AGENTS OF THE COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States any information necessary to enable the Commission to carry out the purposes of this Act.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(g) GIFTS.—

(1) IN GENERAL.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(2) REGULATIONS.—The Commission shall adopt internal regulations governing the receipt of gifts or donations of services or property similar to those described in part 2601 of title 5, Code of Federal Regulations.

SEC. 8. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) SUBCOMMITTEES.—The Commission may establish subcommittees and appoint persons to such subcommittees as the Commission considers appropriate.

(d) STAFF.—Subject to such policies as the Commission may prescribe, the Chairperson of the Commission may appoint and fix the pay of such additional personnel as the Chairperson considers appropriate to carry out the duties of the Commission.

(e) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Subcommittee members and staff of the Commission may be—

(1) appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of that title.

(f) EXPERTS AND CONSULTANTS.—In carrying out its objectives, the Commission may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of that title.

(g) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson of the Commission, any Federal Government employee may be detailed to the Commission to assist in carrying out the duties of the Commission—

(1) on a reimbursable basis; and

(2) such detail shall be without interruption or loss of civil service status or privilege.

SEC. 9. TERMINATION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 6.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 to carry out the purposes of this Act.

Ms. LANDRIEU. Mr. President, one of the most frequent complaints I have been hearing from people in Louisiana whose homes sustained damage in Katrina and Rita has been about their property insurance. First, it took insurance companies a long time to get adjusters into the area after the storm and many people are still waiting for claim payments. This was followed by the shock for many of our homeowners that their property insurance policies covered wind damage, but not flood damage. They could get the roof replaced, but the rest of the house was lost. Many of them were not required to have flood insurance because they either did not live in a flood plain or did not have a mortgage. And now we are beginning to discover that many insurance companies are no longer writing policies in Louisiana.

Our homeowners weathered one, and in some cases two, hurricanes already. However, now it's as if our homeowners have been hit by another hurricane—one causing a flood of red ink, lost homes, ruined lives, and broken communities.

I hope we never see another storm like Katrina. I would not want any of my colleagues' states to face the one-two punch of two hurricanes the way Louisiana was. But hurricane season is coming again, starting next week on June 1. These insurance issues and problems are going to come again. We can rebuild levees and use the lessons of Katrina to better prepare for these storms, but finding a solution to this insurance issue is much harder.

First of all, insurance is regulated at the State level. We do not control it up here. In all fairness, property casualty insurance companies do not cover flood damage because that is covered by the National Flood Insurance Program at FEMA. But the potential for flooding from hurricanes still remains and our insurance system is not ready to handle the amount of uninsured damage a massive storm like Katrina.

I am pleased to join my colleague from Florida, Senator NELSON, as a cosponsor of the Commission on Catastrophic Disaster Risk and Insurance Act of 2006. This bill will not produce major changes in the insurance industry overnight, but it will begin to take a look at this issue to identify the best solution to ensuring that home and business owners will have insurance coverage to help them rebuild after catastrophic natural disasters.

The commission established by this legislation will take the first steps for assessing the casualty insurance market and recommend any necessary legislative changes to ensure that consumers will have readily available and affordable insurance coverage to protect them from natural disasters. Experts from a wide variety of fields in disaster preparedness, construction engineering, the insurance industry, and government will serve on the commission. While the members will be chosen on a bipartisan basis, they will be taking a nonpartisan approach to this subject.

I urge my colleagues to support this legislation. It is a first step—a modest step—toward ensuring the financial security of Americans in the face of catastrophic disasters.

By Mr. NELSON of Florida:

S. 3115. A bill to amend the Internal Revenue Code of 1986 to create Catastrophe Savings Accounts; to the Committee on Finance.

S. 3115

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Catastrophe Savings Accounts Act of 2006''.

SEC. 2. CATASTROPHE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of Chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

''PART IX—CATASTROPHE SAVINGS ACCOUNTS

''SEC. 530A. CATASTROPHE SAVINGS ACCOUNTS.

''(a) GENERAL RULE.—A Catastrophe Savings Account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) CATASTROPHE SAVINGS ACCOUNT.—For purposes of this section, the term 'Catastrophe Savings Account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries and which is designated (in such manner as the Secretary shall prescribe) at the time of the establishment of the trust as a Catastrophe Savings Account, but only if the written governing instrument creating the trust meets the following requirements:

''(1) Except in the case of a qualified rollover contribution—

''(A) no contribution will be accepted unless it is in cash, and

''(B) contributions will not be accepted in excess of the account balance limit specified in subsection (c).

''(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(3) The interest of an individual in the balance of his account is nonforfeitable.

''(4) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(c) ACCOUNT BALANCE LIMIT.—The aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual (including qualified rollover contributions) shall not exceed—

''(1) in the case of an individual whose qualified deductible is not more than $1,000, $2,000, and

''(2) in the case of an individual whose qualified deductible is more than $1,000, the amount equal to the lesser of—

''(A) $15,000, or

''(B) twice the amount of the individual's qualified deductible.

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

''(1) QUALIFIED CATASTROPHE EXPENSES.—The term 'qualified catastrophe expenses' means expenses paid or incurred by reason of a major disaster that has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(2) QUALIFIED DEDUCTIBLE.—With respect to an individual, the term 'qualified deductible' means the annual deductible for the individual's homeowners' insurance policy.

''(3) QUALIFIED ROLLOVER CONTRIBUTION.—The term 'qualified rollover contribution' means a contribution to a Catastrophe Savings Account—

''(A) from another such account of the same beneficiary, but only if such amount is contributed not later than the 60th day after the distribution from such other account, and

''(B) from a Catastrophe Savings Account of a spouse of the beneficiary of the account to which the contribution is made, but only if such amount is contributed not later than the 60th day after the distribution from such other account.

''(e) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any distribution from a Catastrophe Savings Account shall be includible in the gross income of the distributee in the manner as provided in section 72.

''(2) DISTRIBUTIONS FOR QUALIFIED CATASTROPHE EXPENSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income under paragraph (1) if the qualified catastrophe expenses of the distributee during the taxable year are not less than the aggregate distributions during the taxable year.

''(B) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount which would be includible in gross income under paragraph (1) (without regard to this subparagraph) as the qualified catastrophe expenses bear to such aggregate distributions.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR QUALIFIED CATASTROPHE EXPENSES.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a Catastrophe Savings Account which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

''(4) RETIREMENT DISTRIBUTIONS.—No amount shall be includible in gross income under paragraph (1) (or subject to an additional tax under paragraph (3)) if the payment or distribution is made on or after the date on which the distributee attains age 62.

''(f) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any Catastrophe Savings Account.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (4), by inserting ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) a Catastrophe Savings Account (as defined in section 530A),''.

(2) EXCESS CONTRIBUTION.—Section 4973 of such Code is amended by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO CATASTROPHE SAVINGS ACCOUNTS.—For purposes of this section, in the case of Catastrophe Savings Accounts (within the meaning of section 530A), the term 'excess contributions' means the amount by which the aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual exceeds the account balance limit defined in section 530A(c)(1).''.

(c) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''PART IX. CATASTROPHE SAVINGS ACCOUNTS''.

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

By Mr. NELSON of Florida:

S. 3116. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds by property and casualty insurance companies for the payment of policyholders' claims arising from future catastrophic events; to the Committee on Finance.

S. 3116

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Policyholder Disaster Protection Act of 2006''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Rising costs resulting from natural disasters are placing an increasing strain on the ability of property and casualty insurance companies to assure payment of homeowners' claims and other insurance claims arising from major natural disasters now and in the future.

(2) Present tax laws do not provide adequate incentives to assure that natural disaster insurance is provided or, where such insurance is provided, that funds are available for payment of insurance claims in the event of future catastrophic losses from major natural disasters, as present law requires an insurer wishing to accumulate surplus assets for this purpose to do so entirely from its after-tax retained earnings.

(3) Revising the tax laws applicable to the property and casualty insurance industry to permit carefully controlled accumulation of pretax dollars in separate reserve funds devoted solely to the payment of claims arising from future major natural disasters will provide incentives for property and casualty insurers to make natural disaster insurance available, will give greater protection to the Nation's homeowners, small businesses, and other insurance consumers, and will help assure the future financial health of the Nation's insurance system as a whole.

(4) Implementing these changes will reduce the possibility that a significant portion of the private insurance system would fail in the wake of a major natural disaster and that governmental entities would be required to step in to provide relief at taxpayer expense.

SEC. 3. CREATION OF POLICYHOLDER DISASTER PROTECTION FUNDS; CONTRIBUTIONS TO AND DISTRIBUTIONS FROM FUNDS; OTHER RULES.

(a) CONTRIBUTIONS TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Subsection (c) of section 832 of the Internal Revenue Code of 1986 (relating to the taxable income of insurance companies other than life insurance companies) is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ''; and'', and by adding at the end the following new paragraph:

''(14) the qualified contributions to a policyholder disaster protection fund during the taxable year.''.

(b) DISTRIBUTIONS FROM POLICYHOLDER DISASTER PROTECTION FUNDS.—Paragraph (1) of section 832(b) of such Code is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) the amount of any distributions from a policyholder disaster protection fund during the taxable year, except that a distribution made to return to the qualified insurance company any contribution which is not a qualified contribution (as defined in subsection (h)) for a taxable year shall not be included in gross income if such distribution is made prior to the filing of the tax return for such taxable year.''.

(c) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Section 832 of such Code (relating to insurance company taxable income) is amended by adding at the end the following new subsection:

''(h) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—For purposes of this section—

''(1) POLICYHOLDER DISASTER PROTECTION FUND.—The term 'policyholder disaster protection fund' (hereafter in this subsection referred to as the 'fund') means any custodial account, trust, or any other arrangement or account—

''(A) which is established to hold assets that are set aside solely for the payment of qualified losses, and

''(B) under the terms of which—

''(i) the assets in the fund are required to be invested in a manner consistent with the investment requirements applicable to the qualified insurance company under the laws of its jurisdiction of domicile,

''(ii) the net income for the taxable year derived from the assets in the fund is required to be distributed no less frequently than annually,

''(iii) an excess balance drawdown amount is required to be distributed to the qualified insurance company no later than the close of the taxable year following the taxable year for which such amount is determined,

''(iv) a catastrophe drawdown amount may be distributed to the qualified insurance company if distributed prior to the close of the taxable year following the year for which such amount is determined,

''(v) a State required drawdown amount may be distributed, and

''(vi) no distributions from the fund are required or permitted other than the distributions described in clauses (ii) through (v) and the return to the qualified insurance company of contributions that are not qualified contributions.

''(2) QUALIFIED INSURANCE COMPANY.—The term 'qualified insurance company' means any insurance company subject to tax under section 831(a).

''(3) QUALIFIED CONTRIBUTION.—The term 'qualified contribution' means a contribution to a fund for a taxable year to the extent that the amount of such contribution, when added to the previous contributions to the fund for such taxable year, does not exceed the excess of—

''(A) the fund cap for the taxable year, over

''(B) the fund balance determined as of the close of the preceding taxable year.

''(4) EXCESS BALANCE DRAWDOWN AMOUNTS.—The term 'excess balance drawdown amount' means the excess (if any) of—

''(A) the fund balance as of the close of the taxable year, over

''(B) the fund cap for the following taxable year.

''(5) CATASTROPHE DRAWDOWN AMOUNT.—

''(A) IN GENERAL.—The term 'catastrophe drawdown amount' means an amount that does not exceed the lesser of the amount determined under subparagraph (B) or (C).

''(B) NET LOSSES FROM QUALIFYING EVENTS.—The amount determined under this subparagraph shall be equal to the qualified losses for the taxable year determined without regard to clause (ii) of paragraph (8)(A).

''(C) GROSS LOSSES IN EXCESS OF THRESHOLD.—The amount determined under this subparagraph shall be equal to the excess (if any) of—

''(i) the qualified losses for the taxable year, over

''(ii) the lesser of—

''(I) the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

''(II) 30 percent of the qualified insurance company's surplus as regards policyholders as shown on the company's annual statement for the calendar year preceding the taxable year.

''(D) SPECIAL DRAWDOWN AMOUNT FOLLOWING A RECENT CATASTROPHE LOSS YEAR.—If for any taxable year included in the reference period the qualified losses exceed the amount determined under subparagraph (C)(ii), the 'catastrophe drawdown amount' shall be an amount that does not exceed the lesser of the amount determined under subparagraph (B) or the amount determined under this subparagraph. The amount determined under this subparagraph shall be an amount equal to the excess (if any) of—

''(i) the qualified losses for the taxable year, over

''(ii) the lesser of—

''(I) ⅓ of the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

''(II) 10 percent of the qualified insurance company's surplus as regards policyholders as shown on the company's annual statement for the calendar year preceding the taxable year.

''(E) REFERENCE PERIOD.—For purposes of subparagraph (D), the reference period shall be determined under the following table:

''For a taxable year beginning in—	**The reference period shall be—**
2009 and later	The 3 preceding taxable years.
2008	The 2 preceding taxable years.
2007	The preceding taxable year.
2006 or before	No reference period applies.

''(6) STATE REQUIRED DRAWDOWN AMOUNT.—The term 'State required drawdown amount' means any amount that the department of insurance for the qualified insurance company's jurisdiction of domicile requires to be distributed from the fund, to the extent such amount is not otherwise described in paragraph (4) or (5).

''(7) FUND BALANCE.—The term 'fund balance' means—

''(A) the sum of all qualified contributions to the fund,

''(B) less any net investment loss of the fund for any taxable year or years, and

''(C) less the sum of all distributions under clauses (iii) through (v) of paragraph (1)(B).

''(8) QUALIFIED LOSSES.—

''(A) IN GENERAL.—The term 'qualified losses' means, with respect to a taxable year—

''(i) the amount of losses and loss adjustment expenses incurred in the qualified lines of business specified in paragraph (9), net of reinsurance, as reported in the qualified insurance company's annual statement for the taxable year, that are attributable to one or more qualifying events (regardless of when such qualifying events occurred),

''(ii) the amount by which such losses and loss adjustment expenses attributable to such qualifying events have been reduced for reinsurance received and recoverable, plus

''(iii) any nonrecoverable assessments, surcharges, or other liabilities that are borne by the qualified insurance company and are attributable to such qualifying events.

''(B) QUALIFYING EVENT.—For purposes of subparagraph (A), the term 'qualifying event' means any event that satisfies clauses (i) and (ii).

''(i) EVENT.—An event satisfies this clause if the event is 1 or more of the following:

''(I) Windstorm (hurricane, cyclone, or tornado).

''(II) Earthquake (including any fire following).

''(III) Winter catastrophe (snow, ice, or freezing).

''(IV) Fire.

''(V) Tsunami.

''(VI) Flood.

''(VII) Volcanic eruption.

''(VIII) Hail.

''(ii) CATASTROPHE DESIGNATION.—An event satisfies this clause if the event—

''(I) is designated a catastrophe by Property Claim Services or its successor organization,

''(II) is declared by the President to be an emergency or disaster, or

''(III) is declared to be an emergency or disaster in a similar declaration by the chief executive official of a State, possession, or territory of the United States, or the District of Columbia.

''(9) FUND CAP.—

''(A) IN GENERAL.—The term 'fund cap' for a taxable year is the sum of the separate lines of business caps for each of the qualified lines of business specified in the table contained in subparagraph (C) (as modified under subparagraphs (D) and (E)).

''(B) SEPARATE LINES OF BUSINESS CAP.—For purposes of subparagraph (A), the separate lines of business cap, with respect to a qualified line of business specified in the table contained in subparagraph (C), is the product of—

''(i) net written premiums reported in the annual statement for the calendar year preceding the taxable year in such line of business, multiplied by

''(ii) the fund cap multiplier applicable to such qualified line of business.

''(C) QUALIFIED LINES OF BUSINESS AND THEIR RESPECTIVE FUND CAP MULTIPLIERS.—For purposes of this paragraph, the qualified lines of business and fund cap multipliers specified in this subparagraph are those specified in the following table:

''Line of Business on Annual Statement Blank:	Fund Cap Multiplier:
Fire	0.25
Allied	1.25
Farmowners Multiple Peril	0.25
Homeowners Multiple Peril	0.75
Commercial Multi Peril (non-liability portion)	0.50
Earthquake	13.00
Inland Marine	0.25.

''(D) SUBSEQUENT MODIFICATIONS OF THE ANNUAL STATEMENT BLANK.—If, with respect to any taxable year beginning after the effective date of this subsection, the annual statement blank required to be filed is amended to replace, combine, or otherwise modify any of the qualified lines of business specified in subparagraph (C), then for such taxable year subparagraph (C) shall be applied in a manner such that the fund cap shall be the same amount as if such reporting modification had not been made.

''(E) 20-YEAR PHASE-IN.—Notwithstanding subparagraph (C), the fund cap for a taxable year shall be the amount determined under subparagraph (C), as adjusted pursuant to subparagraph (D) (if applicable), multiplied by the phase-in percentage indicated in the following table:

''Taxable year beginning in:	Phase-in percentage to be applied to fund cap computed under subparagraphs (A) and (B):
2006	5 percent
2007	10 percent
2008	15 percent
2009	20 percent
2010	25 percent
2011	30 percent
2012	35 percent
2013	40 percent
2014	45 percent
2015	50 percent
2016	55 percent
2017	60 percent
2018	65 percent
2019	70 percent
2020	75 percent
2021	80 percent
2022	85 percent
2023	90 percent
2024	95 percent
2025 and later	100 percent

''(10) TREATMENT OF INVESTMENT INCOME AND GAIN OR LOSS.—

''(A) CONTRIBUTIONS IN KIND.—A transfer of property other than money to a fund shall be treated as a sale or exchange of such property for an amount equal to its fair market value as of the date of transfer, and appropriate adjustment shall be made to the basis of such property. Section 267 shall apply to any loss realized upon such a transfer.

''(B) DISTRIBUTIONS IN KIND.—A transfer of property other than money by a fund to the qualified insurance company shall not be treated as a sale or exchange or other disposition of such property. The basis of such property immediately after such transfer shall be the greater of the basis of such property immediately before such transfer or the fair market value of such property on the date of such transfer.

''(C) INCOME WITH RESPECT TO FUND ASSETS.—Items of income of the type described in paragraphs (1)(B), (1)(C), and (2) of subsection (b) that are derived from the assets held in a fund, as well as losses from the sale or other disposition of such assets, shall be considered items of income, gain, or loss of the qualified insurance company. Notwithstanding paragraph (1)(F) of subsection (b), distributions of net income to the qualified insurance company pursuant to paragraph (1)(B)(ii) of this subsection shall not cause such income to be taken into account a second time.

''(11) NET INCOME; NET INVESTMENT LOSS.—For purposes of paragraph (1)(B)(ii), the net income derived from the assets in the fund for the taxable year shall be the items of income and gain for the taxable year, less the items of loss for the taxable year, derived from such assets, as described in paragraph (10)(C). For purposes of paragraph (7), there is a net investment loss for the taxable year to the extent that the items of loss described in the preceding sentence exceed the items of income and gain described in the preceding sentence.

''(12) ANNUAL STATEMENT.—For purposes of this subsection, the term 'annual statement' shall have the meaning set forth in section 846(f)(3).

''(13) EXCLUSION OF PREMIUMS AND LOSSES ON CERTAIN PUERTO RICAN RISKS.—Notwithstanding any other provision of this subsection, premiums and losses with respect to risks covered by a catastrophe reserve established under the laws or regulations of the Commonwealth of Puerto Rico shall not be taken into account under this subsection in determining the amount of the fund cap or the amount of qualified losses.

''(14) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations—

''(A) which govern the application of this subsection to a qualified insurance company having a taxable year other than the calendar year or a taxable year less than 12 months,

''(B) which govern a fund maintained by a qualified insurance company that ceases to be subject to this part, and

''(C) which govern the application of paragraph (9)(D).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

By Mr. NELSON of Florida:

S. 3117. A bill to establish a program to provide more protection at lower cost through a national backstop for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, to better assist in the financial recovery and rebuilding from such catastrophes, and to develop a rigorous process of continuous improvement; to the Commitment on Banking, Housing, and Urban Affairs.

S. 3117

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Homeowners Protection Act of 2006''.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) America needs to take steps to be better prepared for and better protected from catastrophes;

(2) the hurricane seasons of 2004 and 2005 are startling reminders of both the human and economic devastation that hurricanes, flooding, and other natural disasters can cause;

(3) if a repeat of the deadly 1900 Galveston hurricane occurred again it could cause thousands of deaths and over $36,000,000,000 in loss;

(4) if the 1906 San Francisco earthquake occurred again it could cause thousands of deaths, displace millions of residents, destroy thousands of businesses, and cause over $400,000,000,000 in loss;

(5) if a Category 5 hurricane were to hit Miami it could cause thousands of deaths and over $50,000,000,000 in loss and devastate the local and national economy;

(6) if a repeat of the 1938 ''Long Island Express'' were to occur again it could cause thousands of deaths and over $30,000,000,000 in damage, and if a hurricane that strong were to directly hit Manhattan it could cause over $150,000,000,000 in damage and cause irreparable harm to our Nation's economy;

(7) a more comprehensive and integrated approach to dealing with catastrophes is needed;

(8) using history as a guide, natural catastrophes will inevitably place a tremendous strain on homeowners' insurance markets in many areas, will raise costs for consumers, and will jeopardize the ability of many consumers to adequately insure their homes and possessions;

(9) the lack of sufficient insurance capacity and the inability of private insurers to build enough capital, in a short amount of time, threatens to increase the number of uninsured homeowners, which, in turn, increases the risk of mortgage defaults and the strain on the Nation's banking system;

(10) some States have exercised leadership through reasonable action to ensure the continued availability and affordability of homeowners' insurance for all residents;

(11) it is appropriate that efforts to improve insurance availability be designed and implemented at the State level;

(12) while State insurance programs may be adequate to cover losses from most natural disasters, a small percentage of events is likely to exceed the financial capacity of these programs and the local insurance markets;

(13) a limited national insurance backstop will improve the effectiveness of State insurance programs and private insurance markets and will increase the likelihood that homeowners' insurance claims will be fully paid in the event of a large natural catastrophe and that routine claims that occur after a mega-catastrophe will also continue to be paid;

(14) it is necessary to provide a national insurance backstop program that will provide more protection at an overall lower cost and that will promote stability in the homeowners' insurance market;

(15) it is the proper role of the Federal Government to prepare for and protect its citizens from catastrophes and to facilitate consumer protection, victim assistance, and recovery, including financial recovery; and

(16) any Federal reinsurance program must be founded upon sound actuarial principles and priced in a manner that encourages the creation of State funds and maximizes the buying potential of these State funds and encourages and promotes prevention and mitigation, recovery and rebuilding, and consumer education, and emphasizes continuous analysis and improvement.

SEC. 3. NATIONAL COMMISSION ON CATASTROPHE PREPARATION AND PROTECTION.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a commission to be known as the National Commission on Catastrophe Preparation and Protection.

(b) DUTIES.—The Commission shall meet for the purpose of advising the Secretary regarding the estimated loss costs associated with the contracts for reinsurance coverage available under this Act and carrying out the functions specified in this Act, including—

(1) the development and implementation of public education concerning the risks posed by natural catastrophes;

(2) the development and implementation of prevention, mitigation, recovery, and rebuilding standards that better prepare and protect the United States from catastrophes; and

(3) conducting continuous analysis of the effectiveness of this Act and recommending improvements to the Congress so that—

(A) the costs of providing catastrophe protection are decreased; and

(B) the United States is better prepared.

(c) MEMBERS.—

(1) APPOINTMENT AND QUALIFICATION.—The Commission shall consist of 9 members, as follows:

(A) HOMELAND SECURITY MEMBER.—The Secretary of Homeland Security or the Secretary's designee.

(B) APPOINTED MEMBERS.—8 members appointed by the Secretary, who shall consist of—

(i) 1 individual who is an actuary;

(ii) 1 individual who is employed in engineering;

(iii) 1 individual representing the scientific community;

(iv) 1 individual representing property and casualty insurers;

(v) 1 individual representing reinsurers;

(vi) 1 individual who is a member or former member of the National Association of Insurance Commissioners; and

(vii) 2 individuals who are consumers.

(2) PREVENTION OF CONFLICTS OF INTEREST.—Members shall have no personal or financial interest at stake in the deliberations of the Commission.

(d) TREATMENT OF NON-FEDERAL MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be considered a special Government employee for purposes of sections 202 and 208 of title 18, United States Code.

(e) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The Commission may procure temporary and intermittent services from individuals or groups recognized as experts in the fields of meteorology, seismology, vulcanlogy, geology, structural engineering, wind engineering, and hydrology, and other fields, under section 3109(b) of title 5, United States Code, but at a rate not in excess of the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule, for each day during which the individual procured is performing such services for the Commission.

(2) OTHER EXPERTS.—The Commission may also procure, and the Congress encourages the Commission to procure, experts from universities, research centers, foundations, and other appropriate organizations who could study, research, and develop methods and mechanisms that could be utilized to strengthen structures to better withstand the perils covered by this Act.

(f) COMPENSATION.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate of basic pay payable for level V of the Executive Schedule, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(g) OBTAINING DATA.—

(1) IN GENERAL.—The Commission and the Secretary may solicit loss exposure data and such other information as either the Commission or the Secretary deems necessary to carry out its responsibilities from governmental agencies and bodies and organizations that act as statistical agents for the insurance industry.

(2) OBLIGATION TO KEEP CONFIDENTIAL.—The Commission and the Secretary shall take such actions as are necessary to ensure that information that either deems confidential or proprietary is disclosed only to authorized individuals working for the Commission or the Secretary.

(3) FAILURE TO COMPLY.—No State insurance or reinsurance program may participate if any governmental agency within that State has refused to provide information requested by the Commission or the Secretary.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(A) $10,000,000 for fiscal year 2007 for the—

(i) initial expenses in establishing the Commission; and

(ii) initial activities of the Commission that cannot timely be covered by amounts obtained pursuant to section 7(b)(6)(B)(iii), as determined by the Secretary;

(B) such additional sums as may be necessary to carry out subsequent activities of the Commission;

(C) $10,000,000 for fiscal year 2007 for the initial expenses of the Secretary in carrying out the program authorized under section 4; and

(D) such additional sums as may be necessary to carry out subsequent activities of the Secretary under this Act.

(2) OFFSET.—

(A) OBTAINED FROM PURCHASERS.—The Secretary shall provide, to the maximum extent practicable, that an amount equal to any amount appropriated under paragraph (1) is obtained from purchasers of reinsurance coverage under this Act and deposited in the Fund established under section 9.

(B) INCLUSION IN PRICING CONTRACTS.—Any offset obtained under subparagraph (A) shall be obtained by inclusion of a provision for the Secretary's and the Commission's expenses incorporated into the pricing of the contracts for such reinsurance coverage, pursuant to section 7(b)(6)(B)(iii).

(i) TERMINATION.—The Commission shall terminate upon the effective date of the repeal under section 11(c).

SEC. 4. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security, shall carry out a program under this Act to make homeowners protection coverage available through contracts for reinsurance coverage under section 7, which shall be made available for purchase only by eligible State programs.

(b) PURPOSE.—The program shall be designed to make reinsurance coverage under this Act available—

(1) to improve the availability and affordability of homeowners' insurance for the purpose of facilitating the pooling, and spreading the risk, of catastrophic financial losses from natural catastrophes;

(2) to improve the solvency and capacity of homeowners' insurance markets;

(3) to encourage the development and implementation of mitigation, prevention, recovery, and rebuilding standards; and

(4) to recommend methods to continuously improve the way the United States reacts and responds to catastrophes, including improvements to the HELP Fund established under section 9.

(c) CONTRACT PRINCIPLES.—Under the program established under this Act, the Secretary shall offer reinsurance coverage through contracts with covered purchasers, which contracts shall—

(1) minimize the administrative costs of the Federal Government; and

(2) provide coverage based solely on insured losses within a State for the eligible State program purchasing the contract.

SEC. 5. QUALIFIED LINES OF COVERAGE.

Each contract for reinsurance coverage made available under this Act shall provide insurance coverage against residential property losses to—

(1) homes (including dwellings owned under condominium and cooperative ownership arrangements); and

(2) the contents of apartment buildings.

SEC. 6. COVERED PERILS.

(a) IN GENERAL.—Each contract for reinsurance coverage made available under this Act shall cover losses insured or reinsured by an eligible State program purchasing the contract that are proximately caused by—

(1) earthquakes;

(2) perils ensuing from earthquakes, including fire and tsunamis;

(3) tropical cyclones having maximum sustained winds of at least 74 miles per hour, including hurricanes and typhoons;

(4) tornadoes;

(5) volcanic eruptions;

(6) catastrophic winter storms; and

(7) any other natural catastrophe peril (not including any flood) insured or reinsured under the eligible State program for which reinsurance coverage under section 7 is provided.

(b) RULEMAKING.—The Secretary shall, by regulation, define the natural catastrophe perils described in subsection (a)(7).

SEC. 7. CONTRACTS FOR REINSURANCE COVERAGE FOR ELIGIBLE STATE PROGRAMS.

(a) ELIGIBLE STATE PROGRAMS.—A program shall be eligible to purchase a contract under this section for reinsurance coverage under this Act only if the State entity authorized to make such determinations certifies to the Secretary that the program complies with the following requirements:

(1) PROGRAM DESIGN.—The program shall be a State-operated—

(A) insurance program that—

(i) offers coverage for—

(I) homes (which may include dwellings owned under condominium and cooperative ownership arrangements); and

(II) the contents of apartments to State residents; and

(ii) is authorized by State law; or

(B) reinsurance program that is designed to improve private insurance markets that offer coverage for—

(i) homes (which may include dwellings owned under condominium and cooperative ownership arrangements); and

(ii) the contents of apartments.

(2) OPERATION.—

(A) IN GENERAL.—The program shall meet the following requirements:

(i) A majority of the members of the governing body of the program shall be public officials.

(ii) The State shall have a financial interest in the program, which shall not include a program authorized by State law or regulation that requires insurers to pool resources to provide property insurance coverage for covered perils.

(iii) The State shall not be eligible for Consumer HELP Fund assistance under section 9 if a State has appropriated money from the State fund and not paid it back to the State fund, with interest.

(iv) Upon receipt of assistance from the Consumer HELP Fund, each reimbursement contract sold by a State shall provide for reimbursements at 100 percent of eligible losses.

(v) A State shall be required to utilize either—

(I) an open rating system that permits insurers to set homeowners' insurance rates without prior approval of the State; or

(II) a rate approval process that requires actuarially sound, risk-based, self-sufficient homeowners' insurance rates.

(B) CERTIFICATION.—A State shall not be eligible for Consumer HELP Fund assistance unless the Secretary can certify that such State is in compliance with the requirement described in clause (v).

(3) TAX STATUS.—The program shall be structured and carried out in a manner so that the program is exempt from all Federal taxation.

(4) COVERAGE.—The program shall cover perils enumerated in section 6.

(5) EARNINGS.—The program may not provide for, nor shall have ever made, any redistribution of any part of any net profits of the program to any insurer that participates in the program.

(6) PREVENTION AND MITIGATION.—

(A) IN GENERAL.—The program shall include prevention and mitigation provisions that require that not less $10,000,000 and not more than 35 percent of the net investment income of the State insurance or reinsurance program be used for programs to mitigate losses from natural catastrophes for which the State insurance or reinsurance program was established.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph, prevention and mitigation shall include methods to reduce losses of life and property, including appropriate measures to adequately reflect—

(i) encouragement of awareness about the risk factors and what can be done to eliminate or reduce them;

(ii) location of the risk, by giving careful consideration of the natural risks for the location of the property before allowing building and considerations if structures are allowed; and

(iii) construction relative to the risk and hazards, which act upon—

(I) State mandated building codes appropriate for the risk;

(II) adequate enforcement of the risk-appropriate building codes;

(III) building materials that prevent or significantly lessen potential damage from the natural catastrophes;

(IV) building methods that prevent or significantly lessen potential damage from the natural catastrophes; and

(V) a focus on prevention and mitigation for any substantially damaged structure, with an emphasis on how structures can be retrofitted so as to make them building code compliant.

(7) REQUIREMENTS REGARDING COVERAGE.—

(A) IN GENERAL.—The program—

(i) may not, except for charges or assessments related to post-event financing or bonding, involve cross-subsidization between any separate property and casualty lines covered under the program unless the elimination of such activity in an existing program would negatively impact the eligibility of the program to purchase a contract for reinsurance coverage under this Act pursuant to paragraph (3);

(ii) shall include provisions that authorize the State insurance commissioner or other State entity authorized to make such a determination to terminate the program if the insurance commissioner or other such entity determines that the program is no longer necessary to ensure the availability of homeowners' insurance for all residents of the State; and

(iii) shall provide that, for any insurance coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments that is made available under the State insurance program and for any reinsurance coverage for such insurance coverage made available under the State reinsurance program, the premium rates charged shall be amounts that, at a minimum, are sufficient to cover the full actuarial costs of such coverage, based on consideration of the risks involved and accepted actuarial and rate making principles, anticipated administrative expenses, and loss and loss-adjustment expenses.

(B) APPLICABILITY.—This paragraph shall apply—

(i) before the expiration of the 2-year period beginning on the date of the enactment of this Act, only to State programs which, after January 1, 2007, commence offering insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of paragraph (1); and

(ii) after the expiration of such period, to all State programs.

(8) OTHER QUALIFICATIONS.—

(A) REGULATIONS.—

(i) COMPLIANCE.—The State program shall (for the year for which the coverage is in effect) comply with regulations that shall be issued under this paragraph by the Secretary, in consultation with the National Commission on Catastrophe Preparation and Protection established under section 3.

(ii) CRITERIA.—The regulations issued under clause (i) shall establish criteria for State programs to qualify to purchase reinsurance under this section, which are in addition to the requirements under the other paragraphs of this subsection.

(B) CONTENTS.—The regulations issued under subparagraph (A)(i) shall include requirements that—

(i) the State program shall have public members on its board of directors or have an advisory board with public members;

(ii) the State program provide adequate insurance or reinsurance protection, as applicable, for the peril covered, which shall include a range of deductibles and premium costs that reflect the applicable risk to eligible properties;

(iii) insurance or reinsurance coverage, as applicable, provided by the State program is made available on a nondiscriminatory basis to all qualifying residents;

(iv) any new construction, substantial rehabilitation, and renovation insured or reinsured by the program complies with applicable State or local government building, fire, and safety codes;

(v) the State, or appropriate local governments within the State, have in effect and enforce nationally recognized model building, fire, and safety codes and consensus-based standards that offer risk responsive resistance that is substantially equivalent or greater than the resistance to earthquakes or high winds;

(vi) the State has taken actions to establish an insurance rate structure that takes into account measures to mitigate insurance losses;

(vii) there are in effect, in such State, laws or regulations sufficient to prohibit price

gouging, during the term of reinsurance coverage under this Act for the State program in any disaster area located within the State; and

(viii) the State program complies with such other requirements that the Secretary considers necessary to carry out the purposes of this Act.

(b) TERMS OF CONTRACTS.—Each contract under this section for reinsurance coverage under this Act shall be subject to the following terms and conditions:

(1) MATURITY.—The term of the contract shall not exceed 1 year or such longer term as the Secretary may determine.

(2) PAYMENT CONDITION.—The contract shall authorize claims payments for eligible losses only to the eligible State program purchasing the coverage.

(3) RETAINED LOSSES REQUIREMENT.—For each event of a covered peril, the contract shall make a payment for the event only if the total amount of insurance claims for losses, which are covered by qualified lines, occur to properties located within the State covered by the contract, and that result from events, exceeds the amount of retained losses provided under the contract (pursuant to section 8(a)) purchased by the eligible State program.

(4) MULTIPLE EVENTS.—The contract shall—

(A) cover any eligible losses from 1 or more covered events that may occur during the term of the contract; and

(B) provide that if multiple events occur, the retained losses requirement under paragraph (3) shall apply on a calendar year basis, in the aggregate and not separately to each individual event.

(5) TIMING OF ELIGIBLE LOSSES.—Eligible losses under the contract shall include only insurance claims for property covered by qualified lines that are reported to the eligible State program within the 3-year period beginning upon the event or events for which payment under the contract is provided.

(6) PRICING.—

(A) DETERMINATION.—The price of reinsurance coverage under the contract shall be an amount established by the Secretary as follows:

(i) RECOMMENDATIONS.—The Secretary shall take into consideration the recommendations of the Commission in establishing the price, but the price may not be less than the amount recommended by the Commission.

(ii) FAIRNESS TO TAXPAYERS.—The price shall be established at a level that—

(I) is designed to reflect the risks and costs being borne under each reinsurance contract issued under this Act; and

(II) takes into consideration empirical models of natural disasters and the capacity of private markets to absorb insured losses from natural disasters.

(iii) SELF-SUFFICIENCY.—The rates for reinsurance coverage shall be established at a level that annually produces expected premiums that shall be sufficient to pay the expected annualized cost of all claims, loss adjustment expenses, and all administrative costs of reinsurance coverage offered under this section.

(B) COMPONENTS.—The price shall consist of the following components:

(i) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(ii) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this Act.

(7) INFORMATION.—The contract shall contain a condition providing that the Commission may require a State program that is covered under the contract to submit to the Commission all information on the State program relevant to the duties of the Commission, as determined by the Secretary.

(8) ADDITIONAL CONTRACT OPTION.—

(A) IN GENERAL.—The contract shall provide that the purchaser of the contract may, during a term of such original contract, purchase additional contracts from among those offered by the Secretary at the beginning of the term, subject to the limitations under section 8, at the prices at which such contracts were offered at the beginning of the term, prorated based upon the remaining term as determined by the Secretary.

(B) TIMING.—An additional contract purchased under subparagraph (A) shall provide coverage beginning on a date 15 days after the date of purchase but shall not provide coverage for losses for an event that has already occurred.

(9) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary—

(A) to carry out this Act; and

(B) to ensure the long-term financial integrity of the program under this Act.

(c) PARTICIPATION BY MULTI-STATE CATASTROPHE FUND PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act shall prohibit, and this Act shall be construed to facilitate and encourage, the creation of multi-State catastrophe insurance or reinsurance programs, or the participation by such programs in the program established pursuant to section 4.

(2) REGULATIONS.—The Secretary shall, by regulation, apply the provisions of this Act to multi-State catastrophe insurance and reinsurance programs.

SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXIMUM FEDERAL LIABILITY.

(a) AVAILABLE LEVELS OF RETAINED LOSSES.—In making reinsurance coverage available under this Act, the Secretary shall make available for purchase contracts for such coverage that require the sustainment of retained losses from covered perils (as required under section 7(b)(3) for payment of eligible losses) in various amounts, as the Secretary, in consultation with the Commission, determines appropriate and subject to the requirements under subsection (b).

(b) MINIMUM LEVEL OF RETAINED LOSSES.—

(1) CONTRACTS FOR STATE PROGRAMS.—Subject to paragraphs (3) and (4) and notwithstanding any other provision of this Act, a contract for reinsurance coverage under section 7 for an eligible State program that offers insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of section 7(a)(1), may not be made available or sold unless the contract requires retained losses from covered perils in the following amount:

(A) IN GENERAL.—The State program shall sustain an amount of retained losses of not less than—

(i) the claims-paying capacity of the eligible State program, as determined by the Secretary; and

(ii) an amount, determined by the Secretary in consultation with the Commission, that is the amount equal to the eligible losses projected to be incurred at least once every 50 years on an annual basis from covered perils.

(B) TRANSITION RULE FOR EXISTING PROGRAMS.—

(i) CLAIMS-PAYING CAPACITY.—Subject to clause (ii), in the case of any eligible State program that was offering insurance or reinsurance coverage on the date of the enactment of this Act and the claims-paying capacity of which is greater than the amount determined under subparagraph (A)(i) but less than an amount determined for the program under subparagraph (A)(ii), the minimum level of retained losses applicable under this paragraph shall be the claims-paying capacity of such State program.

(ii) AGREEMENT.—

(I) IN GENERAL.—Clause (i) shall apply to a State program only if the program enters into a written agreement with the Secretary providing a schedule for increasing the claims-paying capacity of the program to the amount determined for the program under subparagraph (A)(ii) over a period not to exceed 5 years.

(II) EXTENSION.—The Secretary may extend the 5-year period under subclause (I) for not more than 5 additional 1-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program.

(III) CONSULTATION.—The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential 1-year extensions.

(C) TRANSITION RULE FOR NEW PROGRAMS.—

(i) 50-YEAR EVENT.—The Secretary may provide that, in the case of an eligible State program that, after January 1, 2007, commences offering insurance or reinsurance coverage, during the 7-year period beginning on the date that reinsurance coverage under section 7 is first made available, the minimum level of retained losses applicable under this paragraph shall be the amount determined for the State under subparagraph (A)(i), except that such minimum level shall be adjusted annually as provided in clause (ii) of this subparagraph.

(ii) ANNUAL ADJUSTMENT.—Each annual adjustment under this clause shall increase the minimum level of retained losses applicable under this subparagraph to an eligible State program described in clause (i) in a manner such that—

(I) during the course of such 7-year period, the applicable minimum level of retained losses approaches the minimum level that, under subparagraph (A)(ii), will apply to the eligible State program upon the expiration of such period; and

(II) each such annual increase is a substantially similar amount, to the extent practicable.

(D) REDUCTION BECAUSE OF REDUCED CLAIMS-PAYING CAPACITY.—

(i) AUTHORITY.—Notwithstanding subparagraphs (A), (B), and (C) or the terms contained in a contract for reinsurance pursuant to such subparagraphs, if the Secretary determines that the claims-paying capacity of an eligible State program has been reduced because of payment for losses due to an event, the Secretary may reduce the minimum level of retained losses.

(ii) TERM OF REDUCTION.—

(I) EXTENSION.—The Secretary may extend the 5-year period for not more than 5 additional 1-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program.

(II) CONSULTATION.—The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential 1-year extensions.

(E) CLAIMS-PAYING CAPACITY.—For purposes of this paragraph, the claims-paying capacity of a State-operated insurance or reinsurance program under section 7(a)(1) shall be determined by the Secretary, in consultation with the Commission, taking into consideration the claims-paying capacity as determined by the State program, retained losses to private insurers in the State in an amount assigned by the State insurance commissioner, the cash surplus of the program, and

the lines of credit, reinsurance, and other financing mechanisms of the program established by law.

(c) MAXIMUM FEDERAL LIABILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may sell only contracts for reinsurance coverage under this Act in various amounts that comply with the following requirements:

(A) ESTIMATE OF AGGREGATE LIABILITY.—The aggregate liability for payment of claims under all such contracts in any single year is unlikely to exceed $200,000,000,000 (as such amount is adjusted under paragraph (2)).

(B) ELIGIBLE LOSS COVERAGE SOLD.—Eligible losses covered by all contracts sold within a State during a 12-month period do not exceed the difference between the following amounts (each of which shall be determined by the Secretary in consultation with the Commission):

(i) The amount equal to the eligible loss projected to be incurred once every 500 years from a single event in the State.

(ii) The amount equal to the eligible loss projected to be incurred once every 50 years from a single event in the State.

(2) ANNUAL ADJUSTMENTS.—The Secretary shall annually adjust the amount under paragraph (1)(A) (as it may have been previously adjusted) to provide for inflation in accordance with an inflation index that the Secretary determines to be appropriate.

(d) LIMITATION ON PERCENTAGE OF RISK IN EXCESS OF RETAINED LOSSES.—

(1) IN GENERAL.—The Secretary may not make available for purchase contracts for reinsurance coverage under this Act that would pay out more than 100 percent of eligible losses in excess of retained losses in the case of a contract under section 7 for an eligible State program, for such State.

(2) PAYOUT.—For purposes of this subsection, the amount of payout from a reinsurance contract shall be the amount of eligible losses in excess of retained losses multiplied by the percentage under paragraph (1).

SEC. 9. CONSUMER HURRICANE, EARTHQUAKE, LOSS PROTECTION (HELP) FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a fund to be known as the Consumer HELP Fund (in this section referred to as the ''Fund'').

(b) CREDITS.—The Fund shall be credited with—

(1) amounts received annually from the sale of contracts for reinsurance coverage under this Act;

(2) any amounts borrowed under subsection (d);

(3) any amounts earned on investments of the Fund pursuant to subsection (e); and

(4) such other amounts as may be credited to the Fund.

(c) USES.—Amounts in the Fund shall be available to the Secretary only for the following purposes:

(1) CONTRACT PAYMENTS.—For payments to covered purchasers under contracts for reinsurance coverage for eligible losses under such contracts.

(2) COMMISSION COSTS.—To pay for the operating costs of the Commission.

(3) ADMINISTRATIVE EXPENSES.—To pay for the administrative expenses incurred by the Secretary in carrying out the reinsurance program under this Act.

(4) TERMINATION.—Upon termination under section 11, as provided in such section.

(d) BORROWING.—

(1) AUTHORITY.—To the extent that the amounts in the Fund are insufficient to pay claims and expenses under subsection (c), the Secretary—

(A) may issue such obligations of the Fund as may be necessary to cover the insufficiency; and

(B) shall purchase any such obligations issued.

(2) PUBLIC DEBT TRANSACTION.—For the purpose of purchasing any such obligations under paragraph (1)—

(A) the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code; and

(B) the purposes for which such securities are issued under such chapter are hereby extended to include any purchase by the Secretary of such obligations under this subsection.

(3) CHARACTERISTICS OF OBLIGATIONS.—Obligations issued under this subsection shall be in such forms and denominations, bear such maturities, bear interest at such rate, and be subject to such other terms and conditions, as the Secretary shall determine.

(4) TREATMENT.—All redemptions, purchases, and sales by the Secretary of obligations under this subsection shall be treated as public debt transactions of the United States.

(5) REPAYMENT.—Any obligations issued under this subsection shall be—

(A) repaid including interest, from the Fund; and

(B) recouped from premiums charged for reinsurance coverage provided under this Act.

(e) INVESTMENT.—If the Secretary determines that the amounts in the Fund are in excess of current needs, the Secretary may invest such amounts as the Secretary considers advisable in obligations issued or guaranteed by the United States.

(f) PROHIBITION OF FEDERAL FUNDS.—Except for amounts made available pursuant to subsection (d) and section 3(h), no further Federal funds shall be authorized or appropriated for the Fund or for carrying out the reinsurance program under this Act.

SEC. 10. REGULATIONS.

The Secretary, in consultation with the Secretary of the Department of Homeland Security, shall issue any regulations necessary to carry out the program for reinsurance coverage under this Act.

SEC. 11. TERMINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not provide any reinsurance coverage under this Act covering any period after the expiration of the 20-year period beginning on the date of the enactment of this Act.

(b) EXTENSION.—If upon the expiration of the period under subsection (a) the Secretary, in consultation with the Commission, determines that continuation of the program for reinsurance coverage under this Act is necessary or appropriate to carry out the purpose of this Act under section 4(b) because of insufficient growth of capacity in the private homeowners' insurance market, the Secretary shall continue to provide reinsurance coverage under this Act until the expiration of the 5-year period beginning upon the expiration of the period under subsection (a).

(c) REPEAL.—Effective upon the date that reinsurance coverage under this Act is no longer available or in force pursuant to subsection (a) or (b), this Act (except for this section) is repealed.

(d) DEFICIT REDUCTION.—The Secretary shall cover into the General Fund of the Treasury any amounts remaining in the Fund under section 9 upon the repeal of this Act.

SEC. 12. ANNUAL STUDY CONCERNING BENEFITS OF THE ACT.

(a) IN GENERAL.—The Secretary shall, on an annual basis, conduct a study and submit to the Congress a report that—

(1) analyzes the cost and availability of homeowners' insurance for losses resulting from catastrophic natural disasters covered by the reinsurance program under this Act;

(2) describes the efforts of the participating States in—

(A) enacting preparedness, prevention, mitigation, recovery, and rebuilding standards; and

(B) educating the public on the risks associated with natural catastrophe; and

(3) makes recommendations regarding ways to improve the program under this Act and its administration.

(b) CONTENTS.—Each annual study under this section shall also determine and identify, on an aggregate basis—

(1) for each State or region, the capacity of the private homeowners' insurance market with respect to coverage for losses from catastrophic natural disasters;

(2) for each State or region, the percentage of homeowners who have such coverage, the catastrophes covered, and the average cost of such coverage; and

(3) for each State or region, the effects this Act is having on the availability and affordability of such insurance.

(c) TIMING.—Each annual report under this section shall be submitted not later than March 30 of the year after the year for which the study was conducted.

(d) COMMENCEMENT OF REPORTING REQUIREMENT.—The Secretary shall first submit an annual report under this section not later than 2 years after the date of the enactment of this Act.

SEC. 13. GAO STUDY OF THE NATIONAL FLOOD INSURANCE PROGRAM AND HURRICANE-RELATED FLOODING.

(a) IN GENERAL.—In light of the flooding associated with Hurricane Katrina, the Comptroller General of the United States shall conduct a study of the availability and adequacy of flood insurance coverage for losses to residences and other properties caused by hurricane-related flooding.

(b) CONTENTS.—The study under this section shall determine and analyze—

(1) the frequency and severity of hurricane-related flooding during the last 20 years in comparison with flooding that is not hurricane-related;

(2) the differences between the risks of flood-related losses to properties located within the 100-year floodplain and those located outside of such floodplain;

(3) the extent to which insurance coverage referred to in subsection (a) is available for properties not located within the 100-year floodplain;

(4) the advantages and disadvantages of making such coverage for such properties available under the national flood insurance program;

(5) appropriate methods for establishing premiums for insurance coverage under such program for such properties that, based on accepted actuarial and rate making principles, cover the full costs of providing such coverage;

(6) appropriate eligibility criteria for making flood insurance coverage under such program available for properties that are not located within the 100-year floodplain or within a community participating in the national flood insurance program;

(7) the appropriateness of the existing deductibles for all properties eligible for insurance coverage under the national flood insurance program, including the standard and variable deductibles for pre-FIRM and post-FIRM properties, and whether a broader range of deductibles should be established;

(8) income levels of policyholders of insurance made available under the national flood insurance program whose properties are pre-FIRM subsidized properties;

(9) how the national flood program is marketed, if changes can be made so that more people are aware of flood coverage, and how take-up rates may be improved;

(10) the number of homes that are not primary residences that are insured under the national flood insurance program and are pre-FIRM subsidized properties; and

(11) suggestions and means on how the program under this Act can better meet its stated goals as well as the feasibility of expanding the national flood insurance program to cover the perils covered by this Act.

(c) CONSULTATION WITH FEMA.—In conducting the study under this section, the Comptroller General shall consult with the Director of the Federal Emergency Management Agency.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Congress regarding the findings of the study not later than 5 months after the date of the enactment of this Act.

SEC. 14. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COMMISSION.—The term ''Commission'' means the National Commission on Catastrophe Preparation and Protection established under section 3.

(2) COVERED PERILS.—The term ''covered perils'' means the natural disaster perils under section 6.

(3) COVERED PURCHASER.—The term ''covered purchaser'' means an eligible State-operated insurance or reinsurance program that purchases reinsurance coverage made available under a contract under section 7.

(4) DISASTER AREA.—The term ''disaster area'' means a geographical area, with respect to which—

(A) a covered peril specified in section 6 has occurred; and

(B) a declaration that a major disaster exists, as a result of the occurrence of such peril—

(i) has been made by the President of the United States; and

(ii) is in effect.

(5) ELIGIBLE LOSSES.—The term ''eligible losses'' means losses in excess of the sustained and retained losses, as defined by the Secretary after consultation with the Commission.

(6) ELIGIBLE STATE PROGRAM.—The term ''eligible State program'' means—

(A) a State program that, pursuant to section 7(a), is eligible to purchase reinsurance coverage made available through contracts under section 7; or

(B) a multi-State program that is eligible to purchase such coverage pursuant to section 7(c).

(7) PRICE GOUGING.—The term ''price gouging'' means the providing of any consumer good or service by a supplier related to repair or restoration of property damaged from a catastrophe for a price that the supplier knows or has reason to know is greater, by at least the percentage set forth in a State law or regulation prohibiting such act (notwithstanding any real cost increase due to any attendant business risk and other reasonable expenses that result from the major catastrophe involved), than the price charged by the supplier for such consumer good or service immediately before the disaster.

(8) QUALIFIED LINES.—The term ''qualified lines'' means lines of insurance coverage for which losses are covered under section 5 by reinsurance coverage under this Act.

(9) REINSURANCE COVERAGE.—The term ''reinsurance coverage under this Act'' means coverage under contracts made available under section 7.

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

(11) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

By Ms. SNOWE (for herself and Mr. CRAIG):

S. 3122. A bill to amend the Small Business Act to improve loans for members of the Guard and Reserve, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, our country has forever prided itself on providing individuals the opportunity to pursue a fair and prosperous existence. Our Nation's free markets enable small business owners to grow their enterprise and realize their dreams. Yet, small business owners and entrepreneurs are not blind to the costs of maintaining a free and open society. These same small business owners and entrepreneurs play a vital role in protecting freedom, at home and abroad, as members of the U.S. National Guard and Reserve Forces.

In recent years, however, the Department of Defense, DOD, has placed greater reliance on our nation's Guard and Reserve forces. In fact, since Septeber 2001, over 550,000 Guard and Reserve members have been called up in support of current operations, at the same time, making up nearly one-third of deployed service members in Iraq and Afghanistan. In addition, Guard and Reserve members have been charged in assisting with recovery efforts in the Gulf Coast, following some of the most devastating natural disasters in our country's history.

As these brave men and women are called to serve our Nation, the small businesses they temporarily leave behind often suffer. Many affected small buinesses experience slowing production and lost sales or incur additional expenses to compensate for an employee's absence. As a result, self-employed Guard and Reserve members and small businesses that employ Guard and Reserve members are ''paying'' a disproportionate and unfair share of the burden of increased call-ups. This is particularly troubling, because according to the majority of non-government-employed Guard and Reserve members are either self-employed or work for small businesses.

To help stem the ill affects of Guard and Reserve call-ups on small businesses, Senator CRAIG and I are introducing the Patriot Loan Act of 2006. This legislation improves the U.S. Small Business Administration's Military Reservist Economic Injury Disaster Loan, MREIDL, program. The MREIDL program was created to provide funds to eligible small businesses to meet ordinary and necessary operating expenses that the business cannot meet, because an essential employee was ''called-up'' to active duty in their role as a military reservist.

Specifically, our legislation would raise the maximum military reservist loan amount from $1,500,000 to $2,000,000. A maximum military reservist loan amount of $2,000,000 is the same level as many ofthe SBA's other loan programs, including: the 7(a) loans, international trade loans, and 504 Certified Development Corporation loans that serve a public policy goal.

This bill would allow the SBA Administrator, either directly or through banks to offer loans up to $25,000 without requiring collateral fr a loan applicant. Currently, the BA offers military reservist loans up to $5,000 without requiring collateral. This provision would increase that level to eligible small businesses.

The bill would also require the Administrator to give military reservist loan applications priority for processing and ensure that Guard and Reserve members are adequately assisted with their loan application by incorporating the support and expertise of SBA entrepreneurial development partners, such as Small Business Development Centers.

Finally, the legislation requires the SBA and DOD to develop a joint website and printed materials providing information regarding the MREIDL program for Guard and Reserve members, and that the SBA and DOD jointly conduct a feasibility study on introducing business mobilization and interruption insurance for members of the Guard and Reserve forces, and increased utilization of credit unions affiliated with the DOD.

I thank Senator CRAIG for working with me to help address this critical issue and I urge my colleagues to support this bill.

By Mr. LEAHY:

S. 3123. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

Mr. LEAHY. Mr. President, I ask unanimous consent that the text of the five bills on suspending duties be printed in the RECORD.

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

S. 3123

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

SECTION 1. SKI AND SNOWBOARD PANTS

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.03. Ski/snowboard pants (provided for in subheading 6210.40.50). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3124. A bill to suspend temporarily the duty on ski boots, cross country

ski footwear and snowboard boots; to the Committee on Finance.

S. 3124

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

SECTION 1. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS AND REDUCTIONS

(a) OTHER MODIFICATIONS.—

(1) SNOWBOARD BOOTS.—Heading 9902.64.04 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking ''Snowboard'' and inserting ''Ski boots, cross country ski footwear and snowboard'';

(B) by striking ''4%'' and inserting ''Free''; and

(C) by striking ''12/31/2006'' and inserting ''12/31/2009'',

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3125. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

S. 3125

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

SECTION 1. SKI AND SNOWBOARD PANTS

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.01. Ski/snowboard pants (provided for in subheading 6203.43.35). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3126. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

S. 3126

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

SECTION 1. SKI AND SNOWBOARD PANTS

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.02. Ski/snowboard pants (provided for in subheading 6204.63.30). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LEAHY:

S. 3127. A bill to suspend temporarily the duty on ski and snowboard pants; to the Committee on Finance.

S. 3127

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

SECTION 1. SKI AND SNOWBOARD PANTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.62.04. Ski/snowboard pants (provided for in subheading 6210.50.50). Free. No change. No change. On or before 12/31/2009.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

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

S. 3171. A bill to establish the Department of Commerce an Under Secretary for United States Direct Investment, and for other purposes.

Mr. BINGAMAN. Mr. President, I rise today to introduce ''The United States Direct Investment Act of 2006'' with my colleague from Indiana, Senator LUGAR. This legislation is a necessary step towards making our country more competitive in encouraging multinational businesses to expand or open new offices, facilities or plants in the United States instead of in another country. While the United States continues to be the premier place in the world to locate a business, we can no longer rely on our inherent advantages alone. This legislation will refocus the Administrations efforts so that we do a better job of reaching out to businesses around the world and convince them that they should expand their current operations or open new facility in the United States instead of somewhere else overseas.

Our legislation creates the United States Direct Investment Administration, USDIA, the Commerce Department to be lead by an Under Secretary. This new administration shall be responsible for collecting and analyzing data related to foreign direct investment flows. They shall create an annual Investment Report and an annual Direct Investment Agenda to be reported and sent to Congress. They will then assume responsibility as the lead agency for advocating and implementing strategic policies to encourage more investment in the United States from abroad. This new administration will manage an investment zone program for communities that have been negatively impacted by trade but want to attract international companies to locate in their area. Finally, this new administration will be empowered to create ten new ''renewal communities'' as currently defined under the Internal Revenue Code.

Many countries, particularly those in Europe, have committed significant resources and energy to recruiting foreign direct investment. In many cases, they have offices in the United States where they meet with U.S. companies to encourage them to consider their country for their next expansion. Right now our country does not have any comparable operation. We leave these efforts to our states, region and cities through economic development agencies and offices. Unlike other countries, we don't provide a Federal umbrella organization to help these people recruit more effectively. Because of their limited resources, this means that many of these economic development agencies are unable to effectively target potential businesses that might be an ideal fit for their city or State. In some cases, these areas may be going through an economic downturn due to the closing of a plant or factory making their limited resources even more scarce. This legislation would give these agencies the assistance and guidance they need to be more successful and effective in their recruiting efforts.

It is important that we focus not only on how to get businesses to stay in this country, but also on how we encourage overseas businesses to come here. In both cases, the end result is the same—more jobs for U.S. workers. Our first responsibility needs to be encouraging companies to stay in the United States, but we need to be cognizant of the fact that we will not always be successful. If we have a robust effort to encourage overseas companies to move facilities to our country we will be able to neutralize any unavoidable losses. Many of the pieces are already in place. We already collect much of the data and have an effective matrix of State, regional and local economic development entities. What this legislation does is put these pieces together in a way that accomplishes the primary job at hand—creating jobs in the United States.

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

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

S. 3171

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Direct Investment Act of 2006''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term ''Administration'' means the United States Direct Investment Administration established under section 4.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce and Committee on Ways and Means of the House of Representatives.

(3) CRITICAL HIGH-TECHNOLOGY INDUSTRIES.—The term ''critical high-technology industries'' means industries involved in technology—

(A) the development of which will—

(i) provide a wide array of economic, environmental, energy, and defense-related returns for the United States; and

(ii) ensure United States economic, environmental, energy, and defense-related welfare; and

(B) in which the United States has an abiding interest in creating or maintaining secure domestic sources.

(4) DEPARTMENT.—The term ''Department'' means the Department of Commerce.

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of Commerce for United States Direct Investment described in section 4(a).

(6) UNITED STATES DIRECT INVESTMENT PROMOTION COMMITTEE.—The term ''United

States Direct Investment Promotion Committee'' means the Interagency United States Direct Investment Promotion Committee established under section 7.

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

SEC. 3. RELATION TO CFIUS.

The provisions of this Act shall not affect the implementation or application of section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) and the activities of the Committee on Foreign Investment in the United States (or any successor committee).

SEC. 4. ESTABLISHMENT OF UNITED STATES DIRECT INVESTMENT ADMINISTRATION.

(a) IN GENERAL.—There is established in the Department of Commerce a United States Direct Investment Administration which shall be headed by an Under Secretary of Commerce for United States Direct Investment. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code.

(b) DEPUTY UNDER SECRETARY.—There shall be in the Administration a Deputy Under Secretary for United States Direct Investment who shall be appointed by the President, by and with the advice of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule in section 5315 of title 5, United States Code.

(c) STAFF.—The Under Secretary may appoint such additional personnel to serve in the Administration as the Under Secretary determines necessary.

(d) DUTIES.—The Under Secretary, in cooperation with the Economics and Statistics Administration and other offices at the Department, shall—

(1) collect and analyze data related to the flow of direct investment in the United States and throughout the world, as described in section 5;

(2) submit to the appropriate congressional committees an annual United States Direct Investment Report, as described in section 6;

(3) develop and publish an annual United States Direct Investment Agenda;

(4) assume responsibility as the lead agency for advocating and implementing strategic policies that will increase direct investment in the United States;

(5) coordinate with the President regarding implementation of section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) and the activities of the Committee on Foreign Investment in the United States (or any successor committee); and

(6) in cooperation with the Economic Development Administration, administer an investment zone program for communities that have been negatively impacted by either trade or economic cycles.

(e) CONFORMING AMENDMENTS.—

(1) Section 5314 of title 5, United States Code, is amended by adding at the end the following: ''Under Secretary of Commerce for United States Direct Investment.''.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following: ''Deputy Under Secretary of Commerce for United States Direct Investment.''.

SEC. 5. ANNUAL DIRECT INVESTMENT REPORT.

(a) ANNUAL DIRECT INVESTMENT REPORT.—Not later than April 30, 2007, and on or before March 31 of each succeeding calendar year, the Under Secretary shall submit a report on the data identified and the analysis described in subsection (b) for the preceding calendar year (which shall be known as the ''Annual Direct Investment Report''). The Report shall be submitted to the President and the appropriate congressional committees.

(b) DATA IDENTIFICATION.—

(1) IN GENERAL.—The data identified and analysis for the Report described in subsection (a) means the data identified and analyzed by the Under Secretary of Commerce, in cooperation with the Economic and Statistics Administration and other offices at the Department and with the assistance of other departments and agencies, including the Office of the United States Trade Representative, for the preceding calendar year regarding the following:

(A) Policies, programs, and practices at the State and regional level designed to attract direct investment.

(B) The amount of direct investment attracted in each such State and region.

(C) Policies, programs, and practices in foreign countries designed to attract direct investment, and the amount of direct investment attracted in each such foreign country.

(D) A comparison of the levels of direct investment attracted in the United States and in foreign countries, including a matrix of inputs affecting the level of direct investment.

(E) Specific sectors in the United States and in foreign countries in which direct investments are being made, including the specific amounts invested in each sector, with particular emphasis on critical high-technology industries.

(F) Trends in direct investment, with particular emphasis on critical high-technology industries.

(G) The best policy and practices at the Federal, State, and regional levels regarding direct investment policy, with specific reference to programs and policies that have the greatest potential to increase direct investment in the United States and enhance United States competitive advantage relative to foreign countries. Particular emphasis should be given to attracting direct investment in critical high-technology industries.

(H) Policies, programs, and practices in foreign countries designed to attract direct investment that are not in compliance with the WTO Agreement and the agreements annexed to that Agreement.

(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS.—In making any analysis under paragraph (1), the Under Secretary shall take into account—

(A) the relative impact of policies, programs, and practices of foreign governments on United States commerce;

(B) the availability of information to document the effect of policies, programs, and practices;

(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

(D) the impact trends in direct investment have had on—

(i) the competitiveness of United States industries in the international economy, with particular emphasis on critical high-technology industries;

(ii) the value of goods and services exported from and imported to the United States;

(iii) employment in the United States, in particular high-wage employment; and

(iv) the provision of health care, pensions, and other benefits provided by companies based in the United States.

(c) ASSISTANCE OF OTHER AGENCIES.—

(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Under Secretary, upon request, such data, reports, and other information as is necessary for the Under Secretary to carry out the functions under this Act.

(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Under Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Under Secretary may request to assist in carrying out the functions of the Under Secretary.

(d) ANNUAL REVISIONS AND UPDATES.—The Under Secretary shall annually revise and update the Report described in subsection (a).

SEC. 6. ANNUAL DIRECT INVESTMENT AGENDA.

(a) IN GENERAL.—Not later than April 30, 2007, and on or before March 31 of each succeeding calendar, the Under Secretary shall submit an agenda based on the data and analysis described in section 5 for the preceding calendar year, to the President and the appropriate congressional committees. The agenda shall be known as the ''Annual Direct Investment Agenda'' and shall include—

(1) an evaluation of the research and development program expenditures being made in the United States with particular emphasis to critical high-technology industries considered essential to United States economic security and necessary for long-term United States economic competitiveness in world markets; and

(2) proposals that identify the policies, programs, and practices in foreign countries and that the United States should pursue that—

(A) encourage direct investment in the United States that will enhance the country's competitive advantage relative to foreign countries, with particular emphasis on critical high-technology industries;

(B) enhance the viability of the manufacturing sector in the United States;

(C) increase opportunities for high-wage jobs and promotes high levels of employment;

(D) encourage economic growth; and

(E) increase opportunities for the provision of health care, pensions, and other benefits provided by companies based in the United States.

(b) CONSULTATION WITH CONGRESS ON ANNUAL DIRECT INVESTMENT AGENDA.—The Under Secretary shall keep the appropriate congressional committees currently informed with respect to the Annual Direct Investment Agenda and implementation of the Agenda. After the submission of the Agenda, the Under Secretary shall also consult periodically with, and take into account the views of, the appropriate congressional committees regarding implementation of the Agenda.

SEC. 7. UNITED STATES DIRECT INVESTMENT PROMOTION COMMITTEE.

(a) ESTABLISHMENT.—The President shall establish and the Under Secretary shall assume lead responsibility for an Interagency United States Direct Investment Promotion Committee. The functions of the Committee shall be to—

(1) coordinate all United States Government activities related to the promotion of direct investment in the United States;

(2) advocate and implement strategic policies, programs, and practices that will increase direct investment in the United States;

(3) train United States Government officials to pursue strategic policies, programs, and practices that will increase direct investment in the United States;

(4) consult with business, labor, State, regional, and local government officials on strategic policies, programs, and practices that will increase direct investment in the United States;

(5) develop and publish materials that can be used by Federal, State, regional, and local government officials to increase direct investment in the United States;

(6) create and maintain a database of direct investment opportunities in the United States;

(7) create and maintain an interactive website that can be used to access direct investment opportunities in different sectors and geographical areas of the United States, with particular emphasis on critical high-technology industries;

(8) coordinate direct investment marketing activities with State Economic Development Agencies; and

(9) host regular meetings and discussions with State, regional, and local economic development officials to consider best policy practices to increase direct investment in the United States.

(b) MEMBERS.—The Committee shall be composed of the following:

(1) The Secretary of Commerce.

(2) The United States Trade Representative.

(3) Members of the United States International Trade Commission.

(4) The Secretary of the Treasury.

(5) Members of the National Economic Council.

(6) The Secretary of Agriculture.

(7) Such other officials as the President determines to be necessary.

SEC. 8. DESIGNATION OF ADDITIONAL RENEWAL COMMUNITIES.

Section 1400E of the Internal Revenue Code of 1986 (relating to designation of renewal communities) is amended by adding at the end the following new subsection:

''(h) ADDITIONAL DESIGNATIONS PERMITTED.—

''(1) IN GENERAL.—In addition to the areas designated under subsection (a), the Under Secretary of Commerce for United States Direct Investment, after consultation with the Secretary of the Treasury, may designate in the aggregate an additional 10 nominated areas as renewal communities under this section, subject to the availability of eligible nominated areas.

''(2) PERIOD DESIGNATIONS MAY BE MADE AND TAKE EFFECT.—A designation may be made under this subsection after the date of the enactment of this subsection and before the date which is 5 years after such date of enactment. Subject to subparagraphs (B) and (C) of subsection (b)(1), a designation made under this subsection shall remain in effect during the period beginning with such designation and ending on the date which is 8 years after such designation.

''(3) APPLICATION OF RULES.—Except as otherwise provided in paragraph (1), the rules of this section shall apply to designations under this subsection.''.

Mr. LUGAR. Mr. President, I rise today in support of S. 3171, the United States Direct Investment Act of 2006, introduced by Senator BINGAMAN and myself. At a time when commerce routinely crosses national borders, the U.S. should be positioned to compete in all arenas. That means not only strengthening the ability of American business to invest and sell their products in foreign markets, but equally important, attracting foreign companies to the American market. Other nations actively recruit and provide incentives for global companies to set up operations and create new jobs within their borders. We must do the same.

To this end, we propose to establish a framework within the Department of Commerce to specifically study how we can better encourage global companies to invest and set up businesses on our shores. It is essential as well, that we determine where this investment is needed. There are certain communities in the U.S. that are in extreme need of an infusion of economic growth and the opportunity to take part in the global economy. The U.S. has a talented and skilled workforce. We need to lead foreign companies and entrepreneurs to the cities and towns where they can find the resources they require. If this information is readily available, and if we provide incentives for companies to come, we will significantly increase the amount of foreign investment coming into our country.

In 2005, foreign companies accounted for $129 billion worth of investments in the United States. This money translates into jobs and prosperity for Americans. The best way to ensure that this valuable investment is spread more widely throughout the 50 States is by conducting the sort of analysis proposed in this bill. We should keep track of both the quantity of investment attracted to each particular state and region, and as well as the types of investment foreigners make, particularly in the high technology industry. We should conduct an analysis of the industries that are investing in the U.S. compared to the industries that are going to other countries. We also need to assess which policies and programs have had the most success in attracting foreign investment.

It is particularly important to attract research and development and high technology industries. These have a multiplier effect that helps increase the overall competitiveness of the American economy. We should create incentives for high technology companies to develop and invest in a U.S. presence and workforce.

Another key feature of the bill is consultations with local and regional authorities, as well as Congress. The administration should determine the needs of particular localities and what the federal government can do to assist local efforts in attracting foreign investment. Congress should also be consulted so that information can be relayed regarding regions of the country that are suffering from a lack of high wage jobs.

Global business ties are vital tools in shaping our international business and foreign policy. Cooperation on the commercial front enhances our ability to work with nations on other matters, including security and intelligence. This bill offers a positive solution to the concerns over domestic job growth by seeking to ensure that globalization is a two-way street with more investment traffic flowing in our direction.

By Mr. LEAHY:

S. 3175. A bill to amend title 35, United States Code, with respect to establishing procedures for granting authority to the Under Secretary for Commerce for Intellectual Property and Director of the Patent and Trademark Office to grant compulsory patent licenses for exporting patented pharmaceutical products to certain countries consistent with international commitments made by the United States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am today introducing a bill which can be the catalyst for saving the lives or improving the health of millions of families in impoverished nations.

In far too many nations, thousands of children die needlessly each month.

The concept of my bill—called the Life-Saving Medicines Export Act of 2006—is easy to summarize.

It allows U.S. companies to make low-cost generic versions of patented medicines for export to impoverished nations that face public health crises but cannot produce those life-saving medicines for themselves.

This bill is based on World Trade Organization agreements permitting nations with pharmaceutical industries to help nations in need.

That WTO agreement was labeled by U.S. Ambassador Portman as ''a landmark achievement that we hope will help developing countries devastated by HIV and AIDS and other public health crises.''

Apart from the pressing need for this step in humanitarian terms, passage of this bill could go a long way in improving U.S. relations with large segments of the world's population.

On December 6, 2005, the Office of the U.S. Trade Representative announced that it ''welcomes'' efforts to ''allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves.''

I am concerned, however, that the administration has taken no steps whatsoever to begin to implement that agreement. No implementing legislation has been provided to the Hill. I was informed just today that the administration has ''no present plans'' to propose legislation to implement that international agreement. I am disappointed with that answer but am pleased that the administration expressed a willingness to work with me on this important effort. I will forward my bill to them later today.

Indeed, the World Health Assembly and the World Health Organization have adopted resolutions urging all WTO member nations with a generic capability to adopt laws that implement that agreement.

The World Bank recently issued a guide and model documents on how

best to implement that international agreement. My bill follows their model.

Like a generation ago, infectious and parasitic diseases remain the major killers of children in the developing world. Many of these diseases—measles, malaria, river blindness—we can prevent or cure. But those countries still lack the public health systems and the vital medicines.

Every hour, more than 500 African mothers lose a child, mostly from diseases caused by contaminated water.

In some sub-Saharan countries, HIV infection rates range as high as a third of the adult population, and for this reason 35 percent of African children are at higher risk of death than they were a decade ago.

Despite these grim statistics, there is a brighter side.

We are far more aware today of how much our own health depends on what takes place half a world away. Whether it is AIDS, SARS, West Nile Virus, the Avian Flu, or some as yet unknown infectious disease, we are all at risk, and only an airplane flight away, from wherever the outbreak may occur.

Because of this new awareness, global health is finally recognized as an issue of national security. It may seem obvious today, but even ten years ago it was not.

Health threats that once concerned only medical personnel, now receive the attention of the highest levels of governments. We are supporting policies and programs to help the poorest countries conduct better surveillance and respond more quickly to protect their own people, and to prevent the spread of disease.

There is a great deal more we need to do. Today, 15 percent of the world's people consume 91 percent of the world's pharmaceuticals. The high price of many life-saving medicines—medicines that we take for granted in this country—is beyond reach for billions of the world's most vulnerable populations.

President Franklin Roosevelt said: ''The test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have little.''

Imagine if you, or a loved one, were dying and you knew the medicine to cure the disease exists and costs only a few dollars, but you have no way to get it or to pay for it. That is a reality for millions of people today.

Reports by UNICEF, UNAIDS, and Doctors without Borders clearly show that the high price of many life-saving medicines is a significant barrier to their availability in many very low income areas of the world. Indeed, the 4th Global Report of UNAIDS notes the extremely low rate of treatment for HIV/AIDS in those areas by pointing out that of the 5 to 6 million urgently in need of antiretroviral medicines, only some 400,000 were receiving them.

With respect to AIDS, a recent book by Philip Hilts called ''Prescription for Survival'' notes the importance of offering affordable medicines to populations of impoverished nations:

''It was said that the price of the drugs was killing tens of thousands . . .''

Under my bill, U.S. generic manufacturers would be allowed to make generic versions of patented drugs without the consent of the patent holders.

Those patent holders would receive compensation in the form of a royalty payment under a so-called ''compulsory license'' and the generic companies would then be required to sell those less-expensive generic drugs only to least-developed or developing nations.

Use of a compulsory license occurs when Congress determines that there is an important need which should be addressed.

For example, most Americans do not realize that their network television programs received by satellite or by cable are provided under a compulsory license. The program owners receive a royalty for their programs under a formula.

This way American families can watch network TV programming over satellite or cable just like it is made available over-the-air. This same compulsory license approach, except with respect to patented medicines, is employed in this bill.

The WTO agreement contains language designed to protect the interests of the patent holders by focusing its benefits on areas of the world where these important medicines would not otherwise be available except for some of the wealthiest residents.

Thus, implementation of the agreement would not take business away from the companies owning the patents, sometimes referred to as the ''brand-name'' companies, since their medicines are not purchased by low-income families in those impoverished nations.

In addition, the patent holders will receive royalties from the generic companies under the bill. Third, generic versions of products sold under the agreement have to be clearly marked as not for resale to developed nations. This will mean that the bill should not result in undercutting the high-priced sales of those medicines by the brand-name companies in developed nations.

Thus, the bill addresses both the urgent needs of millions of low-income families in impoverished nations while protecting the interests of the patent owners of these life-saving medicines.

There have been significant voluntary efforts made by brand-name pharmaceutical companies, foundations, and non-profits who have donated life-saving medicines and have donated time, personnel and money to help in the fight against deadly diseases in other nations. I commend and greatly appreciate those efforts.

Some funding mechanisms have been started including the Global Fund to Fight AIDS, Tuberculosis and Malaria and President Bush's Millennium Challenge Account. Nonetheless, much remains to be done.

If this bill is enacted it would complement the above efforts and implement the WTO agreements and make low-cost life-saving pharmaceutical products, and other medicines, available to hundreds of thousands of persons without other access to those products.

To provide a little history, I am very pleased that all the member nations of the World Trade Organization, WTO, agreed to this approach to assist people suffering from life-threatening diseases in least-developed or developing nations. Under this international agreement, nations such as the United States with pharmaceutical industries would be allowed to make and sell generic medicines to nations in need even if the patent owners of those medicines refused to authorize such manufacture and sale.

As I said earlier, on December 6, 2005, the United States announced that it ''welcomes'' the WTO amendment to ''allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves.'' The amendment will go in effect, for those nations which adopt it, once ⅔ of the member nations adopt it. The current waiver approach, allowing nations to implement it now, will remain in place until the permanent amendment is adopted. This permits the U.S. to move forward with this effort this year. Indeed, Canada has already passed implementing legislation.

Participation by any nation which wants to export such generic products is voluntary. In order to participate, each country must pass legislation to implement the WTO agreement. The United States needs to act as soon as possible.

This is a moral issue. I am working with a number of religious groups, humanitarian organizations, international assistance groups, and generic drug companies on this effort. I have also received input from some pharmaceutical brand-name companies and hope a few will step forward and be leaders in this effort. I will also reach out across the aisle to try to form a bipartisan coalition.

Two recent World Health Organization annual reports, the World Health Reports for 2003 and 2004, demonstrate the enormous scope of the need for supplying these medicines to needy countries. The ''Life-Saving Medicines Export Act of 2006'' that I am introducing today would allow the U.S. generic industry to respond to these urgent international needs and could save millions of lives in impoverished nations.

Canada, Norway and the Netherlands have already enacted such legislation or rule changes. However, aspects of the Canadian law have been an impediment to the willingness of generic companies to participate. For example,

that law allows Canadian generic companies to provide such medicines for at most only 4 years. The Canadian version permits dilatory and needless litigation, omits important medicines from a complex list of covered drugs, and creates unnecessary bureaucratic hoops.

I have received input from generic companies and my bill addresses all of those concerns. For example, it would provide that a participating generic manufacturer could provide such medicines for up to 14 years which makes it much more likely that U.S. generic companies would make the investments needed to make low-cost medicines for export to impoverished areas.

Under my bill, U.S. generic manufacturers would be allowed to make generic versions of patented drugs without the consent of the patent holders. Those patent holders would receive compensation, a royalty payment, under a so-called ''compulsory license'' and the generic companies would then be required to sell those less-expensive generic drugs only to least-developed or developing nations.

The WTO agreement contains language designed to protect the interests of the patent holders by focusing its provisions on areas of the world where these important medicines would not otherwise be available except for some of the wealthiest residents. Thus, implementation of the agreement would not take business away from the companies owning the patents, sometimes referred to as the ''brand-name patent holders since their medicines are not purchased by low-income families in those impoverished nations. There may be de minimis losses of profits for brand-name patent holders but certainly the humanitarian and self-interest benefits provided by the bill would massively outweigh those concerns.

In addition, the patent holders will receive royalties from the generic companies under the bill. Third, generic versions of products sold under the agreement have to be clearly marked as not for resale to developed nations. This should mean that the bill will not result in undercutting the high-priced sales of the patented medicines in developed nations. Re-exporting of these generic products is prohibited unless it is part of a regional trade alliance among impoverished nations as permitted under the WTO agreements.

Thus, the bill addresses both the urgent needs of millions of low-income families in impoverished nations while protecting the interests of the patent owners of these life-saving medicines and will hopefully help enhance America's image in the world.

For those only interested in self-interest rather than humanitarian aid, note that because of the globalization of travel our Nation is at risk from failure to contain diseases in other nations. America has a strong self-interest in combating diseases in foreign nations. A surprising number of new diseases have emerged in recent years. Some of these new diseases are variations of existing diseases. The volume of people and cargo going to and from distant nations is astounding. According to ''Rx for Survival'' by Philip Hilts, if you count only travel between nations with a heavy burden of disease and those with less disease, more than a million people a week are making the trip.

The more viruses and bacteria mutant inside animals and people, and the more people and goods travel throughout the world, the more residents living in the United States are at risk of being harmed by dangerous diseases.

The National Intelligence Estimate of January 2000, published by the CIA and the National Intelligence Council noted that: ''New and emerging infectious diseases will pose a rising global health threat, and will complicate U.S. and global security over the next 20 years. These diseases will endanger U.S. citizens at home and abroad, threaten United States armed forces deployed overseas and exacerbate social and political instability in key countries and regions.''

I hope all my colleagues will join me in supporting this effort. Here is my section-by-section summary of the bill.

Section 1: Sets forth the name of the Act as the ''Life-Saving Medicines Export Act of 2006.''

Section 2: States that the purpose of the Act is to promote public health under World Trade Organization agreements by permitting the export of generic versions of life-saving patented pharmaceutical products and other medicines including diagnostic tools and vaccines needed to prevent or treat potentially life threatening diseases to residents of impoverished countries with insufficient or no manufacturing capacity to make the medicines. The findings set forth determinations by the World Health Organization concerning the millions of low-income persons without regular access to medicines in lesser-developed or developing nations.

Section 3: This section requires the Director of the United States Patent and Trademark Office to issue a compulsory license (permission to make and sell a patented product under this new Act) to permit generic companies to make and export medicines under the terms of WTO international agreements under several conditions.

The recipient country must be a least-developed nation, as defined by the United Nations, or a developing nation without the ability to manufacture the medicine in question.

The recipient country, called an ''eligible country'' in the bill, must notify the WTO of its interest in participating in this program.

Efforts must have been made by the generic company to buy the right to make and sell the medicine under normal business arrangements with the patent holders.

The medical product exported under this Act must be for life-threatening public health problems and can only be used in least-developed or developing nations, and is not for re-export except in identified circumstances relating to regional trade alliances.

Special labeling and packaging must be used to make clear that the product is sold under the authority of the WTO agreement only for use as allowed under agreement and this bill.

The permission to make and sell the product, the license, can not exceed 7 years, except that the license may be extended once.

The holder of the compulsory license shall pay a royalty to the patent holder, as determined by the Director of the PTO within a limited range of possible rates set forth in the bill, taking into account such factors as humanitarian needs, the economic value to the importing nation, and the need for low-cost pharmaceutical products by persons in the importing nation.

The maximum royalty for any shipment shall not exceed 4 percent times the commercial value of the pharmaceutical products to be exported under this Act under that supply agreement.

An alternative royalty payment approach, modeled after the approach enacted into law by Canada, would also be permitted with the same 4 percent maximum. In addition, the Director may accept combined applications from multiple eligible countries. Note that in emergency situations the Director may waive provisions of the bill in a manner consistent with the WTO agreements.

Section 4: This section makes clear that compulsory licenses issued under this Act shall not be considered an infringement of a patent.

Section 5: This section creates a diverse advisory board of academic, patent, trade, medical, international aid, and industry experts to advise the Director, and to report to the Congress, on ways to improve implementation of the bill to achieve its purposes. Mandatory funding for the board is provided out of the general fund of the U.S. at $1.5 million in fiscal years 2007 and 2008, with modestly declining amounts provided in subsequent years through 2011.

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

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

S. 3175

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Life-Saving Medicines Export Act of 2006''.

SEC. 2. PURPOSES AND FINDINGS.

(a) PURPOSE.—The purpose of this Act is to promote public health by permitting the export of life-saving pharmaceutical products and other medicines manufactured in the United States by compulsory license to residents of participating countries with insufficient or no manufacturing capability in the pharmaceutical sector for the product in

question consistent with the General Council Decision of the World Trade Organization.

(b) FINDINGS.—Congress finds the following:

(1) The United States Trade Representative recently announced that it ''welcomes'' the World Trade Organization amendment to ''allow countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises but cannot produce drugs for themselves.''. United States Ambassador Portman called this ''a landmark achievement that we hope will help developing countries.''.

(2) Compulsory licensing of patents is a ''fixture in almost all patent systems'' in the world as noted in the Berkeley Technology Law Journal in 2003. By the end of the 1950s, for example, an estimated 40,000 to 50,000 compulsory licenses were issued regarding patents in the United States. (Access to Patented Medicine in Developing Countries, F.M. Scherer, www.cmhealth.org/docswg4; World Health Organization). Indeed, the WHO paper notes that the ''United States has led the world in issuing compulsory licenses to restore competition when violations of the antitrust laws have been found, or in the negotiated settlement of antitrust cases before full adjudication has occurred.''

(3) The vast majority of people living in developing countries or least developed nations have limited or no access to many medicines that are saving and extending lives of those in other, more developed nations. Since sales of the patented, brand-name versions of such medicines are minimal or non-existent in many impoverished regions of the world providing generic versions of those medicines under the WTO General Council Decision will have minimal impact on the sales of brand-name, patented versions in such regions.

(4) The World Health Organization has estimated that ⅓ of the world's population lacks regular access to essential medicines, including antiretroviral drugs, and that a number of essential medicines are under patent.

(5) Medicines and vaccines are needed throughout the world to combat newly arising public health threats such as the avian flu. A United States National Intelligence Estimate in January 2000 notes that ''New and emerging infectious diseases will pose a rising global health threat. . .''.

(6) Millions of people with HIV/AIDS in developing countries need antiretroviral drugs. More than 40,000,000 people worldwide have HIV and 95 percent of them live in developing countries. Malaria, tuberculosis, and other infectious diseases kill millions of people a year in developing nations.

(7) Comprehensive reports of the World Health Organization of the United Nations, in 2004 and 2005 detail the urgent need for pharmaceutical products in developing countries and in least developed nations.

(8) The World Trade Organization decisions of August 30, 2003, on access to generic medicines is now being considered by member nations of the World Trade Organization for ratification as a permanent amendment to the WTO Agreement on Trade Related Aspects of Intellectual Property Rights.

SEC. 3. EXPORTATION OF PHARMACEUTICAL PRODUCTS FOR PUBLIC HEALTH PURPOSES.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by inserting after section 297 the following:

''§ 298. Exportation of pharmaceutical products for public health purposes

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE COUNTRY.—The term 'eligible country' means a country that—

''(A)(i) is designated by the United Nations as a least developed country; or

''(ii) if not so designated—

''(I) has certified to the General Council that the country seeks to participate in the compulsory licensing system under this section as authorized by the General Council Decision; or

''(II) has certified through an official government finding if not a member of the World Trade Organization, that the country does not possess sufficient manufacturing capacities to produce the pharmaceutical product that such country seeks to import under this section;

''(B) has provided notice to the Director describing such lack of sufficient manufacturing capacities; and

''(C) has not terminated that country's participation in such compulsory licensing system by certifying to the General Council or to the Director that it no longer desires to participate in such a system.

''(2) GENERAL COUNCIL.—The term 'General Council' means the General Council of the WTO established by paragraph (2) of Article IV of the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

''(3) GENERAL COUNCIL DECISION.—The term 'General Council Decision' means the decision of the General Council of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the WTO General Council Chairman's statement accompanying the Decision (JOB(03)/177, WT/GC/M/82) (collectively known as the 'TRIPS/health solution').

''(4) GENERIC MANUFACTURER.—The term 'generic manufacturer' means, with respect to a pharmaceutical product, a manufacturer that does not hold the patent to such pharmaceutical product or is not otherwise authorized by the patent holder to make use of the invention.

''(5) PHARMACEUTICAL PRODUCT.—The term 'pharmaceutical product' means any patented product, or pharmaceutical product, including components of that product, manufactured through a patented process, of the pharmaceutical sector including any drug, active ingredient of a drug, diagnostic, or vaccine needed to prevent or treat potentially life threatening public health problems, including those listed in Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

''(6) TRIPS AGREEMENT.—The term 'TRIPS Agreement' means the Agreement on Trade-Related Aspects of Intellectual Property Rights (described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3501 note)).

''(7) WORLD TRADE ORGANIZATION.—The term 'World Trade Organization' means the organization established pursuant to the WTO Agreement.

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

''(9) WTO.—The term 'WTO' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

''(10) URUGUAY ROUND AGREEMENTS.—The term 'Uruguay Round Agreements' has the meaning given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

''(b) ISSUANCE OF COMPULSORY LICENSE.—Notwithstanding any other provision of part II or this part, and subject to subsections (c) and (d), the Director shall issue a compulsory license to a generic manufacturer of a pharmaceutical product or a patented product under this section consistent with the Life-Saving Medicines Export Act of 2006 for the purposes of—

''(1) manufacturing and exporting to an eligible country, (including using nongovernmental agencies to assist in handling and distribution to eligible countries) such pharmaceutical products, including exporting for the purpose of foreign testing and certification and other activities reasonable related to such manufacturing and exporting; and

''(2) such other purposes under that Act.

''(c) APPLICATION FOR COMPULSORY LICENSE.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—Except as provided under subsection (g), a generic manufacturer that seeks to manufacture and export a pharmaceutical product to an eligible country (including through the use of a nongovernmental organization) shall submit to the Director an application as developed by the Director for a compulsory license as described in this section.

''(B) ASSISTANCE.—The Director shall establish an office within the Patent and Trademark Office to assist—

''(i) applicants under this section, including aiding persons in identifying what patents cover which pharmaceutical products and in providing other advice and guidance to facilitate the filing of complete applications; and

''(ii) eligible countries, nongovernmental organizations, or nations likely to become eligible countries, identify companies in the United States which could provide pharmaceutical products under this section to such countries.

''(2) CONTENT OF APPLICATION.—The Director shall approve an application submitted under paragraph (1) if such application contains—

''(A) the name of the pharmaceutical product to be manufactured and exported under the license;

''(B) an estimate of the quantities of the pharmaceutical product to be manufactured and exported under the license and a stipulation that the amount manufactured and exported shall not exceed the amount necessary to meet the needs of the eligible country;

''(C) for each patented invention to which the application relates—

''(i) the name of the patent holder and the applicable patent number; or

''(ii) a statement by the applicant on information and belief of the name of the patent holder and applicable patent number;

''(D) the name of the eligible country to which the pharmaceutical product will be exported and the name of any nongovernmental organization which will assist in the effort;

''(E)(i) copies of the notifications of the eligible countries that are member countries of the WTO, as defined in the General Council Decision, made to the Council for TRIPS regarding notifications set forth under 2(a) of such Decision; and

''(ii) for eligible countries that are not member countries of the WTO, a copy of the information required by the notification as set forth under 2(a) of such Decision published on a public website and the address of such website;

''(F) a copy of a written request for a voluntary license sent by registered mail to each patent holder, which shall have occurred during a period of at least 60 days before the submission of the application to the Director, and a brief description of any subsequent negotiations;

''(G) copies of—

''(i) notifications required under the General Counsel Decision;

''(ii) the name of the authorized designated official of the eligible country, or a nongovernmental organization duly authorized to assist in the distribution of pharmaceutical products—

''(I) from whom the generic manufacturer has received a specific request for a pharmaceutical product and is taking steps to prepare such product or related products; or

''(II) with whom the generic manufacturer has reached an agreement to manufacture and export the pharmaceutical product; or

''(iii) a copy of a valid license, other authorization, or communication issued by a potential eligible country permitting import of the pharmaceutical product from the United States; and

''(H) an agreement or understanding entered into by the applicant to comply with the conditions described under subsection (d) and with the provisions of the General Council Decisions; and

''(I) any additional information reasonably required by the Director, including information necessary to ensure the identification of the product that is the subject of the application.

''(3) COMBINED LICENSE APPLICATIONS.—The Director may—

''(A) establish procedures to permit a combined license application from more than 1 eligible country;

''(B) issue a multi-country license if appropriate;

''(C) issue rules based on the requirements of this section relating to separate country applicants, in consultation with the National Advisory Board on Implementation of the General Council Decision established under section 5 of the Life-Saving Medicines Export Act of 2006, except for modifications made to accommodate applying the rules for 1 country to applications filed by more than 1 eligible country in the same filing; and

''(D) waive any record keeping, application, or related provision of this subsection to the extent necessary to implement this paragraph for any combined application from multiple countries.

''(4) ACTION BY DIRECTOR.—

''(A) IN GENERAL.—Not later than 60 days after the submission of an application, the Director shall approve or deny that application.

''(B) CONDITIONAL DENIAL.—The Director may deny an application and request additional information or evidence to be submitted within 30 days after making the request. If additional information or evidence is submitted within the 30-day period, the Director shall make a final approval or denial of the application within 60 days after the date of submission of the additional information or evidence.

''(5) APPEAL OF DENIAL.—An applicant may seek review of a final adverse decision of the Director, including any adverse decision based on failure to comply with any provision of paragraph (2) in the United States Court of Appeals for the Federal Circuit. The judgement of such court shall be subject to final review by the Supreme Court upon certiorari in the manner prescribed in section 1254 of title 28. The United States Court of Appeals for the Federal Circuit shall decide all relevant questions of law, provide appropriate orders, relief, or judgments, and shall hold unlawful and set aside any determination of the Director that the court finds to be—

''(A) arbitrary, capricious, an abuse of discretion, inconsistent with this section, or otherwise not in accordance with law;

''(B) contrary to constitutional right, power, privilege, or immunity;

''(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

''(D) without observance of procedure required by law.

''(d) CONDITIONS OF LICENSE.—Under rules issued by the Director, the following conditions shall apply to a compulsory license issued under this section:

''(1) The pharmaceutical product—

''(A) shall be a generic version of a patented product approved as safe and efficacious by the World Health Organization of the United Nations or the United States Food and Drug Administration; and

''(B) shall be manufactured solely for export to the eligible country listed in the application under subsection (c); and

''(C) shall not be exported to any other country except for nation parties to a regional trade agreement as set forth in paragraph 6(i) of the General Council Decision.

''(2) The pharmaceutical product, or the label or packaging of the pharmaceutical product, for export shall be—

''(A) clearly identified as being produced under the system set out in the General Council Decision; and

''(B) distinguished from the pharmaceutical product or its label or packaging manufactured by the patent holder through labeling, shaping, sizing, marking, special packaging, or other means or combinations of means, which shall be consistent with paragraph 2(b)(ii) of the General Council Decision and include—

''(i) a statement that such pharmaceutical product has been manufactured solely for export to the specific eligible country or to nation parties to a regional trade agreement as provided for in paragraphs 6(i) and 6(ii) of the General Council Decision and is not approved for marketing in the United States;

''(ii) a statement indicating that the pharmaceutical product is subject to a compulsory license issued to the generic manufacturer; and

''(iii) any other markings determined appropriate by the Director to distinguish such pharmaceutical product from the patented pharmaceutical product, which may include a different trademark name or distinctive color or shaping, so long as—

''(I) such distinction is feasible and does not have a significant impact on price and will not undermine the humanitarian purposes of the Life-Saving Medicines Export Act of 2006; and

''(II) the Director may temporarily waive the requirements of the distinguishing marks under urgent circumstances for limited quantities of such pharmaceutical products.

''(3) The term of such compulsory license shall expire on the date that is the earliest of—

''(A) 7 years after the date of issuance of the license;

''(B) the date the importing country is no longer an eligible country; or

''(C) on a petition from the original patent holder, on the date that the Director, in consultation with the National Advisory Board on Implementation of the General Council Decision established under section 5 of the Life-Saving Medicines Export Act of 2006, determines that the circumstances that have led to the granting of the license cease to exist and it appears probable that such circumstances will not reoccur.

''(4) The licensee shall keep accurate records of all quantities of products manufactured and distributed under its license and shall make such records available upon request to an independent person agreed to by the parties, or otherwise approved by the Director, for the sole purpose of ensuring whether the terms of the license have been met.

''(5) A generic manufacturer issued a license under this section may notify the Director if the estimated quantity of the pharmaceutical product set forth in the application and subsection (c)(2)(B) will be insufficient to meet the projected need during the remainder of the license period. The Director shall adjust the estimated quantity to the quantity proposed by the licensee unless compelling evidence demonstrates that the proposed quantity is excessive.

''(e) COMPENSATION TO PATENT HOLDER.—

''(1) IN GENERAL.—The holder of a compulsory license under this section shall pay to the patent holder a royalty in an amount and by a date determined by the Director that shall not be —

''(A) earlier than the date of each shipment for export of the pharmaceutical product under the compulsory license; or

''(B) later than 45 days after the date of each shipment.

''(2) AMOUNT OF ROYALTY.—In consultation with the Secretary of Health and Human Services, the Director of the National Institutes of Health, the Director of the United States Agency for International Development, and the Director of the Centers of Disease Control, the Director, when determining a royalty amount under paragraph (1), shall consider the following:

''(A) The provisions of paragraph 3 of the General Council Decision and the need for the licensee under this section to make a reasonable return sufficient to sustain a continued participation in humanitarian objectives.

''(B) The humanitarian and noncommercial reasons for issuing a compulsory license under this section.

''(C) The economic value to the importing country of the use that has been authorized by the Director.

''(D) The need for low-cost pharmaceutical products by persons in eligible countries.

''(E) Whether the importing country has a patent applicable to the pharmaceutical product sought to be imported under this section.

''(F) The ordinary levels of profitability in the United States, of commercial agreements involving pharmaceutical products, and any relevant international trends in relevant prices as reported by the United Nations or other appropriate humanitarian organizations or agencies for the supply of such products for humanitarian purposes.

''(3) ROYALTY RATE FORMULAS.—

''(A) IN GENERAL.—

''(i) FACTORS.—Except as provided in subparagraph (B), the amount of the royalty payable to any patentee under this subsection—

''(I) shall be based on considerations under paragraph (2); and

''(II) shall not exceed the amount determined by multiplying the commercial value of the pharmaceutical product to be exported under the supply agreement by 4 percent.

''(ii) MULTIPLE PATENTEES.—If more than 1 patentee is due a royalty for a pharmaceutical product under this section, the amount of the royalty payable for the pharmaceutical product shall be divided by the number of patentees.

''(B) ALTERNATIVE ROYALTY RATE FORMULA.—

''(i) IN GENERAL.—

''(I) ESTABLISHMENT AND USE.—Subject to subclause (II), the Director may establish and use an alternative royalty rate formula under this subparagraph instead of the royalty rate formula under subparagraph (A), if—

''(aa) the Director makes a determination that the alternative royalty rate formula is more appropriate or efficient to employ; and

''(bb) the alternative royalty rate formula is based on the methodology described under clauses (ii) through (v).

''(II) LIMITATION.—If the royalty amount determined under the alternative royalty rate formula under subclause (I) exceeds the dollar amount determined by multiplying

the commercial value of the pharmaceutical product to be exported under the supply agreement by 4 percent the royalty amount shall be set at such dollar amount.

''(ii) HUMAN DEVELOPMENT INDEX COUNTRIES.—If the name of the country to which a pharmaceutical product is to be delivered under this section is on the Human Development Index maintained by the United Nations Development Program, the rate for calculation of the royalty to be paid to any patentee shall be determined by—

''(I) adding 1 to the total number of countries listed on such Index;

''(II) subtracting from the sum determined under subclause (I) the numerical rank on the Index of the country to which the pharmaceutical product is to be exported;

''(III) dividing the difference determined under subclause (II) by the total number of countries listed on the Index; and

''(IV) multiplying the quotient determined under subclause (III) by 0.04.

''(iii) SINGLE AND MULTIPLE PATENTEES.—For a country described under clause (ii), the amount of the royalty payable to any patentee shall be determined—

''(I) if there is only 1 patentee, by multiplying the total monetary value of the agreement pertaining to the pharmaceutical product to be exported under this section by the royalty rate determined in accordance with clause (ii); and

''(II) if there is more than 1 patentee, by dividing the amount determined under subclause (I) by the number of patentees.

''(iv) COUNTRIES NOT ON HUMAN DEVELOPMENT INDEX.—If the name of the country to which a pharmaceutical product is to be delivered under this section is not on the Human Development Index maintained by the United Nations Development Program, the Director shall—

''(I) determine if relevant circumstances in that country are reasonably similar to another country on that Human Development Index;

''(II) if determining a similar country under subclause (I), use the procedures under clause (ii) to determine a royalty payment using the numerical rank of that other country; and

''(III) if determining a royalty rate under subclause (II), state the reasons for making the determination that the country to which the product is to be exported was reasonably similar to the country on such Index used in the calculation.

''(v) REGIONAL TRADE AGREEMENTS.—If the Director knows during review of an application that the pharmaceutical products are to be delivered under this section to parties to a regional trade agreement where re-exportation is allowed under paragraph 6(i) and (ii) of the General Council Decision, the Director shall—

''(I) determine if relevant circumstances in those countries are reasonably similar to a country on the Human Development Index;

''(II) if determining a similar country under subclause (I), use the procedures under clause (ii) to determine a royalty payment based on the numerical rank of that other country; and

''(III) if determining a royalty rate under subclause (III), shall state the reasons for making the determination that the countries to which the products are to be re-exported under paragraph 6(i) and (ii) of such Decision were reasonably similar to the country selected on such Index.

''(4) NOTICE OF SHIPMENTS.—Before each shipment of any product manufactured under this section, the manufacturer shall, within 15 days before such product is exported, provide notice through registered mail specifying the approximate quantity to be exported to—

''(A) the patentee;

''(B) the purchaser of the product; and

''(C) the Director.

''(f) RENEWAL OF COMPULSORY LICENSE.—

''(1) IN GENERAL.—A generic manufacturer that is the holder of a compulsory license under this section may submit to the Director an application to renew the compulsory license.

''(2) CONTENT OF RENEWAL APPLICATION.—An application under paragraph (1) shall contain—

''(A) an assurance that the quantities of the pharmaceutical product authorized to be exported under the renewal compulsory license will not be exported before such original compulsory license ceases to be valid;

''(B) an assurance that the applicant has complied with the terms, conditions, and royalty payment required under this section; and

''(C) any other information that the Director may reasonably require.

''(3) TIMING OF RENEWAL.—An application for renewal shall be submitted to the Director not later than 45 days before the expiration date of the compulsory license.

''(4) TERM OF RENEWAL.—The term of a renewed compulsory license shall not exceed the term of the original compulsory license.

''(5) LIMITATION.—A compulsory license may not be renewed more than once.

''(g) EFFECT OF SECTION.—To the extent authorized in Article 31(b) of the TRIPS Agreement, nothing in this section shall be construed as requiring an effort to obtain a voluntary license in the event of—

''(1) a national emergency or other circumstances of extreme urgency in the eligible country; or

''(2) a public noncommercial governmental use.

''(h) EMERGENCIES AND CIRCUMSTANCES OF EXTREME URGENCY.—

''(1) EXPEDITED APPROVAL.—

''(A) IN GENERAL.—The Director may provide approval on an expedited basis for a limited period of time to grant a compulsory license regarding a pharmaceutical product to a generic manufacturer to address a national emergency or other circumstances of extreme urgency under such expedited procedures as the Director determines appropriate.

''(B) PROCEDURES.—Procedures under this paragraph may include—

''(i) waiving any requirement to seek a voluntary license from the patent holder; and

''(ii) delaying the determination of compensation until after an approval is made.

''(2) WAIVER.—In carrying out expedited approvals under this subsection, the Director may temporarily waive any provision of this section.

''(i) NOTIFICATION TO WTO.—The Director shall notify the WTO of the issuance, termination, or renewal of a compulsory license under this section and of the name and address of the licensee, the product for which the license has been granted, the quantities for which it has been granted, and the countries to which the product is to be supplied.''.

(b) ESTABLISHMENT OF PROCEDURES.—

(1) IN GENERAL.—The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (referred to in this section as the ''Director'') shall establish procedures for implementing this Act and the amendments made by this Act.

(2) REPORT.—The Director shall annually submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that describes the activities related to the implementation of this Act and the amendments made by this Act.

(3) REGULATIONS.—The Director may issue such regulations as are necessary and appropriate to carry out this Act and the amendments made by this Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 297 the following:

''298. Exportation of pharmaceutical products for public health purposes.''.

SEC. 4. NONINFRINGEMENT OF PATENT.

Section 271 of title 35, United States Code, is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

''(h)(1) It shall not be an act of infringement to manufacture within the United States or for export outside the United States any patented invention relating to a pharmaceutical product (as defined under section 298) by any person that—

''(A) is issued a compulsory license to manufacture and sell that drug under section 298; and

''(B) manufactures and exports that drug in compliance with all conditions of that license.

''(2) Subsection (d) (4) or (5) shall not apply to any patent affected by a license described under paragraph (1) of this subsection.''.

SEC. 5. NATIONAL ADVISORY BOARD ON IMPLEMENTATION OF THE GENERAL COUNCIL DECISION.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term ''Board'' means the National Advisory Board on Implementation of the General Council Decision established under this section.

(2) DIRECTOR.—The term ''Director'' means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

(3) ELIGIBLE COUNTRY.—The term ''eligible country'' means a country that—

(A)(i) is designated by the United Nations as a least developed country; or

(ii) if not so designated, does not possess sufficient manufacturing capacities to produce the pharmaceutical product that such country seeks to import under section 298 of title 35, United States Code (as added by this Act); and

(B) has provided notice to the Director describing such lack of sufficient manufacturing capacities.

(4) GENERAL COUNCIL.—The term ''General Council'' means the General Council of the WTO established by paragraph (2) of Article IV of the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(5) GENERAL COUNCIL DECISION.—The term ''General Council Decision'' means the decision of the General Council of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and the WTO General Council Chairman's statement accompanying the Decision (JOB(03)/177, WT/GC/M/82) (collectively known as the ''TRIPS/health solution'').

(6) GENERIC MANUFACTURER.—The term ''generic manufacturer'' means, with respect to a pharmaceutical product, a manufacturer that does not hold the patent to such pharmaceutical product or is not otherwise authorized by the patent holder to make use of the invention.

(7) PHARMACEUTICAL PRODUCT.—The term ''pharmaceutical product'' means any patented pharmaceutical product, or pharmaceutical product manufactured through a patented process, including any drug, active

ingredient of a drug, diagnostic, or vaccine needed to prevent or treat public health problems.

(8) TRIPS AGREEMENT.—The term ''TRIPS Agreement'' means the Agreement on Trade-Related Aspects of Intellectual Property Rights (described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3501 note)).

(9) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

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

(11) WTO.—The term ''WTO'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(12) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(b) ESTABLISHMENT.—The Director shall establish the National Advisory Board on Implementation of the General Council Decision in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to provide advice and guidance regarding the implementation and administration of the compulsory licensing program established under section 298 of title 35, United States Code (as added by this Act), including royalty amounts to be determined under that section.

(c) COMPOSITION OF THE BOARD.—The Board shall be composed of 10 members, of which—

(1) 1 shall be an individual who is an academic expert on the subject of pharmaceutical matters and patent law;

(2) 2 shall be an individual with expertise relating to the WTO, the TRIPS/health solution, and the General Council Decision;

(3) 2 shall be an individual with expertise relating to the needs of persons living in least-developed and developing nations with respect to access to low-cost patented pharmaceutical products;

(4) 2 shall be individuals who represent international organizations, such as the United Nations, the World Bank, international nongovernmental organizations, and religious faiths, and who have expert knowledge regarding the General Council Decision and the issues raised by that decision;

(5) 1 shall be a physician with experience in treating persons with HIV/AIDS, malaria, tuberculosis, or other infectious diseases;

(6) 1 shall be an individual representing major pharmaceutical manufacturers in the United States; and

(7) 1 shall be an individual representing major generic manufacturers of pharmaceutical products in the United States.

(d) APPOINTMENTS.—Not later than 120 days after the date of enactment of this Act, the Director, in consultation with the Director of the National Institutes of Health (or a designee), the Director of the United States Agency for International Development (or a designee), and the Director of the Centers for Disease Control (or a designee) shall appoint—

(1) the members of the Board described under subsection (c)(1), (5), (6), and (7)—

(A) from nominations received from a request for applications published in the Federal Register; and

(B) after engaging in other efforts to make institutions of higher education within the United States, international organizations, and groups representing the medical profession aware of the solicitation for nominations;

(2) 1 member of the Board described under subsection (c)(2), from recommendations of the Majority Leader of the Senate;

(3) 1 member of the Board described under subsection (c)(2), from recommendations of the Minority Leader of the Senate;

(4) 1 member of the Board described under subsection (c)(3) from recommendations of the Speaker of the House of Representatives;

(5) 1 member of the Board described under subsection (c)(3) from recommendations of the Minority Leader of the House of Representatives; and

(6) 2 members of the Board described under subsection (c)(4) from recommendations of the Secretary of State in consultation with the United States Ambassador to the United Nations.

(e) TERM.—A member of the Board shall serve for a term of 4 years, except that the Director shall appoint the original members of the Board for staggered terms of not more than 4 years. A member may not serve a consecutive term unless such member served an original term that was less than 4 years.

(f) MEETINGS.—The Director shall convene—

(1) a meeting of the Board not later than 60 days after the appointment of its members;

(2) subsequent meetings on a periodic basis; and

(3) at least 2 meetings a year during the first 4 years after the date of enactment of this Act.

(g) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation. While away from their homes or regular places of business on the business of the Board, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(h) CHAIRPERSON.—The Board shall select a chairperson for the Board.

(i) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(j) DECISIVE VOTES.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(k) OTHER TERMS AND CONDITIONS.—The Director shall authorize the Board to hire a staff director and shall detail staff of the Patent and Trademark Office or allow for the hiring of other staff and may pay necessary expenses incurred by the Board in carrying out this section. The Director shall provide technical assistance, work space, facilities, and other amenities to facilitate the meetings and operations of the Board. The Director, or designated staff, may attend any such meetings and provide advice and guidance.

(l) RESPONSIBILITIES OF BOARD.—

(1) IN GENERAL.—The Board shall provide recommendations to the Director on the implementation of section 298 of title 35, United States Code (as added by this Act), including the appropriate royalty rates for compensating patent holders under that section.

(2) TECHNICAL ADVISORY PANELS.—The Board may convene technical advisory panels to provide scientific, legal, international, economic, and other information to the Board.

(m) EVALUATION AND REPORTS.—

(1) IN GENERAL.—The Board shall evaluate the implementation and administration of section 298 of title 35, United States Code (as added by this Act), and shall provide periodic and special reports to the Director, the Secretary of Health and Human Services, the National Institutes of Health, the Director of the Centers for Disease Control, and to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(2) DUTIES.—If the Director uses the compensation method under section 298(e)(3)(A) of title 35, United States Code (as added by this Act), the Board shall—

(A) not later than 160 days after the date of enactment of this Act, begin to gather information regarding proposals for the compensation of patent holders and shall carefully examine various compensation options;

(B) not later than 240 days after the date of enactment of this Act, submit preliminary recommendations to the entities and officers described under paragraph (1);

(C) advise the Director on various matters raised by the Director;

(D) submit a report to the Director, the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives at least once each year on—

(i) recommendations for improving procedures or the administration of the program established under that section; and

(ii) other factual or policy matters which may provide guidance or assistance to those Committees; and

(E) submit a report to the Director and the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on—

(i) the advantages and disadvantages which might result from allowing nongovernmental organizations to be able to apply to obtain a compulsory license under procedures similar to those set forth in that section for such countries where the national government declines to apply for such a license, including an analysis of whether World Trade Organization understandings would permit such an approach and how such an approach might be implemented; and

(ii) whether this Act provides sufficient economic incentives to generic companies for the research and development of new generic products.

(n) PETITIONS.—The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating various issues related to the implementation and administration of section 298 of title 35, United States Code (as added by this Act).

(o) CONFIDENTIALITY.—Any confidential business information obtained by the Board in carrying out this section shall not be released to the public.

(p) APPROPRIATIONS.—

(1) AMOUNTS OF APPROPRIATIONS.—There are appropriated out of any money in the Treasury not otherwise appropriated to the United States Patent and Trademark Office for purposes of carrying out paragraph (2)—

(A) $1,500,000 for the fiscal year ending September 30, 2007;

(B) $1,500,000 for the fiscal year ending September 30, 2008;

(C) $1,300,000 for the fiscal year ending September 30, 2009;

(D) $1,100,000 for the fiscal year ending September 30, 2010; and

(E) $900,000 for the fiscal year ending September 30, 2011.

(2) USE OF APPROPRIATIONS.—Amounts appropriated under paragraph (1) shall be used for the expenses and activities of the Board under this section, except no more than $200,000 of such amounts in each fiscal year may be used for the expenses and activities of the Office established under section 298(c)(B) of title 35, United States Code (as added by this Act). Such amounts not obligated in any fiscal year may be carried over into subsequent fiscal years, except that any amounts not obligated by September 30, 2011, shall be provided to the Secretary of the Treasury to be returned to the United States Treasury.

(q) TERMINATION.—The Board shall terminate on September 30, 2011.

By Mr. REID (for Mr. ROCKEFELLER):

S. 3176. A bill to protect the privacy of veterans and spouses of veterans affected by the security breach at the Department of Veterans Affairs on May 3, 2006, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. ROCKEFELLER. Mr. President, every American has the justifiable expectation that the Federal Government will protect their private personal information—information that they are required to provide to a Federal agencies. It is a basic and fundamental responsibility of government to make sure that this sensitive data is handled appropriately, accessed only by authorized personal, and used only for intended purposes.

Earlier this week, the Veterans Administration, VA, announced that computer disks containing as many as 26.5 million veterans' personal information were stolen from an employee who had taken the information home. I, along with many of my colleagues, am outraged at this enormous lapse in security. The Veterans Administration must make sure that veterans are not harmed because of the agency's failure to protect sensitive personal data.

This information includes veterans' social security numbers and dates of birth, the underpinnings of almost all of our financial information. In the wrong hands, this information can be used to steal a person's identity causing substantial harm. All of us have constituents who have been victims of identity theft. When a person's identity is stolen, it can have devastating financial consequences for that person and that family. Even if the financial harm is minimal, it often takes years to clear your name. For our nation's veterans, many of whom are older and disabled, identity theft poses even greater problems.

I understand that the Veterans Administration has launched an internal investigation, but Congress must also conduct a thorough investigation into how this security breach occurred. I want to know why the Veterans Administration waited almost 3 weeks to inform our nation's veterans and Congress of this breach. In my opinion, it is inexcusable that veterans were not notified immediately that their personal information had been stolen and were not given any guidance as to the steps they should take to protect themselves from identity theft. I understand the Veterans Administration Inspector General has cited the agency for poor security policies and procedures. Congress must also begin a comprehensive review of the agency's security protocols and policies and force the agency to adopt stricter security measures to make sure that the personal data our veterans are required to provide the agency is not ever again at risk.

It is for this reason that I am introducing the Veterans' Privacy Protection Act today. Although all Federal agencies need comprehensive data privacy policies, this is a targeted bill to address the security breach at the Veterans Administration on an urgent basis.

Congress has required the Federal Trade Commission to address identity theft and its consequences. The agency has taken an aggressive approach in combating this devastating crime. My bill would require the Federal Trade Commission to develop a hotline explicitly for veterans to provide the information, counseling, and help necessary to allow a veteran to protect himself from the loss of personal data.

At this point, our legislative response must cover all 26.5 million veterans that the Veterans Administration believes may have had their personal information compromised. If further investigations conclusively prove that fewer veterans are at-risk, my bill would target services and support to the affected individuals. To help veterans, my bill would make it easier for them to request a long-term credit alert for their records so credit agencies are aware that their personal information could be being used by others. It is my understanding that a security freeze on an individual's record can have a modest cost, and my bill would have the Veterans Administration cover that cost.

Finally, my bill requires the General Accountability Office to evaluate the Veterans Administration response to this incident and to analyze the agency's security protocols. I believe that an independent investigation could generate a number of recommendations to improve the security of personal information not just in the Veterans Administration but in all Federal agencies.

It is my great hope that a thorough investigation will find the criminals responsible for the theft and determine that they were only after the computer and not the millions of valuable private records of our veterans. If in fact these thieves were after our veterans' data, we will have a major catastrophe on our hands, inexcusably adding more hardship to the lives of those who have so ably served their country.

Mr. President, today the Veterans Administration has failed our Nation's veterans. It is inconceivable to me how any Federal agency could have let this happen. We all have heard the stories during the past year regarding massive breaches of private and confidential data by private entities. The Federal Government acted quickly to respond to these breaches and now it must act just as quickly if not more so to address its own failings. My bill is a critical step in providing the necessary assistance that millions of veterans may require, and I urge my colleagues to act on it with the urgency this situation demands.

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

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

S. 3176

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Privacy Protection Act of 2006''.

SEC. 2. FEDERAL TRADE COMMISSION PROGRAM FOR VETERANS AN SPOUSES OF VETERANS AT RISK OF IDENTITY THEFT.

(a) PROGRAM REQUIRED.—The Federal Trade Commission shall, in consultation with the Secretary of Veterans Affairs, develop and implement a program to provide financial counseling and support to any veteran or spouse described in subsection (e).

(b) ACCESS.—The program required by subsection (a) shall be accessible through a toll-free telephone number (commonly referred to as an ''800 number'') established and operated by the Federal Trade Commission for purposes of the program.

(c) ELEMENTS.—Under the program required by subsection (a), the Federal Trade Commission shall—

(1) provide to veterans and spouses described in subsection (e) such financial and other counseling as the Commission considers appropriate relating to identity theft and the theft of data as described in that subsection; and

(2) upon request of any veteran or spouse described in subsection (e), assist such veteran or spouse in securing the placement of an extended fraud alert or credit security freeze under sections 605A(b)(3) and 605C of the Fair Credit Reporting Act, as added by this Act, respectively.

(d) VETERANS NOT SUBJECT TO IDENTITY THEFT.—

(1) NOTICE TO FTC OF IDENTIFICATION OF VETERANS NOT SUBJECT TO IDENTITY THEFT.—Upon conclusively identifying any veteran otherwise described in subsection (e) as not being at risk of identity theft as described in that subsection, the Secretary shall immediately notify the Federal Trade Commission of such identification.

(2) NOTICE TO VETERANS.—The program required by subsection (a) shall include mechanisms to ensure that any veteran who seeks counseling and support under the program after receipt by the Commission of notice under paragraph (1) covering such veteran is informed that such veteran is no longer subject to identity theft as described in subsection (e).

(e) APPLICABILITY.—This section shall apply with respect to—

(1) any veteran, as defined in section 101 of title 38, United States Code, who may be a victim of identity theft as a result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

(2) any spouse (or former spouse) of such veteran who the Secretary of Veterans Affairs has conclusively identified as being at risk of identity theft as a result of that security breach.

SEC. 3. EXTENDED CONSUMER CREDIT FRAUD ALERTS AND SECURITY FREEZES FOR VETERANS AND SPOUSES OF VETERANS AFFECTED BY SECURITY BREACH.

(a) AUTOMATIC FRAUD ALERTS.—Section 605A(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c-1(b)) is amended by adding at the end the following:

''(3) AUTOMATIC EXTENDED FRAUD ALERTS FOR CERTAIN VETERANS.—

''(A) IN GENERAL.—Upon the direct request of a veteran or spouse described in subparagraph (D), each consumer reporting agency described in section 603(p)(1) that maintains a file on the veteran shall take the actions specified in subparagraphs (A) through (C) of paragraph (1) with respect to the veteran or spouse.

''(B) AUTOMATIC ALERTS.—Notwithstanding the requirements of paragraph (1), a veteran or spouse described in subparagraph (D) is not required to submit any identity theft report, proof of identity, or other documentation with respect to an extended fraud alert required by subparagraph (A).

''(C) VETERANS NOT SUBJECT TO IDENTITY THEFT.—Upon conclusively identifying any veteran as not being at risk of identity theft as a result of the security breach described in subparagraph (A)—

''(i) the Secretary of Veterans Affairs shall immediately notify each consumer reporting agency and the veteran involved that such veteran is no longer subject to identity theft as a result of the security breach described in subparagraph (A); and

''(ii) the requirements of subparagraph (A) shall no longer apply with respect to any such veteran as of the date of such notification.

''(D) APPLICABILITY.—This paragraph shall apply to—

''(i) each veteran, as defined in section 101 of title 38, United States Code, who may be a victim of identity theft as a result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

''(ii) each spouse (or former spouse) of such veteran who the Secretary of Veterans Affairs has conclusively identified as being at risk of identity theft as a result of that security breach.''.

(b) SECURITY FREEZES FOR VETERANS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605B the following:

''SEC. 605C. SECURITY FREEZES FOR CERTAIN VETERANS.

''(a) APPLICABILITY.—This section shall apply with respect to—

''(1) any veteran, as defined in section 101 of title 38, United States Code, who may be a victim of identity theft as a result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

''(2) any spouse (or former spouse) of such veteran who the Secretary of Veterans Affairs has conclusively identified as being at risk of identity theft as a result of that security breach.

''(b) SECURITY FREEZES.—

''(1) EMPLACEMENT.—A veteran or spouse described in subsection (a) may include a security freeze in the file of that veteran or spouse maintained by a consumer reporting agency described in section 603(p)(1), by making a request to the consumer reporting agency in writing, by telephone, or through a secure electronic connection made available by the consumer reporting agency.

''(2) CONSUMER DISCLOSURE.—If a veteran or spouse described in subsection (a) requests a security freeze under this section, the consumer reporting agency shall disclose to that person the process of placing and removing the security freeze and explain to that veteran or spouse the potential consequences of the security freeze. A consumer reporting agency may not imply or inform a veteran or spouse that the placement or presence of a security freeze on the file of that veteran or spouse may negatively affect their credit score.

''(c) EFFECT OF SECURITY FREEZE.—

''(1) RELEASE OF INFORMATION BLOCKED.—If a security freeze is in place in the file of a veteran or spouse described in subsection (a), a consumer reporting agency may not release information from the file of that veteran or spouse for consumer credit purposes to a third party without prior express written authorization from that veteran or spouse.

''(2) INFORMATION PROVIDED TO THIRD PARTIES.—Paragraph (2) does not prevent a consumer reporting agency from advising a third party that a security freeze is in effect with respect to the file of a veteran or spouse described in subsection (a). If a third party, in connection with an application for credit, requests access to a consumer file on which a security freeze is in place under this section, the third party may treat the application as incomplete.

''(3) CREDIT SCORE NOT AFFECTED.—The placement of a security freeze under this section may not be taken into account for any purpose in determining the credit score of the veteran or spouse to whom the security freeze relates.

''(d) REMOVAL; TEMPORARY SUSPENSION.—

''(1) IN GENERAL.—Except as provided in paragraph (4), a security freeze under this section shall remain in place until the veteran or spouse to whom it relates requests that the security freeze be removed. A veteran or spouse may remove a security freeze on his or her credit report by making a request to the consumer reporting agency in writing, by telephone, or through a secure electronic connection made available by the consumer reporting agency.

''(2) CONDITIONS.—A consumer reporting agency may remove a security freeze placed in the file of a veteran or spouse under this section only—

''(A) upon request of that veteran or spouse, pursuant to paragraph (1); or

''(B) if the agency determines that the file of that veteran or spouse was frozen due to a material misrepresentation of fact by that veteran or spouse.

''(3) NOTIFICATION TO CONSUMER.—If a consumer reporting agency intends to remove a security freeze pursuant to paragraph (2)(B), the consumer reporting agency shall notify the veteran or spouse to whom the security freeze relates in writing prior to removing the freeze.

''(4) TEMPORARY SUSPENSION.—A veteran or spouse described in subsection (a) may have a security freeze under this section temporarily suspended by making a request to the consumer reporting agency in writing or by telephone and specifying beginning and ending dates for the period during which the security freeze is not to apply.

''(e) RESPONSE TIMES; NOTIFICATION OF OTHER ENTITIES.—

''(1) IN GENERAL.—A consumer reporting agency shall—

''(A) place a security freeze in the file of a veteran or spouse under subsection (b) not later than 5 business days after receiving a request from the veteran or spouse under subsection (b)(1); and

''(B) remove or temporarily suspend a security freeze not later than 3 business days after receiving a request for removal or temporary suspension from the veteran or spouse under subsection (d).

''(2) NOTIFICATION OF OTHER AGENCIES.—A consumer reporting agency shall notify all other consumer reporting agencies described in section 603(p)(1) of a request under this section not later than 3 days after placing, removing, or temporarily suspending a security freeze in the file of the veteran or spouse under subsection (b), (d)(2)(A), or (d)(4).

''(3) IMPLEMENTATION BY OTHER AGENCIES.—A consumer reporting agency that is notified of a request under paragraph (2) to place, remove, or temporarily suspend a security freeze in the file of a veteran or spouse shall—

''(A) request proper identification from the veteran or spouse, in accordance with subsection (g), not later than 3 business days after receiving the notification; and

''(B) place, remove, or temporarily suspend the security freeze on that credit report not later than 3 business days after receiving proper identification.

''(f) CONFIRMATION.—Except as provided in subsection (c)(3), whenever a consumer reporting agency places, removes, or temporarily suspends a security freeze at the request of a veteran or spouse under subsection (b) or (d), respectively, it shall send a written confirmation thereof to the veteran or spouse not later than 10 business days after placing, removing, or temporarily suspending the security freeze. This subsection does not apply to the placement, removal, or temporary suspension of a security freeze by a consumer reporting agency because of a notification received under subsection (e)(2).

''(g) ID REQUIRED.—A consumer reporting agency may not place, remove, or temporarily suspend a security freeze in the file of a veteran or spouse described in subsection (a) at the request of the veteran or spouse, unless the veteran or spouse provides proper identification (within the meaning of section 610(a)(1)) and the regulations thereunder.

''(h) EXCEPTIONS.—This section does not apply to the use of the file of a veteran or spouse described in subsection (a) maintained by a consumer reporting agency by any of the following:

''(1) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the veteran or spouse to that person or entity, or a prospective assignee of a financial obligation owing by the veteran or spouse to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the veteran or spouse has or had prior to assignment an account or contract, including a demand deposit account, or to whom the veteran or spouse issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument.

''(2) Any Federal, State, or local agency, law enforcement agency, trial court, or private collection agency acting pursuant to a court order, warrant, subpoena, or other compulsory process.

''(3) A child support agency or its agents or assigns acting pursuant to subtitle D of title IV of the Social Security Act (42 U.S.C. et seq.) or similar State law.

''(4) The Department of Health and Human Services, a similar State agency, or the agents or assigns of the Federal or State agency acting to investigate medicare or medicaid fraud.

''(5) The Internal Revenue Service or a State or municipal taxing authority, or a State department of motor vehicles, or any of the agents or assigns of these Federal, State, or municipal agencies acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of their other statutory responsibilities.

''(6) The use of consumer credit information for the purposes of prescreening, as provided for under this title.

''(7) Any person or entity administering a credit file monitoring subscription to which the veteran or spouse has subscribed.

''(8) Any person or entity for the purpose of providing a veteran or spouse with a copy of his or her credit report or credit score upon request of the veteran or spouse.

''(i) FEES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a consumer reporting agency

may charge a reasonable fee, for placing, removing, or temporarily suspending a security freeze in the file of the veteran or spouse described in subsection (a), which cost shall be submitted to and paid by the Department of Veterans Affairs, pursuant to procedures established by the Secretary of Veterans Affairs.

''(2) ID THEFT VICTIMS.—A consumer reporting agency may not charge a fee for placing, removing, or temporarily suspending a security freeze in the file of a veteran or spouse described in subsection (a), if—

''(A) the veteran or spouse is a victim of identity theft;

''(B) the veteran or spouse requests the security freeze in writing;

''(C) the veteran or spouse has filed a police report with respect to the theft, or an identity theft report (as defined in section 603(q)(4), within 90 days after the date on which the theft occurred or was discovered by the veteran or spouse; and

''(D) the veteran or spouse provides a copy of the report to the reporting agency.

''(j) LIMITATION ON INFORMATION CHANGES IN FROZEN REPORTS.—

''(1) IN GENERAL.—If a security freeze is in place in the file of a veteran or spouse described in subsection (a), the consumer reporting agency may not change any of the following official information in that file without sending a written confirmation of the change to the veteran or spouse within 30 days after the date on which the change is made:

''(A) Name.

''(B) Date of birth.

''(C) Social Security number.

''(D) Address.

''(2) CONFIRMATION.—Paragraph (1) does not require written confirmation for technical modifications of the official information of a veteran or spouse, including name and street abbreviations, complete spellings, or transposition of numbers or letters. In the case of an address change, the written confirmation shall be sent to both the new address and to the former address of the veteran or spouse.

''(k) CERTAIN ENTITY EXEMPTIONS.—

''(1) AGGREGATORS AND OTHER AGENCIES.—The provisions of this section do not apply to a consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the data base of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent data base of credit information from which new consumer credit reports are produced.

''(2) OTHER EXEMPTED ENTITIES.—The following entities are not required to place a security freeze in the file of a veteran or spouse described in subsection (a) in accordance with this section:

''(A) A check services or fraud prevention services company, which issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments.

''(B) A deposit account information service company, which issues reports regarding account closures due to fraud, substantial overdrafts, ATM abuse, or similar negative information regarding such veteran or spouse, to inquiring banks or other financial institutions for use only in reviewing the request of such veteran or spouse for a deposit account at the inquiring bank or financial institution.''.

(c) FEES.—Any fee associated with an extended fraud alert or security freeze required by the amendments made by this section that would otherwise be required to be paid by the consumer shall be paid by the Department of Veterans Affairs.

SEC. 4. PENALTIES FOR IDENTITY THEFT OF VETERANS.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (b), by striking ''The punishment for'' and inserting the following ''Except as provided in subsection (j), the punishment for''; and

(2) by adding at the end the following:

''(j) IDENTITY THEFT OF VETERANS.—

''(1) IN GENERAL.—In determining the punishment applicable under subsection (b), if the offense is an offense described in paragraph (2), the fine and term of imprisonment otherwise applicable under subsection (b) shall be doubled.

''(2) TYPE OF OFFENSE.—An offense described in this paragraph is an offense under subsection (a) that—

''(A) involves any document or other information—

''(i) relating to a veteran (as defined in section 101 of title 38) or a spouse of a veteran; and

''(ii) obtained as a direct or indirect result of the security breach at the Department of Veterans Affairs on May 3, 2006; and

''(B) was committed after the date of enactment of this subsection.''.

SEC. 5. FUNDING.

(a) REIMBURSEMENT.—The Secretary of Veterans Affairs shall reimburse the Federal Trade Commission for any costs incurred by the Commission in carrying out this Act and the amendments made by this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated to the Secretary and available for obligation may be utilized for purposes of reimbursement of the Federal Trade Commission under subsection (a).

SEC. 6. COMPTROLLER GENERAL STUDIES ON DATA PROTECTION AND OTHER MATTERS.

(a) STUDY ON DATA PROTECTION BY DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the data protection procedures of the Department of Veterans Affairs.

(2) ELEMENTS.—The study required by paragraph (1) shall include the following:

(A) A review and assessment of the data protection procedures of the Department of Veterans Affairs in effect before May 3, 2006.

(B) A review and assessment of any modifications of the data protection procedures of the Department of Veterans Affairs adopted as a result of the loss of data resulting from the security breach at the Department on May 3, 2006.

(b) STUDY ON SECURITY BREACH INVESTIGATION BY DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a review and assessment of the investigation carried out by the Department of Veterans Affairs with respect to the security breach at the Department on May 3, 2006.

(2) COOPERATION.—The Secretary of Veterans Affairs shall ensure that the personnel of the Department of Veterans Affairs cooperate fully with the Comptroller General in the conduct of the review and assessment required by paragraph (1).

(c) STUDY ON FTC PROGRAM FOR VETERANS AND SPOUSES AT RISK OF IDENTITY THEFT.—The Comptroller General of the United States shall conduct a study of the program of the Federal Trade Commission for veterans and spouses of veterans at risk of identity theft required by section 2. The study shall include an assessment of the effectiveness of the program in meeting the financial counseling and similar needs of individuals seeking counseling and support through the program.

(d) STUDY ON COMPLIANCE OF FEDERAL AGENCIES WITH REQUIREMENTS ON PERSONAL DATA.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the compliance of the departments and agencies of the Federal Government with applicable requirements relating to the preservation of the confidentiality of personal data.

(2) ELEMENTS.—The study required by paragraph (1) shall include the following:

(A) A review and assessment of the current procedures and practices of the departments and agencies of the Federal Government regarding the preservation of the confidentiality of personal data.

(B) A comparative analysis of the procedures practices referred to in subparagraph (A) with current standards of the Federal Trade Commission for the preservation of the confidentiality of personal data by commercial and non-commercial private entities.

(C) A review and assessment of the modifications of the data protection procedures adopted by the Department of Veterans Affairs as a result of the loss of data resulting from the security breach on May 3, 2006, including an assessment of the feasibility and advisability of the adoption of any such modifications by other departments and agencies of the Federal Government.

(D) An identification of recommendations for improvements to the procedures and practices of the departments and agencies of the Federal Government regarding the preservation of the confidentiality of personal data.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report setting forth the results of each study conducted under this section. The report shall set forth the results of each study separately, and shall include such recommendations for legislative and administrative action as the Comptroller General considers appropriate in light of the studies.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Veterans Affairs, such sums as may be necessary to carry out this Act and the amendments made by this Act.

By Mr. BUNNING:

S 3177. A bill to suspend temporarily the duty on certain compounds of lanthanum phosphates; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce a number of bills to provide for relief from duties. It is my intention that some or all of these duty suspension bills will eventually be included in the Miscellaneous Tariff Bill, MTB, that the Senate Finance Committee is expected to consider this year.

As the members of the Senate are aware, Congress on occasion passes a bill, known as the Miscellaneous Tariff Bill or MTB, as a vehicle for enacting pending non-controversial duty suspensions. The rules for the inclusion of a duty suspension in the MTB are straight forward. First and foremost, in order to be included in the MTB, a bill must be non-controversial. A bill will be controversial if it is objected to by a domestic producer of the product for which the duty reduction is being sought. Secondly, the cost for each bill must amount to less than $500,000 of lost revenue per year.

As my colleagues are aware, the MTB provides an opportunity to temporarily eliminate or reduce duties on narrowly defined products that are imported into the United States because there is not available domestic source for the products. These duty suspensions reduce input costs for U.S. businesses and thus ultimately increase the competitiveness of their products.

I have been approached by a number of manufacturers in Kentucky that use imported inputs while making their products. These manufacturers have represented to me that, to their knowledge, there currently exists no American-made source for these inputs.

In an effort to assist these Kentucky manufacturers, I am introducing these duty suspension bills so that the items they address will be able to be considered for inclusion in the MTB prepared by the Senate Finance Committee.

My intention in introducing these bills is to begin the process of public comment and technical analysis by the International Trade Commission (ITC) on the items addressed by the bills. During this review, the ITC will determine which of these bills are necessary and meet the selection criteria. My support for a duty suspension for the items is contingent on a determination by the ITC analysts that the items in question are proper candidates for inclusion in the non-controversial MTB.

I look forward to working with Chairman GRASSLEY, Ranking Member BAUCUS and my colleagues on the Senate Finance Committee as the process for assembling a final MTB package continues.

By Mr. REED (for himself and Mr. CHAFEE):

S. 3187. A bill to designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the ''Richard L. Cevoli Post Office.''; to the Committee on Homeland Security and Governmental Affairs.

Mr. REED. Mr. President, today I pay tribute to one of Rhode Island's most highly decorated soldiers, Commander Richard L. Cevoli of East Greenwich.

Commander Cevoli served our nation bravely in both World War II and the Korean War. In honor of his sacrifices and service to his nation, I am introducing a bill, along with Senator CHAFEE, to name the post office located at 5775 Post Road in East Greenwich, RI, the ''Richard L. Cevoli Post Office.''

Commander Cevoli was born in East Greenwich, Rhode Island, on October 24, 1919, and died in a tragic plane crash in Florida on January 18, 1955. He went to Rhode Island State College, which is now the University of Rhode Island, and earned a degree in civil engineering. In 1941, after graduation, he moved to New York and began working for the engineering firm of Merritt, Chapman & Scott.

The month after the bombing of Pearl Harbor, Richard Cevoli returned to Rhode Island and entered the Navy. He was sent to flight training in Dallas, Sanford, and Pensacola before being assigned to Squadron VF–18, based on the USS *Intrepid* in the Pacific.

It was during his service with the VF–18 that Commander Cevoli was awarded the second-highest medal awarded in the Navy—the Navy Cross. This honor was given to Commander Cevoli during the Battle of Leyte Gulf off the Philippines coast in October of 1944. Along with other fighters, Commander Cevoli strafed the largest Japanese ship, silencing many of its guns. The following day, he severely damaged a Japanese aircraft carrier with a 500-pound bomb. On a subsequent attack on the Japanese forces, as is recorded in his medal citation, ''Cevoli disregarded the terrific antiaircraft opposition and scored a near miss on a Kongo class battleship with a 500-pound bomb. Then, pulling out he made a second run to strafe a destroyer, silencing its antiaircraft weapons and thereby contributing to our successful bombing and torpedo attacks which followed. His outstanding courage and determination were in keeping with the highest traditions of the United States Naval Service.''

Following his service during the war, he returned to Rhode Island and continued his Navy career at Naval Air Station, Quonset Point. However, the peace was short-lived. North Korea invaded South Korea, and another major conflict quickly began.

From 1949 until 1951, Commander Cevoli served as the Executive Officer in Squadron VF–18 on board the USS *Leyte*, seeing action in Korea. In addition to the Navy Cross, Commander Cevoli earned two Distinguished Flying Crosses and eight Air Medals during his active flying career.

Once the conflict in Korea had ended, Commander Cevoli was able to spend more time at home. He took classes at the Naval War College in Newport and in July, 1954 he was placed in command of Squadron VF–73. Tragically, he died serving his country when his plane crashed during a training mission.

Commander Cevoli left behind a wife, Grace, and three children, Steven, Carol, and Elizabeth. A life-long resident of East Greenwich, Commander Cevoli's legacy is memorialized in the Rhode Island Aviation Hall of Fame.

This legislation will pay tribute to this hero of Rhode Island and the United States, and I ask my colleagues to join me in honoring Commander Cevoli by supporting this bill.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 3187

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

SECTION 1. RICHARD L. CEVOLI POST OFFICE.

(a) DESIGNATION.—The post office located at 5755 Post Road, East Greenwich, Rhode Island, shall be known and designated as the ''Richard L. Cevoli Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in subsection (a) shall be deemed to be a reference to the Richard L. Cevoli Post Office.

By Mrs. FEINSTEIN:

S. 3188. A bill to amend the Forest Service use and occupancy permit program to restore the authority of the Secretary of Agriculture to utilize the special use permit fees collected by the Secretary in connection with the establishment and operation of marinas in units of the National Forest System derived from the public domain, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation that will restore authority to the Forest Service to retain marina permit revenue for local expenditure.

Within some National Forests, the Forest Service has partnered with local small business owners, allowing them to operate houseboat marinas. In exchange, the Forest Service collects occupancy fees from these marina operators. A portion of these fees had, until recently, been kept in the Forest for local recreation and safety enhancement projects. My legislation allows the Forest Service to once again use these fees in the Forest where they were generated, and where their impact will be most direct.

Several units of the National Forest system will benefit from this legislation, but the unit most affected is the Shasta-Trinity National Forest in California. Under the 1996 Recreation Fee Demonstration Program, the Shasta-Trinity Forest developed a recreation enhancement program at Shasta and Trinity Lakes. Forest Service officials used a portion of the revenue from this program for projects like dock repair, improved handicapped access, safety markers for boaters, law enforcement, and campground construction. Over $4 million was invested in the Forest through this program.

However, the program was inadvertently repealed when the Federal Lands Recreation Enhancement Act was passed. My legislation will correct this oversight by amending the Forest Service's Special Use Permit program, returning this recreation and safety project authority to the agency.

Recreation on Federal lands is important to quality of life in my state and throughout the nation. In many rural areas, it also provides a boost to the economy. I urge my colleagues to support this legislation. It is a simple bill correcting an oversight in the Federal Lands Recreation Enhancement Act. Nonetheless, it has important implications both for recreation enhancement and for the local economies around the affected National Forests.

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

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

S. 3188

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

SECTION 1. RETENTION AND USE OF FOREST SERVICE MARINA PERMIT FEES FROM NATIONAL FOREST SYSTEM UNITS DERIVED FROM THE PUBLIC DOMAIN.

The last paragraph under the heading ''FOREST SERVICE'' in the Act of March 4, 1915 (16 U.S.C. 497), is amended—

(1) by striking ''The Secretary of Agriculture'' and inserting the following:

''(A) PERMITS FOR USE AND OCCUPANCY OF NATIONAL FOREST SYSTEM LANDS.—The Secretary of Agriculture'';

(2) by striking ''The authority'' and inserting the following:

''(B) LIMITATION ON USE OF PERMITS.—The authority''; and

(3) by adding at the end the following:

''(C) SPECIAL RULES REGARDING MARINA PERMITS.—Amounts collected in connection with the issuance of a special use permit under this paragraph for a marina at a unit of the National Forest System derived from the public domain shall be deposited in an existing special account in the Treasury established for the Secretary of Agriculture for recreation management purposes. Amounts so deposited shall be available to the Secretary of Agriculture, until expended and without further appropriation, for repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety, for interpretation, visitor information, visitor service, visitor needs assessments, and signs, for habitat restoration directly related to wildlife-dependent recreation that is limited to hunting, fishing, wildlife observation, or photography, for law enforcement related to public use and recreation, and for direct operating or capital costs associated with the issuance of such special use permits, including any fee management agreement or reservation service used in the issuance of such permits. The Secretary may not use such amounts for biological monitoring for listed or candidate species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). Not less than 80 percent of the permit fees collected at a specific unit of the National Forest System shall be expended for that unit, but the Secretary may transfer up to 20 percent of such fees to appropriations available to enhance recreation opportunities at other units of the National Forest System.''.

By Mrs. FEINSTEIN:

S. 3189. A bill to allow for renegotiating of the payment schedule of contracts between the Secretary of the Interior and the Redwood Valley Country Water District, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Redwood Valley County Water District Loan Renegotiation Act of 2006.

This legislation seeks to implement prior congressional action taken in 1988 to require the Secretary of the Interior to renegotiate debts owed by the Redwood Valley County Water District to the United States. It is an absolutely essential step if the Redwood County is to obtain a firm and reliable water supply.

In 1983, the Redwood Valley County Water District completed a project to supply water to a rural agricultural community near Ukiah, in Northern California. Two Bureau of Reclamation loans totaling $7.3 million partially financed this project.

Unfortunately, the District was unable to repay these loans. This occurred for several reasons: The initial use projections developed by the District and reviewed by the Bureau were seriously flawed; the District's ability to raise funds was restricted when a moratorium on new hook-ups was imposed; and concerns for endangered species reduced the District's water allotment by 15 percent.

As a result of this situation, in 1998 Congress passed Section 15 of Public Law 100–516 that indefinitely suspended the District's obligations to repay these Bureau loans and ordered the Secretary of Interior to renegotiate the terms of the loans. This loan renegotiation has never taken place and now the District finds its water supply highly uncertain. The Bureau of Reclamation acknowledged in a 2000 report that the District needs a reliable water supply in order to solve its current financial dilemma.

The District has recently identified two potential new projects, either of which could supply a firm and reliable source. No government funds will be sought for these projects, and the District will rely on private financing, a strategy that the Bureau is encouraging. However, before the District can secure private financing for new projects, it must renegotiate the existing loans to provide for their repayment subsequent to repayment of the new loans.

This legislation requires the District to repay the United States the currently suspended loans once the new loans have been repaid. The new water project will provide enough revenue to allow the District to repay both its private loan and the United States government. By providing a workable and reasonable solution to a longstanding problem, the legislation creates a win-win solution for the Bureau of Reclamation and the Redwood Valley County Water District.

I urge my colleagues to support this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3189

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

SECTION 1. RENEGOTIATION OF PAYMENT SCHEDULE.

Section 15 of Public Law 100–516 (102 Stat. 2573) is amended as follows:

(1) By amending paragraph (2) of subsection (a) to read as follows:

''(2) If, as of January 1, 2006, the Secretary of the Interior and the Redwood Valley County Water District have not renegotiated the schedule of payment, the District may enter into such additional non-Federal obligations as are necessary to finance procurement of dedicated water rights and improvements necessary to store and convey those rights to provide for the District's water needs. The renegotiated schedule of payments shall commence when which additional obligations have been financially satisfied by the District. The date of the initial payment owed by the District to the United States shall be regarded as the start of the District's repayment period and the time upon which any interest shall first be computed and assessed under section 5 of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).''.

(2) By striking subsection (c).

By Mr. DAYTON (for himself and Mr. LOTT):

S. 3239. A bill to require full disclosure of insurance coverage and noncoverage by insurance companies and provide for Federal Trade Commission enforcement; to the Committee on Commerce, Science, and Transportation.

Mr. DAYTON. Mr. President, this legislation I am proud to cosponsor, along with my distinguished colleague from Mississippi, is called the Uniform Insurance Noncoverage Disclosure Act. I call it ''honesty is the best insurance policy act.'' It says very simply that all insurance policies—medical, homeowners, whatever they are—must state clearly on the cover page what the policy does not cover.

My colleague from Mississippi can speak eloquently and powerfully about his experiences in his State post-Katrina, but even before that disaster occurred, I have seen similar situations in Minnesota of good people whose lives were devastated by illnesses or natural disasters and then were further devastated by discovering that their losses or expenses were not covered by their insurance policies. For years, they had faithfully paid their premiums believing they had comprehensive coverage, only to find out too late that was untrue.

Insurance companies write the policies, they interpret the policies, they decide what they will and will not cover, and then they handle the appeals and make the final decisions. If they deny the claims, they pocket those dollars in profits. If they honor the claims, they pay them out in losses. Talk about a stacked deck in their favor and against the consumer.

I have had aggrieved constituents show me their homeowners policies. I am an intelligent, well-educated man, but it is impossible to decipher them. They contain cross-references to paragraph numbers in other policies that are not part of the agreement. They cannot be understood, and they are not meant to be understood.

One Minnesota homeowner lost almost everything to a flood. Too late he discovered that his blanket homeowners insurance did not cover losses from a flood. He was protected, according to the policy, if an airplane crashed into his house or if civil insurrection—meaning a revolution—caused damage to his home, but not flooding. What are the chances of those different events possibly occurring?

Another Minnesota family whose father had worked for a company for over 20 years learned that their infant son had been born deaf and needed a Cochlear implant. Two of the insurance companies that carried those policies for the company covered that operation; the other did not, claiming that it was experimental. The family made the unwitting mistake of selecting the wrong policy. No one told them that policy would not pay for Cochlear implant surgery in its comprehensive family coverage, and they, obviously, did not know or could not have known that their unborn son would need this surgery some several years later.

Fortunately, this story has a happy ending. The president of the company, Honeywell, Inc., learning of this injustice, overrode the policy and decreed that Honeywell, the company, would pay for that missing coverage, and that child is now listening to human voices he never would have had the opportunity to otherwise.

But not everyone is in that situation. Not everyone is that fortunate.

So this legislation, again, no costs to it, no bureaucracy, nothing. It simply says that the policy must state clearly, in plain English, understandable on the cover page, what it will not cover. If it is comprehensive, if it is complete, then nothing needs to be said. If it is not, if they experience situations that will not be covered, then it needs to tell the consumer up front on that front page what they will be.

Mr. President, I yield to my distinguished colleague from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. I thank again my colleagues on the Judiciary Committee and Senator CRAIG for allowing us to go ahead and introduce this legislation and make brief statements. It is very generous, and we thank him for it.

I am delighted to join my colleague, Senator DAYTON, tonight in cosponsoring this legislation. He was kind enough to invite me to do so and even said: Why don't you be the lead sponsor? And I said no, but I will be glad to cosponsor it.

I think this is an important statement here tonight. Honesty is the best insurance policy. It has a good ring to it. It is not going to revolutionize the world, but it could make a real difference. This is a time when once again, in many parts of the country and particularly in my home area, we are very sensitive to the threat of disasters because in only 8 days, on June 1, the next hurricane season will begin, and the National Oceanic and Atmospheric Administration predicts four to six major hurricanes in the upcoming season. So once again people are struggling with situations of having lost their homes or having their homes badly damaged and being told: No, your insurance policy didn't cover your damage. You didn't have flood insurance because, well, you weren't in a flood plain, and oh, by the way, your house was washed away. It wasn't blown away even though we had winds of 140 miles per hour with gusts of 160 or 170 miles an hour, so therefore you didn't have any wind damage. I must say it has been a disappointing shock to me, the insensitivity and the decisions of certain insurance companies and the positions they have taken. Sometimes they will say: Well, wait a minute, we told you in the policy we don't cover this, we don't cover that.

I represent a blue-collar community. Most people work in the paper mills and the shipyards and are fishermen in my area. They have high school educations, but they are not lawyers. They get a house insurance policy and they think: I am covered. Now, go back and take a look at your insurance policies. If you really take a look at it, you will find that this is not covered, that is not covered, this is not covered, and the next thing you know, you haven't got much coverage, but your premium still goes forward. The standard policies, for instance, don't cover earthquakes and floods, and depending on where you live, hurricanes may not even be covered. That is going to be determined in legal actions. Sometimes they say: Well, unless the policy specifically says the hurricane was covered, then it is not covered. Well, that is an ingenious argument, too.

So we have found that there are lots of problems here, and it breaks my heart, what I have seen happen to thousands of my constituents and people in the neighboring States of Louisiana, Texas, and Alabama. They are being told: No, you didn't read the small print in your policy, you are not covered, or because it didn't say you were covered, then you are not covered. That is why I have joined in sponsoring this bill. Surely we should have honesty in everything, including insurance coverage. At least we should find a way to help the people understand.

So this is what this bill does. It is not all that complicated. It would require that insurance companies include a noncoverage disclosure box—a noncoverage disclosure box—restating in the body of the policy, in font twice the current size of the text, all conditions, exclusions, and other limitations of coverage under that policy. In other words, make it clear. Don't hide it in legalese and gobbledegook. Make it title size, make it bold, where people can go and see what they are not getting.

Some people say: Wait a minute, this may be damaging to the companies. No, I think it will help the companies. It will increase consumer confidence. It will avoid disagreements or conflicts about what is covered. You will have a clarification here, and if you have questions, then at least you can clear them up. It would be in their interests.

One other criticism, and that is, what is it going to cost the Federal Government? Answer: Nothing. And very little to the companies. They have these exclusions woven in there, but they are quite often way down in the body of some long policy, incomprehensible to the minds of normal and sane men and women.

So I think this is something which would be good. Frankly, I agree with the Consumer Federation of America. This small requirement could have saved many people pain and suffering and hundreds of millions of dollars, maybe even billions, after Katrina. So I think it is a good idea, and it is one I am glad to cosponsor. I hope that as we continue to look at what we do in the aftermath of recent disasters and how we do a better job compared to future disasters, this can be worked into the body of legislation. So I am delighted to join as a cosponsor. I thank Senator DAYTON, and I thank Senator LEAHY and Senator CORNYN for allowing us to do this.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 494—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CREATION OF REFUGEE POPULATIONS IN THE MIDDLE EAST, NORTH AFRICA, AND THE PERSIAN GULF REGION AS A RESULT OF HUMAN RIGHTS VIOLATIONS

Mr. SANTORUM (for himself, Mr. LAUTENBERG, Mr. COLEMAN, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 494

Whereas armed conflicts in the Middle East have created refugee populations numbering in the hundreds of thousands and comprised of peoples from many ethnic, religious, and national backgrounds;

Whereas Jews and other ethnic groups have lived mostly as minorities in the Middle East, North Africa, and the Persian Gulf region for more than 2,500 years, more than 1,000 years before the advent of Islam;

Whereas the United States has long voiced its concern about the mistreatment of minorities and the violation of human rights in the Middle East and elsewhere;

Whereas the United States continues to play a pivotal role in seeking an end to conflict in the Middle East and continues to promote a peace that will benefit all the peoples of the region;

Whereas a comprehensive peace in the region will require the resolution of all outstanding issues through bilateral and multilateral negotiations involving all concerned parties;

Whereas the United States has demonstrated interest and concern about the mistreatment, violation of rights, forced expulsion, and expropriation of assets of minority populations in general, and in particular, former Jewish refugees displaced from Arab countries, as evidenced, inter alia, by—

(1) a Memorandum of Understanding signed by President Jimmy Carter and Israeli Foreign Minister Moshe Dayan on October 4, 1977, which states that ''[a] solution of the problem of Arab refugees and Jewish refugees will be discussed in accordance with rules which should be agreed'';