S. 1866

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1866, a bill to amend title 49, United States Code, to exempt certain local restrictions from review under the airport noise and access restriction review program.

S. 1867

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1867, a bill to require the Administrator of the Federal Aviation Administration to conduct a study on the operation of helicopters over Long Island, New York and for other purposes.

S. 1880

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Delaware (Mr. BIDEN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1880, a bill to amend the Animal Welfare Act to prohibit dog fighting ventures.

S. 1956

At the request of Mr. BAUCUS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1956, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas, and for other purposes.

S. CON. RES. 37

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Con. Res. 37, a concurrent resolution expressing the sense of Congress on federalism in Iraq.

S. RES. 178

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 178, a resolution expressing the sympathy of the Senate to the families of women and girls murdered in Guatemala, and encouraging the United States to work with Guatemala to bring an end to these crimes.

S. RES. 201

At the request of Mr. CHAMBLISS, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Res. 201, a resolution supporting the goals and ideals of ''National Life Insurance Awareness Month''.

At the request of Mr. NELSON of Nebraska, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 201, supra.

AMENDMENT NO. 2829

At the request of Mr. MENENDEZ, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 2829 proposed to H.R. 3074, a bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2836

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of amendment No. 2836 intended to be proposed to H.R. 3074, a bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. LEAHY, Mr. SPECTER, and Mr. WHITEHOUSE):

S. 2041. A bill to amend the False Claims Act; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, for 27 years, I have come to the Senate floor to discuss legislation that will help the Government run efficiently and effectively. I have been an outspoken advocate for whistleblowers, which whistleblowers in good faith bring forth information about waste, fraud, and abuse of taxpayers' dollars. I have championed oversight efforts, and I have spent my time in the Senate asking the tough questions of Government bureaucrats in order to expose these problems, particularly problems that have been brought to my attention by patriotic whistleblowers.

One thing I learned from oversight is that no matter how engaged Congress may be, there are not enough hands to find all the waste, fraud, and abuse in Government programs. Instead, we have to rely then, as I have indicated, on those courageous and patriotic individuals who speak out and blow the whistle, to go to court to collect Government money that was lost to unscrupulous contractors who are selling false or fraudulent goods, in the case of 100 years ago, to Union troops because that is why the False Claims Act came about, and to make sure that we protect whistleblowers when a program is not working and taxpayers' dollars are being lost.

These whistleblowers, by sticking their necks out, are individuals often at risk. They risk everything to fix problems within our Government because they believe in doing their job the way it was intended to be done, and they probably do not get the attention of higher-ups in the bureaucracy. That is why they become whistleblowers and come to Congress to bring these faults out. Somehow they end up being as welcome in the bureaucracy as a skunk is at a picnic.

However, pointing out fraud is one thing; getting results, fixing the problem, and recouping taxpayers' money lost to fraud, waste, and abuse is quite another thing.

The key to recouping these lost funds is ensuring that we have effective laws on the books. One such law is the Federal False Claims Act. I have come to the floor today to remind people about the history of the False Claims Act, but also to suggest some improvements in that act so it can be an even more useful tool in the fight against waste, fraud, abuse, and the protection of whistleblowers.

I have referred to the False Claims Act. This is known as the Lincoln law because it has some history going back to the Civil War. The Lincoln law was originally passed by Congress to combat war profiteering by Government contractors during the Civil War. The False Claims Act allowed individual citizen whistleblowers to go to court to collect Government money that was lost to unscrupulous contractors who were selling false or fraudulent goods to Union troops.

This legal mechanism, known as qui tam, a Latin term, is the key component to the False Claims Act allowing individual citizens to act as private attorneys general to help stop fraud and recover lost money. However, following World War II, the False Claims Act was weakened by an act of Congress which lowered the penalties limiting the money the Government could recover from fraud. This remained the state and the language of the False Claims Act until 1986 when I authored amendments to the act which restored teeth and breathed new air and new life into a law that was designed to protect all American taxpayers.

I am happy to report that in the 20 years since I introduced and Congress passed the 1986 amendment, the Federal Government has used the False Claims Act to recover over $20 billion from those who defraud Government. That is $20 billion that would otherwise be lost and gone forever.

More importantly, this $20 billion serves as a deterrent reminder to those who wish to steal from the Government. We cannot measure the deterrent value of this legislation, but I personally feel, and I have had students of Government tell me, the deterrent value of the False Claims Act is much greater than even the $20 billion that we can quantify that has come back to the Federal Treasury.

Today, the False Claims Act faces a situation where it may not be as effective as intended. Recent decisions by Federal courts have limited the False Claims Act in a way that was not envisioned when I authored the 1986 amendments. These court decisions threaten to undermine both the spirit and intent of the 1986 amendments.

The first case, U.S. Totten v. Bombardier Corporation, held that false claims presented to Government grantees, in this case employees at Amtrak, were not actually presented to the Federal Government. As a result, the Government was precluded from recovering money lost to fraud and abuse perpetuated against Amtrak.

The second case, Rockwell International Corporation, et al, v. U.S.,

was decided earlier this year by the U.S. Supreme Court. In this case, the Court interpreted an area of the False Claims Act, known as the public disclosure bar, which prohibits a false claims case from moving forward if the case is based upon publicly disclosed information, such as a government report, unless the whistleblower filing the case was the ''original source'' of the information.

Now here, the Supreme Court held that a qui tam whistleblower was barred from receiving a share of any money recovered unless that whistleblower was the original source of all claims ultimately settled. Now, I say to my colleagues that this may not sound like a very troublesome decision. However, it is, and the impact is that oftentimes a case is brought by a whistleblower on a certain set of facts and then expanded by the Department of Justice, which ultimately settles on other grounds. As a result, this case creates a disincentive for a whistleblower to bring forth information about fraud, as they may not get to share in any part of the recovery.

You see, one of the incentives for the whistleblowers is if they bring a case that brings back money into the Federal Treasury, they get part of that settlement as an incentive to do this. Quite frankly, a whistleblower sticks their neck out. By doing the right thing, they are probably ruining themselves professionally. Let us say that they get part of the recovery. Well, the Federal Government gets billions of dollars that we would not have even gotten if we had not had the information from the whistleblower. That is why the whistleblower is very important.

Now, there is another case that gives us problems. This third case that challenges the intent of the False Claims Act is United States DRC v. Custer Battles, decided a year ago. In that case, a jury found that a defense contractor in Iraq had defrauded the Government of $10 million. However, the judge overturned the jury verdict, finding that the money lost was not U.S. taxpayer money but was instead Iraqi money under the control of the U.S. Government. As a result of this case, the U.S. Government may not recover for any fraud committed against the U.S. Government if the funds are not American funds, even if the U.S. Government has been entrusted with the management of those funds.

These decisions, I can tell you as author of this legislation, are contrary to the spirit and the intent of the 1986 amendments. Today, I am joined by Senator DURBIN as the lead cosponsor, along with Senator LEAHY and Senator SPECTER—and in those two individuals I will say that Senator LEAHY is chairman of the Judiciary Committee which has jurisdiction, and Senator SPECTER is the former chairman of the committee and now the Ranking Republican—so I feel by having Senator DURBIN, Senator LEAHY, and Senator SPECTER as cosponsors of this False Claims Act Correction Act, as powers within the Senate to bring attention to what the courts have done, this injustice to the False Claims Act and gutting of the False Claims Act, this act will bring it back to its original intent.

This legislation will correct judicial interpretations damaging the False Claims Act. This bill is narrowly tailored to ensure that the intent of Congress in the 1986 amendments is upheld and nothing more. The False Claims Act Correction Act will correct these three judicial interpretations in addition to also making technical and correcting amendments.

First, the bill will address the Totten decision by removing the requirement that false claims be directly presented to a government official, instead tying the liability directly to Government money and property.

Next, the bill will address the Rockwell decision by requiring the Attorney General to file a timely motion to dismiss claims that violate the public disclosure bar. By allowing the Attorney General to present to the court information about public disclosures upfront in a case, the bill would eliminate procedural uncertainties that exist now by allowing public disclosures to be addressed at any time in the case.

The False Claims Act Correction Act also clarifies that nontaxpayer funds under the trust and administration of the U.S. Government subject to fraud are actionable under the False Claims Act. Thus, money directly under the control of the U.S. Government subject to fraud that are currently outside the scope of the False Claims Act would now be covered. This will correct the problems that have arisen following the decision in the Custer Battles case.

Additionally, the bill clarifies a split between the Federal Circuit Courts of Appeal that currently exists regarding whether a government employee may file a False Claims Act case. More specifically, the bill provides that a government employee would be able to bring a False Claims Act case based upon information learned in the course of their employment, only when the employee: No. 1, discloses the fraud to their supervisors; No. 2, discloses the fraud to the inspector general of that agency; and, No. 3, discloses the fraud to the Attorney General and then waits 12 months without the Government acting. After these conditions are met, then, and only then, may a government employee act as a qui tam whistleblower.

Finally, the bill makes two technical corrections to the False Claims Act. The first is a technical-correcting amendment that clarifies the statute of limitations. The second is a technical amendment to the civil investigative demands that the Department of Justice is already authorized to issue. These technical corrections will streamline the procedures for filing as well as prosecuting False Claims Act cases by both qui tam whistleblowers as well as cases instituted originally by the Department of Justice.

The False Claims Act Correction Act is a narrowly tailored bill that seeks to ensure the legislative intent of the 1986 amendments is truly understood. This is not a Democratic or Republican issue. It is an American taxpayer issue. I am proud to say this bill has strong bipartisan support, as I am joined by Senator DURBIN as the lead Democratic cosponsor, and I wish to emphasize Senator LEAHY's and Senator SPECTER's cosponsorship of this legislation.

I am glad we have a bipartisan coalition ready to work to fix the False Claims Act with these narrowly tailored corrections, but I encourage my colleagues not to bow to special interest groups who have worked to weaken the No. 1 tool for recovering Government dollars lost to fraud.

I will say at this point that yesterday I had a private discussion with a Senator who will go unnamed. He said, even as corrective as this legislation is, and it is only meant to be correcting, that already we have the pharmaceutical companies out working against this legislation. So this may not be easy to get through, even though it is sticking with the original intent. So I don't want to get into a situation such as I did in 1986, when we wrote a bill that was bipartisan, and it took about a year to get the various holds off that were put on this. In those days, we had secret holds. Under the new rules of the Senate, we are not supposed to have any secret holds anymore.

So if people have complaints about this legislation, I wish to work it out, but I don't know how anybody can hold up legislation where the underlying legislation has brought $20 billion that would have otherwise been lost to fraud back to the Federal Treasury. The American taxpayers deserve a law that detects, prevents, and recovers money lost to fraud. The False Claims Act works and has recovered this $20 billion, and that law is 20 years old. But let me say this money didn't start rolling in until about 6 or 7 years after that 1986 law was passed.

The False Claims Act Correction Act will provide necessary and narrowly tailored corrections to ensure that the False Claims Act works to protect the taxpayers into the future, as I visualized it would in 1986 in spirit as well as in letter. I urge my colleagues to support this important legislation.

I have had the pleasure of having the Presiding Officer ask to be a cosponsor of the bill, so I ask unanimous consent that Senator WHITEHOUSE be added as a cosponsor at this point.

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

Mr. President, I ask unaniumous 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 placed in the RECORD, as follows:

S. 2041

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 ''False Claims Act Correction Act of 2007''.

SEC. 2. FALSE CLAIMS GENERALLY.

Section 3729 of title 31, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) LIABILITY FOR CERTAIN ACTS.—

''(1) IN GENERAL.—Subject to paragraph (2), any person who—

''(A) knowingly presents, or causes to be presented a false or fraudulent claim for Government money or property for payment or approval;

''(B) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim for Government money or property paid or approved;

''(C) conspires to commit any substantive violation set forth in this section or otherwise to defraud the Government by getting a false or fraudulent claim for Government money or property paid or approved;

''(D) has possession, custody, or control of Government money or property and, intending to defraud the Government, to retain overpayment, or knowingly to convert the money or property, permanently or temporarily, to an unauthorized use, fails to deliver or return, or fails to cause the return or delivery of the money or property, or delivers, returns, or causes to be delivered, or returned less money or property than the amount due or owed;

''(E) authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

''(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

''(G) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000 plus 3 times the amount of damages which the Government, its grantee, or administrative beneficiary sustains because of the act of that person.

''(2) LESSER PENALTY.—If the court finds that—

''(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

''(B) such person fully cooperated with any Government investigation of such violation; and

''(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not less than 2 times the amount of damages which the Government, its grantee or administrative beneficiary sustains because of the act of the person.

''(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.''.

(2) by striking subsections (b) and (c) and inserting the following:

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

''(1) the terms 'known', 'knowing', and 'knowingly' mean that a person, with respect to information—

''(A) has actual knowledge of the information;

''(B) acts in deliberate ignorance of the truth or falsity of the information; or

''(C) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required;

''(2) the term 'Government money or property' means—

''(A) money or property belonging to the United States Government;

''(B) money or property the United States Government provides, has provided, or will reimburse to a contractor, grantee, agent or other recipient to be spent or used on the Government's behalf or to advance Government programs;

''(C) money or property belonging to any administrative beneficiary, as defined herein;

''(3) the term 'claim' includes any request or demand, whether under a contract or otherwise, for Government money or property; and

''(4) the term 'administrative beneficiary' means any natural person or entity, including any governmental or quasi-governmental entity, on whose behalf the United States Government, alone or with others, collects, possesses, transmits, administers, manages, or acts as custodian of money or property.'';

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

(4) in subsection (c), as redesignated, by striking ''subparagraphs (A) through (C) of subsection (a)'' and inserting ''subsection (a)(2)''.

SEC. 3. GOVERNMENT RIGHT TO DISMISS CERTAIN ACTIONS.

Section 3730(b) of title 31, United States Code, is amended by adding at the end thereof the following:

''(6)(A) Not later than 60 days after the date of service under paragraph (2), the Government may move to dismiss from the action the qui tam relator that is an employee of the Federal Government if—

''(i) all the necessary and specific material allegations contained in such action were derived from an open and active fraud investigation by the Government; or

''(ii) the person bringing the action learned of the information that underlies the alleged violation of section 3729 that is the basis of the action in the course of the person's employment by the United States, and none of the following has occurred:

''(I) In a case in which the employing agency has an inspector general, such person, before bringing the action—

''(aa) disclosed in writing substantially all material evidence and information that relates to the alleged violation that the person possessed to such inspector general; and

''(bb) notified in writing the person's supervisor and the Attorney General of the disclosure under division (aa).

''(II) In a case in which the employing agency does not have an inspector general, such person, before bringing the action—

''(aa) disclosed in writing substantially all material evidence and information that relates to the alleged violation that the person possessed, to the Attorney General; and

''(bb) notified in writing the person's supervisor of the disclosure under division (aa).

''(III) Not less than 12 months (and any period of extension as provided for under subparagraph (B)) have elapsed since the disclosure of information and notification under either subclause (I) or (II) were made and the Attorney General has not filed an action based on such information.

''(B) Prior to the expiration of the 12-month period described under subparagraph (A)(ii)(III) and upon notice to the person who has disclosed information and provided notice under subparagraph (A)(ii) (I) or (II), the Attorney General may file a motion seeking an extension of such 12-month period. Such 12-month period may be extended by a court for not more than an additional 12-month period upon a showing by the Government that the additional period is necessary for the Government to decide whether or not to file such action. Any such motion may be filed in camera and may be supported by affidavits or other submissions in camera.

''(C) For purposes of subparagraph (A), a person's supervisor is the officer or employee who—

''(i) is in a position of the next highest classification to the position of such person;

''(ii) has supervisory authority over such person; and

''(iii) such person believes is not culpable of the violation upon which the action under this subsection is brought by such person.

''(D) A motion to dismiss under this paragraph shall set forth documentation of the allegations, evidence, and information in support of the motion.

''(E) Any person bringing a civil action under paragraph (1) shall be provided an opportunity to contest a motion to dismiss under this paragraph. The court may restrict access to the evidentiary materials filed in support of the motion to dismiss, as the interests of justice require. A motion to dismiss and papers filed in support or opposition of such motion shall not be—

''(i) made public without the prior written consent of the person bringing the civil action; and

''(ii) subject to discovery by the defendant.

''(F) If the motion to dismiss under this paragraph is granted, the matter shall remain under seal.

''(G) No later than 6 months after the date of the enactment of this paragraph, and every 6 months thereafter, the Department of Justice shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives relating to—

''(i) the cases in which the Department of Justice has filed a motion to dismiss under this paragraph;

''(ii) the outcome of such motions; and

''(iii) the status of false claims civil actions in which such motions were filed.''.

SEC. 4. BARRED ACTIONS.

(a) PROVISIONS RELATING TO ACTIONS BARRED.—Section 3730(b)(1) of title 31, United States Code, is amended by adding at the end the following: ''No claim for a violation of section 3729 may be waived or released by any action of any person, except insofar as such action is part of a court approved settlement of a false claim civil action brought under this section. Nothing in this section shall be construed to limit the ability of the United States to decline to pursue any claim brought under this subchapter.''.

(b) DISMISSAL.—Section 3730(e)(4) of title 31, United States Code, is amended to read as follows:

''(4)(A) Upon timely motion of the Attorney General, a court shall dismiss an action or claim brought under section 3730(b) if the

allegations relating to all essential elements of liability of the action or claim are based exclusively on the public disclosure of allegations or transactions in a Federal criminal, civil, or administrative hearing, in a congressional, Federal administrative, or Government Accountability Office report, hearing, audit or investigation, or from the news media.

''(B) In this paragraph:

''(i) The term 'public disclosure' includes only disclosures made on the public record or that have otherwise been disseminated broadly to the general public.

''(ii) The person bringing the action does not create a public disclosure by obtaining information from a Freedom of Information Act request or from information exchanges with law enforcement and other Government employees if such information does not otherwise qualify as publicly disclosed.

''(iii) An action or claim is based on a public disclosure only if the person bringing the action derived his knowledge of all essential elements of liability of the action or claim alleged in his complaint from the public disclosure.''.

(c) QUI TAM AWARDS.—Section 3730(d)(3) of title 31, United States Code, is amended to read as follows:

''(3)(A) Whether or not the Government proceeds with the action, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which a person would otherwise receive under paragraph (1) or (2) of this subsection (taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation), if the court finds that person—

''(i) planned and initiated the violation of section 3729 upon which the action was brought; or

''(ii) derived the knowledge of the claims in the action primarily from specific information relating to allegations or transactions (other than information provided by the person bringing the action) that the Government publicly disclosed, as that term is defined in subsection (e)(4)(A), or that the Government disclosed privately to the person bringing the action in the course of its investigation into potential violations of this subchapter.

''(B) If the person bringing the action is convicted of criminal conduct arising from the role of that person in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.''.

SEC. 5. RELIEF FROM RETALIATORY ACTIONS.

Section 3730(h) of title 31, United States Code, is amended to read as follows:

''(h) RELIEF FROM RETALIATORY ACTIONS.—

''(1) IN GENERAL.—Any employee, government contractor, or agent shall be entitled to all relief necessary to make that employee, government contractor whole, if that employee, government contractor or Agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, government contractor, or agent on behalf of the employee, government contractor, or agent or associated others in furtherance of other efforts to stop 1 or more violations of this subchapter.

''(2) RELIEF.—Relief under paragraph (1) shall include reinstatement with the same seniority status that employee, government contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States for the relief provided in this subsection.''.

SEC. 6. STATUTE OF LIMITATIONS.

Section 3731(b) of title 31, United States Code, is amended to read as follows:

''(b)(1) A civil action under section 3730 may not be brought more than 10 years after the date on which the violation of section 3729 or 3730 is committed.

''(2) Upon intervention, the Government may file its own complaint in intervention or amend the complaint of a person who has brought an action under section 3730(b) to clarify or add detail to the claims in which the Government is intervening and to add any additional claims with respect to which the Government contends it is entitled to relief. For statute of limitations purposes, any such Government pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the Government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.''.

SEC. 7. CIVIL INVESTIGATIVE DEMANDS.

Section 3733(a)(1) of title 31, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting '', or a designee (for purposes of this section),'' after ''Whenever the Attorney General''; and

(2) in the matter following subparagraph (D), by—

(A) striking ''may not delegate'' and inserting ''may delegate''; and

(B) adding at the end the following: ''Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determine it is necessary as part of any false claims act investigation.''.

Mr. DURBIN. Mr. President, I am pleased to join my colleague Senator GRASSLEY in introducing the False Claims Act Correction Act of 2007. This bipartisan legislation takes important steps to modernize and strengthen the Federal False Claims Act and will help protect the Government and taxpayers from waste, fraud, and abuse of Government funds.

During the Civil War, President Abraham Lincoln saw the need for a law that would prevent war profiteers and other unscrupulous Government contractors from defrauding the Government and the Nation's taxpayers. Lincoln urged the passage of legislation that would allow the Government to seek damages and penalties against perpetrators of fraud, and that would permit whistleblowers with information about false or fraudulent claims to file qui tam lawsuits on the Government's behalf in exchange for a share of the recovered funds. In 1863, Congress heeded Lincoln's call and enacted the Federal False Claims Act, FCA, which became known as ''Lincoln's Law.''

Lincoln's Law is still in effect today and it is still much-needed. In recent years, there have been alarming reports of waste, fraud, and abuse of Government funds in the Iraq war and reconstruction effort, in the recovery from Hurricane Katrina and other disasters, in military and homeland security procurement contracts, and in Federal healthcare programs. We need strong laws that can expose and root out such fraudulent practices.

The last major update of the FCA took place in 1986, when Senator GRASSLEY and Congressman BERMAN sponsored amendments that revitalized the FCA and its qui tam provisions in response to widespread reports of defense contractor fraud. Since 1986, the Federal Government and qui tam relators have worked together to recover over $20 billion in moneys that would otherwise have been lost to fraud, waste or abuse in Government programs. The recovery of this enormous sum is a victory for taxpayers, and a demonstration of the success of the FCA and its qui tam model.

It has now been 21 years since the enactment of the 1986 FCA amendments, and during that time changes in the interpretation of the act and in the nature of Government contracting have threatened to limit the FCA's effectiveness. In particular, several recent court decisions have weakened the intent and application of Senator GRASSLEY's 1986 amendments to the FCA and have limited the FCA's ability to reach certain types of fraud and abuse involving Government programs.

The False Claims Act Correction Act seeks to correct these court decisions and to ensure the FCA's utility as an effective tool against fraud. It does so in several ways.

First, the False Claims Act Correction Act clarifies the ''presentment requirement'' in the FCA. In 2004, the DC Circuit Court of Appeals held that liability under the FCA can only be found if the allegedly fraudulent claim is ''presented to an officer or employee of the United States Government.'' This interpretation has been used by courts to dismiss a number of FCA cases where abuses of Federal Government funds were clearly evident but where the false claims were submitted to grantees or agents of the Federal Government—such as the Iraq Coalition Provisional Authority—and not directly to Government employees. Our legislation would make clear that FCA imposes liability if a person presents a false or fraudulent claim for Federal Government money or property, and that the claim need not be directly presented to a Government employee.

Our legislation also clarifies the applicability of the FCA's ''public disclosure bar.'' The FCA currently allows a relator's FCA case to be dismissed if the case is based on information that was publicly available at the time of the filing, unless the relator was the ''original source'' of the public information. In its 2007 decision in Rockwell Int'l Corp. et al. v. United States, the Supreme Court held that the public disclosure bar prevents a relator from recovering money unless the relator was an original source for all the

claims that are settled or upon which a verdict is rendered. The Rockwell holding is troubling because relators often file actions based on facts which prove to be the tip of the iceberg, and upon further investigation DOJ discovers more fraud and ends up settling or winning the case on the grounds of the latter fraud.

The Rockwell court's interpretation of the public disclosure bar might discourage whistleblowers from filing legitimate FCA cases and alerting DOJ to fraud. Our legislation would preclude a relator from recovery under the public disclosure bar only where the relator derived knowledge of all essential elements of the claim from public disclosure. Thus, only relators who truly contributed no new information to the case would be barred.

Among its other provisions, the False Claims Act Correction Act resolves a split among the Federal circuit courts by allowing a Government employee to act as a qui tam relator when the employee learns of fraudulent conduct on the job, provided that the employee has first taken steps to report the fraud internally. Our legislation also strengthens the protections in the FCA for whistleblowers, so that whistleblowers who are Government contractors and agents can receive the same antiretaliation protection as employees of the company perpetrating the alleged fraud. Our bill further simplifies the FCA statute of limitations with a clear 10-year standard for all cases, and also makes technical changes to enhance DOJ's usage of the civil investigative demand process in DOJ investigations of potential FCA violations.

The changes that our legislation would make to the FCA are narrowly tailored, and are designed to clarify the FCA's scope in keeping with the intent of the authors of the 1986 FCA amendments. I commend Senator GRASSLEY, the Senate architect of the 1986 FCA amendments, for his devotion to ensuring the effective functioning of the FCA, and I am proud to join him in introducing this legislation to better combat waste, fraud, and abuse of Government programs.

In sum, the False Claims Act Correction Act will enhance whistleblowers' ability to shine a light on fraudulent conduct involving Government funds, and to hold the perpetrators accountable through legitimate qui tam claims. The bill's reforms will ensure that the FCA can continue to serve as a viable tool for recovering taxpayer funds lost to fraud, waste or abuse. The legislation we are introducing today will strengthen the legacy of Lincoln's Law, and I am pleased to serve as its lead cosponsor. I urge my colleagues to support its passage.

Mr. SPECTER. Mr. President, I seek recognition to discuss the False Claims Act Correction Act of 2007. The False Claims Act was passed by Congress in 1863 in order to combat war profiteering during the Civil War. The goal of the law was to encourage individuals to alert the Government when fraud against the Government was occurring. The statute does this by providing a portion of the Government's recovery to the whistleblower. This law is as important today, as it was in 1863, because we still must combat fraud and abuse of Government programs. These amendments ensure that the False Claims Act has not been eroded in scope or application.

I am cosponsoring the bill offered by the distinguished Senator from Iowa because Congress needs to clarify its intent that there is liability under the False Claims Act for submitting false claims for Government funds and property—regardless of whether they are submitted directly to Government agents or are submitted to others who disburse Government money or property.

A defendant may not make a preemptive disclosure that operates to bar the whistleblower or relator from recovering—the only claims that should be barred are those that are true piggyback claims, where the relator was not the original source of the information, and the whistleblower's actions were not the impetus for the recovery.

Government employees may be qui tam relators—whistleblowers—and may be awarded a portion of the Government's recovery based on false claims if, when the Government employee has learned of fraudulent conduct on the job and has reported it up the chain of command, and then reported it to the Office of Inspector General, still no action has been taken within 12 months.

Retaliatory action based on protected activity by whistleblowers is prohibited.

Federal prosecutors who are investigating False Claim Act complaints filed under seal may share information obtained by Civil Investigative Demands, CIDs, with relators.

For purposes of the running of the statute of limitations, if the Government intervenes in a False Claims Act case, the intervention relates back to the date the whistleblower filed suit.

Taxpayer dollars must not be wasted or fraudulently paid to unscrupulous contractors.

By Ms. STABENOW (for herself, Mr. ISAKSON, Mr. WARNER, and Mr. WHITEHOUSE):

S. 2042. A bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. STABENOW. Mr. President, today I am pleased to introduce the SMA Treatment Acceleration Act. I also thank my colleagues, Senators ISAKSON, WARNER, and WHITEHOUSE, for joining me in sponsoring this important legislation.

In April, I met with Malorie Fox, a beautiful 4-year-old from Ada, Michigan, and several other Michigan families about Spinal Muscular Atrophy, SMA, the number one genetic killer of children under 2 years of age. SMA is a degenerative disease that weakens the body's muscles until they can no longer function, that includes the ability to breathe.

Sadly, Malorie was diagnosed with SMA shortly before her first birthday. Her parents were told by her doctors that most children diagnosed with SMA never reach this milestone. Thankfully, Malorie survived, and with her parents Michelle and James, she continues to fight this disease. On her homepage, Malorie wrote: ''My mommy & daddy focus on the things I CAN do, not those that I cannot.''

Malorie and her family are not alone. It is estimated that SMA occurs in about 1 in every 6,000 births. Approximately 1 in 40 individuals, 7.5 million Americans, carry the gene that causes SMA, making it the second most common autosomal recessive genetic disorder. This incidence rate shows neither racial nor gender bias.

Presently, there is no known treatment for SMA, though there have been several exciting research breakthroughs over the past decade. In fact, the National Institutes of Health singled out SMA from more than 600 neurological disorders as the disease closest to treatment based on scientists' advanced genetic understanding of the disease. Private foundations and national nonprofit organizations dedicated to finding a cure for SMA have also made substantial financial contributions.

To support the investigators and families who are working to find a treatment or cure, the SMA community, including Fight SMA, Families of SMA, and the SMA Foundation, has united behind this legislation. This bill will provide a roadmap and federal funding to better coordinate and facilitate SMA research and treatment. Additionally, the legislation will establish a program to provide information and education on SMA to health professionals and the general public related to advances in the diagnosis and treatment of SMA and the provision of care to SMA patients.

Next Monday is Malorie's birthday, and I couldn't wish for anything more for her birthday than a cure for SMA. This legislation will be an important step forward in fulfilling that wish. I urge my colleagues to join with us in passing it.

I ask unanimous consent that letter of support be printed in the RECORD.

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

SPINAL MUSCULAR ATROPHY FOUNDATION,
September 12, 2007.

Hon. DEBBIE STABENOW,
U.S. Senate,
Washington, DC.

DEAR SENATOR STABENOW: We write to express our strong support for the SMA Treatment Acceleration Act, your bipartisan legislation to help find a treatment or cure for

Spinal Muscular Atrophy (SMA), the number one genetic killer of children under the age of two.

Our organizations support cutting edge SMA research and represent thousands of families across the country that have been affected by SMA, an inherited disease that destroys the nerves controlling muscle movement, which affects crawling, walking, head and neck control, swallowing, and even breathing. The gene mutation that causes SMA is carried by one in every 40 people, or approximately 7.5 million Americans.

These are hopeful times for families affected by Spinal Muscular Atrophy. Researchers have discovered the gene responsible for SMA, opening the door to promising new treatments. SMA was selected by the National Institutes of Health (NIH) as the prototype for an accelerated drug discovery effort, singling out SMA as the disease closest to treatment of more than 600 neurological disorders.

In order to build upon the substantial investment made by national non-profit organizations and the progress being made by researchers towards bringing treatments to children affected by SMA, our organizations are united behind the SMA Treatment Acceleration Act. This legislation would authorize critical funding in order to upgrade and unify existing SMA clinical trial sites to establish a clinical trials network for SMA; enhance and provide ongoing support to the existing SMA patient registry; establish an SMA coordinating committee consisting of representatives from relevant government agencies and the public; establish an SMA research collaborative at NIH to ensure cooperation across multiple Institutes; and support efforts to identify barriers to drug development and recommend steps to expand existing industry incentives to promote SMA drug development.

We thank you for your leadership in the effort to conquer this terrible disease, and we look forward to working with you to enact this important legislation.

Sincerely,

CYNTHIA JOYCE,
SMA Foundation.
KENNETH HOBBY,
Families of SMA.
MARTHA SLAY,
FightSMA.

By Mr. PRYOR (for himself and Mr. INOUYE):

S. 2045. A bill to reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, in recent months, the American public has been faced with a series of high profile recalls of consumer products. In the last 2 months alone, approximately 2 million toys were recalled for violating lead paint standards, and more than 5 million toys were recalled for containing magnets that come loose and create an ingestion hazard. The recalls were not limited to toys. Candles, all-terrain vehicles, cribs, bunk beds, space heaters, clothes, knives, scuba masks, radios, lamps, and electronic equipment were also recalled.

Public outcry and press reports have intensified the focus on the Consumer Product Safety Commission, CPSC, the agency charged with monitoring the safety of these products. What Americans have found is a CPSC restrained by the combination of a far-reaching mandate, a shrinking staff, and the smallest budget of any federal health and safety agency.

This is why I rise today to cosponsor the CPSC Reform Act of 2007, introduced by Senator MARK PRYOR. This act is a comprehensive and aggressive reauthorization bill designed to revitalize the Commission and improve consumer safety through stronger consumer protection laws, increased authority, and increased authorization levels necessary for the CPSC to do its job well.

To say a CPSC budget and staffing increase is long overdue is a gross understatement. The last time the CPSC was reauthorized was in 1990. In order for the CPSC to complete its mission, it needs steady funding. This is why the CPSC Reform Act officially reauthorizes the Commission for the next 7 years. Beginning with an authorization of $80 million for fiscal year 2009, the funding levels would increase by 10 percent per year, culminating at approximately $141.7 million for fiscal year 2015.

Furthermore, to improve CPSC's ability to test consumer products, the bill authorizes an additional $20 million for fiscal year 2009 and fiscal year 2010 for much needed repair, re-equipping, and upgrading of the CPSC's research, development, and testing facility.

The CPSC Reform Act also directs the Commission to increase its number of full-time employees to at least 500 within the first 5 years, returning the CPSC to staffing levels comparable to those maintained by the Clinton administration. When the CPSC was established in 1973, it had 786 full-time employees responsible for the safety of 10,000 consumer products. Today, the CPSC is responsible for more than 15,000 consumer products—many of which are manufactured overseas. Yet today, the CPSC functions with only 420 full-time employees. This bill takes great strides in restoring these staffing levels.

Additionally, although the CPSC is authorized to have five Commissioners, the agency has been operating with only two Commissioners since July 2006. The CPSC Reform Act eliminates a 1992 limitation on the use of funds for more than three Commissioners and urges the President to appoint a full complement of five Commissioners.

Adequate funding and staffing are only the beginning. The CPSC Reform Act also strengthens consumer products safety laws.

First, the Act increases the maximum per violation civil penalty from $8000 to $250,000 and the maximum civil penalty for a related series of violations from $1.825 million to $100 million.

Second, the Act strikes the requirement that violators of the Consumer Product Safety Act, CPSA, may only be criminally prosecuted after repeated warnings. It also makes a knowing violation of the CPSA punishable by up to a 1-year imprisonment and a knowing and willful violation punishable by up to a 5-year imprisonment.

The act also goes to the heart of the recent consumer product recalls. It bans the use of lead in children's products and establishes a maximum level trace amount of lead allowed in such products. It directs manufacturers to label children's products with marks that can be used to identify the source, production date, and other information useful to facilitate a recall.

Additionally, the act directs the CPSC to establish a protocol for manufacturers and importers to have independent third party compliance certification for children's consumer products under CPSC jurisdiction. Further, the measure authorizes the CPSC to refer importers found to have committed multiple violations of the CPSA to U.S. Customs and Border Protection with the recommendation that the importer's license be revoked.

The CPSC is tasked with keeping unsafe and harmful products off our store shelves and out of our homes and the hands of our children. This line of defense has grown thin because of a lack of resources, staffing, and authorities. Although the dedicated career staff has continued to work diligently under trying circumstances and limited resources, Congress must act quickly to give them the tools to do their job better, so that consumer confidence can be restored.

I look forward to working with my colleagues on this comprehensive CPSC reauthorization legislation.

By Mr. COLEMAN (for himself and Ms. KLOBUCHAR):

S. 2047. A bill to require enhanced disclosures to consumers purchasing flood insurance and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. COLEMAN. Mr. President, I rise today to introduce the Flood Insurance Disclosure Act of 2007. I thank my Minnesota colleague, Senator KLOBUCHAR, for her cosponsorship of this bill.

Last month, the southeastern part of my State of Minnesota was the scene of devastating, historic flooding that claimed seven lives, caused widespread damage to the area's homes, businesses and infrastructure and disrupted the day-to-day lives of countless Minnesotans.

As I traveled in the flood ravaged areas, I was troubled to hear and learn that only a few residents had flood insurance. Even more troubling were reports that some residents had been told they could not get flood insurance.

One telling statistic is that in the seven Federally declared disaster counties, which include Olmsted and Winona counties, less than 1 percent of all households had flood insurance. Certainly we can do better and must do better.

In an effort to increase the number of residents with flood insurance and to make sure residents get the information they need about flood insurance, today I am introducing legislation to amend the National Flood Insurance Act of 1968 to require insurance companies to disclose noncoverage of flood insurance in homeowner's and renter's policies, as well as the resident's eligibility for flood insurance.

The Federal Government long ago recognized the importance of flood insurance and that is why we have the National Flood Insurance Program which makes available, in partnership with insurance companies, flood insurance to households. At the end of day, flood insurance can serve as a financial life saver in flood disasters, while federal disaster assistance is, at best, a lifeline.

At the end of the day flood insurance is really about an ounce of prevention being worth a pound of cure. It is my hope that through this legislation more Minnesotans and Americans will obtain flood insurance in order to protect their financial well-being in the event of a flood disaster.

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. 2047

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 ''Flood Insurance Disclosure Act of 2007''.

SEC. 2. ADDITIONAL REQUIREMENTS OF INSURERS.

Part A of Chapter II of the National Flood Insurance Act of 1968 (42 U.S.C. 4051 et seq.) is amended by adding at the end the following:

''SEC. 1337. ADDITIONAL REQUIREMENTS OF INSURERS.

''(a) DISCLOSURE OF NONCOVERAGE.—

''(1) IN GENERAL.—Each insurance company or other insurer shall disclose, in writing, to any homeowner or renter who purchases a homeowner's or renter's insurance policy from such company or insurer that such policy does not include flood insurance coverage as described under chapter I.

''(2) PLACEMENT OF DISCLOSURE.—The disclosure required under paragraph (1) shall be—

''(A) in English;

''(B) composed in a clear and conspicuous manner; and

''(C) displayed on the insurance policy described under such paragraph.

''(b) DISCLOSURE OF ELIGIBILITY.—Each insurance company or other insurer shall disclose, in writing, at the time of sale of any homeowner's or renter's insurance policy to the purchaser of such policy—

''(1) that such person may be eligible to purchase flood insurance coverage as described under chapter I; and

''(2) the telephone number and Internet address by which the purchaser can contact the National Flood Insurance Program in order to obtain such flood insurance coverage.

''(c) RECORD KEEPING.—Each insurance company or other insurer shall keep and maintain an accurate record of each disclosure provided under this section.''.

By Mrs. FEINSTEIN:

S. 2048. A bill for the relief of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Beundia Arandia; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am offering legislation to provide lawful permanent residence status to Jose Buendia Balderas, his wife, Alicia Aranda De Buendia, and their daughter, Ana Laura Buendia Aranda, Mexican nationals who have been living and working in the Fresno area of California for over 20 years.

Jose Buendia is a remarkable individual who epitomizes the American dream. His father worked as an agricultural laborer in the Bracero program over 25 years ago. In 1981, Jose followed his father to the U.S., where he worked in the shadows to help provide for his family in Mexico.

Since then, Jose has moved from working as a landscaper to construction, where he is now a valued employee of Bone Construction in Reedley, CA. He has been employed by this cement company for the past 8 years. Although he knew nothing about construction when he began working in the field, he was disciplined and persistent in his training and is now a lead foreman. His employer, Timothy Bone, says Mr. Buendia is a ''reliable, hard-working and conscientious'' employee. In fact, it was Mr. Bone who contacted my office to seek relief for Mr. Buendia.

Alicia Buendia, Jose Buendia's wife, has been working as a seasonal fruit packer for several years. The family has consistently paid all of their taxes. Recently, they paid off their mortgage and today, they are debt free. They have health insurance, savings and retirement accounts, participate in the company profit-sharing company, and support their family here and in Mexico. In short, they are living the American dream.

Their daughter, Ana Laura, is an outstanding student. She earned a 4.0 GPA at Reedley High School and was awarded an academic scholarship to the University of California—Berkeley. Unfortunately, because of her immigration status, she was unable to accept the scholarship and her parents now pay full out-of-State tuition for her to attend the University of California—Irvine.

Their son, Jose, is a U.S. citizen, and attends Reedley High School. For both Jose and Ana Laura, the U.S. is the only country they know.

What makes the story of the Buendias so tragic is that they would have been eligible to correct their illegal status but for the unscrupulous practices of their former immigration attorney.

Because Mr. Buendia has been in this country for so long, he qualified for legalization pursuant to the Immigration and Reform Control Act of 1986. Unfortunately, his legalization application was never acted upon because his attorney, Jose Velez, was convicted of fraudulently submitting legalization and Special Agricultural Worker applications.

This criminal conduct tainted all of Mr. Velez's clients. Although Mr. Buendia's application was found not to contain any fraudulent documentation associated, it was submitted while his lawyer was under investigation. The result was that Mr. Buendia was unable to be interviewed and obtain legal status.

To complicate matters, it took the Immigration and Naturalization Service nearly 7 years to determine that Mr. Buendia's application contained no fraudulent information. In the meantime, the Immigration and Naturalization Service reinterpreted the law and determined that he was no longer eligible for relief because he had left the U.S. briefly when he married his wife.

Despite these setbacks, the Buendia family has continued to seek legal status. They believed they were successful when an immigration judge granted the family relief based on the hardship their U.S. citizen son would face if his family was deported to Mexico. Unfortunately, the Government appealed the judge's decision and had it overturned by the Board of Immigration Appeals.

Despite the problems with adjusting their legal status, this family has forged ahead and continued to play a meaningful role in their community. They have worked hard. They have invested in their neighborhood. They are active in the PTA and their local church.

I believe the Buendia family should be allowed to continue to live in this country that has become their own. If this legislation is approved, the Buendias will be able to continue to contribute significantly to the U.S. It is my hope that Congress passes this private legislation.

Mr. President, I ask unanimous consent 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. 2048

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

SECTION 1. PERMANENT RESIDENT STATUS FOR JOSE BUENDIA BALDERAS, ALICIA ARANDA DE BUENDIA, AND ANA LAURA BUENDIA ARANDA.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda enter the United States before the filing deadline specified in subsection (c), Jose Buendia

Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda shall be considered to have entered and remained lawfully and shall be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of an immigrant visa or permanent residence to Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda, the Secretary of State shall instruct the proper officer to reduce by 3, during the current or next following fiscal year—

(1) the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)); or

(2) if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Jose Buendia Balderas, Alicia Aranda De Buendia, and Ana Laura Buendia Aranda under section 202(e) of such Act.

By Mr. KENNEDY (for himself, Mr. SMITH, Mr. ROCKEFELLER, Ms. SNOWE, Mr. MENENDEZ, and Mr. KERRY):

S. 2049. A bill to prohibit the implementation of policies to prohibit States from providing quality health coverage to children in need under the State Children's Health Insurance Program (SCHIP); to the Committee on Finance.

Mr. KENNEDY. Mr. President, when we passed the Children's Health Insurance Program a decade ago, we made a promise to working families to do more to help them obtain decent health insurance for their children. Today, we are keeping that promise. The Senate has passed a bipartisan CHIP reauthorization to strengthen the program, bring health care to at least four million more children, and strengthen the outreach and funding for the program.

CHIP has been a great success for children who obtain its coverage. Over the last decade, the percentage of uninsured children has dropped from 22 percent in 1997 to 13 percent today. And that's in spite of the fact that more and more parents have been losing insurance coverage through their jobs, because employers decide to reduce it or drop it entirely. But 9 million children in the United States still lack health insurance because they are not aware of their eligibility for coverage, or because eligibility is too restrictive. The CHIP reauthorization bill will make a real difference in closing this unacceptable gap so that no parents are faced with the decision of whether they can afford to take their sick child to a doctor.

The Bush administration, however, is bent on blocking this progress. The Center for Medicare and Medicaid Services has issued a new guidance that will make it virtually impossible for States to expand coverage to children in with household incomes above 250 percent of the Federal poverty level. The guidance will be especially disruptive and unfair to CHIP coverage in 18 states, including Massachusetts, which now allows for children in families with income levels over 250 percent of poverty.

No State should be forced to cut health insurance coverage for children. Once again, the Administration has shown itself to be out of touch and out of step with the priorities of working Americans. The Administration's action denies the promise of good health care to countless children in communities across America.

That is why today, along with Senators SMITH, ROCKEFELLER and SNOWE, I am introducing legislation to nullify the new rule from the Centers for Medicare and Medicaid Services and allow each State to cover children at the income level that is most appropriate for their State. Simply, children in all States should be able to obtain the quality health care they need in order to grow and thrive. The administration should be ashamed of its cruel attempt to revoke this needed coverage, and Congress should not allow the new rule to stand.

Mr. SMITH. Mr. President, I rise today to introduce a bill, The Better Health for America's Children Act,'' with my esteemed colleague Senator EDWARD KENNEDY that will serve to block implementation of the Centers for Medicare and Medicaid Services, CMS, guidance issued on August 17, 2007, which negatively impacts the State Children's Health Insurance Program, SCHIP. I also am pleased to be joined by fellow Finance Committee members Senator ROCKEFELLER and Senator SNOWE as we introduce this important bill.

If allowed to go forward, this new policy will have a devastating impact on our Nation's children's access to affordable health care coverage. The guidance, as set out in the August 17 letter to State Health Officials, sets unrealistic standards that will serve only to prevent States from covering children with incomes above 250 percent of the Federal poverty level, FPL, under SCHIP. While the agency has stated that it simply is trying to preserve coverage for low-income children, this policy will impede a State's ability to expand health insurance to children whose family income is above $42,925 for a family of three. With health care costs increasingly being priced out of working families' reach, this income limit is unrealistic. In July 2007, the U.S. Senate recognized this when it passed a bipartisan bill that would allow States to cover children with family incomes up to 300 percent FPL under SCHIP.

As the recently released census data shows, the number of uninsured children grew to 9 million in 2006. The administration should be working with the U.S. Senate to reauthorize SCHIP and deliver to States the tools they need to enroll the 6 million children who are eligible for SCHIP but not enrolled. It shouldn't be wasting resources on putting up roadblocks intended to prevent coverage.

I hope that the Senate can work together to advance this bipartisan proposal to ensure that the SCHIP program remains strong and low-income children have access the health care.

By Mr. BROWN:

S. 2050. A bill to amend title II of the Social Security Act to eliminate the five-month waiting period in the disability insurance program, and for other purposes; to the Committee on Finance.

Mr. BROWN. Mr. President, today I am introducing the Social Security Act Improvements for the Terminally Ill Act. This is a critical and long overdue piece of legislation and I urge my colleagues to give it due consideration and, ultimately, support.

In the Senate, we are accustomed to making tough decisions on pressing issues that have a direct impact on the lives of Americans. But few issues are both as urgent and as uncomplicated as the one now present to the Chamber.

This bill would waive the 5-month waiting period in the Social Security disability program for terminally ill patients—thus allowing those with just months to live to receive the Federal benefits they deserve. None of our fellow citizens should have to spend their last days haggling with the Federal Government for benefits that can help ease the financial burden associated with palliative care, death, and burial. Specifically, this bill would authorize disability benefits for any eligible individual whose disability is expected to or does result in the patient's death before the end of the current 5-month waiting period.

This commonsense reform would grant justice to those, like Ohioan Mr. Arthur Woolweaver, Jr., who are being effectively ''waited out'' by the Government. Even though Mr. Woolweaver had worked and contributed to Social Security all his life and even though his disability due to cancer was easily verified by the Social Security Administration, he was still forced to wait . . . and wait . . . and wait. Unfortunately, it is now too late for Mr. Woolweaver, who passed away on June 12 of this year. Ultimately, Mr. Woolweaver was still waiting for his benefits, which would have totaled $1,800 per month, when he died this summer. This money could have helped Mr. Woolweaver's wife keep their house in Cuyahoga Falls, OH.

Like it or not, the Federal Government is often viewed as a faceless and heartless bureaucracy. This bill offers a chance to take a small step to change that image and restore faith in the system. I think I speak for most Americans when I say that I want my Government to be responsive, logical, and

compassionate. This bill seeks to achieve that ideal.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 318—SUPPORTING THE WE DON'T SERVE TEENS CAMPAIGN

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

S. RES. 318

Whereas the 2005 National Survey on Drug Use and Health estimates there are 11,000,000 underage alcoholic beverage drinkers in the United States;

Whereas research shows that young people who start drinking alcoholic beverages before the age of 15 are 4 times more likely to develop an alcohol-related disorder later in life;

Whereas surveys show that 17 percent of 8th graders, 33 percent of high school sophomores, and 47 percent of high school seniors report recent drinking;

Whereas, in a 2003 survey of drinkers ages 10 to 18, 65 percent said they got the alcohol from family members or friends—some took alcohol from their own home or a friend's home without permission, and in other cases adults, siblings, or friends provided the alcohol;

Whereas the Surgeon General issued a national Call to Action against underage drinking in March 2007, asking Americans to do more to stop current underage drinkers from using alcohol and to keep other young people from starting;

Whereas the Leadership to Keep Children Alcohol Free initiative is a coalition of Governors' spouses, Federal agencies, and public and private organizations which specifically targets prevention of drinking in the 9- to 15-year-old age group;

Whereas the National Alliance to Prevent Underage Drinking is a coalition of public health, law enforcement, religious, treatment and prevention, and other organizations with the goal of supporting and promoting implementation of a comprehensive strategy to reduce underage drinking;

Whereas the best protections against underage drinking are comprehensive prevention and enforcement strategies that include educating parents and members of the community;

Whereas beverage alcohol is a unique product and is regulated in such a way as to encourage social responsibility;

Whereas parents should be encouraged to talk to their children about the dangers of underage drinking;

Whereas the goal of the We Don't Serve Teens campaign is to educate parents and community leaders about effective ways of reducing underage drinking;

Whereas the We Don't Serve Teens campaign seeks to unite State officials, business leaders, parents, and community leaders in fighting underage drinking;

Whereas the Federal Trade Commission has partnered with other Government entities, members of the beverage alcohol industry, and members of the advocacy community to educate the public on the dangers of underage drinking;

Whereas the Federal Trade Commission has created an Internet website, www.dontserveteens.gov, as a resource for parents, educators, and community leaders concerned with underage drinking;

Whereas Congress has demonstrated its commitment to the prevention of underage drinking by enacting the Sober Truth on Preventing Underage Drinking Act (STOP), which recognizes that the 3-tier system of manufacturer, wholesaler, and retailer and continued State regulation of the sale and distribution of alcohol are critical to preventing access to alcohol by persons under 21 years of age; and

Whereas the We Don't Serve Teens campaign recognizes that all 3 tiers of the beverage alcohol industry play a key role in the prevention of underage drinking, and unites all of those participants in a concerted effort to protect America's youth: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of campaigns working to prevent underage drinking, including the We Don't Serve Teens campaign;

(2) recognizes September 10-15, 2007, as ''National We Don't Serve Teens Week'';

(3) encourages people across the Nation to take advantage of the wealth of information that can be used to combat underage drinking; and

(4) commends the leadership and continuing efforts of all groups working to reduce underage drinking, including State and local officials, the Federal Trade Commission, community groups, public health organizations, law enforcement, and the beverage alcohol industry.

SENATE CONCURRENT RESOLUTION 44—EXPRESSING THE SENSE OF CONGRESS THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED HONORING ROSA LOUISE MCCAULEY PARKS

Mr. OBAMA (for himself, Mr. DURBIN, Mr. KERRY, Mrs. CLINTON, Mr. ALEXANDER, Mr. CARDIN, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Mr. LIEBERMAN, Mr. REID, Mr. KENNEDY, Mr. BINGAMAN, Mrs. BOXER, Mr. DODD, Ms. LANDRIEU, Mr. SCHUMER, Ms. STABENOW, Mr. BROWN, Mr. VOINOVICH, Ms. MIKULSKI, and Mr. WYDEN) submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. CON. RES. 44

Whereas Rosa Parks was born Rosa Louise McCauley in Tuskegee, Alabama, on February 4, 1913, and died on October 25, 2005;

Whereas Rosa Parks was an African American civil rights activist and seamstress whom Congress dubbed the ''Mother of the Modern-Day Civil Rights Movement'';

Whereas Rosa Parks refused on December 1, 1955, to obey bus driver James Blake's demand that she relinquish her seat to a white man and her subsequent arrest and trial for this act of civil disobedience triggered the Montgomery Bus Boycott, one of the largest and most successful mass movements against racial segregation in history, and launched Martin Luther King, Jr., one of the organizers of the boycott, to the forefront of the civil rights movement;

Whereas Rosa Parks's role in American history earned her an iconic status in American culture, and her actions have left an enduring legacy for civil rights movements around the world;

Whereas through her role in sparking the boycott, Rosa Parks played an important part in internationalizing the awareness of the plight of African Americans and the civil rights struggle; and

Whereas Rosa Parks epitomized the struggle of everyday people trying to make a difference, as she took a stand against injustice and inequality: Now, therefore, be it

Resolved, That it is the sense of Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service honoring Rosa Louise McCauley Parks;

(2) the provision requiring that an honoree must have died at least 5 years before this honor can be bestowed upon them, excepting Presidents of the United States, should be waived; and

(3) the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2862. Mr. MCCONNELL (for himself, Mr. SALAZAR, Mr. ALLARD, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2863. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2862. Mr. MCCONNELL (for himself, Mr. SALAZAR, Mr. ALLARD, and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 470, after the table following line 22, add the following:

SEC. 2406. MUNITIONS DEMILITARIZATION FACILITIES, BLUE GRASS ARMY DEPOT, KENTUCKY, AND PUEBLO CHEMICAL ACTIVITY, COLORADO.

(a) AUTHORITY TO INCREASE AMOUNT FOR CONSTRUCTION OF MUNITIONS DEMILITARIZATION FACILITY, BLUE GRASS ARMY DEPOT, KENTUCKY.—Pursuant to the authority granted for this project by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 836), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), the amount authorized to be appropriated by section 2403(14) of this Act for the construction of increment 8 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, may, subject to the approval of the Secretary of Defense, be increased by up to $17,300,000 using funds from the amounts authorized to be appropriated by section 2403(1) of this Act.

(b) AUTHORITY TO INCREASE AMOUNT FOR CONSTRUCTION OF MUNITIONS DEMILITARIZATION FACILITY, PUEBLO CHEMICAL ACTIVITY,