S. 2069

At the request of Mr. DURBIN, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 2069, a bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries.

S. 2119

At the request of Mr. JOHNSON, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 2119, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2123

At the request of Mr. BAYH, his name was added as a cosponsor of S. 2123, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 2127

At the request of Mrs. MURRAY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2127, a bill to provide assistance to families of miners involved in mining accidents.

S. 2147

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 2147, a bill to require accountability for contractors and contract personnel under Federal contracts, and for other purposes.

S. 2170

At the request of Mrs. HUTCHISON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2170, a bill to amend the Internal Revenue Code of 1986 to modify the treatment of qualified restaurant property as 15-year property for purposes of the depreciation deduction.

S. 2181

At the request of Ms. COLLINS, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2181, a bill to amend title XVIII of the Social Security Act to protect Medicare beneficiaries' access to home health services under the Medicare program.

S. 2228

At the request of Mr. LUGAR, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2228, a bill to extend and improve agricultural programs, and for other purposes.

S. 2233

At the request of Mr. ENSIGN, his name was added as a cosponsor of S. 2233, a bill to provide a permanent deduction for States and local general sales taxes.

S. 2250

At the request of Mr. CRAPO, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 2250, a bill to amend title XVIII of the Social Security Act to modernize payments for ambulatory surgical centers under the Medicare Program.

S. 2257

At the request of Mr. BIDEN, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 2257, a bill to impose sanctions on officials of the State Peace and Development Council in Burma, to amend the Burmese Freedom and Democracy Act of 2003 to prohibit the importation of gemstones and hardwoods from Burma, to promote a coordinated international effort to restore civilian democratic rule to Burma, and for other purposes.

S. 2277

At the request of Mr. SMITH, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2277, a bill to amend the Internal Revenue Code of 1986 to increase the limitation on the issuance of qualified veterans' mortgage bonds for Alaska, Oregon, and Wisconsin and to modify the definition of qualified veteran.

S.J. RES. 22

At the request of Mr. SPECTER, his name was added as a cosponsor of S.J. Res. 22, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Centers for Medicare & Medicaid Services within the Department of Health and Human Services relating to Medicare coverage for the use of erythropoiesis stimulating agents in cancer and related neoplastic conditions.

S. RES. 241

At the request of Mr. BROWN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 241, a resolution expressing the sense of the Senate that the United States should reaffirm the commitments of the United States to the 2001 Doha Declaration on the TRIPS Agreement and Public Health and to pursuing trade policies that promote access to affordable medicines.

S. RES. 356

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 356, a resolution affirming that any offensive military action taken against Iran must be explicitly approved by Congress before such action may be initiated.

AMENDMENT NO. 3493

At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 3493 intended to be proposed to H.R. 3963, a bill to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2280. A bill to amend the Deficit Reduction Act of 2005; to the Committee on Finance.

Mr. COLEMAN. Mr. President, 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. 2280

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

SECTION 1. REGULATIONS.

Section 6052(b) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396n note) is amended to read as follows:

''(b) FINAL REGULATIONS.—The Secretary shall promulgate final regulations to carry out the amendment made by subsection (a) consistent with the notice and comment requirements in section 553 of title 5, United States Code, except that the period of public comment on the proposed regulations shall be not less than 180 days. Consistent with the requirements of section 801(a)(1)(A) of title 5, United States Code, the final regulations shall take effect not less than 90 days after publication in the Federal Register or presentation to each House of the Congress or the Comptroller General, whichever occurs later.''.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 2281. A bill to expand the boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LEVIN. Mr. President, today, I am introducing the Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Modification Act to expand the boundaries of the existing sanctuary.

Created as a unique Federal-State partnership in October 2000, the Thunder Bay National Marine Sanctuary has been a resounding success. It has preserved the proud maritime history of the Great Lakes, offered educational opportunities to children and researchers, and provided a fascinating site for divers and snorklers to explore. Expanding the sanctuary will bring even greater benefits.

When the National Oceanic and Atmospheric Administration originally considered the Sanctuary, it recommended an area that was twice as big as what was eventually established. That proposal was scaled back to address concerns raised by some state and local communities who wanted to begin cautiously. Some of the doubters and most cautious at the beginning have now become the biggest supporters of the sanctuary. Today, the expansion has broad support throughout the area.

Specifically, this bill would extend the sanctuary's boundaries to include the waters off Alcona, Alpena and Presque Isle Counties in Michigan and

would extend the sanctuary east to the International boundary. This would be a significant increase in total area. The current sanctuary includes 448 square miles of water and 115 miles of shoreline, and the expansion would include 3,722 square miles and include 226 miles of shoreline.

This expansion is needed to protect the maritime history of Michigan and the Great Lakes. Historically, this region was influenced by the demand for natural resources. Because local roads were so inadequate, the Great Lakes became an important passageway and trading route for settlement and industrialization. The geography of Thunder Bay and the weather patterns in the lakes, however, caused dozens of ships to perish in what mariners call ''Shipwreck Alley.'' Many of these shipwrecks are well-preserved because they are in freshwater and of great interest to researchers and students.

The current sanctuary holds 116 shipwrecks though many, many more shipwrecks in this area have been mentioned in historical records. In addition to shipwrecks, the sanctuary protects and interprets the remains of commercial fishing sites, historic docks, and other underwater archaeological sites.

Expanding the boundaries as provided for in this bill will protect an estimated 178 additional shipwrecks. For example, it would protect the *Cornelia B. Windiate*, which is a three-mast wooden schooner and one of the Great Lakes' most intact shipwrecks. The ship sank in December 1875 when bound from Milwaukee to Buffalo with a cargo of wheat, and was featured in an episode of Deep Sea Detectives on the History Channel. Expansion would also cover the *H.P. Bridge*, a three-mast wooden barkentine, containing many artifacts such as pottery, clothing, and ship tackle and hardware.

These shipwrecks are not only historically important, they are very popular with divers. Deep water wrecks are popular for technical divers, and because the sites are often well preserved in the cold freshwater, they contain many artifacts and provide a treasure of information about the past. Many of the shallow water wrecks are accessible by snorkelers, boaters and kayakers. These sites offer a tremendous amount of archaeological data on ship architecture and are generally easier to document.

The sanctuary is also making important contributions to research and education. Using real-time video links, students in Alpena interact with divers exploring underwater worlds with people who are thousands of miles away. In the near future, students from around the country will be able to control remote submarines that allow them to explore the *E.B. Allen* or the steamship *Montana*. Visitors to Thunder Bay can also view artifacts and interpretive exhibits and watch films about Thunder Bay and all of our Nation's Maritime Sanctuaries. Scientists from around the world dock their vessels in the Thunder Bay River as they use the facility for their research.

The sanctuary has also been a real asset for the local community, and the community has responded in kind. Since the establishment of the sanctuary, the community has worked with it to improve the Alpena County George N. Fletcher Library, to provide volunteers at festivals and outreach events, and to help digitize the Thunder Bay Sanctuary Research Collection.

The Thunder Bay National Marine Sanctuary deserves to be expanded. Doing so will preserve important maritime history and will continue the success of the current Sanctuary. It is a unique treasure that needs our support. I hope my colleagues will join me in supporting this bill.

By Ms. SNOWE:

S. 2282. A bill to increase the number of full-time personnel of the Consumer Product Safety Commission assigned to duty stations at United States ports of entry or to inspect overseas production facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, today I am introducing a bill to increase the number of full-time personnel of the Consumer Product U.S. Safety Commission assigned to duty stations at U.S. ports of entry or to inspect overseas production facilities to ensure that the Consumer Product Safety Commission has the personnel necessary to adequately address the growing problem of import safety. This bill would more than triple the current number of commission staff assigned to U.S. ports of entry, by requiring that no less than 50 full-time import inspectors be in place at the beginning of the next fiscal year. Additionally, it would expressly authorize the CPSC to send such inspectors to examine the operations at overseas factories which manufacture consumer products destined for the U.S.

This legislation is critically necessary, given that an ever-increasing number of the consumer products now sold on our shelves are manufactured in countries with appalling safety and quality control standards, such as China. Sine the year 2000, foreign imports to the U.S. have increased 67 percent by value, with imports from China nearly tripling, growing from $100 billion in 2000 to $288 billion last year. Almost 20 percent of consumer products sold in the U.S. today were made in China. Particularly troubling is that Chinese manufacturers have cornered the U.S. market on toys, with over 80 percent of all toys sold in the U.S. coming from China. Since March 2007, over 8 million pieces of these Chinese-made toys have been recalled due to lead contamination alone.

Outrageously, the number of CPSC personnel dedicated to monitoring import compliance with U.S. health and safety requirements has been slashed along with other Commission resources during the very period in which trade liberalization has allowed foreign producers greater access to our markets. With over 60 percent of CPSC staff having been cut over the past 27 years—from almost 1,000 employees in 1980 to a record low of 420 employees in 2007—there remain only 15 full-time Commission personnel assigned to inspect imports at U.S. ports. According to a September 2, 2007, New York Times article, this handful of import inspectors ''are hard pressed to find dangerous cargo before it enters the country; instead, they rely on other Federal agents, who mostly act as trademark enforcers.'' Similarly unacceptable is the fact that the CPSC lacks the staff to send a single inspector to the foreign factories making the goods that we put on our kitchen counters and in the hands of our children.

These facts unquestionably reveal, as a Consumers Union official told the Senate Committee on Finance earlier this month, that the CPSC has not kept up with the globalization of the marketplace. That is why I have proposed this bill, which would rapidly shore-up the commission's import inspection staff, who are so critical to protecting us from dangerous foreign products. I urge my colleagues to support this common-sense solution to an urgent problem.

By Mr. FEINGOLD (for himself, Ms. CANTWELL, and Mrs. FEINSTEIN):

S. 2287. A bill to amend the Internal Revenue Code of 1986 to repeal the percentage depletion allowance for certain hardrock mines, and for other purposes; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today I am very pleased to be joined by Senators CANTWELL and FEINSTEIN in introducing legislation to eliminate from the Federal tax code the ''Percentage Depletion Allowance'' for hardrock minerals mined on Federal public lands. Elimination of this double subsidy will produce estimated savings of at least $500 million over 5 years, based on the most recent year for which figures are available from the Joint Committee on Taxation and the Clinton administration's fiscal year 2001 budget proposal. These savings will help fund the reclamation and restoration of abandoned mines through an Abandoned Mine Reclamation Fund, that my bill creates, and the remaining ¾ of savings will be returned to the Federal treasury.

Percentage depletion allowances were initiated by the Corporation Excise Act of 1909. That is right, these allowances were initiated nearly 100 years ago. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The

Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the tax code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration, and output. The problem, however, is that percentage depletion also makes it possible to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of its capital investment: cost depletion and percentage depletion. Cost depletion allows for the recovery of the actual capital investment—the costs of discovering, purchasing, and developing a mineral reserve—over the period during which the reserve produces income. Under the cost depletion method, the total deductions cannot exceed the original capital investment.

Under percentage depletion, however, the deduction for recovery of a company's investment is a fixed percentage of ''gross income,'' namely, sales revenue from the sale of the mineral. Under this method, total deductions typically exceed the capital that the company invested. The set rates for percentage depletion are quite significant. Section 613 of the Internal Revenue Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 to 22 percent.

There is no restriction in the tax code to ensure that over time companies do not deduct more than the capital that a company has invested. Furthermore, a Percentage Deduction Allowance makes sense only so long as the deducting company actually pays for the investment for which it claims the deduction.

The result is a double subsidy for hardrock mining companies: first they can mine on public lands for free under the General Mining Law of 1872, and then they are allowed to take a deduction for capital investment that they have not made for the privilege to mine on public lands. My legislation would eliminate the use of the Percentage Depletion Allowance for mining on public lands, resulting in an estimated savings of $450 million over 5 years, while continuing to allow companies to recover reasonable cost depletion.

My bill would also create a new fund, called the Abandoned Mine Reclamation Fund. One-fourth of the revenue raised by the bill, or approximately $110 million, would be deposited into an interest-bearing fund in the Treasury to be used to clean up abandoned hardrock mines in states that are subject to the 1872 Mining Law. Though there is no comprehensive inventory of abandoned mines, estimates put the figure at upwards of 100,000 abandoned mines on public lands.

There are currently no comprehensive federal or state programs to address the need to clean up old mine sites. Reclaiming these sites requires the enactment of a program with explicit authority to clean up abandoned mine sites and the resources to do it. My legislation is a first step toward providing the needed authority and resources.

In today's budget climate, we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: the taxpayers, or the users and producers of the resource? For more than a century, the mining industry has been paying next to nothing for the privilege of extracting minerals from public lands and then abandoning its mines. Now those mines are adding to the nation's environmental and financial burdens. We face serious budget choices this fiscal year, and one of those choices is whether to continue the special tax breaks provided to the mining industry.

The measure I am introducing is straightforward. It eliminates the Percentage Depletion Allowance for hardrock minerals mined on public lands while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a government-driven incentive for enhanced mineral production, there is now sufficient reason to adopt a more reasonable depletion allowance that is consistent with depreciation rates given to other businesses. This corporate subsidy is simply not justified.

Mr. President, 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. 2287

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 ''Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2007''.

SEC. 2. REPEAL OF PERCENTAGE DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by inserting ''(other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws)'' after ''In the case of the mines''.

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(f) GENERAL MINING LAWS.—For purposes of subsection (a), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 3. ABANDONED MINE RECLAMATION FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following:

''SEC. 9511. ABANDONED MINE RECLAMATION FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Abandoned Mine Reclamation Trust Fund' (in this section referred to as 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to 25 percent of the additional revenues received in the Treasury by reason of the amendments made by section 2 of the Elimination of Double Subsidies for the Hardrock Mining Industry Act of 2007.

''(c) EXPENDITURES FROM TRUST FUND.—

''(1) IN GENERAL.—Amounts in the Trust Fund shall be available, as provided in appropriation Acts, to the Secretary of the Interior for—

''(A) the reclamation and restoration of lands and water resources described in paragraph (2) adversely affected by mineral (other than coal and fluid minerals) and mineral material mining, including—

''(i) reclamation and restoration of abandoned surface mine areas and abandoned milling and processing areas,

''(ii) sealing, filling, and grading abandoned deep mine entries,

''(iii) planting on lands adversely affected by mining to prevent erosion and sedimentation,

''(iv) prevention, abatement, treatment, and control of water pollution created by abandoned mine drainage, and

''(v) control of surface subsidence due to abandoned deep mines, and

''(B) the expenses necessary to accomplish the purposes of this section.

''(2) LANDS AND WATER RESOURCES.—

''(A) IN GENERAL.—The lands and water resources described in this paragraph are lands within States that have land and water resources subject to the general mining laws or lands patented under the general mining laws—

''(i) which were mined or processed for minerals and mineral materials or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status before the date of the enactment of this section,

''(ii) for which the Secretary of the Interior makes a determination that there is no continuing reclamation responsibility under State or Federal law, and

''(iii) for which it can be established to the satisfaction of the Secretary of the Interior that such lands or resources do not contain minerals which could economically be extracted through remining of such lands or resources.

''(B) CERTAIN SITES AND AREAS EXCLUDED.—The lands and water resources described in this paragraph shall not include sites and areas which are designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.) or which are listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

''(3) GENERAL MINING LAWS.—For purposes of paragraph (2), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161

and 162 of title 30 of the United States Code.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''Sec. 9511. Abandoned Mine Reclamation Trust Fund.''.

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

S. 2288. A bill to establish portfolio quality standards, improve lender oversight by the Small Business Administration, create economic outcome and performance measurements, strengthen the loan programs under section 7(a) of the Small Business Act and title V of the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today with Senator KERRY to introduce the Small Business Lending Oversight and Program Performance Improvements Act of 2007. I truly appreciate Senator Kerry's leadership on small business issues and his bipartisan work with me on this bill.

Small businesses have propelled our Nation's economic growth, producing more than 50 percent of our Gross Domestic Product, GDP, and creating between 60 to 80 percent of all new jobs annually. The Small Business Administration's loan guarantee programs are a vital source of financing for many of these small start-up firms, entrepreneurs seeking working capital, and small businesses that must purchase larger office space or secure factory equipment so they can continue to expand.

At the same time, the SBA's 7(a) and 504 lending programs will not endure if careless oversight, and a lack of standards, allow scandal to tarnish the good names of these programs. The 7(a) and 504 lending programs will not survive if we cannot prove to taxpayers that the money spent to guarantee small business loans actually produces economic vitality, opportunity, and new jobs, for our Nation. Make no mistake, the only way to protect these integral programs and demonstrate their effectiveness and economic growth capacity is through the use of concrete measurements.

In order for the SBA's lending portfolios to grow and allow more small firms to secure the capital they require, the SBA must quantify both quality and performance by establishing the specific criteria it will examine and then assess changes in these factors over time. Additionally, these benchmarks must be codified and transparent so that lenders and small businesses understand what is being measured.

The problem is this: although the SBA evaluates portfolio quality, and uses these assessments to conduct lender oversight, the SBA has failed to provide participating lenders with some of the criteria or formulas the Agency uses to determine if their portfolios are sound or substandard. This lack of transparency not only hinders the SBA's lender oversight capabilities, it causes participating 7(a) and 504 lenders to be critical of the SBA's ability to accurately assess portfolio quality. Regrettably, the SBA's current oversight and portfolio quality assessment methods have not prevented recent high-profile scandals from occurring.

Currently, the SBA has roughly $60 billion in outstanding loans issued to small businesses. Yet incredulously it does not track these businesses' economic performance. While the SBA's total loan volume has increased substantially over the last 10 years, the agency has no way to show how these loans benefitted the U.S. economy. Ultimately, the SBA is unaware of how many jobs these loans have created, whether company net-sales or revenues have increased after securing capital, or how many of these companies prepay, default, or go out of business. Though the purpose of these loans is to spur economic growth, the SBA does not assess the actual economic outcomes these loans help make possible. Without these measurements, how can the SBA attest to the incredible economic lift and vitality these loans help generate?

Two recent Government Accountability Office reports, one from July of this year and one from June of 2004, recommended that the SBA improve its economic performance and portfolio quality measurements. Our bill would implement the GAO's recommendations and improve the performance measures for 7(a) and 504 loans. Among other things, the bill would require the SBA to: create standards for lenders' portfolio quality; increase the transparency of the SBA's lender oversight evaluation measures; report on borrowers' economic performance; and create a 7(a) and 504 portfolio default rate that can be compared directly to commercial lenders' default rates.

We have an obligation not only to maintain, but to strengthen and improve the SBA's key loan programs that I have heard time and again are a critical lifeline to the job generators we call small businesses. The remedies that Senator KERRY and I are proposing today are necessary for the SBA's lending programs to expand, and reach all of the small businesses that must have access to capital.

I urge my colleagues to strongly support the Small Business Lending Oversight and Program Performance Improvements Act.

Mr. President, 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. 2228

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 ''Small Business Lending Oversight and Program Performance Improvement Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Recent reports by the Government Accountability Office have recommended that the Small Business Administration develop better measurements and methods for measuring the performance of lending programs and the effectiveness of lender oversight.

(2) A July 2007 report by the Government Accountability Office entitled ''Small Business Administration: Additional Measures Needed to Assess 7(a) Loan Program's Performance'' found the following:

(A) Determining the success of the loan programs under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) ''is difficult as the performance measures show only outputs – the number of loans provided – and not outcomes, or the fate of the businesses borrowing with the guarantee.''.

(B) ''The current measures do not indicate how well the agency is meeting its strategic goal of helping small businesses.''.

(C) ''To better ensure that the 7(a) program is meeting its mission responsibility of helping small firms succeed through guaranteed loans, we recommend that the SBA administrator complete and expand the SBA's current work on evaluating the program's performance measures. As part of that effort, at a minimum, the SBA should further utilize the loan performance information it already collects, including but not limited to defaults, prepayments, and number of loans in good standing, to better report how small businesses fare after they participate in the 7(a) program.''.

(3) A June 2004 report by the Government Accountability Office entitled ''Small Business Administration: New Services for Lender Oversight Reflect Some Best Practices but Strategy for Use Lags Behind'' found that ''Best practices dictate the need for a clear and transparent understanding of how a risk management service and the tools it provides will be used.''.

SEC. 3. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''base year'' means the year in which a covered loan recipient receives a loan under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or the 504 Loan Program;

(3) the term ''covered lender'' means—

(A) a lender participating in the guarantee loan program under section 7(a) of the Small Business Act (15 U.S.C. 636(a)); and

(B) a State or local development company participating in the 504 Loan Program;

(4) the term ''covered loan recipient'' means a person that receives a loan under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or the 504 Loan Program;

(5) the term ''economic performance evaluation measurements'' means the economic performance evaluation measurements established under section 8(a);

(6) the term ''504 Loan Program'' means the program to provide financing to small business concerns by guarantees of loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), which are funded by debentures guaranteed by the Administrator;

(7) the term ''portfolio quality evaluation standards'' means the portfolio quality evaluation standards established under section 5(a)(1); and

(8) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 4. AUTHORITY.

Section 5 of the Small Business Act (15 U.S.C. 634) is amended—

(1) in subsection (b)(14), by striking ''other lender oversight activities'' and inserting ''used to improve portfolio performance and lender oversight through technology and software programs designed to increase program loan quality, management, accuracy, and efficiency and program underwriting accuracy and efficiency''; and

(2) by adding at the end the following:

''(i) In establishing lender oversight review fees described in subsection (b)(14), the Administrator shall follow cost containment and cost control best practices that ensure that such fees are reasonable and do not become burdensome or excessive.''.

SEC. 5. PORTFOLIO QUALITY EVALUATION STANDARDS.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop and publish in the Federal Register portfolio quality evaluation standards for covered lenders, which shall include portfolio quality criteria, including—

(A) a liquidation rate;

(B) a currency rate;

(C) a recovery rate;

(D) a delinquency rate; and

(E) other portfolio risk indicators.

(2) USE.—The Administration shall use the portfolio quality evaluation standards—

(A) to determine the portfolio quality of a covered lender, in comparison to the portfolio quality of all covered lenders; and

(B) for conducting lender oversight of covered lenders.

(b) IMPLEMENTATION.—The Administrator shall—

(1) rank and determine a separate score for each covered lender, on each of the portfolio quality evaluation standards;

(2) combine the portfolio quality rankings described in paragraph (1) to establish the overall lender portfolio quality score for each covered lender, based on the compliance of that covered lender with the portfolio quality evaluation standards;

(3) provide a covered lender access to—

(A) the score of that covered lender for each of the portfolio quality evaluation standards; and

(B) the overall portfolio quality score for that covered lender; and

(4) provide a written explanation of the factors affecting the score described in paragraph (3)(A) for a covered lender to that covered lender.

(c) QUARTERLY EVALUATIONS.—Not less frequently than once each quarter, the Administrator shall evaluate each covered lender to determine whether—

(1) there has been a statistically significant adverse change in the criteria evaluated under the portfolio quality evaluation standards relating to a covered lender; and

(2) the portfolio of that covered lender has a higher concentration of loans made to businesses in a specific North American Industry Classification System code (or any successor thereto) than is typical for businesses in that code, as determined by the Administrator.

(d) ADDITIONAL ONSITE REVIEW.—

(1) DETERIORATION IN LOAN PORTFOLIO.—If the Administrator determines that there is significant and sustained statistically adverse change in the loan portfolio of a covered lender, based on the quarterly evaluation of that covered lender under subsection (c), the Administrator shall—

(A) determine the reason for such deterioration;

(B) determine if the deterioration should lead to an onsite review of the loan portfolio of that covered lender;

(C) taking into consideration the opinion of the relevant district director of the Administration, determine whether it is appropriate for the Administrator to adjust the preferred lender or other loan making status of that covered lender;

(D) document the decision by the Administrator regarding whether to conduct an onsite review or adjust the loan making status of that covered lender; and

(E) inform that covered lender of any statistically adverse change in loan quality of the portfolio of that covered lender.

(2) ADVERSE CHANGES.—If the Administrator determines there has been a statistically significant adverse change in the criteria evaluated under the portfolio quality evaluation standards relating to a covered lender, the Administrator shall determine whether it is necessary to conduct an onsite review of that covered lender.

(3) SCOPE OF REVIEW.—Any onsite review of a covered lender under this subsection shall focus on—

(A) the credit quality of the loans within the portfolio of that covered lender;

(B) the soundness of the credit evaluation and underwriting processes and procedures of that covered lender;

(C) the adherence by that covered lender to the policies and procedures of the Administration; and

(D) any other measures that the Administrator determines appropriate.

(e) DEFAULTS.—The Administrator shall provide to a covered lender information relating to any indicator under the portfolio quality evaluation standards that indicate an increased risk of default for specific loans.

(f) DOCUMENT RETENTION.—The Administrator shall maintain an electronic copy of any document relating to any portfolio quality evaluation or onsite review under this section (including documents relating to any determination regarding whether to conduct such a review).

(g) DATA COLLECTION.—The Administrator shall enter into a contract with a fiscal and transfer agent of the Administration under which that fiscal and transfer agent shall provide to the Administrator the data necessary to conduct the quarterly evaluation of covered lenders using the portfolio quality evaluation standards under this section.

SEC. 6. DEFAULT RATE.

(a) IN GENERAL.—Using established industry standards for calculating loan default rates, and not later than 1 year after the date of enactment of this Act, and every year thereafter, the Administrator shall calculate a loan default rate for—

(1) loans under section 7(a) of the Small Business Act (15 U.S.C. 636(a));

(2) loans under the 504 Loan Program; and

(3) specialty loan programs under section 7(a) of the Small Business Act or the 504 Loan Program, including the Express Loan program under section 7(a)(31) of the Small Business Act and the Export Working Capital Program under section 7(a)(14) of the Small Business Act.

(b) METHODOLOGY.—Not later than 1 year after the date of enactment of this Act, the Administrator shall publish in the Federal Register the methodology the Administrator will use to calculate default rates under subsection (a).

(c) PURPOSE.—The purpose of the default rates calculated under subsection (a) is to provide a cumulative default rate for loans under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and loans under the 504 Loan Program that may be compared directly to the default rates of other commercial loans.

SEC. 7. COMPUTER MODELING.

(a) TRANSPARENCY IN RANKING CRITERIA.—The Administrator—

(1) shall provide each covered lender with the data, factors, statistical methods, ranking criteria, indicators, and other measures used to make the ranking described in section 5(b); and

(2) may not charge a fee for providing the information described in paragraph (1).

(b) FAILURE TO PROVIDE.—In ranking a covered lender under section 5(b), the Administrator may not use any data, factor, statistical method, ranking criteria, indicator, or other measure that the Administrator has not provided to that covered lender.

(c) CONTRACTS.—Before establishing or modifying any system or mechanism for evaluating the making of loans, the accounting for loans, the underwriting of loans, or otherwise overseeing loans made by covered lenders, the Administrator shall consult with relevant covered lenders.

SEC. 8. ECONOMIC PERFORMANCE EVALUATION MEASUREMENTS.

(a) MEASUREMENTS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop and publish in the Federal Register economic performance evaluation measurements for evaluating the economic performance and economic outcomes of each covered loan recipient, which shall include—

(1) number of individuals employed by that covered loan recipient;

(2) the annual sales receipts of that covered loan recipient;

(3) an estimate of the total annual Federal income tax paid by that covered loan recipient;

(4) whether the covered loan recipient prepaid the covered loan;

(5) whether the covered loan recipient defaulted on the covered loan;

(6) the number of businesses operated by covered loan recipients that cease operations; and

(7) the number of covered loan recipients that establish a new business relating to the business for which that covered loan recipient received a loan under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or the 504 Loan Program.

(b) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—On and after the date that is 2 years after the date of enactment of this Act, the Administrator shall electronically collect, as part of the loan application process, from the person applying for a loan under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or the 504 Loan Program—

(A) the number of individuals employed by the applicant;

(B) the annual sales receipts of the applicant for the year before the date of the application; and

(C) an estimate of the total annual Federal income tax paid by that covered loan recipient.

(2) BASE YEAR.—The Administrator shall use the information collected under paragraph (1) to establish the base year statistics for the applicant.

(3) INFORMATION COMPLIANCE.—

(A) IN GENERAL.—During the 12-year period beginning on the date that a covered loan recipient receives a loan under section 7(a) of the Small Business Act or the 504 Loan Program, as the case may be, the covered loan recipient shall provide to the Administrator information relating to the economic performance evaluation measurements upon requested.

(B) FREQUENCY.—The Administrator shall request information from a covered loan recipient under subparagraph (A) not less frequently than once every 4 years.

(c) REPORTING.—

(1) IN GENERAL.—Not later than 6 years after the date of enactment of this Act, and every 4 years thereafter, the Administrator shall publish a report assessing the information relating to the economic performance evaluation measurements submitted by covered loan recipients during the period described in paragraph (2), including an evaluation of the aggregate changes, if any, in the economic performance evaluation measurements since the relevant base years for such covered loan recipients.

(2) PERIOD.—The period described in this paragraph is—

(A) for the first report submitted under this subsection, not shorter than the 4-year period before the date of that report;

(B) for the second report submitted under this subsection, not shorter than the 8-year period before the date of that report; and

(C) for the third report submitted under this subsection, and each report submitted thereafter, not shorter than the 12-year period before the date of that report.

SEC. 9. PRIVACY.

In collecting data and preparing reports under this Act, the Administrator shall ensure that the privacy and information of covered loan recipients is protected.

SEC. 10. EXECUTIVE COMPENSATION.

Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended by adding at the end the following:

''(j) EXECUTIVE COMPENSATION.—

''(1) IN GENERAL.—Except as provided in paragraph (4), a State or local development company shall have a written contract with each executive or highly paid employee of that development company relating to the employment of that executive or highly paid employee, which shall include, for that executive or employee, the amount of compensation, benefits, and any transfer of anything of value to that executive or highly paid employee, including any rental or sale.

''(2) APPROVAL BY BOARD OF DIRECTORS.—

''(A) IN GENERAL.—A written contract described in paragraph (1) shall be approved by the board of directors of the State or local development company.

''(B) EVALUATION.—In evaluating a contract described in paragraph (1), the members of the board of directors of a State or local development company shall—

''(i) determine the fair market value of the benefits received by an executive or highly paid employee from that development company; and

''(ii) evaluate the amount paid by other State or local development companies and commercial lenders for comparable services, including, if a rental of property for that executive or highly paid employee is part of that contract, the amount of annual rent paid locally for comparable property.

''(C) DISTRIBUTION OF EVALUATION.—The board of directors of a State or local development company shall ensure that the information described in subparagraph (B) is made available to each member of that board of directors before the date of the meeting at which the board of directors will determine whether to approve the relevant contract and include the information described in subparagraph (B) in the minutes of that meeting.

''(D) PARTICIPATION.—An executive or highly paid official, and any other party with personal interest in a contract, shall not attend a meeting of the board of directors to determine whether to approve the contract with that executive or highly paid official, unless the members of the board of directors request that executive or highly paid official respond to questions.

''(E) VOTING.—An executive or highly paid official, and any other party with personal interest in a contract, shall not be present during, and shall not vote on, whether to approve the contract with that executive or highly paid official.

''(3) ANNUAL REPORTS.—A State or local development company shall report annually to the Administration regarding the terms of each contract with each executive or highly paid official of that development company.

''(4) EXCEPTION.—This subsection shall not apply to—

''(A) a small State or local development company;

''(B) a State or local development company that makes a low number of loans under the 504 Loan Program; or

''(C) a State or local development company regulated by a State or local government.

''(5) REGULATIONS.—The Administrator shall promulgate regulations to carry out this subsection, including defining the terms 'executive', 'highly paid', 'small State or local development company', and 'low number of loans'.''.

SEC. 11. STUDY AND REPORT ON EXAMINATION AND REVIEW FEES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the loan guaranty program under section 7(a) of the Small Business Act to determine—

(1) the scope of lender oversight needed by the Administration;

(2) what other entities regulate the lenders that participate in that loan guaranty program, what activities are being reviewed, and the scope of such reviews;

(3) how the amounts of examination and review fees are determined by such other regulatory entities, who pays for such fees, and how they compare with examination and review fees proposed in regulations issued by the Administration on May 4, 2007;

(4) how examination and review fees factor into the risk-adjusted return on capital (or ''RAROC'') ratings of lenders;

(5) what would be reasonable fees to be charged for Administration lender oversight;

(6) whether Administration lender oversight functions can be executed in conjunction with other lender reviews currently required by other regulatory entities, including those that review Federal banks, credit unions, or entities reviewed by the Farm Credit Administration; and

(7) the impact of lender oversight fees proposed by the Administration on lending to borrowers, including cost changes, availability of credit, and increased or decreased lender participation.

(b) REPORT.—The Comptroller General shall submit to Congress a report on the results of the study required by subsection (a) not later than 1 year after the date of enactment of this Act.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 2290. A bill to designate the facility of the United States Postal Service located at 16731 Santa Ana Avenue in Fontana, California, as the ''Beatrice E. Watson Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mrs. BOXER. Mr. President, today I am joined by my colleague, Senator FEINSTEIN in introducing legislation to designate the facility of the U.S. Postal Service located at 16731 Santa Ana Avenue in Fontana, California, as the ''Beatrice E. Watson Post Office Building.''

Beatrice ''Bea'' Watson was a former city clerk and councilwoman of Fontana who volunteered tirelessly for her community. In an Inland Valley Daily Bulletin profile last year, fellow Fontana residents described Bea as a generous person who was devoted to her city, her friends, and the many organizations with which she worked.

Over the 40 years of her residence in Fontana, Bea was involved with numerous civic and community service organizations, including the Fontana Woman's Club, the Fontana Historical Society, Chamber of Commerce, the Fontana Exchange Club, Parks and Recreation and the Fontana Parent Teacher Association.

Bea also was responsible for the continued existence of the Fontana Days Parade, the annual summer celebration of the city's 1913 founding by A.B. Miller, even dipping into her own pocket at times to keep the parade going.

This August, Bea Watson, ''Mrs. Fontana,'' passed away, and I know her loss has been deeply felt by her family and the community. The Fontana City Council asked Congress to honor Bea for bringing the whole community together for the betterment of Fontana. I am proud to introduce this bill, and encourage my colleagues to join me in recognizing Bea Watson's example of dedicated service.

By Mr. AKAKA (for himself, Mrs. MCCASKILL, Mr. CARPER, and Mr. LEVIN):

S. 2291. A bill to enhance citizen access to Government information and services by establishing plain language as the standard style of Government documents issued to the public, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Plain Language in Government Communications Act of 2007. I am pleased that Senators CLAIRE MCCASKILL, TOM CARPER, and CARL LEVIN have joined me as original cosponsors of this bill.

Our bill is very similar to H.R. 3548, introduced by Representative BRUCE BRALEY in September, along with original co-sponsors Representatives TODD AKIN, DAN BURTON, JAMES MCGOVERN, and NANCY BOYDA.

This bill would establish plain language as the standard writing style for Government documents issued to the public. Plain language is language that the intended audience can readily understand and use because it is clear, concise, well-organized, and follows other best practices of plain language writing.

This bill would extend an initiative that President Bill Clinton and Vice President Al Gore started nearly a decade ago as part of the Reinventing Government initiative. In 1998 President Clinton directed agencies to write in plain language. Although many agencies have made progress in writing

more clearly, the requirement never was fully implemented, and in recent years, the focus on writing in plain language has flagged. This legislation will renew that focus.

The benefits of requiring the Government to write in plain language are numerous.

For example, using plain language improves customer service. Veterans, taxpayers, senior citizens, and others who need to understand Government instructions and fill out Government forms should not have to wade through complicated, bureaucratic language. Needlessly complicated Government documents waste countless hours of taxpayers' time and cause unnecessary errors. The Federal Government works best for the American people if Government documents are clear and straightforward. Filling out Government forms should not be like solving a complex crossword puzzle.

Writing in plain language also will make the Government more efficient and cost effective. Agencies that write in plain language spend less time answering customer service questions, and they obtain better compliance because people make fewer mistakes.

Furthermore, using plain language makes Government more transparent. The American people cannot hold their Government accountable if no one can understand the information that the Government provides about its actions and its requirements.

Numerous organizations have called on Congress to require the Federal Government to use plain language. For example, the AARP wrote a letter in support of this legislation stating that every day AARP members contact AARP staff because they do not understand letters that they received from the Federal Government. The confusion is not the readers' fault. It is because many Federal Government letters are written in dense, complicated language that few people who are not lawyers could be expected to understand. Certainly, anyone who has ever filled out their own tax forms can sympathize.

Additionally, several small business organizations—including the National Small Business Association, the Small Business Legislative Council, and Women Impacting Public Policy—support the need for plain language. The reason is simple. Small businesses waste considerable time, effort, and money trying to decipher what the Federal Government requires of them.

This bill addresses two important elements for ensuring that use of plain language becomes standard in Federal agencies: training and oversight.

Each agency will report their plans to train employees to write in plain language. Writing in plain, clear, concise, and easily understandable language is a skill that Congress and Federal agencies must foster. As Thomas Jefferson once said, ''The most valuable of all talents is that of never using two words when one will do.'' As a former teacher and principal, I understand that even very smart people must be trained to write plainly.

Additionally, strong congressional oversight will ensure that agencies implement the plain language requirements. Agencies will be required to designate a senior official responsible for implementing plain language requirements. Each agency will be required to report to Congress how it will ensure compliance with the plain language requirement and on its progress.

A few examples of the documents that will be covered by the plain language requirement are Federal tax forms; veterans' benefit forms; information for workers about Federal health, safety, overtime pay, and medical leave laws; Social Security and Medicare benefit forms; and Federal college aid applications. These documents help the American people obtain important Government benefits and improve their quality of life.

To avoid imposing an unmanageable burden on agencies, agencies will not be required to re-write existing documents in plain language. Only new or substantially revised documents will be covered. Similarly, this bill does not cover regulations, so that agencies can focus first on improving their every day communications with the American people. We recognize that it will be more challenging to write regulations—which by their nature often will be complex and technical—in plain language.

Requiring agencies to write in plain language is an important step in improving the way the Federal Government communicates with the American people.

Mr. President, 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. 2291

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 ''Plain Language in Government Communications Act of 2007''.

SEC. 2. PURPOSE.

The purpose of this Act is to improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' means an Executive agency, as defined under section 105 of title 5, United States Code.

(2) COVERED DOCUMENT.—The term ''covered document''—

(A) means any document (other than a regulation) issued by an agency to the public that—

(i) provides information about any Federal Government requirement or program; or

(ii) is relevant to obtaining any Federal Government benefit or service; and

(B) includes a letter, publication, form, notice, or instruction.

(3) PLAIN LANGUAGE.—The term ''plain language'' means language that the intended audience can readily understand and use because that language is clear, concise, well-organized, and follows other best practices of plain language writing.

SEC. 4. RESPONSIBILITIES OF FEDERAL AGENCIES.

(a) REQUIREMENT TO USE PLAIN LANGUAGE IN NEW DOCUMENTS.—Not later than 1 year after the date of enactment of this Act, each agency shall use plain language in any covered document of the agency issued or substantially revised after the date of enactment of this Act.

(b) GUIDANCE.—

(1) IN GENERAL.—

(A) DEVELOPMENT.—Not later than 6 months after the date of enactment of this Act, the Office of Management and Budget shall develop guidance on implementing the requirements of subsection (a).

(B) ISSUANCE.—The Office of Management and Budget shall issue the guidance developed under subpargraph (A) to agencies as a circular.

(2) INTERIM GUIDANCE.—Before the issuance of guidance under paragraph (1), agencies may follow the guidance of—

(A) the Plain English Handbook published by the Securities and Exchange Commission;

(B) the plain language guidelines developed by the Plain Language Action and Information Network; or

(C) guidance provided by the head of the agency that is consistent with the guidelines referred to under subparagraph (B).

SEC. 5. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the head of each agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report that describes how the agency intends to meet the following objectives:

(1) Communicating the requirements of this Act to agency employees.

(2) Training agency employees to write in plain language.

(3) Meeting the requirement under section 4(a).

(4) Ensuring ongoing compliance with the requirements of this Act.

(5) Designating a senior official to be responsible for implementing the requirements of this Act.

(b) ANNUAL AND OTHER REPORTS.—

(1) AGENCY REPORTS.—

(A) IN GENERAL.—The head of each agency shall submit reports on compliance with this Act to the Office of Management and Budget.

(B) SUBMISSION DATES.—The Office of Management and Budget shall notify each agency of the date each report under subparagraph (A) is required for submission to enable the Office of Management and Budget to meet the requirements of paragraph (2).

(2) REPORTS TO CONGRESS.—The Office of Management and Budget shall review agency reports submitted under paragraph (1) using the guidance issued under section 4(b)(1)(B) and submit a report on the progress of agencies to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of Representatives—

(A) annually for the first 2 years after the date of enactment of this Act; and

(B) once every 3 years thereafter.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 2292. A bill to amend the Homeland Security Act of 2002, to establish the Office for Bombing Prevention, to address terrorist explosive threats, and

for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President. I rise to introduce the National Bombing Prevention Act of 2007, an important measure to strengthen our domestic defenses against terrorist attacks using explosives.

Terror bombings have a long and bloody history around the world and here in the United States. In 1920, for example, an anarchist bombing in front of the New York Stock Exchange killed 38 people and wounded hundreds more. More recently, the 1990s bombings of the World Trade Center and the Murrah Federal Building in Oklahoma City, and attacks in Indonesia, Spain, and Great Britain remind us of the vicious and indiscriminate threat posed by bombs. As Secretary of Homeland Security Michael Chertoff has noted, they are the weapon of choice for terrorists.

The FBI and the Department of Homeland Security tell us that threat from these devices is not only real, but growing. Furthermore, the National Intelligence Estimate has identified improvised explosive devices or IEDs as a significant homeland-security threat.

As recent years' bombings demonstrate, the costs of inadequate precautions can be horrendous. And as the threat of bomb attacks by home-grown terrorist rises—witness the plot to bomb the JFK airport in New York—we must be increasingly on guard. Much effort and much funding has been directed to train and equip law-enforcement and other personnel to detect and disrupt bomb plots, yet we still lack a formal, full-fledged national strategy to coordinate and improve the effectiveness of those efforts.

The legislation I introduce today will improve our defenses against these weapons. I am proud to be working again with the bill's chief co-sponsor, Senator JOE LIEBERMAN, on this new effort to protect our nation.

The bill has also won the support of people directly involved in the fight against the threat of terrorist bombings. They include the U.S. Department of Homeland Security; the National Bomb Squad Commanders Advisory Board; the National Tactical Officers Association; the International Association of Bomb Technicians and Investigators; the Maine Emergency Management Agency; and the police departments of Bangor and Portland, Maine.

The National Bombing Prevention Act of 2007 has three main elements: First, the bill will clarify the responsibilities of the DHS Office of Bombing Prevention and authorize $25 million funding in both FY 2009 and 2010, up from the current Senate-passed funding level of $10 million in the Homeland Security Appropriations bill now pending at conference.

Our national fight against terrorist bombings is a large and multi-faceted undertaking. It includes screening airline passengers, checking cargo, securing dangerous chemicals, protecting critical infrastructure, promoting research and development of anti-IED technology, and sharing information among Government and private-sector partners. The DHS Office of Bombing Prevention is a leader in this fight.

The Collins-Lieberman bill builds on the Office's past efforts. Among other things, the bill designates the Office of Bombing Protection as the lead agency in DHS for combating terrorist explosive attacks; tasks OBP with coordinating national and intergovernmental bombing-prevention activities; and assigns it responsibility for assisting state and local governments and cooperating with the private sector.

A key element of Federal assistance is training. Last week, for example, members of several Maine and Connecticut police departments received DHS training and briefings here in Washington, as well as an FBI update, and fresh information on improvised explosive devices. My bill will bring more of that training to the States and make it more accessible to local law-enforcement officers.

Second, the bill directs the President to accelerate the release of the National Strategy for Bombing Prevention and to update it every four years. As terrorists' tactics change, we must review and adjust our counter-measures to defeat them.

Third, the bill will promote more research and development of counter-explosive technologies and facilitate the transfer of military technologies for domestic anti-terror use.

My legislation is badly needed. We need to make sure that bomb squads have the latest and most accurate information on bombing threats. We need to raise awareness of the signs of possible threats, including purchases of pre-cursor materials and other suspicious activities. We need to improve information sharing and coordination of activities among all levels of government as well as the private sector.

Under my legislation, the Department of Homeland Security will have the legal authority, the responsibility, and the resources to ensure that state and local law-enforcement personnel receive the training and information they need to protect us.

The National Bombing Prevention Act of 2007 will give our country important new protections. The need for that protection has been amply demonstrated by repeated acts of savagery, and the threat of terrorist bombs continues to grow. I urge my colleagues to support this measure.

Mr. LIEBERMAN. Mr. President, I rise today to join my Ranking Member on the Homeland Security and Governmental Affairs Committee, Senator COLLINS, in introducing bipartisan legislation to strengthen our Nation's ability to deter, detect, prevent, and respond to attacks using improvised explosive devices, IED, in the U.S.

As we have seen in Iraq, London, and Germany, IEDs are a weapon of choice for terrorists. The reality is that an IED is relatively easy and inexpensive to make and can cause mass casualties, even to armored military personnel. IEDs are a global threat, and the American public, here at home, is not immune.

Federal efforts to address this threat, however, have not been adequate. The Department of Homeland Security, Office of Bombing Prevention, which is the Department's lead agent for IED countermeasure coordination, is currently operating with a substantially reduced budget of $5 million, down from the $14 million it received in fiscal years 2005 and 2006. Only $6 million has been requested for 2008. By contrast, the DHS Office of Health Affairs, which has a similar coordination responsibility for biosecurity and medical preparedness, has a proposed budget for personnel and coordination activities of $28 million for 2008. Given the likelihood of an IED attack, we need to make a comparable commitment in this area. As Secretary Chertoff said in an October 19 speech, ''although we can conceive of a terrorist attack that would be focused on a biological infection or some kind of a chemical spray, the reality is the vast majority of terrorist attacks are conducted with bombs. And of those, the vast majority are improvised explosive devices.''

The National Bombing Prevention Act of 2007, NBPA, would formally authorize the Office of Bombing Prevention, OBP, and increase its budget to $25 million. In addition to leading bombing prevention activities within DHS, OBP would be directed to coordinate with other Federal, State, and local agencies and fill the existing gaps that are not covered by another Federal agency's current bombing prevention efforts. For example, OBP would work with state and local officials to conduct a national analysis of bomb squad capabilities. This type of comprehensive assessment does not currently exist at any level of government, yet it is integral to understanding what resources are available in the event of an explosion and where we should invest in order to better prepare the Nation as a whole. OBP would also improve information sharing with state and local bomb squads by providing regular updates on terrorist tactics, techniques, and procedures.

The NBPA would require the President to deliver a long awaited National Strategy for Improvised Explosive Devices. This Strategy was supposed to be delivered to Congress by DHS in January 2007 but was then reassigned to the Department of Justice by presidential directive. Turf battles have caused further delay. This is simply unacceptable. Regardless of who takes the lead, the Nation must have a coherent strategy guiding its counter IED efforts that will clarify the roles and responsibilities of all Federal agencies.

Finally, our legislation would require DHS to establish a program expediting

the transfer of counter IED technology to first responders. Under this program, the Department would work with other Federal agencies, including the Department of Defense, the private sector, and state and local bomb experts to identify existing technologies that could help deter, detect, prevent, or respond to an explosive attack. Often, there is a significant lag time between the research and development of such technologies and deployment by the end user. This bill would hold DHS accountable for seeing products through to the deployment phase. Specifically, DHS would be required to develop an electronic countermeasures capability to disable radio controlled bombs. Radio ''jammers'' have been developed by DoD for Iraq and Afghanistan, but that technology needs to be significantly modified for the civilian environment.

Improvised explosive devices are one of the most popular weapons terrorists are using today. They can be easily assembled from instructions available on the Internet with readily available chemicals such as peroxide or ammonium nitrate. And, most importantly, terrorists all over the world have demonstrated their intent and ability to use these weapons to kill and maim large numbers of people. If DHS is to plan effectively for future attacks here at home, it must have a cohesive and robust defense against the most likely threats. I ask my colleagues to join us in ensuring DHS and its partners have the necessary tools to protect the U.S. from an improvised explosive device.

By Mr. LOTT (for himself, Mr. GRASSLEY, Mr. KYL, Mr. SMITH, Mr. BUNNING, Mr. CRAPO, Mr. ROBERTS, Mr. HATCH, Ms. SNOWE, and Mr. ENSIGN):

S. 2293. A bill to amend the Internal Revenue Code of 1986 to repeal the individual alternative minimum tax, and for other purposes; read the first time.

Mr. LOTT. Mr. President, 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 placed in the RECORD, as follows:

S. 2293

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 ''Individual Alternative Minimum Tax Repeal Act of 2007''.

SEC. 2. REPEAL OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 55(a) of the Internal Revenue Code of 1986 (relating to alternative minimum tax imposed) is amended by adding at the end the following new flush sentence:

''For purposes of this title, the tentative minimum tax on any taxpayer other than a corporation for any taxable year beginning after December 31, 2006, shall be zero.''.

(b) MODIFICATION OF LIMITATION ON USE OF CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Subsection (c) of section 53 of the Internal Revenue Code of 1986 (relating to credit for prior year minimum tax liability) is amended to read as follows:

''(c) LIMITATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over

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

''(2) TAXABLE YEARS BEGINNING AFTER 2006.—In the case of any taxable year beginning after 2006, the credit allowable under subsection (a) to a taxpayer other than a corporation for any taxable year shall not exceed 90 percent of the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part.''.

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

SEC. 3. ONE-TIME ESTIMATED TAX SAFE HARBOR FOR ALTERNATIVE MINIMUM TAX LIABILITY.

For purposes of any taxable year beginning in 2006, in the case of any individual with respect to whom there was no liability for the tax imposed under section 55 of the Internal Revenue Code of 1986 for the preceding taxable year—

(1) the tax shown on the return under section 6654(d)(1)(B)(i) of such Code shall be reduced (but not below zero) by the amount of tax imposed by such section 55 shown on the return,

(2) the tax for the taxable year under section 6654(d)(2)(B)(i) of such Code (before multiplication by the applicable percentage) shall be reduced (but not below zero) by the tax imposed by such section 55, and

(3) the amount of tax for the taxable year for purposes of section 6654(e)(1) of such Code shall be reduced (but not below zero) by the amount of tax imposed by such section 55.

By Mr. NELSON of Florida (for himself and Mr. WHITEHOUSE):

S. 2295. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent paper ballot under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. NELSON of Florida. Mr. President, today, joined by Senator WHITEHOUSE, I am introducing the Voter Confidence and Increased Accessibility Act of 2007. As we enter the month of November, next year's national election is just one year away, and we must act now to ensure that the next time Americans go to the polls nationwide, they have the chance to cast their vote and have their vote counted as intended.

Our bill will require all voting machines—beginning in the 2008 election—to produce a paper record of each ballot that can be verified by the voter before a ballot is submitted to be counted. This also is the first bill to propose a nationwide ban, by 2012, on the use of touch-screen voting machines in Federal elections.

We are introducing this bill to address the problems that have plagued the accuracy and integrity of our voting systems. We know all too well the problems that have occurred in Florida—in the 2000 election and, most recently in the 2006 congressional election in the 13th Congressional District—but my State is not alone. Recent studies in California and elsewhere have demonstrated that touch-screen voting machines are unreliable and vulnerable to error.

The bottom line is we have to ensure that every vote is counted—and counted properly. Citizens must have confidence in the integrity of their elections.

Florida, under the leadership of Governor Charlie Crist and Secretary of State Kurt Browning, has acted decisively, and on a bipartisan basis, to require the replacement of paperless touch-screen voting machines throughout the State with optical scan equipment. By using op-scan machines, voters will have the opportunity to complete a paper ballot that will be verified by the voter before it is electronically counted. By 2012, touchscreen voting machines will be a thing of the past in Florida. Using Florida's model, the bill I am filing today will phase out touch-screen voting machines in Federal elections nationwide by 2012.

This morning I met with Secretary Browning to discuss my intent to file legislation modeled on Florida's initiative. Secretary Browning indicated his support for a ban on touch-screen voting machines.

In addition to banning touch-screen machines by 2012, and requiring a voter-verified paper ballot for every vote that is cast, beginning in November 2008, other highlights of the bill are as follows.

It will require and fund routine random audits to be conducted by hand count in 3 percent of precincts in all Federal elections. If the vote is very close, that percentage goes up to 5 or 10 percent. On the other hand, if the winning candidate received more than 80 percent of the vote, no audit of that race will be necessary.

The bill will authorize adequate funding—$1 billion—for replacing and upgrading voting equipment.

Our legislation will require that every voter has the opportunity to vote by paper ballot if the voting machine in their precinct is broken, and beginning in 2012, for any reason.

Finally, the bill will establish an arms-length relationship between test labs and voting machine vendors, to prevent any efforts, malicious or otherwise, to compromise the accuracy and integrity of voting machines.

A companion version of our bill was introduced in the House by Representative RUSH HOLT of New Jersey, and was passed out of Committee. The bill now awaits a vote by the full Chamber. I hope my colleagues in the House will act to pass this important legislation, and I invite my colleagues in the Senate to join me by co-sponsoring our bill in the Senate. Florida not only provides a model for what can be done to increase our confidence in the integrity of elections, it provides a model for

how to do it—on a bipartisan basis, with the support of election officials, voting integrity groups and, most importantly, the millions of voters in my state who have a constitutional right to vote and want to be sure that their votes are counted—and counted accurately.

Mr. President, 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 placed in the RECORD, as follows:

S. 2295

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 ''Voter Confidence and Increased Accessibility Act of 2007''.

SEC. 2. PROMOTING ACCURACY, INTEGRITY, AND SECURITY THROUGH VOTER-VERIFIED PERMANENT PAPER BALLOT.

(a) BALLOT VERIFICATION AND AUDIT CAPACITY.—

(1) IN GENERAL.—Section 301(a)(2) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is amended to read as follows:

''(2) BALLOT VERIFICATION AND AUDIT CAPACITY.—

''(A) VOTER-VERIFIED PAPER BALLOTS.—

''(i) VERIFICATION.—(I) The voting system shall require the use of or produce an individual, durable, voter-verified, paper ballot of the voter's vote that shall be created by or made available for inspection and verification by the voter before the voter's vote is cast and counted. For purposes of this subclause, the term 'individual, durable, voter-verified, paper ballot' includes (but is not limited to) a paper ballot marked by the voter for the purpose of being counted by hand or read by an optical scanner or other similar device, a paper ballot prepared by the voter to be mailed to an election official (whether from a domestic or overseas location), a paper ballot created through the use of a nontabulating ballot marking device or system, or, in the case of an election held before 2012, a paper ballot produced by a direct recording electronic voting machine, so long as in each case the voter is permitted to verify the ballot in a paper form in accordance with this subparagraph.

''(II) The voting system shall provide the voter with an opportunity to correct any error made by the system in the voter-verified paper ballot before the permanent voter-verified paper ballot is preserved in accordance with clause (ii).

''(III) The voting system shall not preserve the voter-verified paper ballots in any manner that makes it possible, at any time after the ballot has been cast, to associate a voter with the record of the voter's vote.

''(ii) PRESERVATION.—The individual, durable, voter-verified, paper ballot produced in accordance with clause (i) shall be used as the official ballot for purposes of any recount or audit conducted with respect to any election for Federal office in which the voting system is used, and shall be preserved—

''(I) in the case of votes cast at the polling place on the date of the election, within the polling place in a secure manner; or

''(II) in any other case, in a secure manner which is consistent with the manner employed by the jurisdiction for preserving paper ballots in general.

''(iii) MANUAL AUDIT CAPACITY.—(I) Each paper ballot produced pursuant to clause (i) shall be suitable for a manual audit equivalent to that of a paper ballot voting system, and shall be counted by hand in any recount or audit conducted with respect to any election for Federal office.

''(II) In the event of any inconsistencies or irregularities between any electronic vote tallies and the vote tallies determined by counting by hand the individual, durable, voter-verified, paper ballots produced pursuant to clause (i), and subject to subparagraph (B), the individual, durable, voter-verified, paper ballots shall be the true and correct record of the votes cast.

''(B) SPECIAL RULE FOR TREATMENT OF DISPUTES WHEN PAPER BALLOTS HAVE BEEN SHOWN TO BE COMPROMISED.—

''(i) IN GENERAL.—In the event that—

''(I) there is any inconsistency between any electronic vote tallies and the vote tallies determined by counting by hand the individual, durable, voter-verified, paper ballots produced pursuant to subparagraph (A)(i) with respect to any election for Federal office; and

''(II) it is demonstrated by clear and convincing evidence (as determined in accordance with the applicable standards in the jurisdiction involved) in any recount, audit, or contest of the result of the election that the paper ballots have been compromised (by damage or mischief or otherwise) and that a sufficient number of the ballots have been so compromised that the result of the election could be changed,

the determination of the appropriate remedy with respect to the election shall be made in accordance with applicable State law, except that the electronic tally shall not be used as the exclusive basis for determining the official certified vote tally.

''(ii) RULE FOR CONSIDERATION OF BALLOTS ASSOCIATED WITH EACH VOTING MACHINE.—For purposes of clause (i), only the paper ballots deemed compromised, if any, shall be considered in the calculation of whether or not the result of the election could be changed due to the compromised paper ballots.''.

(2) CONFORMING AMENDMENT CLARIFYING APPLICABILITY OF ALTERNATIVE LANGUAGE ACCESSIBILITY.—Section 301(a)(4) of such Act (42 U.S.C. 15481(a)(4)) is amended by inserting ''(including the paper ballots required to be produced under paragraph (2) and the notices required under paragraphs (7) and (13)(C)'' after ''voting system''.

(3) OTHER CONFORMING AMENDMENTS.—Section 301(a)(1) of such Act (42 U.S.C. 15481(a)(1)) is amended—

(A) in subparagraph (A)(i), by striking ''counted'' and inserting ''counted, in accordance with paragraphs (2) and (3)'';

(B) in subparagraph (A)(ii), by striking ''counted'' and inserting ''counted, in accordance with paragraphs (2) and (3)'';

(C) in subparagraph (A)(iii), by striking ''counted'' each place it appears and inserting ''counted, in accordance with paragraphs (2) and (3)''; and

(D) in subparagraph (B)(ii), by striking ''counted'' and inserting ''counted, in accordance with paragraphs (2) and (3)''.

(b) ACCESSIBILITY AND BALLOT VERIFICATION FOR INDIVIDUALS WITH DISABILITIES.—

(1) IN GENERAL.—Section 301(a)(3)(B) of such Act (42 U.S.C. 15481(a)(3)(B)) is amended to read as follows:

''(B)(i) satisfy the requirement of subparagraph (A) through the use of at least one voting system equipped for individuals with disabilities, including nonvisual and enhanced visual accessibility for the blind and visually impaired, at each polling place; and

''(ii) meet the requirements of subparagraph (A) and paragraph (2)(A) by using a system that—

''(I) allows the voter to privately and independently verify the permanent paper ballot through the presentation, in accessible form, of the printed or marked vote selections from the same printed or marked information that would be used for any vote counting or auditing;

''(II) ensures that the entire process of ballot verification and vote casting is equipped for individuals with disabilities, including nonvisual and enhanced visual accessibility for the blind and visually impaired; and

''(III) does not preclude the supplementary use of Braille or tactile ballots; and''.

(2) SPECIFIC REQUIREMENT OF STUDY, TESTING, AND DEVELOPMENT OF ACCESSIBLE BALLOT VERIFICATION MECHANISMS.—

(A) STUDY AND REPORTING.—Subtitle C of title II of such Act (42 U.S.C. 15381 et seq.) is amended—

(i) by redesignating section 247 as section 248; and

(ii) by inserting after section 246 the following new section:

''SEC. 247. STUDY AND REPORT ON ACCESSIBLE BALLOT VERIFICATION MECHANISMS.

''(a) STUDY AND REPORT.—The Director of the National Institute of Standards and Technology shall study, test, and develop best practices to enhance the accessibility of ballot verification mechanisms for individuals with disabilities, for voters whose primary language is not English, and for voters with difficulties in literacy, including best practices for the mechanisms themselves and the processes through which the mechanisms are used. In carrying out this section, the Director shall specifically investigate existing and potential methods or devices, including non-electronic devices, that will assist such individuals and voters in creating voter-verified paper ballots and presenting or transmitting the information printed or marked on such ballots back to such individuals and voters.

''(b) COORDINATION WITH GRANTS FOR TECHNOLOGY IMPROVEMENTS.—The Director shall coordinate the activities carried out under subsection (a) with the research conducted under the grant program carried out by the Commission under section 271, to the extent that the Director and Commission determine necessary to provide for the advancement of accessible voting technology.

''(c) DEADLINE.—The Director shall complete the requirements of subsection (a) not later than December 31, 2008.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $3,000,000, to remain available until expended.''.

(B) CLERICAL AMENDMENT.—The table of contents of such Act is amended—

(i) by redesignating the item relating to section 247 as relating to section 248; and

(ii) by inserting after the item relating to section 246 the following new item:

''Sec. 247. Study and report on accessible ballot verification mechanisms.''.

(3) CLARIFICATION OF ACCESSIBILITY STANDARDS UNDER VOLUNTARY VOTING SYSTEM GUIDANCE.—In adopting any voluntary guidance under subtitle B of title III of the Help America Vote Act with respect to the accessibility of the paper ballot verification requirements for individuals with disabilities, the Election Assistance Commission shall include and apply the same accessibility standards applicable under the voluntary guidance adopted for accessible voting systems under such subtitle.

(c) ADDITIONAL VOTING SYSTEM REQUIREMENTS.—

(1) REQUIREMENTS DESCRIBED.—Section 301(a) of such Act (42 U.S.C. 15481(a)) is amended by adding at the end the following new paragraphs:

''(7) INSTRUCTION REMINDING VOTERS OF IMPORTANCE OF VERIFYING PAPER BALLOT.—

''(A) IN GENERAL.—The appropriate election official at each polling place shall cause to be placed in a prominent location in the polling place which is clearly visible from the voting booths a notice, in large font print accessible to the visually impaired, advising voters that the paper ballots representing their votes shall serve as the vote of record in all audits and recounts in elections for Federal office, and that they should not leave the voting booth until confirming that such paper ballots accurately record their vote.

''(B) SYSTEMS FOR INDIVIDUALS WITH DISABILITIES.—All voting systems equipped for individuals with disabilities shall present or transmit in accessible form the statement referred to in subparagraph (A), as well as an explanation of the verification process described in paragraph (3)(B)(ii).

''(8) PROHIBITING USE OF UNCERTIFIED ELECTION-DEDICATED VOTING SYSTEM TECHNOLOGIES; DISCLOSURE REQUIREMENTS.—

''(A) IN GENERAL.—A voting system used in an election for Federal office in a State may not at any time during the election contain or use any election-dedicated voting system technology—

''(i) which has not been certified by the State for use in the election; and

''(ii) which has not been deposited with an accredited laboratory described in section 231 to be held in escrow and disclosed in accordance with this section.

''(B) REQUIREMENT FOR AND RESTRICTIONS ON DISCLOSURE.—An accredited laboratory under section 231 with whom an election-dedicated voting system technology has been deposited shall—

''(i) hold the technology in escrow; and

''(ii) disclose technology and information regarding the technology to another person if—

''(I) the person is a qualified person described in subparagraph (C) who has entered into a nondisclosure agreement with respect to the technology which meets the requirements of subparagraph (D); or

''(II) the laboratory is required to disclose the technology to the person under State law, in accordance with the terms and conditions applicable under such law.

''(C) QUALIFIED PERSONS DESCRIBED.—With respect to the disclosure of election-dedicated voting system technology by a laboratory under subparagraph (B)(ii)(I), a 'qualified person' is any of the following:

''(i) A governmental entity with responsibility for the administration of voting and election-related matters for purposes of reviewing, analyzing, or reporting on the technology.

''(ii) A party to pre- or post-election litigation challenging the result of an election or the administration or use of the technology used in an election, including but not limited to election contests or challenges to the certification of the technology, or an expert for a party to such litigation, for purposes of reviewing or analyzing the technology to support or oppose the litigation, and all parties to the litigation shall have access to the technology for such purposes.

''(iii) A person not described in clause (i) or (ii) who reviews, analyzes, or reports on the technology solely for an academic, scientific, technological, or other investigation or inquiry concerning the accuracy or integrity of the technology.

''(D) REQUIREMENTS FOR NONDISCLOSURE AGREEMENTS.—A nondisclosure agreement entered into with respect to an election-dedicated voting system technology meets the requirements of this subparagraph if the agreement—

''(i) is limited in scope to coverage of the technology disclosed under subparagraph (B) and any trade secrets and intellectual property rights related thereto;

''(ii) does not prohibit a signatory from entering into other nondisclosure agreements to review other technologies under this paragraph;

''(iii) exempts from coverage any information the signatory lawfully obtained from another source or any information in the public domain;

''(iv) remains in effect for not longer than the life of any trade secret or other intellectual property right related thereto;

''(v) prohibits the use of injunctions barring a signatory from carrying out any activity authorized under subparagraph (C), including injunctions limited to the period prior to a trial involving the technology;

''(vi) is silent as to damages awarded for breach of the agreement, other than a reference to damages available under applicable law;

''(vii) allows disclosure of evidence of crime, including in response to a subpoena or warrant;

''(viii) allows the signatory to perform analyses on the technology (including by executing the technology), disclose reports and analyses that describe operational issues pertaining to the technology (including vulnerabilities to tampering, errors, risks associated with use, failures as a result of use, and other problems), and describe or explain why or how a voting system failed or otherwise did not perform as intended; and

''(ix) provides that the agreement shall be governed by the trade secret laws of the applicable State.

''(E) ELECTION-DEDICATED VOTING SYSTEM TECHNOLOGY DEFINED.—For purposes of this paragraph:

''(i) IN GENERAL.—The term 'election-dedicated voting system technology' means the following:

''(I) The source code used for the trusted build and its file signatures.

''(II) A complete disk image of the pre-build, build environment, and any file signatures to validate that it is unmodified.

''(III) A complete disk image of the post-build, build environment, and any file signatures to validate that it is unmodified.

''(IV) All executable code produced by the trusted build and any file signatures to validate that it is unmodified.

''(V) Installation devices and software file signatures.

''(ii) EXCLUSION.—Such term does not include 'commercial-off-the-shelf' software and hardware defined under under the 2005 voluntary voting system guidelines adopted by the Commission under section 222.

''(9) PROHIBITION OF USE OF WIRELESS COMMUNICATIONS DEVICES IN VOTING SYSTEMS.—No voting device upon which ballots are programmed or votes are cast or tabulated shall contain, use, or be accessible by any wireless, power-line, or concealed communication device, except that enclosed infrared communications devices which are certified for use in such device by the State and which cannot be used for any remote or wide area communications or used without the knowledge of poll workers shall be permitted.

''(10) PROHIBITING CONNECTION OF SYSTEM OR TRANSMISSION OF SYSTEM INFORMATION OVER THE INTERNET.—

''(A) IN GENERAL.—No voting device upon which ballots are programmed or votes are cast or tabulated shall be connected to the Internet at any time.

''(B) RULE OF CONSTRUCTION.—Nothing contained in this paragraph shall be deemed to prohibit the Commission from conducting the studies under section 242 or to conduct other similar studies under any other provision of law in a manner consistent with this paragraph.

''(11) SECURITY STANDARDS FOR VOTING SYSTEMS USED IN FEDERAL ELECTIONS.—

''(A) IN GENERAL.—No voting system may be used in an election for Federal office unless the manufacturer of such system and the election officials using such system meet the applicable requirements described in subparagraph (B).

''(B) REQUIREMENTS DESCRIBED.—The requirements described in this subparagraph are as follows:

''(i) The manufacturer and the election officials shall document the secure chain of custody for the handling of all software, hardware, vote storage media, ballots, and voter-verified ballots used in connection with voting systems, and shall make the information available upon request to the Commission.

''(ii) The manufacturer shall disclose to an accredited laboratory under section 231 and to the appropriate election official any information required to be disclosed under paragraph (8).

''(iii) After the appropriate election official has certified the election-dedicated and other voting system software for use in an election, the manufacturer may not—

''(I) alter such software; or

''(II) insert or use in the voting system any software not certified by the State for use in the election.

''(iv) At the request of the Commission—

''(I) the appropriate election official shall submit information to the Commission regarding the State's compliance with this subparagraph; and

''(II) the manufacturer shall submit information to the Commission regarding the manufacturer's compliance with this subparagraph.

''(C) DEVELOPMENT AND PUBLICATION OF BEST PRACTICES ON DOCUMENTATION OF SECURE CHAIN OF CUSTODY.—Not later than August 1, 2008, the Commission shall develop and make publicly available best practices regarding the requirement of subparagraph (B)(i).

''(D) DISCLOSURE OF SECURE CHAIN OF CUSTODY.—The Commission shall make information provided to the Commission under subparagraph (B)(i) available to any person upon request.

''(12) DURABILITY AND READABILITY REQUIREMENTS FOR BALLOTS.—

''(A) DURABILITY REQUIREMENTS FOR PAPER BALLOTS.—

''(i) IN GENERAL.—All voter-verified paper ballots required to be used under this Act (including the paper ballots provided to voters under paragraph (13)) shall be marked, printed, or recorded on durable paper.

''(ii) DEFINITION.—For purposes of this Act, paper is 'durable' if it is capable of withstanding multiple counts and recounts by hand without compromising the fundamental integrity of the ballots, and capable of retaining the information marked, printed, or recorded on them for the full duration of a retention and preservation period of 22 months.

''(B) READABILITY REQUIREMENTS FOR MACHINE-MARKED OR PRINTED PAPER BALLOTS.—All voter-verified paper ballots completed by the voter through the use of a marking or printing device shall be clearly readable by the voter without assistance (other than eyeglasses or other personal vision enhancing devices) and by a scanner or other device equipped for individuals with disabilities.

''(13) MANDATORY AVAILABILITY OF PAPER BALLOTS AT POLLING PLACES.—

''(A) REQUIRING BALLOTS TO BE OFFERED AND PROVIDED.—

''(i) IN GENERAL.—The appropriate election official at each polling place in any election for Federal office shall offer each individual

who is eligible to cast a vote in the election at the polling place the opportunity to cast the vote using a blank pre-printed paper ballot which the individual may mark by hand and which is not produced by the direct recording electronic voting machine. The official shall provide the individual with the ballot and the supplies necessary to mark the ballot.

''(ii) SPECIAL RULE FOR LOCATIONS USING DRE VOTING SYSTEMS.—In the case of a polling place that uses a direct recording electronic voting device, if the individual accepts the offer to cast the vote using a paper ballot, the official shall ensure (to the greatest extent practicable) that the waiting period for the individual to cast a vote is not greater than the waiting period for an individual who does not agree to cast the vote using such a paper ballot under this paragraph.

''(B) TREATMENT OF BALLOT.—Any paper ballot which is cast by an individual under this paragraph shall be counted and otherwise treated as a regular ballot for all purposes (including by incorporating it into the final unofficial vote count (as defined by the State) for the precinct) and not as a provisional ballot, unless the individual casting the ballot would have otherwise been required to cast a provisional ballot.

''(C) POSTING OF NOTICE.—The appropriate election official shall ensure there is prominently displayed at each polling place a notice that describes the obligation of the official to offer individuals the opportunity to cast votes using a pre-printed blank paper ballot.

''(D) TRAINING OF ELECTION OFFICIALS.—The chief State election official shall ensure that election officials at polling places in the State are aware of the requirements of this paragraph, including the requirement to display a notice under subparagraph (C), and are aware that it is a violation of the requirements of this title for an election official to fail to offer an individual the opportunity to cast a vote using a blank pre-printed paper ballot.''.

(2) REQUIRING LABORATORIES TO MEET STANDARDS PROHIBITING CONFLICTS OF INTEREST AS CONDITION OF ACCREDITATION FOR TESTING OF VOTING SYSTEM HARDWARE AND SOFTWARE.—

(A) IN GENERAL.—Section 231(b) of such Act (42 U.S.C. 15371(b)) is amended by adding at the end the following new paragraphs:

''(3) PROHIBITING CONFLICTS OF INTEREST; ENSURING AVAILABILITY OF RESULTS.—

''(A) IN GENERAL.—A laboratory may not be accredited by the Commission for purposes of this section unless—

''(i) the laboratory certifies that the only compensation it receives for the testing carried out in connection with the certification, decertification, and recertification of the manufacturer's voting system hardware and software is the payment made from the Testing Escrow Account under paragraph (4);

''(ii) the laboratory meets such standards as the Commission shall establish (after notice and opportunity for public comment) to prevent the existence or appearance of any conflict of interest in the testing carried out by the laboratory under this section, including standards to ensure that the laboratory does not have a financial interest in the manufacture, sale, and distribution of voting system hardware and software, and is sufficiently independent from other persons with such an interest;

''(iii) the laboratory certifies that it will permit an expert designated by the Commission to observe any testing the laboratory carries out under this section; and

''(iv) the laboratory, upon completion of any testing carried out under this section, discloses the test protocols, results, and all communication between the laboratory and the manufacturer to the Commission.

''(B) AVAILABILITY OF RESULTS.—Upon receipt of information under subparagraph (A), the Commission shall make the information available promptly to election officials and the public.

''(4) PROCEDURES FOR CONDUCTING TESTING; PAYMENT OF USER FEES FOR COMPENSATION OF ACCREDITED LABORATORIES.—

''(A) ESTABLISHMENT OF ESCROW ACCOUNT.—The Commission shall establish an escrow account (to be known as the 'Testing Escrow Account') for making payments to accredited laboratories for the costs of the testing carried out in connection with the certification, decertification, and recertification of voting system hardware and software.

''(B) SCHEDULE OF FEES.—In consultation with the accredited laboratories, the Commission shall establish and regularly update a schedule of fees for the testing carried out in connection with the certification, decertification, and recertification of voting system hardware and software, based on the reasonable costs expected to be incurred by the accredited laboratories in carrying out the testing for various types of hardware and software.

''(C) REQUESTS AND PAYMENTS BY MANUFACTURERS.—A manufacturer of voting system hardware and software may not have the hardware or software tested by an accredited laboratory under this section unless—

''(i) the manufacturer submits a detailed request for the testing to the Commission; and

''(ii) the manufacturer pays to the Commission, for deposit into the Testing Escrow Account established under subparagraph (A), the applicable fee under the schedule established and in effect under subparagraph (B).

''(D) SELECTION OF LABORATORY.—Upon receiving a request for testing and the payment from a manufacturer required under subparagraph (C), the Commission shall select at random (to the greatest extent practicable), from all laboratories which are accredited under this section to carry out the specific testing requested by the manufacturer, an accredited laboratory to carry out the testing.

''(E) PAYMENTS TO LABORATORIES.—Upon receiving a certification from a laboratory selected to carry out testing pursuant to subparagraph (D) that the testing is completed, along with a copy of the results of the test as required under paragraph (3)(A)(iv), the Commission shall make a payment to the laboratory from the Testing Escrow Account established under subparagraph (A) in an amount equal to the applicable fee paid by the manufacturer under subparagraph (C)(ii).

''(5) DISSEMINATION OF ADDITIONAL INFORMATION ON ACCREDITED LABORATORIES.—

''(A) INFORMATION ON TESTING.—Upon completion of the testing of a voting system under this section, the Commission shall promptly disseminate to the public the identification of the laboratory which carried out the testing.

''(B) INFORMATION ON STATUS OF LABORATORIES.—The Commission shall promptly notify Congress, the chief State election official of each State, and the public whenever—

''(i) the Commission revokes, terminates, or suspends the accreditation of a laboratory under this section;

''(ii) the Commission restores the accreditation of a laboratory under this section which has been revoked, terminated, or suspended; or

''(iii) the Commission has credible evidence of significant security failure at an accredited laboratory.''.

(B) CONFORMING AMENDMENTS.—Section 231 of such Act (42 U.S.C. 15371) is further amended—

(i) in subsection (a)(1), by striking ''testing, certification,'' and all that follows and inserting the following: ''testing of voting system hardware and software by accredited laboratories in connection with the certification, decertification, and recertification of the hardware and software for purposes of this Act.'';

(ii) in subsection (a)(2), by striking ''testing, certification,'' and all that follows and inserting the following: ''testing of its voting system hardware and software by the laboratories accredited by the Commission under this section in connection with certifying, decertifying, and recertifying the hardware and software.'';

(iii) in subsection (b)(1), by striking ''testing, certification, decertification, and recertification'' and inserting ''testing''; and

(iv) in subsection (d), by striking ''testing, certification, decertification, and recertification'' each place it appears and inserting ''testing''.

(C) DEADLINE FOR ESTABLISHMENT OF STANDARDS, ESCROW ACCOUNT, AND SCHEDULE OF FEES.—The Election Assistance Commission shall establish the standards described in section 231(b)(3) of the Help America Vote Act of 2002 and the Testing Escrow Account and schedule of fees described in section 231(b)(4) of such Act (as added by subparagraph (A)) not later than January 1, 2008.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Election Assistance Commission such sums as may be necessary to carry out the Commission's duties under paragraphs (3) and (4) of section 231 of the Help America Vote Act of 2002 (as added by subparagraph (A)).

(3) SPECIAL CERTIFICATION OF BALLOT DURABILITY AND READABILITY REQUIREMENTS FOR STATES NOT CURRENTLY USING DURABLE PAPER BALLOTS.—

(A) IN GENERAL.—If any of the voting systems used in a State for the regularly scheduled 2006 general elections for Federal office did not require the use of or produce durable paper ballots, the State shall certify to the Election Assistance Commission not later than 90 days after the date of the enactment of this Act that the State will be in compliance with the requirements of sections 301(a)(2) and 301(a)(12) of the Help America Vote of 2002, as added or amended by this subsection, in accordance with the deadlines established under this Act, and shall include in the certification the methods by which the State will meet the requirements.

(B) CERTIFICATIONS BY STATES THAT REQUIRE CHANGES TO STATE LAW.—In the case of a State that requires State legislation to carry out an activity covered by any certification submitted under this paragraph, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.

(4) GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE.—

(A) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following new part:

''PART 7—GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE

''SEC. 297. GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE.

''(a) IN GENERAL.—The Director of the National Science Foundation (hereafter in this

part referred to as the 'Director') shall make grants to not fewer than 3 eligible entities to conduct research on the development of election-dedicated voting system software.

''(b) ELIGIBILITY.—An entity is eligible to receive a grant under this part if it submits to the Director (at such time and in such form as the Director may require) an application containing—

''(1) certifications regarding the benefits of operating voting systems on election-dedicated software which is easily understandable and which is written exclusively for the purpose of conducting elections;

''(2) certifications that the entity will use the funds provided under the grant to carry out research on how to develop voting systems that run on election-dedicated software and that will meet the applicable requirements for voting systems under title III; and

''(3) such other information and certifications as the Director may require.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $1,500,000 for each of fiscal years 2008 and 2009, to remain available until expended.''.

(B) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end of the items relating to subtitle D of title II the following:

''PART 7—GRANTS FOR RESEARCH ON DEVELOPMENT OF ELECTION-DEDICATED VOTING SYSTEM SOFTWARE

''Sec. 297. Grants for research on development of election-dedicated voting system software.''.

(d) AVAILABILITY OF ADDITIONAL FUNDING TO ENABLE STATES TO MEET COSTS OF REVISED REQUIREMENTS.—

(1) EXTENSION OF REQUIREMENTS PAYMENTS FOR MEETING REVISED REQUIREMENTS.—Section 257(a) of the Help America Vote Act of 2002 (42 U.S.C. 15407(a)) is amended by adding at the end the following new paragraph:

''(4) For fiscal year 2008, $1,000,000,000, except that any funds provided under the authorization made by this paragraph shall be used by a State only to meet the requirements of title III which are first imposed on the State pursuant to the amendments made by section 2 of the Voter Confidence and Increased Accessibility Act of 2007, or to otherwise modify or replace its voting systems in response to such amendments.''.

(2) USE OF REVISED FORMULA FOR ALLOCATION OF FUNDS.—Section 252(b) of such Act (42 U.S.C. 15402(b)) is amended to read as follows:

''(b) STATE ALLOCATION PERCENTAGE DEFINED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the 'State allocation percentage' for a State is the amount (expressed as a percentage) equal to the quotient of—

''(A) the voting age population of the State (as reported in the most recent decennial census); and

''(B) the total voting age population of all States (as reported in the most recent decennial census).

''(2) SPECIAL RULE FOR PAYMENTS FOR FISCAL YEAR 2008.—

''(A) IN GENERAL.—In the case of the requirements payment made to a State for fiscal year 2008, the 'State allocation percentage' for a State is the amount (expressed as a percentage) equal to the quotient of—

''(i) the sum of the number of noncompliant precincts in the State and 50% of the number of partially noncompliant precincts in the State; and

''(ii) the sum of the number of noncompliant precincts in all States and 50% of the number of partially noncompliant precincts in all States.

''(B) NONCOMPLIANT PRECINCT DEFINED.—In this paragraph, a 'noncompliant precinct' means any precinct (or equivalent location) within a State for which the voting system used to administer the regularly scheduled general election for Federal office held in November 2006 did not meet either of the requirements described in subparagraph (D).

''(C) PARTIALLY NONCOMPLIANT PRECINCT DEFINED.—In this paragraph, a 'partially noncompliant precinct' means any precinct (or equivalent location) within a State for which the voting system used to administer the regularly scheduled general election for Federal office held in November 2006 met only one of the requirements described in subparagraph (D).

''(D) REQUIREMENTS DESCRIBED.—The requirements described in this subparagraph with respect to a voting system are as follows:

''(i) The primary voting system required the use of or produced durable paper ballots (as described in section 301(a)(12)(A)) for every vote cast.

''(ii) The voting system provided that the entire process of paper ballot verification was equipped for individuals with disabilities.''.

(3) REVISED CONDITIONS FOR RECEIPT OF FUNDS.—Section 253 of such Act (42 U.S.C. 15403) is amended—

(A) in subsection (a), by striking ''A State is eligible'' and inserting ''Except as provided in subsection (f), a State is eligible''; and

(B) by adding at the end the following new subsection:

''(f) SPECIAL RULE FOR FISCAL YEAR 2008.—

''(1) IN GENERAL.—Notwithstanding any other provision of this part, a State is eligible to receive a requirements payment for fiscal year 2008 if, not later than 90 days after the date of the enactment of the Voter Confidence and Increased Accessibility Act of 2007, the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official—

''(A) certifies to the Commission the number of noncompliant and partially noncompliant precincts in the State (as defined in section 252(b)(2)); and

''(B) files a statement with the Commission describing the State's need for the payment and how the State will use the payment to meet the requirements of title III (in accordance with the limitations applicable to the use of the payment under section 257(a)(4)).

''(2) CERTIFICATIONS BY STATES THAT REQUIRE CHANGES TO STATE LAW.—In the case of a State that requires State legislation to carry out any activity covered by any certification submitted under this subsection, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.''.

(4) PERMITTING USE OF FUNDS FOR REIMBURSEMENT FOR COSTS PREVIOUSLY INCURRED.—Section 251(c)(1) of such Act (42 U.S.C. 15401(c)(1)) is amended by striking the period at the end and inserting the following: '', or as a reimbursement for any costs incurred after November 2004 in meeting the requirements of title III which are imposed pursuant to the amendments made by section 2 of the Voter Confidence and Increased Accessibility Act of 2007 or in otherwise upgrading or replacing voting systems in a manner consistent with such amendments (so long as the voting systems meet any of the requirements that apply with respect to elections for Federal office held in 2012 and each succeeding year).''.

(5) RULE OF CONSTRUCTION REGARDING STATES RECEIVING OTHER FUNDS FOR REPLACING PUNCH CARD, LEVER, OR OTHER VOTING MACHINES.—Nothing in the amendments made by this subsection or in any other provision of the Help America Vote Act of 2002 may be construed to prohibit a State which received or was authorized to receive a payment under title I or II of such Act for replacing punch card, lever, or other voting machines from receiving or using any funds which are made available under the amendments made by this subsection.

(6) RULE OF CONSTRUCTION REGARDING USE OF FUNDS RECEIVED IN PRIOR YEARS.—

(A) IN GENERAL.—Nothing contained in this Act or the Help America Vote Act of 2002 may be construed to prohibit a State from using funds received under title I or II of the Help America Vote Act of 2002—

(i) to purchase or acquire by other means a voting system that meets the requirements of paragraphs (2) and (3) of section 301 of the Help America Vote Act of 2002 (as amended by this Act); or

(ii) to retrofit a voting system so that it will meet such requirements,

in order to replace or upgrade (as the case may be) voting systems purchased with funds received under the Help America Vote Act of 2002 that do not require the use of or produce paper ballots.

(B) WAIVER OF NOTICE AND COMMENT REQUIREMENTS.—The requirements of subparagraphs (A), (B), and (C) of section 254(a)(11) of the Help America Vote Act of 2002 shall not apply to any State using funds received under such Act for the purposes described in clause (i) or (ii) of subparagraph (A).

(7) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to fiscal years beginning with fiscal year 2008.

(e) RESTRICTION ON USE OF DIRECT RECORDING ELECTRONIC VOTING SYSTEMS.—Section 301 of such Act (42 U.S.C. 15481), as amended by this section, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) through (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

''(b) RESTRICTION ON USE OF DIRECT RECORDING ELECTRONIC VOTING SYSTEMS.—A direct recording electronic voting system may not be used to administer any election for Federal office held in 2012 or any subsequent year.''

(f) EFFECTIVE DATE FOR NEW REQUIREMENTS.—Section 301(d) of such Act (42 U.S.C. 15481(d)), as redesignated by subsection (e), is amended to read as follows:

''(d) EFFECTIVE DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.

''(2) SPECIAL RULE FOR CERTAIN REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of this section which are first imposed on a State and jurisdiction pursuant to the amendments made by section 2 of the Voter Confidence and Increased Accessibility Act of 2007 shall apply with respect to the regularly scheduled general election for Federal office held in November 2008 and each succeeding election for Federal office.

''(B) DELAY FOR JURISDICTIONS USING CERTAIN PAPER BALLOT PRINTERS OR CERTAIN PAPER BALLOT-EQUIPPED ACCESSIBLE MACHINES IN 2006.—

''(i) DELAY.—In the case of a jurisdiction described in clause (ii), subparagraph (A) shall apply to the jurisdiction as if the reference in such subparagraph to 'the regularly scheduled general election for Federal

office held in November 2008 and each succeeding election for Federal office' were a reference to 'elections for Federal office occurring during 2012 and each succeeding year', but only with respect to the following requirements of this section:

''(I) Paragraph (3)(B)(ii)(I) and (II) of subsection (a) (relating to access to verification from the durable paper ballot).

''(II) Paragraph (12) of subsection (a) (relating to durability and readability requirements for ballots).

''(ii) JURISDICTIONS DESCRIBED.—A jurisdiction described in this clause is—

''(I) a jurisdiction which used thermal reel-to-reel voter verified paper ballot printers attached to direct recording electronic voting machines for the administration of the regularly scheduled general election for Federal office held in November 2006 and which will continue to use such printers (or other printers which meet the requirements of paragraph (3)(B)(ii)(I) and (II) of subsection (a)) attached to such voting machines for the administration of elections for Federal office held in years before 2012; or

''(II) a jurisdiction which used voting machines which met the accessibility requirements of paragraph (3) of subsection (a) (as in effect with respect to such election) for the administration of the regularly scheduled general election for Federal office held in November 2006 and which used or produced a paper ballot, and which will continue to use such voting machines (or other voting machines which meet the requirements of this section) for the administration of elections for Federal office held in years before 2012.''.

SEC. 3. ENHANCEMENT OF ENFORCEMENT OF HELP AMERICA VOTE ACT OF 2002.

Section 401 of such Act (42 U.S.C. 15511) is amended—

(1) by striking ''The Attorney General'' and inserting ''(a) IN GENERAL.—The Attorney General''; and

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

''(b) FILING OF COMPLAINTS BY AGGRIEVED PERSONS.—

''(1) IN GENERAL.—A person who is aggrieved by a violation of section 301, 302, or 303 which has occurred, is occurring, or is about to occur may file a written, signed, notarized complaint with the Attorney General describing the violation and requesting the Attorney General to take appropriate action under this section. The Attorney General shall immediately provide a copy of a complaint filed under the previous sentence to the entity responsible for administering the State-based administrative complaint procedures described in section 402(a) for the State involved.

''(2) RESPONSE BY ATTORNEY GENERAL.—The Attorney General shall respond to each complaint filed under paragraph (1), in accordance with procedures established by the Attorney General that require responses and determinations to be made within the same (or shorter) deadlines which apply to a State under the State-based administrative complaint procedures described in section 402(a)(2). The Attorney General shall immediately provide a copy of the response made under the previous sentence to the entity responsible for administering the State-based administrative complaint procedures described in section 402(a) for the State involved.

''(c) CLARIFICATION OF AVAILABILITY OF PRIVATE RIGHT OF ACTION.—Nothing in this section may be construed to prohibit any person from bringing an action under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) (including any individual who seeks to enforce the individual's right to a voter-verified paper ballot, the right to have the voter-verified paper ballot counted in accordance with this Act, or any other right under subtitle A of title III) to enforce the uniform and nondiscriminatory election technology and administration requirements under sections 301, 302, and 303.

''(d) NO EFFECT ON STATE PROCEDURES.—Nothing in this section may be construed to affect the availability of the State-based administrative complaint procedures required under section 402 to any person filing a complaint under this subsection.''.

SEC. 4. REQUIREMENT FOR MANDATORY MANUAL AUDITS BY HAND COUNT.

(a) MANDATORY MANUAL AUDITS.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by adding at the end the following new subtitle:

''Subtitle C—Mandatory Manual Audits

''SEC. 321. REQUIRING AUDITS OF RESULTS OF ELECTIONS.

''(a) REQUIRING AUDITS.—

''(1) IN GENERAL.—In accordance with this subtitle, each State shall administer, without advance notice to the precincts selected, audits of the results of elections for Federal office held in the State (and, at the option of the State or jurisdiction involved, of elections for State and local office held at the same time as such election) consisting of random hand counts of the voter-verified paper ballots required to be produced and preserved pursuant to section 301(a)(2).

''(2) EXCEPTION FOR CERTAIN ELECTIONS.—A State shall not be required to administer an audit of the results of an election for Federal office under this subtitle if the winning candidate in the election—

''(A) had no opposition on the ballot; or

''(B) received 80% or more of the total number of votes cast in the election, as determined on the basis of the final unofficial vote count.

''(b) DETERMINATION OF ENTITY CONDUCTING AUDITS; APPLICATION OF GAO INDEPENDENCE STANDARDS.—The State shall administer audits under this subtitle through an entity selected for such purpose by the State in accordance with such criteria as the State considers appropriate consistent with the requirements of this subtitle, except that the entity must meet the general standards established by the Comptroller General and as set forth in the Comptroller General's Government Auditing Standards to ensure the independence (including the organizational independence) of entities performing financial audits, attestation engagements, and performance audits.

''(c) REFERENCES TO ELECTION AUDITOR.—In this subtitle, the term 'Election Auditor' means, with respect to a State, the entity selected by the State under subsection (b).

''SEC. 322. NUMBER OF BALLOTS COUNTED UNDER AUDIT.

''(a) IN GENERAL.—Except as provided in subsection (b), the number of voter-verified paper ballots which will be subject to a hand count administered by the Election Auditor of a State under this subtitle with respect to an election shall be determined as follows:

''(1) In the event that the unofficial count as described in section 323(a)(1) reveals that the margin of victory between the two candidates receiving the largest number of votes in the election is less than 1 percent of the total votes cast in that election, the hand counts of the voter-verified paper ballots shall occur in at least 10 percent of all precincts or equivalent locations (or alternative audit units used in accordance with the method provided for under subsection (b)) in the Congressional district involved (in the case of an election for the House of Representatives) or the State (in the case of any other election for Federal office).

''(2) In the event that the unofficial count as described in section 323(a)(1) reveals that the margin of victory between the two candidates receiving the largest number of votes in the election is greater than or equal to 1 percent but less than 2 percent of the total votes cast in that election, the hand counts of the voter-verified paper ballots shall occur in at least 5 percent of all precincts or equivalent locations (or alternative audit units used in accordance with the method provided for under subsection (b)) in the Congressional district involved (in the case of an election for the House of Representatives) or the State (in the case of any other election for Federal office).

''(3) In the event that the unofficial count as described in section 323(a)(1) reveals that the margin of victory between the two candidates receiving the largest number of votes in the election is equal to or greater than 2 percent of the total votes cast in that election, the hand counts of the voter-verified paper ballots shall occur in at least 3 percent of all precincts or equivalent locations (or alternative audit units used in accordance with the method provided for under subsection (b)) in the Congressional district involved (in the case of an election for the House of Representatives) or the State (in the case of any other election for Federal office).

''(b) USE OF ALTERNATIVE MECHANISM.—Notwithstanding subsection (a), a State may adopt and apply an alternative mechanism to determine the number of voter-verified paper ballots which will be subject to the hand counts required under this subtitle with respect to an election, so long as the alternative mechanism uses the voter-verified paper ballots to conduct the audit and the National Institute of Standards and Technology determines that the alternative mechanism will be at least as statistically effective in ensuring the accuracy of the election results as the procedure under this subtitle.

''SEC. 323. PROCESS FOR ADMINISTERING AUDITS.

''(a) IN GENERAL.—The Election Auditor of a State shall administer an audit under this section of the results of an election in accordance with the following procedures:

''(1) Within 24 hours after the State announces the final unofficial vote count (as defined by the State) in each precinct in the State, the Election Auditor shall determine and then announce the precincts or equivalent locations (or alternative audit units used in accordance with the method provided under section 322(b)) in the State in which it will administer the audits.

''(2) With respect to votes cast at the precinct or equivalent location on or before the date of the election (other than provisional ballots described in paragraph (3)), the Election Auditor shall administer the hand count of the votes on the voter-verified paper ballots required to be produced and preserved under section 301(a)(2)(A) and the comparison of the count of the votes on those ballots with the final unofficial count of such votes as announced by the State.

''(3) With respect to votes cast other than at the precinct on the date of the election (other than votes cast before the date of the election described in paragraph (2)) or votes cast by provisional ballot on the date of the election which are certified and counted by the State on or after the date of the election, including votes cast by absent uniformed services voters and overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act, the Election Auditor shall administer the hand count of the votes on the applicable voter-verified paper ballots required to be produced and preserved under section 301(a)(2)(A) and the comparison of the count of the votes on those ballots with

the final unofficial count of such votes as announced by the State.

''(b) USE OF PERSONNEL.—In administering the audits, the Election Auditor may utilize the services of the personnel of the State or jurisdiction, including election administration personnel and poll workers, without regard to whether or not the personnel have professional auditing experience.

''(c) LOCATION.—The Election Auditor shall administer an audit of an election—

''(1) at the location where the ballots cast in the election are stored and counted after the date of the election or such other appropriate and secure location agreed upon by the Election Auditor and the individual that is responsible under State law for the custody of the ballots; and

''(2) in the presence of the personnel who under State law are responsible for the custody of the ballots.

''(d) SPECIAL RULE IN CASE OF DELAY IN REPORTING ABSENTEE VOTE COUNT.—In the case of a State in which the final count of absentee and provisional votes is not announced until after the expiration of the 7-day period which begins on the date of the election, the Election Auditor shall initiate the process described in subsection (a) for administering the audit not later than 24 hours after the State announces the final unofficial vote count for the votes cast at the precinct or equivalent location on or before the date of the election, and shall initiate the administration of the audit of the absentee and provisional votes pursuant to subsection (a)(3) not later than 24 hours after the State announces the final unofficial count of such votes.

''(e) ADDITIONAL AUDITS IF CAUSE SHOWN.—

''(1) IN GENERAL.—If the Election Auditor finds that any of the hand counts administered under this section do not match the final unofficial tally of the results of an election, the Election Auditor shall administer hand counts under this section of such additional precincts (or equivalent jurisdictions) as the Election Auditor considers appropriate to resolve any concerns resulting from the audit and ensure the accuracy of the results.

''(2) ESTABLISHMENT AND PUBLICATION OF PROCEDURES GOVERNING ADDITIONAL AUDITS.—Not later than August 1, 2008, each State shall establish and publish procedures for carrying out the additional audits under this subsection, including the means by which the State shall resolve any concerns resulting from the audit with finality and ensure the accuracy of the results.

''(f) PUBLIC OBSERVATION OF AUDITS.—Each audit conducted under this section shall be conducted in a manner that allows public observation of the entire process.

''SEC. 324. SELECTION OF PRECINCTS.

''(a) IN GENERAL.—Except as provided in subsection (c), the selection of the precincts in the State in which the Election Auditor of the State shall administer the hand counts under this subtitle shall be made by the Election Auditor on an entirely random basis using a uniform distribution in which all precincts in a Congressional district have an equal chance of being selected, in accordance with procedures adopted by the National Institute of Standards and Technology, except that at least one precinct shall be selected at random in each county.

''(b) PUBLIC SELECTION.—The random selection of precincts under subsection (a) shall be conducted in public, at a time and place announced in advance.

''(c) MANDATORY SELECTION OF PRECINCTS ESTABLISHED SPECIFICALLY FOR ABSENTEE BALLOTS.—If a State establishes a separate precinct for purposes of counting the absentee ballots cast in an election and treats all absentee ballots as having been cast in that precinct, and if the state does not make absentee ballots sortable by precinct and include those ballots in the hand count administered with respect to that precinct, the State shall include that precinct among the precincts in the State in which the Election Auditor shall administer the hand counts under this subtitle.

''(d) DEADLINE FOR ADOPTION OF PROCEDURES BY COMMISSION.—The National Institute of Standards and Technology shall adopt the procedures described in subsection (a) not later than March 31, 2008, and shall publish them in the Federal Register upon adoption.

''SEC. 325. PUBLICATION OF RESULTS.

''(a) SUBMISSION TO COMMISSION.—As soon as practicable after the completion of an audit under this subtitle, the Election Auditor of a State shall— submit to the Commission the results of the audit, and shall include in the submission a comparison of the results of the election in the precinct as determined by the Election Auditor under the audit and the final unofficial vote count in the precinct as announced by the State and all undervotes, overvotes, blank ballots, and spoiled, voided, or cancelled ballots, as well as a list of any discrepancies discovered between the initial, subsequent, and final hand counts administered by the Election Auditor and such final unofficial vote count and any explanation for such discrepancies, broken down by the categories of votes described in paragraphs (2) and (3) of section 323(a).

''(b) PUBLICATION BY COMMISSION.—Immediately after receiving the submission of the results of an audit from the Election Auditor of a State under subsection (a), the Commission shall publicly announce and publish the information contained in the submission.

''(c) DELAY IN CERTIFICATION OF RESULTS BY STATE.—

''(1) PROHIBITING CERTIFICATION UNTIL COMPLETION OF AUDITS.—No State may certify the results of any election which is subject to an audit under this subtitle prior to—

''(A) to the completion of the audit (and, if required, any additional audit conducted under section 323(e)(1)) and the announcement and submission of the results of each such audit to the Commission for publication of the information required under this section; and

''(B) the completion of any procedure established by the State pursuant to section 323(e)(2) to resolve discrepancies and ensure the accuracy of results.

''(2) DEADLINE FOR COMPLETION OF AUDITS OF PRESIDENTIAL ELECTIONS.—In the case of an election for electors for President and Vice President which is subject to an audit under this subtitle, the State shall complete the audits and announce and submit the results to the Commission for publication of the information required under this section in time for the State to certify the results of the election and provide for the final determination of any controversy or contest concerning the appointment of such electors prior to the deadline described in section 6 of title 3, United States Code.

''SEC. 326. PAYMENTS TO STATES.

''(a) PAYMENTS FOR COSTS OF CONDUCTING AUDITS.—In accordance with the requirements and procedures of this section, the Commission shall make a payment to a State to cover the costs incurred by the State in carrying out this subtitle with respect to the elections that are the subject of the audits conducted under this subtitle.

''(b) CERTIFICATION OF COMPLIANCE AND ANTICIPATED COSTS.—

''(1) CERTIFICATION REQUIRED.—In order to receive a payment under this section, a State shall submit to the Commission, in such form as the Commission may require, a statement containing—

''(A) a certification that the State will conduct the audits required under this subtitle in accordance with all of the requirements of this subtitle;

''(B) a notice of the reasonable costs incurred or the reasonable costs anticipated to be incurred by the State in carrying out this subtitle with respect to the elections involved; and

''(C) such other information and assurances as the Commission may require.

''(2) AMOUNT OF PAYMENT.—The amount of a payment made to a State under this section shall be equal to the reasonable costs incurred or the reasonable costs anticipated to be incurred by the State in carrying out this subtitle with respect to the elections involved, as set forth in the statement submitted under paragraph (1).

''(3) TIMING OF NOTICE.—The State may not submit a notice under paragraph (1) until candidates have been selected to appear on the ballot for all of the elections for Federal office which will be the subject of the audits involved.

''(c) TIMING OF PAYMENTS.—The Commission shall make the payment required under this section to a State not later than 30 days after receiving the notice submitted by the State under subsection (b).

''(d) RECOUPMENT OF OVERPAYMENTS.—No payment may be made to a State under this section unless the State agrees to repay to the Commission the excess (if any) of—

''(1) the amount of the payment received by the State under this section with respect to the elections involved; over

''(2) the actual costs incurred by the State in carrying out this subtitle with respect to the elections involved.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission for fiscal year 2008 and each succeeding fiscal year $100,000,000 for payments under this section.

''SEC. 327. EXCEPTION FOR ELECTIONS SUBJECT TO RECOUNT UNDER STATE LAW PRIOR TO CERTIFICATION.

''(a) EXCEPTION.—This subtitle does not apply to any election for which a recount under State law will commence prior to the certification of the results of the election, including but not limited to a recount required automatically because of the margin of victory between the 2 candidates receiving the largest number of votes in the election, but only if each of the following applies to the recount:

''(1) The recount commences prior to the determination and announcement by the Election Auditor under section 323(a)(1) of the precincts in the State in which it will administer the audits under this subtitle.

''(2) If the recount would apply to fewer than 100% of the ballots cast in the election—

''(A) the number of ballots counted will be at least as many as would be counted if an audit were conducted with respect to the election in accordance with this subtitle; and

''(B) the selection of the precincts in which the recount will be conducted will be made in accordance with the random selection procedures applicable under section 324.

''(3) The recount for the election meets the requirements of section 323(f) (relating to public observation).

''(4) The State meets the requirements of section 325 (relating to the publication of results and the delay in the certification of results) with respect to the recount.

''(b) CLARIFICATION OF EFFECT ON OTHER REQUIREMENTS.—Nothing in this section may be construed to waive the application of any other provision of this Act to any election (including the requirement set forth in section 301(a)(2) that the voter verified paper

ballots serve as the vote of record and shall be counted by hand in all audits and recounts, including audits and recounts described in this subtitle).

''SEC. 328. EFFECTIVE DATE.

''This subtitle shall apply with respect to elections for Federal office beginning with the regularly scheduled general elections held in November 2008.''.

(b) AVAILABILITY OF ENFORCEMENT UNDER HELP AMERICA VOTE ACT OF 2002.—Section 401 of such Act (42 U.S.C. 15511), as amended by section 3, is amended—

(1) in subsection (a), by striking the period at the end and inserting the following: '', or the requirements of subtitle C of title III.'';

(2) in subsection (b)(1), by striking ''303'' and inserting ''303, or subtitle C of title III,''; and

(3) in subsection (c)—

(A) by striking ''subtitle A'' and inserting ''subtitles A or C'', and

(B) by striking the period at the end and inserting the following: '', or the requirements of subtitle C of title III.''.

(c) GUIDANCE ON BEST PRACTICES FOR ALTERNATIVE AUDIT MECHANISMS.—

(1) IN GENERAL.—Not later than May 1, 2008, the Director of the National Institute for Standards and Technology shall establish guidance for States that wish to establish alternative audit mechanisms under section 322(b) of the Help America Vote Act of 2002 (as added by subsection (a)). Such guidance shall be based upon scientifically and statistically reasonable assumptions for the purpose of creating an alternative audit mechanism that will be at least as effective in ensuring the accuracy of election results and as transparent as the procedure under subtitle C of title III of such Act (as so added).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out paragraph (1) $100,000, to remain available until expended.

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by adding at the end of the items relating to title III the following:

''Subtitle C—Mandatory Manual Audits

''Sec. 321. Requiring audits of results of elections.
''Sec. 322. Number of ballots counted under audit.
''Sec. 323. Process for administering audits.
''Sec. 324. Selection of precincts.
''Sec. 325. Publication of results.
''Sec. 326. Payments to States.
''Sec. 327. Exception for elections subject to recount under State law prior to certification.
''Sec. 328. Effective date.''.

SEC. 5. REPEAL OF EXEMPTION OF ELECTION ASSISTANCE COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS.

(a) IN GENERAL.—Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325) is amended by striking subsection (e).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contracts entered into by the Election Assistance Commission on or after the date of the enactment of this Act.

SEC. 6. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall apply with respect to the regularly scheduled general election for Federal office in November 2008 and each succeeding election for Federal office.

By Ms. SNOWE:

S. 2297. A bill to require the FCC to conduct an economic study on the impact that low-power FM stations will have on full-power commercial FM stations; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that would require the Federal Communications Commission to fulfill its obligation of conducting an economic study on the impact low-power FM stations have on full-power commercial stations. The reason it is imperative the FCC perform this study is because we don't have a comprehensive understanding as to the effect that low-power FM stations have on their full-power counterparts.

When Congress imposed the three-adjacent-channel restriction on low-power licensees in 2001, we tasked the FCC with conducting two studies because we were concerned about the interference LPFM stations could cause with being too close in frequency to full-power commercial stations. The two studies were to determine the impact that the presence of a low-power channel would have with respect to interference with a nearby full-power station and the economic impact the presence of low power stations would bring to the commercial licensees. However, the FCC completed only one study—the interference analysis.

My legislation calls for the FCC to complete an economic study on the impact LPFM stations have on full-power commercial radio stations within 18 months and report its findings to Congress.

Volunteer, non-profit LPFM stations have found a niche but they also provide competition to full-power stations without having to incur the same costs as those commercial stations, particularly with the absence of licensing fees and employees' salaries. Most of us have raised serious concerns about the continued media consolidation that is occurring and negatively affecting localism and diversity.

Part of the reason for this consolidation is because local, independently owned stations are seeing lower profit margins, which are making it more and more difficult to continue broadcasting. Due to shrinking profit, these stations either go out of business or are sold out to larger, nationwide companies. The buy-out of local stations by out-of-town firms does more to harm diverse and locally oriented broadcasting than anything else. So we must actively investigate this trend and determine what is contributing to the diminishing returns of independently owned stations.

Some may question why perform this study since Mitre Corporation, the company that performed the initial interference study, recommended the FCC should not undertake the additional expense of a formal listener test program or a Phase II economic analysis. The reason is because the Phase II economic analysis was only on the potential radio interference impact of LPFM on incumbent full-power stations and did not take into account other economic impacts that were outside the scope of that effort. The Government must ensure that by opening up low-power FM broadcast opportunities we are not causing any undue harm to the full-power radio stations, which we have obligations to as the issuer of their licenses.

I hope my colleagues join me in supporting the critical legislation.

By Ms. SNOWE:

S. 2298. A bill to prohibit an applicant from obtaining a low-power FM license if an applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that would preserve the Federal Communications Commission's right to deny a low-power FM license if the applicant has run afoul of basic, longstanding Federal restrictions on the transmission of radio waves, such as if the applicant has been previously fined for running an unlicensed ''pirate'' radio station.

Before the issuance of low-power licenses, numerous individuals and entities operated low-power FM stations without a broadcast license. These ''pirate'' stations many times broadcasted in open defiance of the Commission's initial ban on LPFM broadcasts. From January 1998 to February 2000, the Commission shut down, on average, more than a dozen unlicensed radio stations each month. On several separate occasions, these unlicensed radio stations actually disrupted air traffic control communications.

Congress, through the enactment of the Radio Broadcast Preservation Act of 2000, directed the FCC to modify its low-power FM rules to ''prohibit any applicant from obtaining a low-power FM license if the applicant has engaged in any manner in the unlicensed operation of any station in violation of section 301 of the Communications Act of 1934'' so the Commission could curtail these pirate stations and disruption occurrence.

My concern is by completely repealing section 632, which pending legislation proposes, it hinders the ability of the FCC to prohibit applicants from receiving low-power FM licenses. The Commission is responsible for making sure broadcasters follow the basic rules and regulations that are inherently essential to having a broadcast service that serves public interest since broadcasters are utilizing public spectrum. This legislation retains a targeted response to the problem of pirate broadcasting.

The commission is to grant a broadcast license only if the ''public interest, convenience, and necessity would be served.'' Completely repealing Section 632 could hinder the FCC from upholding this responsibility with respect to low-power FM broadcasters. For this

reason, we must act to preserve the FCC's authority to be able to prohibit low-power FM licenses to applicants that have violated basic tenets of broadcast policy—it is only logical that we do this to ensure businesses that use the public spectrum, in any capacity, adhered to laws government has put in place to serve and protect the public interest.

I hope my colleagues join me in supporting the critical legislation.

By Ms. SNOWE:

S. 2299. A bill to require the Secretary of Agriculture to establish an advisory committee to develop recommendations regarding the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that I believe is vital to the prosperity and competitiveness of an element of agriculture that is often overlooked: American aquaculture. Some experts estimate that to meet the demand for healthy, fresh aquacultural products, global production will have to double in the next 40 years. Yet in spite of this skyrocketing demand, America is at risk of being left behind by other nations who have thus far exhibited greater foresight than we have; putting into place a comprehensive infrastructure for sustainable seafood. While it is true that American aquaculture sales exceeded an impressive one billion dollars in 2005, this was a pittance when compared to the $70 billion market worldwide. In fact, in 2006 the U.S. had a trade deficit in seafood production of $9.1 billion. With demand rising so dramatically globally and, in particular, here at home, we cannot afford to fall behind any further.

That is why I have taken this opportunity to introduce the National Aquatic Animal Health Act. This legislation will begin the process of creating a national infrastructure that will attract investment, protect the valuable stocks of our aquaculture farmers from disease, and create a unique, flexible partnership between the Federal Government, State agencies, and industry groups. Dedicated to proactively monitoring seafood stocks for disease, this program will employ the resources and vast field experience of the Animal and Plant Health Inspection Service, or APHIS, coupled with experts on disease at various State agriculture and marine agencies and industry professionals to certify the health of all participating aquaculture species.

Modeled after similar animal monitoring programs already in place at APHIS, this program will provide a nationwide set of standards, the kind of uniformity that is currently absent in the aquaculture community. Instead, a myriad of jurisdictional conflicts and competing regulations among various states creates uncertainty and erects impediments to interstate commerce. But this bill is not a set of onerous regulations imposed upon the private sector by a federal agency; under the legislation, states are required to opt-in to the program. They must choose to utilize the assets available in this legislation to assist in preserving that state's particular aquaculture products.

My home State of Maine has tremendously benefited from aquaculture. There are nearly three dozen hatcheries in the State, handling both finfish and shellfish. Our 3,500 miles of coastline has served as an ideal incubator for the expansion of the aquaculture industry. The total economic activity generated from the industry State-wide was over $130 million last year, providing jobs for over 1,000 hard-working Mainers. This sort of productivity was not always the case. In 2001, nearly all the salmon stocks in Maine had to be eliminated due to an outbreak of a crippling, infectious disease known as ISA. It took the industry years to recover. Now, the Great Lakes face the threat of the virulent pathogen known as VHS. It is my hope that with swift passage of this legislation, we will no longer have to fear this kind of widespread disease and the subsequent containment costs that could cause inestimable damage to an industry that is struggling to catch up to its global competitors. I urge my colleagues to support this legislation as we move forward on debating Federal farm policy.

By Mr. KERRY (for himself and Ms. SNOWE):

S. 2300. A bill to improve the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I am pleased today to be introducing legislation, the Small Business Contracting Revitalization Act of 2007, designed to protect the interests of small businesses in the Federal marketplace.

As the Chairman of the Senate Committee on Small Business and Entrepreneurship, I have focused a considerable amount of energy promoting the interests of small businesses in the Federal marketplace. The legislation that we are introducing today marks a critical step forward in this process.

It is no secret that the Committee on Small Business and Entrepreneurship places a great deal of importance on moving legislation forward in a bipartisan manner, the members of my Committee understand we represent the interests of all of our Nation's small businesses, the most important and dynamic segment of our economy. And nowhere is the bipartisan consensus stronger than in the area of Federal procurement and ensuring that our Nation's small businesses receive their fair share of procurement opportunities. I am pleased to once again be introducing bipartisan legislation with the Committee's ranking member, Senator OLYMPIA SNOWE. Regardless of who has chaired the Committee during our tenure together, we have both worked hard to improve small business Federal procurement opportunities.

The legislation we are introducing today has one ultimate purpose, to expand opportunities for small businesses to contract with the Federal government. And the reality is that small businesses need all the help they can get with respect to accessing the Federal marketplace. In fiscal year 2006 according to Eagle Eye Publishing, the Federal Government missed its 23 percent contracting goal by 3 percent. That 3 percent represents more than $12 billion in lost contracting dollars for small businesses. Service-disabled veterans fared the worst when it came to Federal contracting with only 0.87 percent of Federal dollars going to their firms. Women-owned firms only took in 2.57 percent of Federal dollars while they make up more than 30 percent of all privately held firms. Minority-owned firms continue to face barriers to Federal contracting. The SDB and 8(a) program only accounted for 6.75 percent of Federal contracting. These numbers tell the stark story of why this legislation is so important. If small business is the engine that drives our economy when it comes to Federal procurement that engine needs an overhaul. Our bill looks to make that overhaul as we look at making improvements in five key areas.

The first area we attempt to make improvements in is the area of contract bundling. Although contracting bundling may have started out as a good idea it has now become the prime example of the old saying that too much of a good thing can be very, very bad. The proliferation of bundled contracts coupled with a decimation of contracting professionals within the Government threatens to kill small businesses' ability to compete for Federal contracts. In our hearing on July 18, 2007, on contracting, we heard testimony about the damage to opportunities for small businesses because of the lack of oversight and contract bundling.

Our bill looks to address those issues by ensuring: accountability of senior agency management for all incidents of bundling; timely and accurate reporting of contract bundling information by all Federal agencies; and improved oversight of bundling regulation compliance by the Small Business Administration.

The bill also ensures that contract consolidation decisions made by a department or agency, other than the Defense Department and its agencies, provide small businesses with appropriate opportunities to participate as prime contractors and subcontractors.

The second area that this bill attempts to address is subcontracting. The Committee heard in the July 18 hearing and in a May 22, 2007, hearing on minority business about the challenges that many small business subcontractors face when dealing with

prime contractors. Witnesses related that the way subcontracting compliance is calculated creates opportunity for abuse. They also related that many small businesses will spend time, money and effort preparing bid proposals to be a part of a bid team and that once the contract is won they never hear from the prime contractor again. Many also complain about lack of timely payments after they have completed work.

This bill attempts to deal with some of these issues by including provisions designed to prevent misrepresentations in subcontracting by prime contractors. To accomplish this, the bill: provides guidelines and procedures for reviewing and evaluating subcontractor participation in prime contracts; authorizes agency pilot programs that will grant contractual incentives to prime contractors who exceed their small business goals; and requires prime contractors who fail to comply with subcontracting plans to fund mentor-protégé assistance programs for small businesses.

The third area that our legislation attempts to address is the updating of the socioeconomic programs administered by the SBA. In our first hearing of the year on January 31, 2007, we heard veterans with service connected disabilities speak about the difficulty that they are having accessing the Federal marketplace. It is clear that the Government is not doing enough. In fiscal year 2006, service-disabled veteran-owned businesses only got 0.87 percent of all Federal procurement—well short of the 3 percent statutory goal.

Our bill will assist service-disabled veteran-owned small businesses in obtaining Government contract and subcontract opportunities by expanding the authority for sole-source awards to SDV firms. In addition, the bill will allow: the surviving spouse of a service-disabled veteran to retain the business's SDV designation for up to 10 years following the veteran's death; the SBA to accept SDV firm certifications from the Department of Veterans Affairs; and the establishment of an SDV mentor-protégé program by the SBA. Our veterans are returning from Iraq and Afghanistan, and we owe it to them to give them every opportunity at fulfilling the dream of entrepreneurship.

We heard from women business owners in our September 20, 2007, hearing, on women's entrepreneurship that the time has come to implement the women's procurement program. The administration has continually postponed implementing a women's procurement program that became law 7 years ago. This bill tells SBA to get it done within 90 days.

Another program sorely needing our attention is the 8(a) program. This program was created to assist socially and economically disadvantaged small businesses, but, as we heard during the May 22, 2007, hearing, the financial threshold for inclusion in the program is out-dated and too restrictive. The net-worth thresholds have not been updated since 1989. This bill allows for an inflationary adjustment to be made to the threshold and it excludes qualified retirement accounts from consideration while calculating the threshold so that businesses that belong in this program won't be shut out.

This bill also makes a number of changes to the HUBZone program. The bill would expand HUBZones to areas adjacent to military installations affected by BRAC. It will also make other changes that will expand the HUBZone program to subcontracting as well as creating a mentor protege program. I understand the stated goal of this program is to develop areas of poverty through government contracting. And while I agree that this is a laudable goal I also remember the controversy that surrounded the creation of this program in 1996. I am keenly aware that the HUBZone program was created to supplant race-conscious programs like 8(a) and the small disadvantaged business program. I fought hard to preserve those programs then and I will continue to preserve and strengthen those programs in the future. In the interests of moving this bill forward and improving all of the programs I have agreed to include these priorities for Ranking Member SNOWE. I look forward to working with her to move the priorities that are important to all of the socio-economic groups in this legislation.

The fourth area that we intend to update is the acquisition process. This bill aims to increase the number of small business contracting opportunities by including additional provisions to reduce bundled contracts and by reserving more contracts for small business concerns. The bill accomplishes this by: authorizing small business set-asides in multiple-award, multi-agency contracting vehicles; and requiring that agencies include advance plans on small business spending in their budgets and submit a report describing the impact of each bundled contract awarded by an agency. The bill also directs the SBA to annually report to Congress on small business participation in overseas Government contracts.

The last area that we tackle in this legislation is small business size and status integrity. The Committee has heard from a number of small businesses about large businesses parading as small businesses. During our July hearing we looked at the list of the top 25 small businesses doing Federal contracting. On that list at least six clearly recognizable multi-billion dollar corporations were among the top 25 small businesses listed including SAIC at number two. I have been adamant that small business contracts must go to small businesses. Small businesses are losing billions of dollars in opportunities because of these size standard loopholes.

This bill attempts to address these issues by adding a new section, Sec. 38, to the Small Business Act that is designed to strengthen the Government's ability to enforce the size and status standards for small business certification. To achieve this, the new section establishes procedures for protests, through the SBA, of small business set-aside awards made to large businesses; requires the development of training programs for small business size standards; requires a government-wide policy on prosecutions of size and status fraud; and requires a detailed review of the size standards for small businesses by the SBA within 1 year.

In closing, I want to reiterate that this has been a truly bi-partisan effort and we look forward to working with the rest of the Senate as we move this legislation forward. It is well past time to provide greater opportunities for the thousands of small business owners who wish to do business with the Federal government. I believe that this legislation is a good step toward opening those doors of opportunity.

I hope all of my colleagues will join us in supporting this bill Mr. President, 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. 2300

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 ''Small Business Contracting Revitalization Act of 2007''.

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

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the terms ''service-disabled veteran'', ''small business concern'', and ''small business concern owned and controlled by service-disabled veterans'' have the same meanings as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the terms ''small business concern owned and controlled by socially and economically disadvantaged individuals'' and ''small business concern owned and controlled by women'' have the same meanings as in section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

TITLE I—CONTRACT BUNDLING

SEC. 101. LEADERSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

''(q) BUNDLING ACCOUNTABILITY MEASURES.—

''(1) GOVERNMENTWIDE ACCOUNTABILITY ON BUNDLING.—

''(A) REINSTATEMENT OF REPORTING REQUIREMENTS.—In addition to submitting such annual reports on all incidents of bundling to the Administrator as may be required under Federal law, the head of each Federal agency shall submit an annual report on all incidents of bundling to the Administrator for Federal Procurement Policy.

''(B) REPORT TO CONGRESS.—The Administrator shall promptly review and annually report to Congress information on any discrepancies between the reports on bundled contracts from Federal agencies to the Administration, the Office of Federal Procurement Policy, and the Federal procurement data system described in subsection (c)(5).

''(2) TEAMING REQUIREMENTS.—Each Federal agency shall include in each solicitation for any contract award above the substantial bundling threshold of such agency a provision soliciting small business teams and joint ventures.

''(3) IMPLEMENTATION OF COMPTROLLER GENERAL'S RECOMMENDATIONS.—Not later than 270 days after the date of enactment of this subsection, the Administrator, with the concurrence of the Administrator for Federal Procurement Policy, shall ensure that, in response to the recommendations of the Comptroller General of the United States contained in Report No. GAO–04–454, titled 'Contract Management: Impact of Strategy to Mitigate Effects of Contract Bundling Is Uncertain'—

''(A) modifications are made to the Federal procurement data system described in subsection (c)(5) to capture information concerning the impact of bundling on small business concerns;

''(B) the Administrator receives from each Federal agency an annual report containing information concerning—

''(i) the number and dollar value of bundled contract actions and contracts;

''(ii) benefit analyses (including the total dollars saved) to justify why contracts are bundled;

''(iii) the number of small business concerns losing Federal contracts because of bundling;

''(iv) how contractors awarded bundled contracts complied with the agencies subcontracting plans; and

''(v) how mitigating actions, such as teaming arrangements, provided increased contracting opportunities to small business concerns.

''(4) GOVERNMENTWIDE REVIEW OF BUNDLING INTERPRETATIONS.—

''(A) IN GENERAL.—The Administrator, with the concurrence of the Chief Counsel for Advocacy and the Inspector General, shall conduct a governmentwide review of the Federal agencies legal interpretations of antibundling statutory and regulatory requirements.

''(B) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall submit to Congress a report containing the findings of the review conducted under subparagraph (A).

''(5) AGENCY POLICIES ON REDUCTION OF CONTRACT BUNDLING.—Not later than 180 days after the date of enactment of this subsection, the head of each Federal agency shall, with concurrence of the Administrator, issue a policy on the reduction of contract bundling.

''(6) BEST PRACTICES ON CONTRACT BUNDLING REDUCTION AND MITIGATION.—Not later than 60 days after the date of the enactment of this subsection, the Administrator shall publish a guide on best practices to reduce contract bundling, as directed by the Strategy and Report on Contract Bundling issued by the Office of Management and Budget on October 29, 2002.

''(7) CONTRACT BUNDLING MITIGATION THROUGH SUBCONTRACTING.—

''(A) IN GENERAL.—The Administrator shall ensure that each State is assigned a commercial market representative to provide services for that State.

''(B) ASSIGNMENT.—A commercial market representative may not be assigned by the Administrator to provide services for more than 2 States.

''(8) CONTRACT BUNDLING OVERSIGHT.—

''(A) POLICY.—It is the policy of Congress that the Administrator shall take appropriate actions to remedy contract bundling oversight problems identified by the Inspector General of the Administration in Report No. 5–14, titled 'Audit of the Contract Bundling Program'.

''(B) CORRECTIVE ACTION.—

''(i) ASSIGNMENT OF PROCUREMENT CENTER REPRESENTATIVES.—

''(I) IN GENERAL.—The Administrator shall assign not fewer than 1 procurement center representative to each major procurement center, as designated by the Administrator under section 8(l)(6).

''(II) REPORTING.—The Administrator shall annually submit to Congress a report—

''(aa) containing a list of designations of major procurement centers in effect during the relevant fiscal year;

''(bb) detailing the criteria for designations; and

''(cc) including a trend analysis concerning the impact of reviews and placements of procurement center representatives and breakout procurement center representatives.

''(ii) TIMELY REVIEW OF BUNDLED CONTRACTS.—Not later than 30 days after receiving a submission from a Federal agency, the Administrator shall review any potential bundled contract submitted to the Administrator for review by any Federal agency.''.

(b) TECHNICAL CORRECTION.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by striking ''Administrator of the Office of Federal Procurement Policy'' each place such term appears and inserting ''Administrator for Federal Procurement Policy''.

(c) PROCUREMENT CENTER REPRESENTATIVES.—Section 15(l) of the Small Business Act (15 U.S.C. 644(l)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) A procurement center representative shall carry out the activities described in paragraph (2), and shall be an advocate for the maximum practicable utilization of small business concerns, whenever appropriate.

''(B) A procurement center representative is authorized to assist contracting officers in the performance of market research in order to locate small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by veterans, and HUBZone small business concerns capable of satisfying agency needs.

''(C) Any procurement center representative assigned under this paragraph shall be in addition to the representative referred to in subsection (k).'';

(2) in paragraph (2)—

(A) by striking ''breakout'' each place that term appears;

(B) in subparagraph (F), by striking ''and'' at the end;

(C) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(H)(i) identify and review solicitations that involve contract consolidations for potential bundling of contract requirements; and

''(ii) recommend small business concern participation as contractors, including small business concern teams, whenever appropriate, prior to the issuance of a solicitation described in clause (i);

''(I) manage the activities of the breakout procurement center representative, commercial marketing representative, and technical assistant; and

''(J) submit an annual report to the Administrator containing—

''(i) the number of proposed solicitations reviewed;

''(ii) the contract recommendations made on behalf of small business concerns;

''(iii) the number and total amount of contracts broken out from bundled or consolidated contracts for full and open competition or small business concern set-aside; and

''(iv) the number and total amount of contract dollars awarded to small business concerns as a result of actions taken by the procurement center office.'';

(3) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively;

(4) by striking paragraph (3) and inserting the following:

''(3)(A) The Administrator may assign a breakout procurement center representative, which shall be in addition to any representative assigned under paragraph (1).

''(B) A breakout procurement center representative—

''(i) shall be an advocate for the breakout of items for procurement through full and open competition or small business concern set-aside, whenever appropriate, from new, existing, bundled, or consolidated contracts; and

''(ii) is authorized—

''(I) to recommend small business concern participation in existing contracts that were previously not reviewed for small business concern participation;

''(II) to perform the duties described in paragraph (2), as necessary to perform the due diligence required for a breakout recommendation; and

''(III) to appeal the failure to act favorably on any recommendation made under subclause (I).

''(C) Any appeal under subparagraph (B)(ii)(III) shall be filed and processed in the same manner and subject to the same conditions and limitations as an appeal filed by the Administrator under subsection (a).

''(4)(A) The Administrator may assign a commercial marketing representative to identify and market small business concerns to large prime contractors and assist small business concerns in identifying and obtaining subcontracts.

''(B) A commercial marketing representative assigned under this paragraph shall—

''(i) conduct compliance reviews of prime contractors;

''(ii) counsel small business concerns on how to obtain subcontracts;

''(iii) conduct matchmaking activities to facilitate subcontracting to small business concerns;

''(iv) work in coordination with local small business development centers, technical assistance centers, and other regional economic development entities to identify small business concerns capable of competing for Federal contracts; and

''(v) provide orientation and training on the subcontracting assistance program under section 8(d)(4)(E) for both large and small business concerns.

''(C) Any commercial marketing representative assigned under this paragraph shall be in addition to any procurement center representative assigned under paragraph (1) or (3).'';

(5) in paragraph (5), as so designated by this section—

(A) in the second sentence, by inserting ''the procurement center representative and'' before ''the breakout procurement''; and

(B) in the third sentence, by striking ''(6)'';

(6) in paragraph (6), as so designated by this section—

(A) in subparagraph (A), by striking ''The breakout procurement center representative'' and inserting the following: ''The procurement center representative, breakout procurement center representative, commercial marketing representative,'';

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B);

(7) in paragraph (7), as so designated by this section, by striking ''other than commercial items'' and all that follows through the end of the paragraph and inserting the following: ''commercial items for authorized resale, or other than commercial items, and which has the potential to incur significant savings or create significant procurement opportunities for small business concerns as the result of the placement of a breakout procurement center representative.''; and

(8) in paragraph (8), as so designated by this section—

(A) by striking ''breakout'' each place the term appears; and

(B) by adding at the end the following:

''(C) The procurement center representative shall conduct training sessions to inform procurement staff at Federal agencies about the reporting requirements for bundled contracts and potentially bundled contracts, and how to work effectively with the procurement center representative assigned to such agencies to locate capable small business concerns to meet the needs of the agencies.''.

SEC. 102. REMOVAL OF IMPEDIMENTS TO CONTRACT BUNDLING DATABASE IMPLEMENTATION.

Section 15(p)(5)(B) of the Small Business Act (15 U.S.C. 644(p)(5)(B) is amended by striking ''procurement information'' and all that follows through the end of the subparagraph and inserting the following: ''any relevant procurement information as may be required to implement this section, and shall perform, at the request of the Administrator, any other action necessary to enable completion of the contract bundling database authorized by this section by not later than 270 days after the date of enactment of the Small Business Contracting Revitalization Act of 2007.''.

SEC. 103. CONTRACT CONSOLIDATION.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 37 as section 39; and

(2) by inserting after section 36 the following:

''SEC. 37. CONTRACT CONSOLIDATION.

''(a) POLICY.—Except for the Department of Defense and any agency of that department, the head of each Federal department or agency shall ensure that the decisions made by that department or agency regarding consolidation of contract requirements of that department or agency are made with a view to providing small business concerns with appropriate opportunities to participate in the procurements of that department or agency as prime contractors and appropriate opportunities to participate in such procurements as subcontractors.

''(b) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—

''(1) IN GENERAL.—Except for the Department of Defense and any agency of that department, the head of a Federal department or agency may not execute an acquisition strategy that includes a consolidation of contract requirements of that department or agency with a total value in excess of $2,000,000, unless the senior procurement executive concerned first—

''(A) conducts market research;

''(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

''(C) determines that the consolidation is necessary and justified.

''(2) DETERMINATION THAT CONSOLIDATION IS NECESSARY AND JUSTIFIED.—A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under subparagraph (B) of that paragraph. However, savings in administrative or personnel costs alone do not constitute, for such purposes, a sufficient justification for a consolidation of contract requirements in a procurement unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

''(3) BENEFITS TO BE CONSIDERED.—Benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

''(A) quality;

''(B) acquisition cycle;

''(C) terms and conditions; and

''(D) any other benefit.

''(c) DEFINITIONS.—In this section—

''(1) the terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a Federal department or agency, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy 2 or more requirements of that department or agency for goods or services that have previously been provided to, or performed for, that department or agency under 2 or more separate contracts smaller in cost than the total cost of the contract for which the offers are solicited;

''(2) the term 'multiple award contract' means—

''(A) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

''(B) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal department or agency with 2 or more sources pursuant to the same solicitation; and

''(3) the term 'senior procurement executive concerned' means, with respect to a Federal department or agency, the official designated under section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) as the senior procurement executive for that department or agency.''.

SEC. 104. SMALL BUSINESS TEAMS.

If more than 1 business concern that is a small business concern based on the size standards established under section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is participating in a contract that is subject to section 125.6 of title 13, Code of Federal Regulations (or any successor thereto), the portion of that contract performed by each such small business concern may be aggregated in determining whether the performance of that contract is in compliance with that section if—

(1) the head of the Federal department or agency concerned makes a determination in the solicitation that such aggregation will improve contracting opportunities for such small business concerns; and

(2) the Administrator does not object to such aggregation.

TITLE II—SUBCONTRACTING INTEGRITY

SEC. 201. GAO RECOMMENDATIONS ON SUBCONTRACTING MISREPRESENTATIONS.

Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following:

''(o) PREVENTION OF MISREPRESENTATIONS IN SUBCONTRACTING; IMPLEMENTATION OF COMPTROLLER GENERAL'S RECOMMENDATIONS.—

''(1) STATEMENT OF POLICY.—It is the policy of Congress that the recommendations of the Comptroller General of the United States in Report No. 05–459, concerning oversight improvements necessary to ensure maximum practicable participation by small business concerns in subcontracting, shall be implemented governmentwide, to the maximum extent possible.

''(2) CONTRACTOR COMPLIANCE.—Compliance of Federal prime contractors with small

business subcontracting plans shall be evaluated as a percentage of obligated prime contract dollars, as well as a percentage of subcontracts awarded.

''(3) ISSUANCE OF AGENCY POLICIES.—Not later than 180 days after the date of enactment of this subsection, the head of each Federal agency shall issue a policy on small business subcontracting compliance, including assignment of compliance responsibilities between contracting, small business, and program offices and periodic oversight and review activities.''.

SEC. 202. SMALL BUSINESS SUBCONTRACTING IMPROVEMENTS.

(a) CERTIFICATIONS REQUIRED.—Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end, the following:

''(G) certification that the offeror or bidder will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from small business concerns in the amount and quality used in preparing and submitting to the contracting agency the bid or proposal, unless such small business concerns are no longer in business or can no longer meet the quality, quantity, or delivery date.''.

(b) PENALTIES FOR FALSE CERTIFICATIONS.—Section 16(f) of the Small Business Act (15 U.S.C. 645(f)) is amended by striking ''of this Act'' and inserting ''or the reporting requirements of section 8(d)(11)''.

SEC. 203. EVALUATING SUBCONTRACTING PARTICIPATION.

(a) SIGNIFICANT FACTORS.—Section 8(d)(4)(G) of the Small Business Act (15 U.S.C. 637(d)(4)(G)) is amended by striking ''a bundled'' and inserting ''any''.

(b) EVALUATION REPORTS.—Section 8(d)(10) of the Small Business Act (15 U.S.C. 637(d)(10)) is amended—

(1) by striking ''is authorized to'' and inserting ''shall'';

(2) in subparagraph (B), by striking ''and'' at the end;

(3) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(D) report the results of each evaluation under subparagraph (C) to the appropriate contracting officers.''.

(c) CENTRALIZED DATABASE; PAYMENTS PENDING REPORTS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by redesignating paragraph (11) as paragraph (14); and

(2) by inserting after paragraph (10) the following:

''(11) CERTIFICATION.—A report submitted by the prime contractor under paragraph (6)(E) to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete.

''(12) CENTRALIZED DATABASE.—The results of an evaluation under paragraph (10)(C) shall be included in a national centralized governmentwide database.

''(13) PAYMENTS PENDING REPORTS.—Each Federal agency having contracting authority shall ensure that the terms of each contract for goods and services includes a provision allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports in accordance with paragraph (11).''.

SEC. 204. PILOT PROGRAM.

Section 8 of the Small Business Act (15 U.S.C. 637), as amended by this Act, is amended by adding at the end the following:

''(p) SUBCONTRACTING INCENTIVES AND REMEDIAL ASSISTANCE.—

''(1) PILOT PROGRAM ON INCENTIVES AND MENTOR-PROTÉGÉ REMEDIAL ASSISTANCE.—

''(A) IN GENERAL.—Each Federal agency is authorized to operate a pilot program to provide contractual incentives to prime contractors that exceed their small business subcontracting goals and to direct prime contractors that fail to comply with their small business subcontracting plans to fund mentor-protégé assistance for small business concerns (in this subsection referred to as the 'program').

''(B) TERMINATION.—The authority under this paragraph shall terminate on September 30, 2010.

''(2) ASSESSMENT OF MENTOR-PROTÉGÉ ASSISTANCE FUNDING.—The mentor-protégé assistance funding assessed by an agency under the terms of the program shall be determined in relation to the dollar amount by which the prime contractor failed its small business subcontracting goals.

''(3) EXPENDITURE OF MENTOR-PROTÉGÉ ASSISTANCE FUNDING.—The prime contractor shall expend the mentor-protégé assistance funding assessed by the agency under the terms of the program on mentor-protégé assistance to small business concerns, as provided by a mentor-protégé agreement approved by the relevant Federal agency.

''(4) ANNUAL REPORT REQUIRED.—Each Federal agency described in paragraph (1) shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives containing a detailed description of the pilot program, as carried out by that agency, including the number of participating companies, any incentives provided to prime contractors, as appropriate, and the amounts and types of mentor-protégé assistance provided to small business concerns.''.

TITLE III—SMALL BUSINESS PROCUREMENT PROGRAMS IMPROVEMENT

Subtitle A—Service-Disabled Veteran-Owned Small Business Program

SEC. 321. CERTIFICATION.

(a) CONGRESSIONAL INTENT.—It is the intent of Congress that the Administrator should accept certifications by the Department of Veterans Affairs, under such criteria as the Administrator may prescribe, by regulation or order, in certifying small business concerns owned and controlled by service-disabled veterans

(b) REGULATIONS.—Before implementing subsection (a), the Administrator shall promulgate regulations or orders ensuring appropriate certification safeguards to be implemented by the Administration and the Department of Veterans Affairs.

(c) REGISTRATION PORTAL.—The Administrator and the Secretary of Veterans Affairs shall ensure that small business concerns owned and controlled by service-disabled veterans may apply to participate in all programs for such small business concerns of the Administrator or the Secretary through a single process.

SEC. 322. TRANSITION PERIOD FOR SURVIVING SPOUSES OR PERMANENT CARE GIVERS.

Section 3(q)(2) of the Small Business Act (15 U.S.C. 632(q)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) the management and daily business operations of which are controlled—

''(i) by 1 or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent care giver of such veteran; or

''(ii) for a period of not longer than 10 years after the death of a service-disabled veteran, by a surviving spouse or permanent caregiver thereof.''.

SEC. 323. MENTOR-PROTEGE PROGRAM.

The Administrator may establish a mentor-protege program for small business concerns owned and controlled by service-disabled veterans, modeled on the mentor-protege program of the Administration for small businesses participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

SEC. 324. IMPROVING OPPORTUNITIES FOR SERVICE DISABLED VETERANS.

Section 36(a) of the Small Business Act (15 U.S.C. 657f(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''may'' and inserting ''shall''; and

(2) in paragraph (1), by striking ''and the contracting officer'' and all that follows through ''contracting opportunity''.

Subtitle B—Women-Owned Small Business Program

SEC. 341. IMPLEMENTATION DEADLINE.

Not later than 90 days after the date of enactment of this Act, the Administrator shall implement the procurement program for small business concerns owned and controlled by women under section 8(m) of the Small Business Act (15 U.S.C. 637(m)).

SEC. 342. CERTIFICATION.

(a) CONGRESSIONAL INTENT.—It is the intent of Congress that the Administrator should accept certifications by other Federal agencies and State and local governments and certifications from responsible national certifying entities, under such criteria as the Administrator may prescribe, by regulation or order, in certifying small business concerns owned and controlled by women for purposes of the program under section 8(m) of the Small Business Act (15 U.S.C. 637(m)).

(b) REGULATIONS.—Prior to implementing subsection (a), the Administrator shall promulgate regulations ensuring appropriate certification safeguards to be implemented by the Administration and the agencies and entities described in subsection (a).

Subtitle C—Small Disadvantaged Business Program

SEC. 361. CERTIFICATION.

(a) CONGRESSIONAL INTENT.—It is the intent of Congress that the Administrator should accept certifications by other Federal agencies and State and local governments and certifications from responsible national certifying entities, under such criteria as the Administrator may prescribe, by regulation or order, in certifying small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) REGULATIONS.—Prior to implementing subsection (a), the Administrator shall promulgate regulations or orders ensuring appropriate certification safeguards to be implemented by the Administration and the agencies and entities described in subsection (a).

SEC. 362. NET WORTH THRESHOLD.

Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended—

(1) by inserting ''(i)'' after ''(6)(A)'';

(2) by striking ''In determining the degree of diminished credit'' and inserting the following:

''(ii)(I) In determining the degree of diminished credit'';

(3) by striking ''In determining the economic disadvantage'' and inserting the following:

''(iii) In determining the economic disadvantage''; and

(4) by inserting after clause (ii)(I), as so designated by this section, the following:

''(II) In determining the assets and net worth of a socially disadvantaged individual under this subparagraph, the Administrator shall not consider any assets of such individual in a qualified retirement plan, as that term is defined in section 4974(c) of the Internal Revenue Code of 1986.

''(III) The Administrator shall establish procedures that—

''(aa) account for inflationary adjustments to, and include a reasonable assumption of, the average income and net worth of market dominant competitors; and

''(bb) require an annual inflationary adjustment to the average income and net worth requirements under this subsection.''.

SEC. 363. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

(a) IN GENERAL.—Section 7102(c) of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of enactment of this Act.

Subtitle D—Historically Underutilized Business Zones Programs

SEC. 381. HUBZONE SMALL BUSINESS CONCERNS.

Section 3(p)(3) of the Small Business Act (15 U.S.C. 632(p)(3) is amended—

(1) in subparagraph (D), by striking ''or'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(F) a small business concern owned and controlled by an organization described in section 8(a)(15).''.

SEC. 382. MILITARY BASE CLOSINGS.

(a) HUBZONE STATUS.—

(1) IN GENERAL.—Section 3(p)(4)(D) of the Small Business Act (15 U.S.C. 632(p)(4)(D)) is amended—

(A) by redesignating clauses (i), (ii), (iii), and (iv) as subclauses (I), (II), (III), and (IV), respectively, and adjusting the margin accordingly;

(B) by striking ''means lands'' and inserting the following ''means—

''(i) lands''; and

(C) by striking the period at the end and inserting the following: ''; and

''(ii) during the 5-year period beginning on the date that a military installation is closed or leased space is vacated under an authority described in clause (i), areas adjacent to or within a reasonable commuting distance of lands described in clause (i) (which shall not include any area that is more than 15 miles from the exterior boundary of that military installation) that are detrimentally, substantially, and directly economically affected by the closing of that military installation, as determined by the Secretary of Housing and Urban Development.''.

(2) FEASIBILITY STUDY.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study of the feasibility of, and submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding, designating as a HUBZone (as that term is defined in section 3 of the Small Business Act (15 U.S.C. 632), as amended by this Act) any area that does not qualify as a HUBZone solely because that area is located within a county located within a metropolitan statistical area (as defined by the Office of Management and Budget). The report submitted under this paragraph shall include any legislative recommendations relating to the findings of the feasibility study conducted under this paragraph.

(b) SUBCONTRACTING GOAL.—Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by inserting ''and subcontract'' after ''not less than 3 percent of the total value of all prime contract''.

(c) MENTOR-PROTEGE PROGRAM.—The Administrator may establish a mentor-protege program for HUBZone small business concerns (as that term is defined in section 3 of the Small Business Act (15 U.S.C. 632)) and small business concerns owned and controlled by women, modeled on the mentor-protege program of the Administration for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

Subtitle E—BusinessLINC Program

SEC. 391. BUSINESSLINC PROGRAM.

Section 8(n) of the Small Business Act (15 U.S.C. 637(n)) is amended to read as follows:

''(n) BUSINESS GRANTS AND COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—In accordance with this subsection, the Administrator shall make grants available to enter into cooperative agreements with any coalition of private entities, not-for-profit entities, public entities, or any combination of private, not-for-profit, and public entities—

''(A) to expand business-to-business relationships between large and small business concerns; and

''(B) to provide, directly or indirectly, with online information and a database of companies that are interested in mentor-protégé programs or community-based, statewide, or local business development programs.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for each of fiscal years 2008 through 2010, to remain available until expended.

''(3) REPORTS TO CONGRESS.—

''(A) IN GENERAL.—Not later than April 30, 2009, and annually thereafter, the Associate Administrator of Business Development of the Administration shall collect data on the BusinessLINC Program and submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the BusinessLINC Program.

''(B) CONTENTS.—Each report submitted under subparagraph (A) shall include, for the year covered by the report—

''(i) the number of programs administered in each State under the BusinessLINC Program;

''(ii) the number of grant awards under each program described in clause (i) and the date of each such award;

''(iii) the number of participating large businesses and participating small business concerns;

''(iv) the number and dollar amount of the contracts in effect in each State as a result of the programs run by each grant recipient under the BusinessLINC Program; and

''(v) the number of mentor-protégé, teaming relationships, or partnerships created as a result of the BusinessLINC Program.

''(4) DEFINITION.—In this subsection, the term 'BusinessLINC Program' means the grant program authorized under paragraph (1).''.

TITLE IV—ACQUISITION PROCESS

SEC. 401. PROCUREMENT IMPROVEMENTS.

Section 15 of the Small Business Act (15 U.S.C. 644), as amended by this Act, is amended by adding at the end the following:

''(r) BUNDLING DATA FIELDS.—For each contract (including task or delivery orders against governmentwide or other multiple award contracts, indefinite quantity or indefinite delivery contracts, and blanket purchase agreements) that is bundled or consolidated, an agency shall report publicly, not later than 7 days after the date of the award, by means of the Federal governmentwide procurement data system described in subsection (c)(5)—

''(1) the number of contracts involving small business concerns that were displaced by the bundled or consolidated action;

''(2) the number of small business concerns that the contracting officer identified as able to bid on all or part of requirements; and

''(3) the projected cost savings anticipated as a result of bundling or consolidating the requirements.

''(s) GOVERNMENTWIDE SMALL BUSINESS TRAINING.—The Administrator, in conjunction with the head of any other appropriate Federal agency, shall coordinate the development of governmentwide training courses on small business contracting and subcontracting with small business concerns, with special focus on the role of the small business specialist as a vital part of the acquisition team.''.

SEC. 402. RESERVATION OF PRIME CONTRACT AWARDS FOR SMALL BUSINESSES.

Section 15 of the Small Business Act (15 U.S.C. 644), as amended by this Act, is amended by adding at the end the following:

''(t) MULTIPLE AWARD CONTRACTS.—Not later than 180 days after the date of enactment of this subsection, the head of each Federal agency, with the concurrence of the Administrator, shall, by regulation, establish criteria for such agency—

''(1) setting aside part or parts of a multiple award contract for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2);

''(2) setting aside multiple award contracts for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2); and

''(3) reserving 1 or more contract awards for small business concerns under full and open multiple award procurements, including the subcategories of small business concerns identified in subsection (g)(2).''.

SEC. 403. GAO STUDY OF REPORTING SYSTEMS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of—

(1) the accuracy and timeliness of data collected under the Small Business Act (15 U.S.C. 631 et seq.) in the CCR database of the Administration, or any successor database, the Federal procurement data system described in section 15(c)(5) of the Small Business Act (15 U.S.C. 644(c)(5)), and the Subcontracting Reporting System; and

(2) the availability of small business information in these computer-based systems to Congress, Federal agencies, and the public.

(b) MATTERS COVERED.—The study conducted under subsection (a) shall include—

(1) an assessment of the accuracy and timeliness of the information provided by the data collection systems described in subsection (a)(1) and recommendations as to how any deficiencies in such systems can be eliminated;

(2) a review of the system manuals for such systems and a determination of the adequacy of such manuals in assisting proper operation and administration of the systems;

(3) a review of the user manuals for such systems and a determination of the clarity and ease of use of such manuals in assisting those reporting into such systems and those obtaining information from such systems;

(4) the adequacy of the training given to individuals responsible for reporting into such systems and recommendations for any necessary improvements;

(5) an assessment of the adequacy of any safeguards in such systems against the reporting of inaccurate and untimely data and the need for any additional safeguards; and

(6) the system architecture, Internet access, user-friendly characteristics, flexibility to add new data fields, ability to provide structured and unstructured reports, range of information necessary to meet user needs, and adequacy of system and user manuals and instructions of such systems.

(c) REPORT.—Not later than November 30, 2008, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing the results of the study under this section.

SEC. 404. MICROPURCHASE GUIDELINES.

Not later than 180 days after the date of enactment of this Act, the Director of the Office of Federal Procurement Policy shall issue guidelines regarding the analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in micropurchases, consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micropurchases.

SEC. 405. REPORTING ON OVERSEAS CONTRACTS.

Not later than 180 days after the end of each fiscal year, the Administrator shall submit to Congress a report identifying what portion of contracts and subcontracts awarded for performance outside of the United States were awarded to small business concerns.

SEC. 406. AGENCY ACCOUNTABILITY.

(a) IN GENERAL.—Section 15(g)(2) of the Small Business Act (15 U.S.C. 644(g)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) in the first sentence, by striking ''shall, after consultation'' and inserting the following: ''shall—

''(i) after consultation'';

(3) by striking ''agency. Goals established'' and inserting the following: ''agency;

''(ii) identify a percentage of the procurement budget of the agency to be awarded to small business concerns, in consultation with the Office of Small and Disadvantaged Business Utilization of the agency, which information shall be included in the strategic plan required under section 306 of title 5, United States Code, and the annual budget submission to Congress by that agency, and, upon request, in any testimony provided by that agency before Congress in connection with the budget process; and

''(iii) report, as part of its annual performance plan, the extent to which the agency achieved the goals referred to in clause (ii), and appropriate justification for any failure to do so.

''(B) Goals established'';

(4) by striking ''Whenever'' and inserting the following:

''(C) Whenever'';

(5) by striking ''For the purpose of'' and inserting the following:

''(D) For the purpose of'';

(6) in the last sentence—

(A) by striking ''(A) contracts'' and inserting ''(i) contracts''; and

(B) by striking ''(B) contracts'' and inserting ''(ii) contracts''; and

(7) by adding at the end the following:

''(E)(i) Each procurement employee described in clause (ii)—

''(I) shall communicate to their subordinates the importance of achieving small business goals; and

''(II) shall have as a significant factor in the annual performance evaluation of that procurement employee, where appropriate, the success of that procurement employee in small business utilization, in accordance with the goals established under this subsection.

''(ii) A procurement employee described in this clause is a senior procurement executive, senior program manager, or small and disadvantaged business utilization manager of a Federal agency having contracting authority.''.

(b) ANNUAL REPORTS.—Section 10(d) of the Small Business Act (15 U.S.C. 639(d)) is amended—

(1) by inserting ''and each agency that is a member of the President's Management Council (or any successor thereto)'' after ''Department of Defense'' the first place that term appears; and

(2) by inserting ''or that agency'' after ''Department of Defense'' the second place that term appears.

TITLE V—SMALL BUSINESS SIZE AND STATUS INTEGRITY

SEC. 501. POLICY AND PRESUMPTIONS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(s) PRESUMPTION.—

''(1) IN GENERAL.—In every contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant which is set aside, reserved, or otherwise classified as intended for award to small business concerns, there shall be a presumption of loss to the United States based on the total dollars expended on such contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant whenever it is established that a business concern other than a small business concern willfully sought and received the award by misrepresentation.

''(2) DEEMED CERTIFICATIONS.—The following actions shall be deemed affirmative, willful, and intentional certifications of small business size and status:

''(A) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement reserved, set aside, or otherwise classified as intended for award to small business concerns.

''(B) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement which in any way encourages a Federal agency to classify such bid or proposal, if awarded, as an award to a small business concern.

''(C) Registration on any Federal electronic database for the purpose of being considered for award of a Federal grant, contract, subcontract, cooperative agreement, or cooperative research agreement, as a small business concern.

''(3) PAPER-BASED CERTIFICATION BY SIGNATURE OF RESPONSIBLE OFFICIAL.—

''(A) IN GENERAL.—Each solicitation, bid, or application for a Federal contract, subcontract, or grant shall contain a certification concerning the small business size and status of a business concern seeking such Federal contract, subcontract, or grant.

''(B) CONTENT OF CERTIFICATIONS.—A certification that a business concern qualifies as a small business concern of the exact size and status claimed by such business concern for purposes of bidding on a Federal contract or subcontract, or applying for a Federal grant, shall contain the signature of a director, officer, or counsel on the same page on which the certification is contained.

''(4) REGULATIONS.—The Administrator shall promulgate regulations to provide adequate protections to individuals and business concerns from liability under this subsection in cases of unintentional errors, technical malfunctions, and other similar situations.''.

SEC. 502. ANNUAL CERTIFICATION.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by this Act, is amended by adding at the end the following:

''(t) ANNUAL CERTIFICATION.—

''(1) IN GENERAL.—Each business certified as a small business concern under this Act shall annually certify its small business size and, if appropriate, its small business status, by means of a confirming entry on the CCR database of the Administration, or any successor thereto.

''(2) REGULATIONS.—Not later than 120 days after the date of enactment of this subsection, the Administrator, in consultation with the Inspector General and the Chief Counsel for Advocacy of the Administration, shall promulgate regulations to ensure that—

''(A) no business concern continues to be certified as a small business concern on the CCR database of the Administration, or any successor thereto, without fulfilling the requirements for annual certification under this subsection; and

''(B) the requirements of this subsection are implemented in a manner presenting the least possible regulatory burden on small business concerns.

''(3) DETERMINATION OF SIZE STATUS.—Small business size or status for purposes of this Act shall be determined at the time of the award of a Federal—

''(A) contract, provided that, in the case of interagency multiple award contracts, small business size, or status shall be determined annually, except for purposes of the award of each task or delivery order set aside or reserved for small business concerns;

''(B) subcontract;

''(C) grant;

''(D) cooperative agreement; or

''(E) cooperative research and development agreement.''.

SEC. 503. MEANINGFUL PROTESTS OF SMALL BUSINESS SIZE AND STATUS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 37, as added by this Act, the following:

''SEC. 38. SMALL BUSINESS SIZE AND STATUS PROTEST SYSTEM.

''(a) DEFINITIONS.—In this section:

''(1) PROTEST.—The term 'protest' means a written objection by an interested party to a violation of any small business size or status requirement established under any provision of law, including section 3, in connection with—

''(A) a solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services;

''(B) the cancellation of such a solicitation or other request;

''(C) an award or proposed award of such a contract; or

''(D) a termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.

''(2) INTERESTED PARTY.—

''(A) IN GENERAL.—The term 'interested party', with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of

the contract or by failure to award the contract.

''(B) INCLUSIONS.—The term 'interested party' includes the official responsible for submitting the Federal agency tender in a public-private competition conducted under Office of Management and Budget Circular A–76 (or any successor thereto) regarding an activity or function of a Federal agency performed by more than 65 full-time equivalent employees of the Federal agency.

''(3) FEDERAL AGENCY.—The term 'Federal agency' has the same meaning as in section 102 of title 40, United States Code.

''(b) REVIEW OF PROTESTS; EFFECT ON CONTRACTS PENDING DECISION.—

''(1) IN GENERAL.—Under procedures established under subsection (d), the Administrator shall decide a protest submitted to the Administrator by an interested party.

''(2) RECEIPTS OF PROTESTS.—

''(A) IN GENERAL.—Not later than 1 day after the receipt of a protest, the Administrator shall notify the Federal agency involved of the protest.

''(B) AGENCIES.—Except as provided in subparagraph (C), a Federal agency receiving a notice of a protested procurement under subparagraph (A) shall submit to the Administrator a complete report (including all relevant documents) on the small business size or status aspects of the protested procurement—

''(i) not later than 30 days after the date of the receipt of that notice by the agency;

''(ii) if the Administrator, upon a showing by the Federal agency, determines (and states the reasons in writing) that the specific circumstances of the protest require a longer period, within the longer period determined by the Administrator; or

''(iii) in a case determined by the Administrator to be suitable for the express option under subsection (c)(1)(B), not later than 20 days after the date of the receipt of that determination by the agency.

''(C) EXCEPTIONS.—A Federal agency need not submit a report to the Administrator under subparagraph (B) if the agency is notified by the Administrator before the date on which such report is to be submitted that the protest concerned has been dismissed under subsection (c)(1)(D).

''(3) AWARD OF CONTRACTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a contract may not be awarded in any procurement after the Federal agency has received notice of a protest with respect to such procurement from the Administrator and while the protest is pending.

''(B) EXCEPTIONS.—The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

''(i) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Administrator under this section; and

''(ii) after the Administrator is advised of that finding.

''(C) URGENT AND COMPELLING CIRCUMSTANCES.—A finding may not be made under subparagraph (B)(i), unless the award of the contract is otherwise likely to occur within 30 days after the making of such finding.

''(4) PERFORMANCE.—

''(A) IN GENERAL.—A contractor awarded a Federal agency contract may, during the period described in subparagraph (D), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract, unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

''(B) AUTHORIZATION WITHHELD.—The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in subparagraph (D) if the contracting officer determines in writing that—

''(i) a protest is likely to be filed with the Administrator alleging a violation of a small business size or status requirement; and

''(ii) the immediate performance of the contract is not in the best interests of the United States.

''(C) NOTICE OF PROTEST.—

''(i) IN GENERAL.—If the Federal agency awarding the contract receives notice of a protest in accordance with this subsection during the period described in subparagraph (D)—

''(I) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

''(II) if authorization for contract performance to proceed was not withheld in accordance with subparagraph (B) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

''(ii) PERFORMANCE.—Performance and related activities suspended under clause (i)(II) by reason of a protest may not be resumed while the protest is pending.

''(iii) EXCEPTIONS.—The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

''(I) upon a written finding that—

''(aa) performance of the contract is in the best interests of the United States; or

''(bb) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Administrator concerning the protest; and

''(II) after the Administrator is notified of that finding.

''(D) TIME PERIOD.—The period described in this subparagraph, with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

''(i) the date that is 10 days after the date of the contract award; or

''(ii) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

''(5) NONDELEGATION.—The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under paragraphs (3) and (4) may not be delegated.

''(6) PROVISION OF DOCUMENTS.—

''(A) IN GENERAL.—Within such deadlines as the Administrator prescribes, and upon request, each Federal agency shall provide to an interested party any document relevant to a protested procurement action (including the report required by paragraph (2)(B)) that would not give that party a competitive advantage and that the party is otherwise authorized by law to receive.

''(B) PROTECTIVE ORDERS.—

''(i) IN GENERAL.—The Administrator may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a party under subparagraph (A), that prohibit or restrict the disclosure by the party of information described in clause (ii) that is contained in such a document.

''(ii) TYPES OF INFORMATION.—Information referred to in clause (i) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

''(iii) INFORMATION TO THE FEDERAL GOVERNMENT.—A protective order under this subparagraph shall not be considered to authorize the withholding of any document or information from Congress or an executive agency.

''(7) INTERESTED PARTIES.—If an interested party files a protest in connection with a public-private competition described in subsection (a)(2)(B), a person representing a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to the public-private competition may intervene in protest.

''(c) DECISIONS ON PROTESTS.—

''(1) IN GENERAL.—

''(A) INEXPENSIVE AND EXPEDITIOUS RESOLUTION.—To the maximum extent practicable, the Administrator shall provide for the inexpensive and expeditious resolution of protests under this section. Except as provided under subparagraph (B), the Administrator shall issue a final decision concerning a protest not later than 100 days after the date on which the protest is submitted to the Administration.

''(B) EXPRESS OPTION.—The Administrator shall, by regulation established under subsection (d), establish an express option for deciding those protests which the Administrator determines suitable for resolution, not later than 65 days after the date on which the protest is submitted.

''(C) AMENDMENTS.—An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under subparagraph (A) for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Administrator may resolve the amended protest through the express option under subparagraph (B).

''(D) FRIVOLOUS PROTESTS.—The Administrator may dismiss a protest that the Administrator determines is frivolous or which, on its face, does not state a valid basis for protest.

''(2) COMPLIANCE WITH LAW.—

''(A) IN GENERAL.—With respect to a solicitation for a contract, or a proposed award or the award of a contract, protested under this section, the Administrator may determine whether the solicitation, proposed award, or award complies with statutes and regulations regarding small business size or status. If the Administrator determines that the solicitation, proposed award, or award does not comply with a statute or regulation, the Administrator shall recommend that the Federal agency—

''(i) refrain from exercising any of its options under the contract;

''(ii) recompete the contract immediately;

''(iii) issue a new solicitation;

''(iv) terminate the contract;

''(v) award a contract consistent with the requirements of such statutes and regulations; or

''(vi) implement such other recommendations as the Administrator determines to be necessary in order to promote compliance with procurement statutes and regulations.

''(B) BEST INTERESTS OF UNITED STATES.—If the head of the procuring activity responsible for a contract makes a finding described in subsection (b)(4)(C)(iii)(I)(aa), the Administrator shall make recommendations under this paragraph without regard to any cost or disruption from terminating, recompeting, or reawarding the contract.

''(C) IMPLEMENTATION.—If the Federal agency fails to implement fully the recommendations of the Administrator under this paragraph with respect to a solicitation for a contract or an award or proposed award of a contract by the date that is 60 days after the date on which the agency received the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Administrator not later than 5 days after the end of such 60-day period.

''(3) PAYMENT OF COSTS.—

''(A) IN GENERAL.—If the Administrator determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Administrator may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

''(i) filing and pursuing the protest, including reasonable attorney's fees and consultant and expert witness fees; and

''(ii) bid and proposal preparation.

''(B) COSTS NOT INCLUDED.—No party (other than a small business concern) may be paid, under a recommendation made under the authority of subparagraph (A)—

''(i) costs for consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government; or

''(ii) costs for attorney's fees that exceed $300 per hour, unless the agency determines, based on the recommendation of the Administrator on a case by case basis, that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

''(C) RECOMMENDATION TO PAY COSTS.—If the Administrator recommends under subparagraph (A) that a Federal agency pay costs to an interested party, the Federal agency shall—

''(i) pay the costs promptly; or

''(ii) if the Federal agency does not make such payment, promptly report to the Administrator the reasons for the failure to follow the Administrator's recommendation.

''(D) AGREEMENT ON AMOUNT.—If the Administrator recommends under subparagraph (A) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Administrator may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.

''(4) DECISIONS.—Each decision of the Administrator under this section shall be signed by the Administrator or a designee for that purpose. A copy of the decision shall be made available to the interested parties, the head of the procuring activity responsible for the solicitation, proposed award, or award of the contract, and the senior procurement executive of the Federal agency involved.

''(5) REPORTS.—

''(A) FAILURE TO IMPLEMENT RECOMMENDATIONS.—

''(i) IN GENERAL.—The Administrator shall report promptly to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Administrator under paragraph (2) or (3).

''(ii) CONTENTS.—Each report under clause (i) shall include—

''(I) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Administrator; and

''(II) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, Congress should consider—

''(aa) private relief legislation;

''(bb) legislative rescission or cancellation of funds;

''(cc) further investigation by Congress; or

''(dd) other action.

''(B) ANNUAL REPORTS.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Administrator under subsection (b) or this subsection during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 100 days after the date on which the protest was submitted to the Administrator.

''(d) REGULATIONS; AUTHORITY OF ADMINISTRATOR TO VERIFY ASSERTIONS.—

''(1) IN GENERAL.—The Administrator shall establish such procedures as may be necessary for the expeditious decision of protests under this section, including procedures for accelerated resolution of protests under the express option authorized by subsection (c)(1)(B). Such procedures shall provide that the protest process may not be delayed by the failure of a party to make a filing within the time provided for the filing.

''(2) COMPUTATION OF TIME.—The procedures established under paragraph (1) shall provide that, in the computation of any period described in this section—

''(A) the day of the act, event, or default from which the designated period of time begins to run not be included; and

''(B) the last day after such act, event, or default be included, unless—

''(i) such last day is a Saturday, a Sunday, or a legal holiday; or

''(ii) in the case of a filing of a paper at the Administration or another Federal agency, such last day is a day on which weather or other conditions cause the closing of the Administration or other Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

''(3) ELECTRONIC FILING.—The Administrator may prescribe procedures for the electronic filing and dissemination of documents and information required under this section. In prescribing such procedures, the Administrator shall consider the ability of all parties to achieve electronic access to such documents and records.

''(e) ENFORCEMENT.—The Administrator may use any authority available under this Act or any other provision of law to verify assertions made by parties in protests under this section.

''(f) REGULATIONS.—The Administrator may issue regulations regarding the use of the protest authority to consider small business size or status challenges under this section in matters involving any other program for small business concerns.''.

SEC. 504. TRAINING FOR CONTRACTING AND ENFORCEMENT PERSONNEL.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the head of each appropriate Federal agency or entity shall, in consultation with the Administrator or the Inspector General of the Administration, as appropriate, develop courses concerning proper classification of business concerns and small business size and status for purposes of Federal contracts, subcontracts, grants, cooperative agreements, and cooperative research and development agreements.

(b) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Section 3 of the Small Business Act (15 U.S.C. 632), as amended by this Act, is amended by adding at the end the following:

''(u) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Not later than 180 days after the date of enactment of this subsection, the head of each relevant Federal agency and the Inspector General of the Administration shall issue a Governmentwide policy on prosecution of small business size and status fraud.''.

SEC. 505. UPDATED SIZE STANDARDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall—

(1) conduct a detailed review of the size standards for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)); and

(2) if determined appropriate by the Administrator, promulgate revised size standards under that section.

(b) PUBLICATION.—Not later than 1 year after the date of enactment of this Act, the Administrator shall make publically available information regarding—

(1) the factors evaluated as part of the review conducted under subsection (a)(1); and

(2) the criteria used for any revised size standards promulgated under subsection (a)(2).

SEC. 506. SMALL BUSINESS SIZE AND STATUS FOR PURPOSE OF MULTIPLE AWARD CONTRACTS.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by this Act, is amended by adding at the end the following:

''(w) SMALL BUSINESS SIZE AND STATUS FOR PURPOSE OF MULTIPLE AWARD CONTRACTS.—

''(1) IN GENERAL.—A business concern that enters a multiple award contract of any kind with the Federal Government shall in any year in which such a contract is in effect, submit an annual statement at the end of its fiscal year recertifying its small business size and status to the Federal agency which awarded the contract.

''(2) RELATION TO OTHER LAWS.—Compliance with paragraph (1) shall not affect the obligation of a business concern to comply with other provisions of law concerning small business size or status.''.

Ms. SNOWE. Mr. President, as Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I rise today to introduce, with Chairman KERRY, the Small Business Contracting Revitalization Act of 2007. This critical legislation is a product of consensus-building and compromise over the past few years and truly reflects the bipartisan nature of our Committee. Thank you, Chairman KERRY, for working to make this a truly bipartisan bill.

This legislation addresses the numerous barriers facing small businesses in securing their fair share of Federal contracting dollars. Currently, small businesses are eligible for $340 billion in Federal contracting dollars, yet receive only $77 billion. Regrettably, the Federal Government consistently fails to satisfy its 23 percent small business goal resulting in small businesses losing billions of dollars in contracting opportunities.

I am dismayed by the myriad ways that Government agencies have time and again egregiously failed to achieve

most of their small business statutory ''goaling'' requirements. For example, in fiscal year 2006, the Historically Underutilized Business Zone, HUBZone, program met only 2.1 percent of its three percent goal, while our Nation's service-disabled, veteran-owned small businesses received a Government-wide, paltry total of only 0.9 percent of its three percent small business goal. This longstanding area of concern is coupled with a litany of deficiencies that include ''contract bundling,'' subcontracting misrepresentations, inaccurate small business size determinations, flawed reporting data, and under-utilization of key small business contracting programs.

As the Chairman is well aware, these problems are not new, and our Committee has held countless hearings on various contracting concerns throughout the years. Business opportunities through Federal contracts provide vital economic benefits for small businesses, which is why last year, my Small Business Administration Reauthorization Bill, which passed our Committee unanimously, contained a robust package of small business contracting initiatives.

Our legislation builds on the contracting provisions of that bill, by improving all of the small business contracting programs—including the HUBZone, small disadvantaged business, women-owned small business, and service-disabled veteran-owned small business programs. It equips the SBA with additional tools to meet the demands of an ever-changing 21st century contracting environment.

This bipartisan measure also includes several other priorities that I have long championed—most notably, enhancing the HUBZone program. In my home state of Maine, only 118 of 41,026 small businesses are qualified HUBZone businesses. HUBZones represent a tremendous tool for replacing lost jobs for our Nation's declining manufacturing and industrial sectors—clearly, this program should be better utilized.

I look forward to working with my colleagues in the Senate to pass this bipartisan small business contracting legislation to ensure that all small business ''goals'' are not only met—but exceeded.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 363—EXPRESSING THE SENSE OF THE SENATE REGARDING THE TREATMENT OF SOCIAL SECURITY ''NOTCH BABIES''

Mr. COLEMAN (for himself and Mr. BURR) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 363

Whereas the Social Security Amendments of 1977, legislation designed to correct the Social Security benefit formula, resulted in a discrepancy in benefits – a ''notch'' – between individuals born in the years immediately following 1916 and other beneficiaries;

Whereas Senate legislation introduced in the 105th through 108th Congresses sought to correct the ''notch baby'' problem;

Whereas those born during the ''notch'' years are the same Americans who fought and sacrificed during World War II;

Whereas the ''notch babies'' who receive lower Social Security benefits than those individuals born between 1911 and 1916 are at the same time among the seniors hit hardest by rising health care costs; and

Whereas those affected by the ''notch'' are leaving us at a rapid rate, with the youngest ''notch babies'' now over 80 years old: Now, therefore, be it

Resolved, That the Senate—

(1) honors the sacrifice of those born in the ''notch'' years of 1917 through 1926;

(2) recognizes the difference in Social Security benefits calculated for those born in 1917 and the years following, as compared with those born between 1911 and 1916;

(3) expresses regret that there has been no resolution to the satisfaction of the millions of seniors born from 1917 through 1926; and

(4) should consider corrective legislation similar to bills introduced in the Senate in the 105th through 108th Congresses, to address the ''notch'' benefit disparity.

SENATE RESOLUTION 364—COMMENDING THE PEOPLE OF THE STATE OF WASHINGTON FOR SHOWING THEIR SUPPORT FOR THE NEEDS OF THE STATE OF WASHINGTON'S VETERANS AND ENCOURAGING RESIDENTS OF OTHER STATES TO PURSUE CREATIVE WAYS TO SHOW THEIR OWN SUPPORT FOR VETERANS

Mrs. MURRAY (for herself and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 364

Whereas every day, American men and women risk their lives serving the country in the Armed Forces;

Whereas it is important to many Americans to be able to donate money directly to causes about which they care;

Whereas it is important for residents to have a tangible way to demonstrate their support for veterans;

Whereas despite Government funding for the Nation's veterans, many important needs of veterans remain unmet;

Whereas citizens in the State of Washington have banded together in a grassroots effort to create a Veterans Family Fund Certificate of Deposit;

Whereas any bank in the State of Washington can choose to offer a Veterans Family Fund Certificate of Deposit;

Whereas the Bank of Clark County has become the first institution to offer these Certificates of Deposit;

Whereas the Governor of the State of Washington and the Washington State Veterans Affairs Department have expressed the State's support for this program;

Whereas when a person buys a Veterans Family Fund Certificate of Deposit from a participating bank, half of the interest is automatically donated to the State of Washington's Veterans Innovation Program to address the unmet needs of the State of Washington's veterans and their families;

Whereas the Veterans Innovation Program provides emergency assistance to help current or former Washington National Guard or Reserve service members cope with financial hardships, unemployment, educational needs, and many basic family necessities; and

Whereas the Veterans Family Fund Certificate of Deposit will be officially launched on November 8, 2007: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of the State of Washington for showing their support for the needs of the State of Washington's veterans; and

(2) encourages residents of other States to pursue creative ways to show their own support for veterans.

SENATE CONCURRENT RESOLUTION 52—ENCOURAGING THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS TO TAKE ACTION TO ENSURE A PEACEFUL TRANSITION TO DEMOCRACY IN BURMA

Mrs. BOXER submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 52

Whereas hundreds of thousands of citizens of Burma have risked their lives in demonstrations to demand a return to democracy and respect for human rights in their country;

Whereas the repressive military Government of Burma has conducted a brutal crackdown against demonstrators, which has resulted in mass numbers of killings, arrests, and detentions;

Whereas Burma has been a member of the Association of Southeast Asian Nations (ASEAN) since 1997;

Whereas foreign ministers of other ASEAN member nations, in reference to Burma, have ''demanded that the government immediately desist from the use of violence against demonstrators'', expressed ''revulsion'' over reports that demonstrators were being suppressed by violent and deadly force, and called for ''the release of all political detainees including Daw Aung San Suu Kyi'';

Whereas the foreign ministers of ASEAN member nations have expressed concern that developments in Burma ''had a serious impact on the reputation and credibility of ASEAN'';

Whereas Ibrahim Gambari, the United Nations (UN) Special Envoy to Burma, has called on the member nations of ASEAN to take additional steps on the Burma issue, saying, ''Not just Thailand but all the countries that I am visiting, India, China, Indonesia, Malaysia and the UN, we could do more'';

Whereas the ASEAN Security Community Plan of Action adopted October 7, 2003, at the ASEAN Summit in Bali states that ASEAN members ''shall promote political development . . . to achieve peace, stability, democracy, and prosperity in the region'', and specifically says that ''ASEAN Member Countries shall not condone unconstitutional and undemocratic changes of government'';

Whereas the Government of Singapore, as the current Chair of ASEAN, will host ASEAN's regional summit in November 2007 to approve ASEAN's new charter;

Whereas the current Foreign Minister of Singapore, George Yeo, has publicly expressed, ''For some time now, we had stopped trying to defend Myanmar internationally because it became no longer credible'';

Whereas, according to the chairman of the High Level Task Force charged with drafting