AMENDMENT NO. 248

At the request of Mr. MARTINEZ, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 248 intended to be proposed to H.J. Res. 20, a joint resolution making further continuing appropriations for the fiscal year 2007, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Nebraska (for himself, Mr. BUNNING, Ms. STABENOW, Ms. SNOWE, Mr. KERRY, Ms. COLLINS, Mr. REED, Mrs. CLINTON, and Mr. MENENDEZ):

S. 543. A bill to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program; to the Committee on Finance.

Mr. NELSON of Nebraska. Mr. President, today I am introducing the Preserving Patient Access to Inpatient Rehabilitation Hospitals Act of 2007 to make changes to a rule issued by the Centers for Medicare and Medicaid Services, CMS, which has restricted the ability of rehabilitation hospitals to provide critical care.

In my home State of Nebraska, Madonna Rehabilitation Hospital in Lincoln is a nationally recognized premier rehabilitation facility offering specialized programs and services for those who have suffered brain injuries, strokes, spinal cord injuries, and the latest care for cardiac, pulmonary, cancer, pain, and joint replacement patients. If the CMS rule is not updated, Madonna and other facilities will not be able to continue to offer critical care to patients eager to restore their past health and physical function.

When CMS first looked at whether facilities would qualify as inpatient rehabilitation facilities, IRFs, a list of criteria were created to determine eligibility. The narrow criteria, generally referred to as the ''75-percent rule,'' were first established in 1984, but were never strictly enforced and ultimately suspended in 2002 due to inconsistencies in accurately determining medical necessity.

Since establishing strict enforcement of the 75-percent rule in 2004, field data estimates that as many as 88,000 Medicare patients have been denied critical IRF services. The rule will, by CMS's own estimate, shift thousands of patients both Medicare and non-Medicare into alternative care settings which may be inappropriate and inadequate. Bipartisan Congressional efforts have repeatedly petitioned both the U.S. Department of Health and Human Services and CMS for cooperation in averting an escalation of the 75-percent threshold, which currently stands at 60 percent.

For cost-reporting periods beginning July 1, 2007, the compliance threshold is scheduled to jump to 65 percent, with full 75-percent implementation scheduled for July 2008. If legislative action is not taken, IRFs will be forced to turn away more and more patients in order to operate as rehabilitation hospitals or units. By freezing the compliance threshold at 60 percent and ending the inconsistent and unpredictable use of fiscal intermediaries' local coverage determinations, our efforts will ensure that patients across America will continue to have access to the rehabilitative care they need.

I am pleased a bipartisan group of Senate Finance Committee; Health, Education, Labor, and Pension Committee; and Special Committee on Aging members have joined me in supporting this legislation. In addition, the American Association of People with Disabilities, the American Academy of Physical Medicine and Rehabilitation, the American Hospital Association, the American Medical Rehabilitation Providers Association, the Federation of American Hospitals, and numerous other associations and advocacy groups have endorsed our bill. Just as I have heard from patients and medical providers who have experienced problems with the 75-percent Rule, my colleagues and the members of these associations have witnessed the devastating effect this rule is having on those who need this type of critical care.

I urge my colleagues to join Senators JIM BUNNING, DEBBIE STABENOW, OLYMPIA SNOWE, JOHN KERRY, SUSAN COLLINS, JACK REED, HILLARY CLINTON, ROBERT MENENDEZ and me in supporting this important bill. My colleagues and I are determined to resolve this lingering problem and return medical necessity decisions back into the hands of medical providers, while ensuring access to improved inpatient rehabilitation care. The Preserving Patient Access to Inpatient Rehabilitation Hospitals Act of 2007 is a top priority, and I look forward to its passage this year.

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

S. 547. A bill to establish a Deputy Secretary of Homeland Security for Management, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with my good friend and partner on the Oversight of Government Management Subcommittee, Senator AKAKA, to address the critical management challenges facing the Department of Homeland Security (DHS). I am pleased to have Senators LEVIN and MCCASKILL as original cosponsors of this measure.

The legislation would elevate the role and responsibilities of the current Under Secretary for Management of the Department to a Deputy Secretary of Homeland Security for Management. The language preserves the authority of the Secretary and Deputy Secretary of DHS as the first-and second-highest ranking Department officials, respectively. The individual appointed as the Deputy Secretary for Management would serve a five year term and be the third highest ranking official at the Department. A term would provide management continuity at the Department during times of leadership transition, such as following a presidential election.

The role and responsibilities of the Deputy Secretary for Management would include serving as the Chief Management Officer and principal advisor to the Secretary on the management of the Department. The Deputy Secretary for Management would also be responsible for strategic and annual performance planning, identification and tracking of performance measures, as well as the integration and transformation process in support of homeland security operations and programs.

The division of labor between the Deputy Secretary and the new Deputy Secretary for Management will be similar to the leadership structure at the Office of Management and Budget. The Deputy Secretary will continue to be the Secretary's first assistant on all policy matters, while the newly created Deputy Secretary for Management will be the Secretary's principal advisor on the development of sustained, long-term management strategies.

I offer this legislation today because of my belief that the existing Under Secretary position lacks sufficient authority to direct the type of sustained leadership and overarching management integration and transformation strategy that is needed departmentwide.

There continue to be significant management challenges associated with integrating the Department of Homeland Security, whose creation represented the single largest restructuring of the Federal Government since the creation of the Department of Defense in 1947. In addition to its complex mission of securing the Nation from terrorism and natural hazards through protection, prevention, response, and recovery leadership of the Department of Homeland Security has the enormous task of unifying 180,000 employees from 22 disparate Federal agencies.

Since 2003, the Government Accountability Office (GAO) has included implementing and transforming the Department of Homeland Security on its high-risk list of programs susceptible to waste, fraud, abuse, and mismanagement. In announcing its 2007 high-risk list, Comptroller General Walker said that, ''The array of management and programmatic challenges continues to limit DHS's ability to carry out its roles under the National Homeland Security Strategy in an effective risk-based way.''

Similarly, in December 2005, the DHS Inspector General issued a report warning of major management challenges facing the Department of Homeland

Security. The report noted that although progress has been made since the Department's inception, ''Integrating its many separate components in a single, effective, efficient, and economical Department remains one of DHS' biggest challenges.''

The Department's own Performance and Accountability Report, released in November 2006, states that it did not meet its strategic goal of ''providing comprehensive leadership and management to improve the efficiency and effectiveness of the Department,'' further underscoring the need for good management.

The Homeland Security Advisory Council Culture Task Force Report, published in January 2007, detailed persisting organizational challenges within DHS, and prescribed leadership and management models designed to empower employees, foster collaboration, and encourage innovation. The third recommendation of the report is that the Department establish an operational leadership position. The report noted, ''Alignment and integration of the DHS component organizations is vital to the success of the DHS mission. The CTF believes there is a compelling need for the creation of a Deputy Secretary for Operations (DSO) who would report to the Secretary and be responsible for the high level Department-wide measures aimed at generating and sustaining seamless operational integration and alignment of the component organizations.''

The creation of the Deputy Secretary for Management will help address the concerns outlined by GAO, the DHS Inspector General, the Homeland Security Advisory Council, and the Department itself.

As former Chairman and now Ranking Member of the Oversight of Government Management Subcommittee, improving the management structure at the Department has been one of my top priorities. The Subcommittee's Chairman, Senator AKAKA, and I have been committed to ensuring that DHS has the proper tools to make continual improvements in its operations. It has become clear that the Department needs a stronger management focus to enable programmatic and operational success. Congress must act to strengthen the management function at DHS.

During my long career in public service, including as a Mayor and Governor, I have repeatedly observed that the path to organizational success lies in adopting best practices in management, including strategic planning, performance and accountability measures, and effectively leveraging human capital. When instituting reforms as Mayor and Governor, individuals tasked with implementation would tell me, ''We don't have time for Total Quality Management; we are too busy putting out fires.'' I appreciate that DHS is also busy putting out fires. But the connection between good management practices and operational success should not be lost.

With the four year anniversary of the Department only weeks away, we must be honest about the remaining management challenges it faces. The legislation I offer today provides the focused, high-level attention that will result in effective management reform. I believe this legislation is vital to the Department's success. I urge my colleagues to join me in supporting this legislation.

Mr. AKAKA. Mr. President, I am extremely pleased to join with my good friend, the senior Senator from Ohio, in reintroducing legislation today to establish a Deputy Secretary for Management who would be the chief management officer at the Department of Homeland Security (DHS). I am especially pleased that we are joined by two of our colleagues on the Homeland Security and Governmental Affairs Committee, Senator LEVIN, who is also the chairman of the Armed Services Committee, and Senator MCCASKILL.

The Department of Homeland Security continues to face serious challenges, some of which stem from integrating 22 separate entities with existing management problems into one agency. Such a broad, large-scale merger is why the Government Accountability Office (GAO) continues to place DHS on the GAO High-Risk List. Our bill would assign overall management responsibilities to one individual who would be accountable for leading and instituting change. A Deputy Secretary for Management would provide the leadership necessary to move forward and sustain these needed changes. This presidentially appointed and Senate-confirmed individual, who will have a term of office of five years, would serve as a bridge between political appointees and career employees. Changing agency culture is difficult and takes time. As Comptroller General David Walker notes, successful transformation initiatives in large private and public sector organizations can take at least five to seven years.

In addition to serving as chairman of Oversight of Government Management Subcommittee, I am also the chairman of the Armed Services Readiness and Management Support Subcommittee, and I have witnessed firsthand how the Department of Defense (DoD) continues to struggle with business modernization despite clear congressional directives to do so. We cannot afford to allow the Department of Homeland Security, which has an extremely complex and critical mission, to be affected by the same management problems facing DoD. Our bill is born out of our concern and frustration that DHS is not doing better. We believe elevating the Under Secretary for Management to the Deputy Secretary level will provide DHS the necessary tools needed to avoid making the same mistakes as DoD. Having a single focus for key management functions, such as human capital, financial management, information technology, acquisition management, and performance management are essential if DHS is to avoid the stovepipe style of management at DoD.

A Deputy Secretary for Management would bring needed attention to management issues and transformational change; would integrate various key operational and transformation efforts; and would institutionalize accountability for addressing management issues and leading change. Our bill enhances, not diminishes, the ability of the Secretary and Deputy Secretary of DHS to focus on policy decisions while leaving the management efforts to the Deputy Secretary for Management. It is good business practice to have one individual responsible for integrating strategic plans and overseeing change.

I would like to note that the Homeland Security Advisory Council, established to advise and make recommendations to the Secretary of the Department of Homeland Security, created a Culture Task Force (CTF) at the request of Secretary Chertoff in June 2006. The CTF issued its recommendations to the Secretary last month. The January 2007 Report of the Homeland Security Culture Task Force recommends establishing an operational leadership position, ''who would report to the Secretary and be responsible for the high level Department-wide measures aimed at generating and sustaining operational integration and alignment of the component organizations.''

Congress has a responsibility to ensure that agencies are instituting sound management practices that will empower agencies to spend taxpayer dollars more wisely while carrying out critical missions. A fully accountable chief management officer at DHS will make the difference by ensuring strong leadership over essential government programs.

By Mr. LEAHY (for himself, Mr. BENNETT, Ms. CANTWELL, Mr. CARDIN, Mr. COCHRAN, Mr. COLEMAN, Mr. CONRAD, Mr. DODD, Mr. DOMENICI, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, Mr. LIEBERMAN, Mr. SANDERS, Mr. SCHUMER, and Mr. STEVENS):

S. 548, A bill amend the Internal Revenue code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor, to the Committee on Finance.

Mr. LEAHY. Mr. President, today we reintroduce the ''Artist-Museum Partnership Act,'' and once again, I am pleased to be joined in this effort by Senator BENNETT. This bipartisan legislation would enable our country to keep cherished art works in the United States and to preserve them in our public institutions. At the same time, this legislation will erase an inequity in our tax code that currently serves as a disincentive for artists to donate their works to museums and libraries.

We have introduced this same bill in each of the past four Congresses. It was also included in the Senate-passed version of the 2001 tax reconciliation bill, the Senate-passed version of the 2003 Charity Aid, Recovery, and Empowerment (CARE) Act, and the Senate-passed version of the 2005 tax reconciliation bill. I would like to thank Senators CANTWELL, CARDIN, COCHRAN, COLEMAN, CONRAD, DODD, DOMENICI, DURBIN, FEINSTEIN, KENNEDY, KERRY, LIEBERMAN, SANDERS, SCHUMER, and STEVENS for cosponsoring this tri-partisan bill.

Our bill is sensible and straightforward. It would allow artists, writers, and composers to take a tax deduction equal to the fair market value of the works they donate to museums and libraries. This is something that collectors who make similar donations are already able to do. Under current law, artists who donate self-created works are only able to deduct the cost of supplies such as canvas, pen, paper and ink, which does not even come close to their true value. This is unfair to artists, and it hurts museums and libraries—large and small—that are dedicated to preserving works for posterity. If we as a Nation want to ensure that works of art created by living artists are available to the public in the future—for study and for pleasure—this is something that artists should be allowed to do.

In my State of Vermont, we are incredibly proud of the great works produced by hundreds of local artists who choose to live and work in the Green Mountain State. Displaying their creations in museums and libraries helps develop a sense of pride among Vermonters, and strengthens a bond with Vermont, its landscape, its beauty, and its cultural heritage. Anyone who has contemplated a painting in a museum or examined an original manuscript or composition, and has gained a greater understanding of both the artist and the subject as a result, knows the tremendous value of these works. I would like to see more of them, not fewer, preserved in Vermont and across the country.

Prior to 1969, artists and collectors alike were able to take a deduction equivalent to the fair market value of a work, but Congress changed the law with respect to artists in the Tax Reform Act of 1969. Since then, fewer and fewer artists have donated their works to museums and cultural institutions. For example, prior to the enactment of the 1969 law, Igor Stravinsky planned to donate his papers to the Music Division of the Library of Congress. But after the law passed, his papers were sold instead to a private foundation in Switzerland. We can no longer afford this massive loss to our cultural heritage. Losses to the public like this are an unintended consequence of the 1969 tax bill that should be corrected.

Congress changed the law for artists more than 30 years ago in response to the perception that some taxpayers were taking advantage of the law by inflating the market value of self-created works. Since that time, however, the government has cut down significantly on the abuse of fair market value determinations.

Under our legislation, artists who donate their own paintings, manuscripts, compositions, or scholarly compositions would be subject to the same new rules that all taxpayer/collectors who donate such works must now follow. This includes providing relevant information as to the value of the gift, providing appraisals by qualified appraisers, and, in some cases, subjecting them to review by the Internal Revenue Service's Art Advisory Panel.

In addition, donated works must be accepted by museums and libraries, which often have strict criteria in place for works they intend to display. The institution must certify that it intends to put the work to a use that is related to the institution's tax exempt status. For example, a painting contributed to an educational institution must be used by that organization for educational purposes and could not be sold by the institution for profit. Similarly, a work could not be donated to a hospital or other charitable institution that did not intend to use the work in a manner related to the function constituting the recipient's exemption under Section 501 of the tax code. Finally, the fair market value of the work could only be deducted from the portion of the artist's income that has come from the sale of similar works or related activities.

This bill would also correct another disparity in the tax treatment of self-created works—how the same work is treated before and after an artist's death. While living artists may only deduct the material costs of donations, donations of those same works after death are deductible from estate taxes at the fair market value of the work. In addition, when an artist dies, works that are part of his or her estate are taxed on the fair market value.

I want to thank my colleagues again for cosponsoring this bipartisan legislation. The time has come for us to correct an unintended consequence of the 1969 law and encourage rather than discourage the donations of art works by their creators. This bill will make a crucial difference in an artist's decision to donate his or her work, rather than sell it to a private party where it may become lost to the public forever.

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. 548

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 ''Artist-Museum Partnership Act''.

SEC. 2. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).''.

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

By Mr. KENNEDY (for himself, Ms. SNOWE, Mr. REED, and Mr. BROWN):

S. 549. A bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SNOWE in introducing ''The Preservation of Antibiotics for Medical Treatment Act of 2007.'' I am also pleased that this year we are joined by Senator SHERROD BROWN, who championed this legislation so ably as a member of the House of Representatives.

Our goal in this important initiative is to take needed action to preserve the effectiveness of antibiotics in treating diseases. These drugs are truly modern medical miracles. During World War II, the newly developed ''wonder drug'' penicillin revolutionized care for our soldiers wounded in battle. Since then, such drugs have become indispensable in modern medicine, protecting all of us from deadly infections. They are even more valuable today, safeguarding the Nation from the threat of bioterrorism.

Unfortunately, in recent years, we have done too little to prevent the emergence of antibiotic-resistant strains of bacteria and other germs, and many of our most powerful drugs are no longer effective.

Partly, the resistance is the result of over-prescribing such drugs in routine medical care. Mounting evidence shows that indiscriminate use of such drugs in animal feed is also a major factor in the development of antibiotic resistant germs.

Obviously, if animals are sick, whether as pets or livestock, they should be treated with the best veterinary medications available. That is not the problem. The problem is the widespread use of antibiotics to promote growth and fatten healthy livestock. Such nontherapeutic use clearly undermines the effectiveness of these important drugs, because it leads to greater development of antibiotic-resistant bacteria that can make infections in humans difficult or impossible to treat.

In 1998—nine years ago—a report prepared at the request of the Department of Agriculture and the Food and Drug Administration by the National Academy of Sciences, concluded: ''There is a link between the use of antibiotics in food animals, the development of bacterial resistance to these drugs, and human disease.'' The World Health Organization has specifically recommended that antibiotics used to treat humans should not be used to promote animal growth, although they could still be used to treat sick animals.

In 2001, a Federal interagency task force on antibiotic resistance concluded that ''drug-resistant pathogens are a growing menace to all people, regardless of age, gender, or socio-economic background. If we do not act to address the problem . . . [d]rug choices for the treatment of common infections will become increasingly limited and expensive—and, in some cases, nonexistent.''

The Union of Concerned Scientists estimates that 70 percent of all U.S. antibiotics are used nontherapeutically in animal agriculture—8 times more than are used in all of human medicine. This indiscriminate use clearly reduces their potency.

Major medical associations have been increasingly concerned, and have taken strong stands against antibiotic use in animal agriculture. In June 2001, the American Medical Association adopted a resolution opposing nontherapeutic use of antibiotics in animals. Other professional medical organizations that have taken similar stands include the American College of Preventive Medicine, the American Public Health Association, and the Council of State and Territorial Epidemiologists. The legislation we are offering has been strongly endorsed by the American Public Health Association and numerous other groups and independent experts in the field.

Ending the current detrimental practice is feasible and cost-effective. Last month an economic study by researchers at Johns Hopkins University examined data from the poultry producer Perdue. In this study of 7 million chickens, the slight benefit from the nontherapeutic use of antibiotics was more than offset by the cost of purchasing antibiotics.

In fact, most of the developed countries in the world, except for the United States and Canada, already restrict the use of antibiotics to promote growth in raising livestock. In 1999, the European Union banned such use, and funds saved on drugs have been invested in improving hygiene and animal husbandry practices. Researchers in Denmark found a dramatic decline in the number of drug-resistant organisms in animals—and no significant increase in animal diseases or consumer prices.

These results have encouraged clinicians and researchers to call for a similar ban in the United States. The title of an editorial in the New England Journal of Medicine 6 years ago said it all: ''Antimicrobial Use in Animal Feed—Time to Stop.''

In the last Congress, over 350 organizations representing scientific and medical associations, consumer and environmental groups as well as animal rights and religious groups endorsed this legislation and called for an end to the reckless and irresponsible use of these critically important medicines.

The Nation is clearly at risk of an epidemic outbreak of food poisoning caused by drug-resistant bacteria or other germs. In recent years, many nations, including the United States, have been plagued by outbreaks of food-borne illnesses. Imagine the consequences of an outbreak caused by a strain of bacteria immune to any drugs we have. It is time to put public safety first and stop this promiscuous use of drugs essential for protecting human health.

The bill we are introducing will phase out the non-therapeutic use in livestock of medically important antibiotics, unless manufacturers can demonstrate that such use is no danger to public health. The Act applies this same strict standard to applications for approval of new animal antibiotics. Such use is not restricted if the animals are sick, or if they are pets or are animals not used for food. In addition, FDA is also given authority to restrict the use of important drugs to treat such animals, if risk to humans is in question.

According to the National Academy of Sciences, eliminating the use of antibiotics as feed additives in agriculture will cost each American consumer not more than five to ten dollars a year. The legislation recognizes, however, that economic costs to farmers in making the transition to antibiotic-free practices may be substantial. In such cases, the Act provides for Federal payments to defray the cost of shifting to antibiotic-free practices, with special preference for family farms.

Antibiotics are one of the great miracles of modem medicine. Yet today, we are destroying them faster than the pharmaceutical industry can replace them with new discoveries. If doctors lose these vital medications, the most vulnerable Americans will suffer the most—children, the elderly, persons with HIV/AIDS, and others who are most in danger of drug resistant infections. I urge my colleagues to support this clearly needed legislation to protect the health of all Americans from the reckless and unjustified use of antibiotics.

Ms. SNOWE. Mr. President, today we face concerns about infectious disease which few could have anticipated. Over a half century ago, following the development of modem antibiotics, Nobel Laureate Sir McFarland Burnet

summed up what many experts believed when he stated, ''One can think of the middle of the twentieth century as the end of one of the most important social revolutions in history, the virtual elimination of infectious diseases as a significant factor in social life.''

How things have changed! Today we face grave concern about pandemic influenza, and in fact every day many of the most serious health threats come from infectious diseases. When we consider the greatest killers—HIV, tuberculosis, malaria—it is clear that infectious diseases have not abated. At the same time we have seen an alarming trend as existing antibiotics are becoming less effective in treating infections. We know that resistance to drugs can be developed, and that the more we expose bacteria to antibiotics, the more resistance we will see. So it is critical to address preserving lifesaving antibiotic drugs for use in treating disease.

Today over nine out of ten Americans understand that resistance to antibiotics is a problem. Most Americans have learned that that colds and flu are caused by viruses, and recognize that treating a cold with an antibiotic is inappropriate. Our health care providers are more careful to discriminate when to use antibiotics, because they know that when a patient who has been inappropriately prescribed an antibiotic actually develops a bacterial infection, it is more likely to be resistant to treatment.

When we overuse antibiotics, we risk eliminating the very cures which scientists fought so hard to develop. The threat of bioterrorism amplifies the danger. I have supported increased NIH research funding, as well as Bioshield legislation, in order to promote development of essential drugs, both to address natural and man-made threats. It is so counterproductive to develop antimicrobial drugs and see their misuse render them ineffective.

Yet every day in America antibiotics continue to be used in huge quantities for no treatment purpose whatsoever. I am speaking of the non-therapeutic use of antibiotics in agriculture. Simply put, the practice of feeding antibiotics to healthy animals jeopardizes the effectiveness of these medicines in treating ill people and animals.

Recognizing the public health threat caused by antibiotic resistance, Congress in 2000 amended the Public Health Threats and Emergencies Act to curb antibiotic overuse in human medicine. Yet today, it is estimated that 70 percent of the antimicrobials used in the United States are fed to farm animals for non-therapeutic purposes including growth promotion, poor management practices and crowded, unsanitary conditions.

In March 2003, the National Academies of Sciences stated that a decrease in antimicrobial use in human medicine alone will not solve the problem of drug resistance.

Substantial efforts must be made to decrease inappropriate overuse of antibiotics in animals and agriculture.

Two years ago five major medical and environmental groups—the American Academy of Pediatrics, the American Public Health Association, Environmental Defense, the Food Animal Concerns Trust and the Union of Concerned Scientists—jointly filed a formal regulatory petition with the U.S. Food and Drug Administration urging the agency to withdraw approvals for seven classes of antibiotics which are used as agricultural feed additives. They pointed out what we have known for years—that antibiotics which are crucial to treating human disease should never be used except for their intended purpose—to treat disease.

In a study reported in the New England Journal of Medicine, researchers at the Centers for Disease Control and Prevention found 17 percent of drug-resistant staph infections had no apparent links to health-care settings. Nearly one in five of these resistant infections arose in the community—not in the health care setting. We must do more to address inappropriate antibiotic use in medicine, the use of these drugs in our environment cannot be ignored.

This is why I have joined with Senator KENNEDY in again introducing the ''Preservation of Antibiotics for Medical Treatment Act''. This bill phases out the nontherapeutic uses of critical medically important antibiotics in livestock and poultry production, unless their manufacturers can show that they pose no danger to public health.

Our legislation requires the Food and Drug Administration to withdraw the approval for nontherapeutic agricultural use of antibiotics in food-producing animals if the antibiotic is used for treating human disease, unless the application is proven harmless within two years. The same tough standard of safety will apply to new applications for approval of animal antibiotics.

This legislation places no unreasonable burden on producers. It does not restrict the use of antibiotics to treat sick animals, or for that matter to treat pets and other animals not used for food. The Act authorizes Federal payments to small family farms to defray their costs, and it also establishes research and demonstration programs that reduce the use of antibiotics in raising food-producing animals. The Act also requires data collection from manufacturers so that the types and amounts of antibiotics used in animals can be monitored.

As we are constantly reminded, the discovery and development of a new drug can require great time and expense. It is simply common sense that we preserve the use of the drugs which we already have, and use them appropriately. I call on my colleagues to support us in this effort.

By Mr. AKAKA (for himself, Mr. VOINOVICH, and Mr. LIEBERMAN):

S. 550. A bill to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I rise to introduce legislation that would preserve existing seats on the District of Columbia Superior Court. I am pleased that Senators VOINOVICH and LIEBERMAN are joining me in this effort.

As my colleagues know, the Superior Court is the trial court of general jurisdiction over local matters in the District of Columbia. When a vacancy on the court occurs, the District of Columbia Judicial Nominations Commission solicits applicants to fill the vacancy and sends three names to the President. The President then selects one candidate and sends the individual's nomination to the Senate for confirmation. Existing law caps the total number of judges on the Superior Court at 59.

However, the District of Columbia Family Court Act of 2001 created three new seats for the Family Court, which is a division of the Superior Court, but failed to increase the overall cap on the number of judges seated on the court. As a result, three existing seats in the other divisions of the court—including the criminal, civil, probate, and tax divisions—were effectively eliminated. Therefore, when vacancies in those divisions occur, new judges cannot be seated.

Ever since the Family Court Act became law, the Homeland Security and Governmental Affairs Committee and the Senate has been in the untenable position of delaying the confirmation of judicial nominees when the cap has been reached. The end result is that residents of DC will face delay of justice due to a lack of judicial personnel.

The bill we introduce today would address this problem by amending the DC Code to increase the cap on the number of associate judges on the Superior Court. Similar legislation introduced by my good friend Senator COLLINS in both the 108th and 109th Sessions of Congress was favorably reported by the Committee on Homeland Security and Governmental Affairs and passed by the Senate. I urge my colleagues to once again support this important legislation.

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

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

S. 550

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

SECTION 1. COMPOSITION OF SUPERIOR COURT.

Section 903 of title 11 of the District of Columbia Code is amended by striking ''fifty-eight'' and inserting ''61''.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 552. A bill to provide for the tax treatment of income received in connection with the litigation concerning the Exxon Valdez oil spill and for other purposes; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will help the commercial fishermen and others whose livelihoods were negatively impacted by the Exxon Valdez oil spill. I am pleased to have Mr. STEVENS join me in introducing this important legislation.

The Exxon Valdez ran aground on Bligh Reef on March 24, 1989, spilling 11 million gallons of oil into Prince William Sound in Alaska. A class action jury trial was held in Federal court in Anchorage, AK, in 1994. The plaintiffs included 32,000 fishermen among others whose livelihoods were gravely affected by this disaster. The jury awarded $5 billion in punitive damages to plaintiffs. The punitive damage award has been on repeated appeal by the Exxon Corporation since 1994. Many of the original plaintiffs, possibly more than 1,000 people, have already died.

Once the punitive damage award of the Exxon Valdez litigation is settled, many fishermen will receive payments to reimburse them for fishing income lost due to the environmental consequences of the Exxon Valdez oil spill. The eventual settlement could be as much as several billion dollars.

My bill gives the affected fishermen, as well as other plaintiffs in this case, a fair shake when it comes to contributions to retirement plans and averaging of income for tax purposes.

With respect to retirement plan contributions, my bill increases the caps on both deductions and income for traditional IRAs to the extent of the income a plaintiff receives from the settlement or judgment. Also, it allows the plaintiffs to make contributions to Roth IRAs and other retirement plans to the extent of the income received from the settlement or judgment.

Fishermen are currently allowed to average their income over three years due to the often inconsistent nature of the fishing business. The litigation stemming from the Exxon Valdez oil spill poses an even more unique situation since fishermen and other plaintiffs have been waiting to receive lost income—in the form of a settlement or judgment—since 1994. My bill allows plaintiffs to average their income for the period of time between December 31 of the year they receive the settlement or judgment payment and January 1, 1994—the year of the original jury award in Federal court.

It is imperative that we address this important issue to help those affected by the Exxon Valdez oil spill plan for their retirement.

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. 552

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 ‘‘Exxon Valdez Oil Spill Tax Treatment Act’’.

SEC. 2. TAX TREATMENT OF INCOME RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—

(1) IN GENERAL.—At the election of a qualified taxpayer who receives qualified settlement income during a taxable year, the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for such taxable year shall be equal to the sum of—

(A) the tax which would be imposed under such chapter if—

(i) no amount of elected qualified settlement income were included in gross income for such year, and

(ii) no deduction were allowed for such year for expenses (otherwise allowable as a deduction to the taxpayer for such year) attributable to such elected qualified settlement income, plus

(B) the increase in tax under such chapter which would result if taxable income for each of the years in the applicable period were increased by an amount equal to the applicable fraction of the elected qualified settlement income reduced by any expenses (otherwise allowable as a deduction to the taxpayer) attributable to such elected qualified settlement income.

Any adjustment under this section for any taxable year shall be taken into account in applying this section for any subsequent taxable year.

(2) COORDINATION WITH FARM INCOME AVERAGING.—If a qualified taxpayer makes an election with respect to any qualified settlement income under paragraph (1) for any taxable year, such taxpayer may not elect to treat such amount as elected farm income under section 1301 of the Internal Revenue Code of 1986.

(3) DEFINITIONS.—For purposes of this subsection—

(A) APPLICABLE PERIOD.—The term ‘‘applicable period’’ means the period beginning on January 1, 1994, and ending on December 31 of the year in which the elected qualified settlement income is received.

(B) APPLICABLE FRACTION.—The term ‘‘applicable fraction’’ means the fraction the numerator of which is one and the denominator of which is the number of years in the applicable period.

(C) ELECTED QUALIFIED SETTLEMENT INCOME.—The term ‘‘elected qualified settlement income’’ means so much of the taxable income for the taxable year which is—

(i) qualified settlement income, and

(ii) specified under the election under paragraph (1).

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the amount of qualified settlement income received during such year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract, and

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term ‘‘eligible retirement plan’’ has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) QUALIFIED SETTLEMENT INCOME NOT INCLUDED IN SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term ‘‘qualified taxpayer’’ means—

(1) any plaintiff in the civil action In re Exxon Valdez, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term ‘‘qualified settlement income’’ means income received (whether as lump sums or periodic payments) in connection with the civil action In re Exxon Valdez, No. 89–095–CV (HRH) (Consolidated) (D. Alaska), including interest (whether pre- or post judgment and whether related to a settlement or judgment).

By Mr. DORGAN:

S. 554. A bill to reduce the Federal budget deficit, and for other purposes; to the Committee on Finance.

Mr. DORGAN. Mr. President, this Nation was founded on the principle that the future matters more than the past. It was the first Nation in the world so conceived. The Founders took great pains to ensure that each generation would get a fresh start, free of the encumbrances of the past. They abolished primogeniture, entail, and hereditary titles. Jefferson for one believed that every twenty years or so, the books of the Federal Government should be wiped clean, so that prior generations would not be able to fob their debts off upon later ones who would have no say in the matter.

Over the last half dozen years, we have done exactly what the Founders of this Nation did not intend. We have heaped debt upon debt on the backs of our children and theirs—the very people the Founders thought should be free of such debts. In just about every corner of government and policy, the story has been the same—let's have a party today, and let our kids and grandkids clean up the mess. We've done it with energy, the environment, and, perhaps most of all, we have done it with the Federal budget.

Just six years ago, we had our fiscal house in order. The government had $5.6 trillion in projected surpluses between 2002 and 2011. We were paying down the debt. But now it's changed. We racked up the second largest deficit in our history in 2003, our largest deficit ever in 2004, the third highest deficit in 2005 and the seventh largest deficit last year.

The administration can claim to be making progress only by leaving out of its budget plans the full cost of the ongoing war against terrorism, long term relief from the alternative minimum tax, using Social Security surplus revenues for unrelated spending and by generally setting expectations so low that even failure looks good by comparison. But the reality, of course, is unless the Nation's fiscal policies are dramatically changed, we are going to see large deficits for many years in the future. At the current rate the accumulated debt of this government will grow from $8.6 trillion today to over $12 trillion by 2012.

That projected debt is bigger than the economies of Japan, Germany, France, the United Kingdom and Canada combined. It's almost $39,000 for every man, woman and child in this country. Meanwhile, the Administration has provided big tax cuts for people who use them to buy third homes, pricey wines and three-hundred-dollar dungarees. This is Me-Generation economics. It is economics that says, ''Let others make the sacrifices while we have a bash.'' It is the total opposite of the economics envisioned by the founders of this country, who said that we should meet our own obligations, clean up our own messes and pay our own way, so that those who come after us can have a future that is clear and bright.

To this end, I rise today to introduce legislation called the Act For Our Kids that I hope will help spark a serious discussion in the U.S. Congress, and across our country, about putting the Federal Government's balance sheet back in order. This legislation provides for a package of Federal spending cuts and more revenue that would raise nearly $76 billion the first full year and some $205 billion over five years and every penny would be used to reduce the Federal deficit! It is a real first step in acting like we are serious about fixing our fiscal policies and paying our bills.

Last year on the Senate floor I spoke about an agenda that Congress could be pursuing that would benefit all Americans. Among other things, I said that two of our top priorities ought to be paying our bills and taking care of our kids. Regrettably, however, the administration and the majority in Congress at that time adopted a card credit mentality to fiscal policy that would make even the most aggressive credit card companies blush. If a part of the American dream is ensuring that one's kids and grandkids get at least the same opportunities that we had to climb the economic ladder to success, then the Federal Government's recent approach to fiscal policy has been a full-blown nightmare.

Unless we change the direction of our fiscal policy, the Federal Government will ''borrow'' trillions of dollars of Social Security surplus revenues over the next decade to pay for tax cuts and other spending. Social Security faces significant financial challenges as the baby boomers retire in the years ahead. Loading up the country with more debt and diverting needed revenues away from the Social Security program will only make the program's fiscal problems worse, not better.

The real question is how are we going to dig ourselves out of this fiscal quagmire? The solution offered by the White House and the Republicans in Congress was simple: They said let's run up our Federal credit card balances even more, while at the same time giving more large tax cuts to the richest Americans.

And if President Bush is successful in permanently extending the bulk of his previous tax cuts that mostly benefit the wealthiest Americans, as he proposed in his Fiscal Year 2008 budget submission just this week, another $2 trillion in revenues will be lost over the next decade.

Frankly, I am not aware of any instance in the history of this great country where those in charge of the Federal purse decided to cut revenues on such a large scale while in the midst of war. Today we ask our young men and women in uniform to sacrifice so much, yet the wealthiest among us are not asked to contribute even a portion of their tax cuts to what we are told every day is a noble cause.

In one of his famous fireside chats, President Franklin D. Roosevelt described our obligation as citizens to support our troops during times of war. He said:

> Not all of us can have the privilege of fighting our enemies in distant parts of the world. Not all of us can have the privilege of working in a munitions factory or a ship yard, or on the farms or in oil fields or mines, producing the weapons or the raw materials that are needed by our armed forces. But there is one front and one battle where everyone in the United States—every man, woman and child—is in action. . . . That front is right here at home, in our daily lives, in our daily tasks. Here at home everyone will have the privilege of making whatever self-denial is necessary, not only to supply our fighting men, but to keep the economic structure of our country fortified and secure during the war and after the war.

The sentiments of President Roosevelt's remarks are truly lost on an Administration that has borrowed every dollar it has used to pay for the war in Iraq and the global fight against terrorism.

I think the American public understands that one of our obligations as U.S. citizens is helping to defend this country in whatever way is best. But what we have been missing is leadership and at least some measure of fiscal discipline in paying our war debt and getting other parts of our fiscal house in order.

It is unfair to pile up this massive debt and heave it onto the shoulders of working families and their children. The Federal Government is expected to pay $3.3 trillion in interest payments on the debt alone during the 10-year period ending in 2017.

The legislation I am introducing today includes a number of proposals that, taken together, would reduce the Federal deficit by my estimate $205 billion over the next five years.

First and foremost, this bill requires Federal agencies to tighten their belts by cutting their administrative overhead expenses. Before we ask others to make sacrifices needed to reduce the Nation's debt load, Federal agencies must do their part.

My legislation includes other targeted cuts in Federal spending and will make changes to the tax code to ensure that the wealthiest Americans and most profitable multinational companies that do business in this country pay their fair share of taxes—revenues that are needed to defend this Nation and keep our economy strong and growing.

Among other things, the Act For Our Kids would do the following: Cut Federal agency administrative overhead by 5 percent for fiscal years 2008 through 2012 and save taxpayers an estimated $30 billion. This proposal would reduce ''nuts and bolts'' expenditures, including those relating to agency travel and transportation, advertising, office supplies, conferences and equipment. These savings must come from the bureaucracy, not programs. It is generally understood that administrative expenses do not include personnel compensation and benefits.

Eliminate $3.5 billion that remains in a giveaway fund in the Medicare drug plan. The 2003 Medicare drug bill included a $10 billion ‘‘slush’’ fund that the Secretary of the U.S. Department of Health and Human Services could tap to entice regional preferred provider organizations (PPOs) to participate in Medicare. This fund has been roundly criticized by policy experts as an inappropriate use of Federal resources. The Senate has previously supported eliminating this fund altogether and legislation enacted by Congress late last year used $6.5 billion of the $10 billion in the fund for the physician payment fix.

Make drug importation legal and safe. This will not only help consumers by reducing the cost they pay for prescription drugs, but will save the Federal Government and therefore taxpayers an estimated $1.6 billion in Federal health program costs in the five years after its enactment.

Stop providing Federal funding for TV Marti broadcasts into Cuba that are jammed and therefore are not watched by their intended recipients. This provision would save U.S. taxpayers an estimated $100 million in the next half decade.

Restore honesty and accountability in Federal contracting by, among other things, reinstating a Federal rule that would deny Federal contracts to companies with a pattern of overcharging the government or violating other Federal laws, including tax, labor and consumer protections. Other provisions in the bill would crack down on corporate cheaters and require full disclosure of contracting abuses. It requires real contract competition, bans corporate cronyism and takes other significant steps to ensure that Federal contractors. large or small, are not gouging American taxpayers. Based on information derived from similar experiences in the past, and more recently, one could easily expect these reforms would save the Federal Government some $6 billion over a five-year period.

Abolish the U.S. Court of Federal Claims. The docket of the Court of Federal Claims includes a hodgepodge of cases, including patent cases, claims involving Indian property, vaccine injury cases, claims arising from the internment of Japanese Americans, and cases arising under the Fifth Amendment's takings clause. The light caseload of this court could be handled more efficiently by Federal district courts. This elimination of the Claims Court would result in additional taxpayer savings of tens of millions of dollars over five years.

Impose a temporary 2 percent emergency tariff on all imports for two years to help correct our country's $800-billion-plus trade deficit. Article XII of the GATT, which has been incorporated into the World Trade Organization, specifically allows member countries to impose tariffs to correct a balance of payment crisis. Temporary emergency tariffs over two years would help address this crisis, while raising an estimated $66 billion for deficit reduction.

Prevent tax avoidance for U.S. multinational companies that move profits to offshore tax havens by generally treating their controlled ‘‘paper or shell’’ subsidiaries set up in foreign tax-haven countries as domestic companies for U.S. tax purposes. This proposal would save taxpayers another $5.8 billion over five years.

Repeal the perverse Federal tax subsidy called tax deferral for U.S. companies that shut down manufacturing plants in the U.S. and move jobs abroad, only to ship their now foreign-made products back into our country. Killing this ill-advised tax break for runaway manufacturing plants would help level the financial playing field for domestic manufacturers while saving taxpayers some $4.2 billion over a five-year period.

Clarify and enhance the application of the economic substance doctrine that courts apply to deny tax benefits from business tax shelter transactions that do not result in a meaningful change to the taxpayer's economic position other than a reduction in their Federal income tax. This proposal would save taxpayers an estimated $5.8 billion over the next five years.

Rescind on a prospective basis a portion of the major tax cuts passed by Congress since 2001 for individuals who are earning more than $1 million annually. Providing some $90 billion in additional large tax cuts over the next five years for millionaires when the Nation is still accruing massive debt and paying ongoing war costs is irresponsible in my judgment.

Disallow the tax deduction for punitive damages that are paid or incurred by taxpayers as a result of a judgment or in settlement of a claim. Allowing a tax deduction for punitive damages undermines the use of punitive damages to discourage and penalize the activities or actions for which punitive damages are imposed. Making this change would save taxpayers about $130 million over a 5-year period.

Lift the U.S. ban on travel to Cuba by U.S. citizens. Repealing this obsolete and ineffective restriction on travel to Cuba would raise an estimated $1 billion in U.S. tax revenues over five years from increased U.S. business activity.

Extend permanently the Federal Communications Commission's (FCC's) authority to auction licenses to those using the radio spectrum. This FCC authority was recently extended by Congress through 2011. A permanent extension of this authority would raise $1 billion between 2012 to 2016, about $200 million annually starting in 2012.

The provisions I have highlighted above and others in the bill would help reduce the Federal debt by what I roughly calculate is $205 billion over the next half decade. I understand that this package does not fully cover our outstanding debt obligations. But I think it is a reasonable and balanced package of spending cuts and revenue enhancements that offer a first installment that will help us begin a thoughtful process of curbing our addiction to deficit spending and hopefully head us once again toward truly a balanced budget not counting Social Security surplus revenue that should be set aside for future beneficiaries, and not used for unrelated spending.

Garrison Keillor once said, ‘‘Nothing you do for children is ever wasted. They seem not to notice us, hovering, averting our eyes, and they seldom offer thanks, but what we do for them is never wasted.’’ I believe that one of the greatest gifts we can give for our kids is a future without a mountain of debt from under which they may never dig out. To make this happen, however, we need to set aside our differences and come together, Republicans and Democrats, conservatives and liberals alike, and begin to confront our recent obsession with debt financing. When we decide to do so, our Nation will be better for it, and so will the future of our children.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 555. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the ‘‘SIMPLE Cafeteria Plan Act of 2007,’’ which will increase the access to quality, affordable health care for millions of small business owners and their employees. I am pleased that my good friend Senator BOND from Missouri, as well as my good friend from New Mexico, Senator BINGAMAN, have agreed to co-sponsor this critical piece of legislation.

Regrettably, our Nation's healthcare system is in the midst of a crisis. Each year, more and more Americans are unable to purchase health insurance, and there are no signs that things are improving. As evidence, the United States Census Bureau estimates that nearly 47 million people did not have health insurance coverage in 2005. Sadly, this number rose from 41.2 million uninsured persons in 2001—a 13 percent increase.

The lack of health insurance is even more troubling when we look specifically at the small business sector of our economy. In 2005, according to the Employee Benefit Research Institute, a non-partisan health policy group, nearly 63 percent of all uninsured workers were either self-employed or working for private-sector firms with fewer than 100 employees. In comparison, only 13.4 percent of workers in firms with more than 1,000 employees do not have health insurance. These numbers

demonstrate that the majority of uninsured Americans work for small enterprises.

So why are our Nation's small businesses, which are our country's job creators and the true engine of our economic growth, so disadvantaged when it comes to purchasing health insurance?

The main reason that small business owners do not offer their employees health insurance is because many of them cannot afford to provide any health insurance, or other benefits to their employees. Many other small companies can only afford to pay a portion of their employees' health insurance premiums. As a result, many small business employees must acquire health insurance from the private sector rather than through their work place. This more expensive alternative is not practical or possible for the majority of the uninsured.

Clearly, we have a problem on our hands. While we can debate among ourselves why this crisis exists, and how we ended up here, what is not open for debate is that we need to start identifying ways to fix the system. It is simply unconscionable to do nothing while more and more Americans find themselves without health insurance and health care.

Currently, many large companies, and even the Federal Government, allow their employees to purchase health insurance, and other qualified benefits, with tax-free dollars. Larger companies are able to offer these accounts because they meet the specific qualifications outlined in the tax code.

Cafeteria plans is one means for employers to offer health benefits with pretax dollars. As the name suggests, cafeteria plans are programs where employees can purchase a range of qualified benefits. Specifically, cafeteria plans offer employees great flexibility in selecting their desired benefits while allowing them to disregard those benefits that do not fit their particular needs. Moreover, the employees are usually purchasing benefits at a lower cost because their employers are often able to obtain a reduced group rate price for their benefits.

Typically, in cafeteria plans, a combination of employer contributions and employee contributions are used to fund the accounts that employees used to buy specific benefits. Under current law, qualified benefits include health insurance, dependent-care reimbursement, life and disability insurance. Unfortunately, long term care insurance is NOT currently a qualified benefit available for purchase in cafeteria plans. I will come back to long term care insurance in a moment.

Clearly, cafeteria plans play a critical role in our Nation's health care system. The problem though, is that in order for companies to qualify for cafeteria plans they must satisfy the tax code's strict non-discrimination rules. These rules exist to ensure that companies offer the same benefits to their non-highly compensated employees that they offer to their highly compensated employees. These rules strive to ensure that non-highly compensated employees in fact receive a substantial portion of the employee benefits companies provide.

Now, I want to be clear. I believe that these non-discrimination rules serve a legitimate purpose and are necessary employee protections. Indeed, we need to ensure that employers are not able to game the tax system so that the cafeteria plans that qualify for preferential tax treatment are used by a majority of a companies' employees. At the same time these benefits must be made available to small companies and not just large companies.

Unfortunately, we often hear that small businesses lose skilled employees to larger companies simply because the bigger firm is able to offer a more generous employee benefit package. Many small firms have relatively few employees and a high proportion of owners or highly compensated individuals. Right now, if these small companies opened cafeteria plans they will likely violate the nondiscrimination rules, and subject their workers and organizations to taxable penalties.

Consequently, many small companies simply forgo opening cafeteria plans and offering more comprehensive employee benefits because they fear they will violate the non-discrimination rules. According to the Employers' Council on Flexible Compensation, though roughly 38 million U.S. workers had access to cafeteria plans, only 19 percent of those workers were employees of small businesses.

Allowing small business to offer cafeteria plans would provide them with much needed employee recruiting and retention tools. If more small business owners are able to offer their employees the chance to enjoy a variety of employee benefits these firms will be more likely to attract, recruit, and retain talented workers. This will ultimately increase their business output.

In order to help small companies increase their employees access to health insurance and other benefits, and help them compete for talented professionals, I am introducing the SIMPLE Cafeteria Plan Act. This bill will enable small business employees to purchase health insurance with tax-free dollars in the same way that many employees of large companies already do in their cafeteria plans. My bill accomplishes this by creating a SIMPLE Cafeteria Plan, which is modeled after the Savings Incentive Match Plan for Employees, SIMPLE, pension plan.

As with the SIMPLE pension plan, a small business employer that is willing to make a minimum contribution for all employees, or who is willing to match contributions, will be permitted to waive the non-discrimination rules that currently prevent them from otherwise offering these benefits. This structure has worked extraordinarily well in the pension area with little risk of abuse. I am confident that it will be just as successful when it comes to broad-based benefits offered through cafeteria plans.

In addition my bill will expand the types of qualified benefits that can be offered in SIMPLE cafeteria plans and existing cafeteria plans. These modifications will increase the benefits provided for all employees and the likelihood that employees will utilize their cafeteria plans to purchase these benefits.

This legislation modifies rules that pertain to employer-provided dependent-care assistance plans. First, it would increase the current $5,000 annual contribution limitation of these plans to $10,000 for employees that claim two or more dependents on their tax return. This increase is significant because it will allow taxpayers to use their cafeteria accounts to pay for the care of their children and their elderly dependent family members. As the current baby-boomer generation continues to age, this scenario will become increasingly more common.

The bill also works to address our aging populations' need for long-term care insurance. Here in the United States, nearly half of all seniors age 65 or older will need long-term care at some point in their life. Unfortunately, most seniors have not adequately prepared for this possibility, just as many working age individuals have not given much thought to their eventual long-term care needs. With the cost of a private room in a nursing home averaging more than $72,000 annually, many Americans risk losing their life savings—and jeopardizing their children's inheritance—by failing to properly plan for the long-term care services they will need as they grow older.

To address this problem, this bill would allow employees to purchase long-term care insurance coverage through their cafeteria plans and flexible spending arrangements. Allowing employers to offer long-term care benefits through these accounts would make long-term care insurance more affordable and help Americans prepare for their future long-term care needs.

Additionally, by including long-term care insurance as a qualified benefit available for purchase in cafeteria plans employers will be able to include information about long-term care options in their employee benefit packages. This will help increase employee understanding of the need to plan for their care while also increasing their access to long-term care insurance.

Small businesses are the backbone of the American economy. According to the Small Business Administration, small businesses represent 99 percent of all employers, pay more than 45 percent of the private-sector's payroll, and generated 60 to 80 percent of net new jobs annually over the last decade. It is critical that small businesses are able to offer their employees cafeteria plans so that they may purchase the health care and other benefits that will provide security for their families.

The ''SIMPLE Cafeteria Plan Act of 2007'' achieves these objectives, in a manner that employers and employees can afford. Although the use of pre-tax dollars to acquire these benefits reduces current Federal revenues, the opportunity to provide small business employees these same benefits currently enjoyed by the employees of the Federal Government, and larger companies, more than justifies this minimal investment. Therefore, I urge my colleagues to join me in supporting this important legislation as we work with you to enact this bill into law.

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. 555

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''SIMPLE Cafeteria Plan Act of 2007''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

''(h) SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—An eligible employer maintaining a simple cafeteria plan with respect to which the requirements of this subsection are met for any year shall be treated as meeting any applicable nondiscrimination requirement with respect to benefits provided under the plan during such year.

''(2) SIMPLE CAFETERIA PLAN.—For purposes of this subsection, the term 'simple cafeteria plan' means a cafeteria plan—

''(A) which is established and maintained by an eligible employer, and

''(B) with respect to which the contribution requirements of paragraph (3), and the eligibility and participation requirements of paragraph (4), are met.

''(3) CONTRIBUTIONS REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer makes matching contributions on behalf of each employee who is eligible to participate in the plan and who is not a highly compensated or key employee in an amount equal to the elective plan contributions of the employee to the plan to the extent the employee's elective plan contributions do not exceed 3 percent of the employee's compensation, or

''(ii) the employer is required, without regard to whether an employee makes any elective plan contribution, to make a contribution to the plan on behalf of each employee who is not a highly compensated or key employee and who is eligible to participate in the plan in an amount equal to at least 2 percent of the employee's compensation.

''(B) MATCHING CONTRIBUTIONS ON BEHALF OF HIGHLY COMPENSATED AND KEY EMPLOYEES.—The requirements of subparagraph (A)(i) shall not be treated as met if, under the plan, the rate of matching contribution with respect to any elective plan contribution of a highly compensated or key employee at any rate of contribution is greater than that with respect to an employee who is not a highly compensated or key employee.

''(C) SPECIAL RULES.—

''(i) TIME FOR MAKING CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of this paragraph with respect to any elective plan contributions of any compensation, or employer contributions required under this paragraph with respect to any compensation, if such contributions are made no later than the 15th day of the month following the last day of the calendar quarter which includes the date of payment of the compensation.

''(ii) FORM OF CONTRIBUTIONS.—Employer contributions required under this paragraph may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

''(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTIVE PLAN CONTRIBUTION.—The term 'elective plan contribution' means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

''(ii) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

''(iii) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 416(i).

''(4) MINIMUM ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph shall be treated as met with respect to any year if, under the plan—

''(i) all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate, and

''(ii) each employee eligible to participate in the plan may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan.

''(B) CERTAIN EMPLOYEES MAY BE EXCLUDED.—For purposes of subparagraph (A)(i), an employer may elect to exclude under the plan employees—

''(i) who have less than 1 year of service with the employer as of any day during the plan year,

''(ii) who have not attained the age of 21 before the close of a plan year,

''(iii) who are covered under an agreement which the Secretary of Labor finds to be a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer, or

''(iv) who are described in section 410(b)(3)(C) (relating to nonresident aliens working outside the United States).

A plan may provide a shorter period of service or younger age for purposes of clause (i) or (ii).

''(5) ELIGIBLE EMPLOYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding years. For purposes of this subparagraph, a year may only be taken into account if the employer was in existence throughout the year.

''(B) EMPLOYERS NOT IN EXISTENCE DURING PRECEDING YEAR.—If an employer was not in existence throughout the preceding year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current year.

''(C) GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—If—

''(i) an employer was an eligible employer for any year (a 'qualified year'), and

''(ii) such employer establishes a simple cafeteria plan for its employees for such year, then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

''(D) SPECIAL RULES.—

''(i) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(ii) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

''(6) APPLICABLE NONDISCRIMINATION REQUIREMENT.—For purposes of this subsection, the term 'applicable nondiscrimination requirement' means any requirement under subsection (b) of this section, section 79(d), section 105(h), or paragraph (2), (3), (4), or (8) of section 129(d).

''(7) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).''.

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

SEC. 3. MODIFICATIONS OF RULES APPLICABLE TO CAFETERIA PLANS.

(a) APPLICATION TO SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 125(d) (defining cafeteria plan) is amended by adding at the end the following new paragraph:

''(3) EMPLOYEE TO INCLUDE SELF-EMPLOYED.—

''(A) IN GENERAL.—The term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(B) LIMITATION.—The amount which may be excluded under subsection (a) with respect to a participant in a cafeteria plan by reason of being an employee under subparagraph (A) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the cafeteria plan is established.''.

(2) APPLICATION TO BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLAN.—

(A) GROUP-TERM LIFE INSURANCE.—Section 79 (relating to group-term life insurance provided to employees) is amended by adding at the end the following new subsection:

''(f) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under the exceptions contained

in subsection (a) or (b) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the individual is so treated.''.

(B) ACCIDENT AND HEALTH PLANS.—Section 105(g) is amended to read as follows:

''(g) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under this section by reason of subsection (b) or (c) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''.

(C) CONTRIBUTIONS BY EMPLOYERS TO ACCIDENT AND HEALTH PLANS.—

(i) IN GENERAL.—Section 106, as amended by subsection (b), is amended by adding after subsection (b) the following new subsection:

''(c) EMPLOYER TO INCLUDE SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under subsection (a) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''.

(ii) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(b) LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—The last sentence of section 125(f) (defining qualified benefits) is amended to read as follows: ''Such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract.''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

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

SEC. 4. MODIFICATION OF RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.

(a) MODIFICATION OF RULES.—

(1) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986, as amended by section 2, is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) SPECIAL RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a flexible spending or similar arrangement solely because under the plan or arrangement—

''(A) the amount of the reimbursement for covered expenses at any time may not exceed the balance in the participant's account for the covered expenses as of such time,

''(B) except as provided in paragraph (4)(A)(ii), a participant may elect at any time specified by the plan or arrangement to make or modify any election regarding the covered benefits, or the level of covered benefits, of the participant under the plan, and

''(C) a participant is permitted access to any unused balance in the participant's accounts under such plan or arrangement in the manner provided under paragraph (2) or (3).

''(2) CARRYOVERS AND ROLLOVERS OF UNUSED BENEFITS IN HEALTH AND DEPENDENT CARE ARRANGEMENTS.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant in a health flexible spending arrangement or dependent care flexible spending arrangement to elect—

''(i) to carry forward any aggregate unused balances in the participant's accounts under such arrangement as of the close of any year to the succeeding year, or

''(ii) to have such balance transferred to a plan described in subparagraph (E)

Such carryforward or transfer shall be treated as having occurred within 30 days of the close of the year.

''(B) DOLLAR LIMIT ON CARRYFORWARDS.—

''(i) IN GENERAL.—The amount which a participant may elect to carry forward under subparagraph (A)(i) from any year shall not exceed $500. For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the $500 amount under clause (i) shall be increased by an amount equal to—

''(I) $500, multiplied by

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

If any dollar amount as increased under this clause is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(C) EXCLUSION FROM GROSS INCOME.—No amount shall be required to be included in gross income under this chapter by reason of any carryforward or transfer under this paragraph.

''(D) COORDINATION WITH LIMITS.—

''(i) CARRYFORWARDS.—The maximum amount which may be contributed to a health flexible spending arrangement or dependent care flexible spending arrangement for any year to which an unused amount is carried under this paragraph shall be reduced by such amount.

''(ii) ROLLOVERS.—Any amount transferred under subparagraph (A)(ii) shall be treated as an eligible rollover under section 219, 223(f)(5), 401(k), 403(b), or 457, whichever is applicable, except that—

''(I) the amount of the contributions which a participant may make to the plan under any such section for the taxable year including the transfer shall be reduced by the amount transferred, and

''(II) in the case of a transfer to a plan described in clause (ii) or (iii) of subparagraph (E), the transferred amounts shall be treated as elective deferrals for such taxable year.

''(E) PLANS.—A plan is described in this subparagraph if it is—

''(i) an individual retirement plan,

''(ii) a qualified cash or deferred arrangement described in section 401(k),

''(iii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iv) an eligible deferred compensation plan described in section 457, or

''(v) a health savings account described in section 223.

''(3) DISTRIBUTION UPON TERMINATION.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant (or any designated heir of the participant) to receive a cash payment equal to the aggregate unused account balances in the plan or arrangement as of the date the individual is separated (including by death or disability) from employment with the employer maintaining the plan or arrangement.

''(B) INCLUSION IN INCOME.—Any payment under subparagraph (A) shall be includible in gross income for the taxable year in which such payment is distributed to the employee.

''(4) TERMS RELATING TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(A) FLEXIBLE SPENDING ARRANGEMENTS.—

''(i) IN GENERAL.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions).

''(ii) ELECTIONS REQUIRED.—A plan or arrangement shall not be treated as a flexible spending arrangement unless a participant may at least 4 times during any year make or modify any election regarding covered benefits or the level of covered benefits.

''(B) HEALTH AND DEPENDENT CARE ARRANGEMENTS.—The terms 'health flexible spending arrangement' and 'dependent care flexible spending arrangement' means any flexible spending arrangement (or portion thereof) which provides payments for expenses incurred for medical care (as defined in section 213(d)) or dependent care (within the meaning of section 129), respectively.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 125 of the Internal Revenue Code of 1986 is amended by inserting ''**AND FLEXIBLE SPENDING ARRANGEMENTS**'' after ''**PLANS**''.

(B) The item relating to section 125 of such Code in the table of sections for part III of subchapter B of chapter 1 is amended by inserting ''and flexible spending arrangements'' after ''plans''.

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 is amended by striking subsection (e) (relating to FSA and HRA Terminations to Fund HSAs).

(2) Section 223(c)(1)(A)(iii)(II) is amended to read as follows:

''(II) the individual is transferring the entire balance of such arrangement as of the end of the plan year to a health savings account pursuant to section 125(i)(2)(A)(ii), in accordance with rules prescribed by the Secretary.''.

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

SEC. 5. RULES RELATING TO EMPLOYER-PROVIDED HEALTH AND DEPENDENT CARE BENEFITS.

(a) HEALTH BENEFITS.—Section 106, as amended by section 4(b), is amended by adding at the end the following new subsection:

''(e) LIMITATION ON CONTRIBUTIONS TO HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—Gross income of an employee for any taxable year shall include employer-provided coverage provided through 1 or more health flexible spending arrangements (within the meaning of section 125(i))

to the extent that the amount otherwise excludable under subsection (a) with regard to such coverage exceeds the applicable dollar limit for the taxable year.

"(2) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable dollar limit for any taxable year is an amount equal to the sum of—

"(i) $7,500, plus

"(ii) if the arrangement provides coverage for 1 or more individuals in addition to the employee, an amount equal to one-third of the amount in effect under clause (i) (after adjustment under subparagraph (B)).

"(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in any calendar year after 2007, the $7,500 amount under subparagraph (A) shall be increased by an amount equal to—

"(i) $7,500, multiplied by

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

If any dollar amount as increased under this subparagraph is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.".

(b) DEPENDENT CARE.—

(1) EXCLUSION LIMIT.—

(A) IN GENERAL.—Section 129(a)(2) (relating to limitation on exclusion) is amended—

(i) by striking "$5,000" and inserting "the applicable dollar limit", and

(ii) by striking "$2,500" and inserting "one-half of such limit".

(B) APPLICABLE DOLLAR LIMIT.—Section 129(a) is amended by adding at the end the following new paragraph:

"(3) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable dollar limit is $5,000 ($10,000 if dependent care assistance is provided under the program to 2 or more qualifying individuals of the employee).

"(B) COST-OF-LIVING ADJUSTMENTS.—

"(i) $5,000 AMOUNT.—In the case of taxable years beginning after 2007, the $5,000 amount under subparagraph (A) shall be increased by an amount equal to—

"(I) $5,000, multiplied by

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

If any dollar amount as increased under this clause is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.

"(ii) $10,000 AMOUNT.—The $10,000 amount under subparagraph (A) for taxable years beginning after 2005 shall be increased to an amount equal to twice the amount the $5,000 amount is increased to under clause (i).".

(2) AVERAGE BENEFITS TEST.—

(A) IN GENERAL.—Section 129(d)(8)(A) (relating to benefits) is amended—

(i) by striking "55 percent" and inserting "60 percent", and

(ii) by striking "highly compensated employees" the second place it appears and inserting "employees receiving benefits".

(B) SALARY REDUCTION AGREEMENTS.—Section 129(d)(8)(B) (relating to salary reduction agreements) is amended—

(i) by striking "$25,000" and inserting "$30,000", and

(ii) by adding at the end the following: "In the case of years beginning after 2007, the $30,000 amount in the first sentence shall be adjusted at the same time, and in the same manner, as the applicable dollar amount is adjusted under subsection (a)(3)(B).".

(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—Section 129(d)(4) (relating to principal shareholders and owners) is amended by adding at the end the following: "In the case of any failure to meet the requirements of this paragraph for any year, amounts shall only be required by reason of the failure to be included in gross income of the shareholders or owners who are members of the class described in the preceding sentence.".

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

By Mr. KENNEDY (for himself, Mr. ENZI, Mr. DODD, and Mr. ALEXANDER):

S. 556. A bill to reauthorize the Head Start Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senators ENZI, DODD, and ALEXANDER in introducing the Head Start for School Readiness Act. Our goal is to reauthorize Head Start and continue our bipartisan support for this very successful program to prepare low-income children for school.

For over forty years, Head Start has given disadvantaged children the assistance they need to arrive at school ready to learn. It's comprehensive services guarantee balanced meals for children, and a well-defined curriculum to see that children develop early skills in reading, writing, and math, and positive social skills as well. It provides visits to doctors and dentists, and outreach to parents to encourage them to participate actively in their child's early development.

It is clear that Head Start works. A federal evaluation found that Head Start children make gains during the program itself, and the gains continue when the children enter kindergarten. Once Head Start children complete their kindergarten year, they are near the national average of 100 in key areas, with scores of 93 in vocabulary, 96 in early writing, and 92 in early math.

We've made tremendous, bipartisan progress this year in our effort to reauthorize Head Start and build upon a program that serves as a lifeline for the neediest families and children across the Nation.

In this legislation, we build on Head Start's proven track record and expand it to include thousands of low-income children who are not yet served by the program. We provide for better coordination of Head Start with state programs for low-income children. We strengthen Head Start's focus on school readiness and early literacy. We enhance the educational goals for Head Start teachers. And we provide greater accountability for the program, including new policies to ensure improved monitoring visits and new policies to address programs with serious deficiencies.

To strengthen Head Start, we have to begin by providing more resources for it. The need for Head Start is greater than ever. Child poverty is on the rise again. Today, less than 50 percent of children eligible for Head Start participate in the program. Hundreds of thousands of three- and four-year-olds are left out because of the inadequate funding level of the program. Early Head Start serves only 3 percent of eligible infants and toddlers. It is shameful that 97 percent of the children eligible for Early Head Start have no access to it. It's long past time for Congress to expand access to Head Start to serve as many infants, toddlers, and preschool children as possible.

The bill that we introduce today will set a goal to expand Head Start over the next several years. We call for increases in funding, from $6.9 billion in the current fiscal year, to $7.3 billion in FY 2008, $7.5 billion in FY 2009, and $7.9 billion in 2010. These funding levels are critical to advance the essential reforms in this legislation, and to serve thousands of additional children in the Head Start program.

Early Head Start is an especially important program for needy infants and toddlers. Research clearly shows its benefit to infants and toddlers and their families. Early Head Start children have larger vocabularies, lower levels of aggressive behavior, and higher levels of sustained attention than children not enrolled in the program. Parents are more likely to play with their children and read to them.

This bill will double the size of Early Head Start over the course of this authorization, and deliver services to over 56,000 additional children over the course of this authorization.

Our bill establishes a Head Start Collaboration Office in every state to maximize services to Head Start children, align Head Start with kindergarten classrooms, and strengthen its local partnerships with other agencies. These offices will work hand in hand with the Head Start network of training and technical assistance to support Head Start grantees in better meeting the goals of preparing children for school.

States will also have an active role in coordinating their system of early childhood programs, and increasing the quality of those programs. Our bill designates an Early Care and Education Council in each State to conduct an inventory of children's needs, develop plans for data collection and for supporting early childhood educators, review and upgrade early learning standards, and make recommendations on technical assistance and training. For those States ready to move forward and implement their statewide plan, our bill will offer a one-time incentive grant to implement these important efforts.

Over the past four decades, Head Start has built up quality and performance standards to guarantee a full range of services, so that children are educated in the basics about letters and numbers and books, and are also healthy, well-fed, and supported in stable and nurturing relationships. Head Start is a model program, and we can enhance its quality even more.

One way to do that is to strengthen Head Start's current literacy initiative. We know the key to later reading success is to get young children excited about letters and books and numbers. Our bill emphasizes language and literacy, by enhancing the literacy training required of Head Start teachers, by continuing to promote parent literacy, and by working to put more books into Head Start classrooms and into children's homes.

We also make a commitment in this bill to upgrade all of the educational components of Head Start, and ensure that services are aligned with expectations for children's kindergarten year and continue to be driven by the effective Head Start Child Outcomes Framework.

At the heart of Head Start's success are its teachers and staff. They are caring, committed persons who know the children they serve and are dedicated to improving their lives. They help children learn to identify letters of the alphabet and arrange the pieces of puzzles. They teach them to brush their teeth, wash their hands, make friends and follow rules. Yet their salary is still half the salary of kindergarten teachers, and turnover is high—11 percent a year.

Because a teacher's quality is directly related to a child's outcome, our bill establishes a goal to ensue that every Head Start teacher have their A.A. degree and 50 percent earn their B.A. degree over the course of this authorization. Head Start teachers and staff are the greatest resource to children and families in the program, and we must match these ambitious reforms and improvements with the funding needed to see that Head Start programs can meet these goals.

We have also granted additional flexibility in this bill for Head Start programs to serve families and children that need services at the local level. We've lifted the eligibility requirements so that families living below 130 percent of the federal poverty rate can qualify and participate in Head Start. Often, these are the neighbors of Head Start children with similar needs, but currently remain barred from participating in the program.

Under this bill, Head Start programs will be empowered with greater authority to determine the needs of families in their local communities and define services to meet those needs. If programs determine that there is a greater share infants and toddlers in need of services, our bill allows them to apply to the Secretary to convert and expand Head Start to serve those youngest children, consistent with Early Head Start standards. If programs identify a need to provide full-day or full-year care for children and families, they can take steps to do so.

Accountability is a cornerstone of excellence in education and should start early. Head Start should be accountable for its promise to provide safe and healthy learning environments, to support each child's individual pattern of development and learning, to cement community partnerships in services for children, and to involve parents in their child's growth.

Head Start reviews are already among the most extensive in the field. Every 3 years, a federal and local team spends a week thoroughly examining every aspect of every Head Start program. They check everything from batteries in flashlights to how parents feel about the program. Our bill takes a further step to improve the monitoring of Head Start programs, ensures that programs receive useful and timely feedback and information, and strengthens annual reviews and plans for improvement.

Our bill also takes an important step to suspend the Head Start National Reporting System. Four years ago, I insisted that instead of rushing forward with a national assessment for every four- and five-year-old in Head Start, this Administration should instead move more deliberately to develop and implement an assessment tool that would help guide and improve Head Start programs. Unfortunately, they rejected that call and proceeded with an assessment—absent sufficient authorization or oversight from Congress—that was later proven by a GAO study to be flawed and inconsistent with professional standards for testing and measurement.

Any assessment used in Head Start must be held to the highest standard. It must be valid and reliable, fair to children from all backgrounds, balanced in what it measures, and address the development of the whole child. Our bill calls on the National Academy of Sciences to continue their work in surveying assessments and outcomes appropriate for early childhood programs, and to make recommendations to the Secretary and to Congress on the use of assessments and outcomes in Head Start programs. I hope the National Academy's work will be helpful as we consider future improvements in the Head Start program.

Finally, this bill appropriately rejects earlier calls to block grant Head Start services, preserving the community-based structure of the program. It makes no sense to turn Head Start into a block grant to the states. To do so would have dismantled the program and undermined Head Start's guarantees that children can see doctors and dentists, eat nutritious meals, and learn early academic and social skills. The current Federal-to-local structure of Head Start enables it to tailor its services to meet local community needs. Performance standards guarantee a high level of quality across all programs. Yet each program is unique and specifically adapted to the local community. Head Start is successful in serving Inuit children in Alaska, migrant-workers' children in Tennessee, and inner-city children in Boston. It is essential to maintain the ability of local Head Start programs to tailor their services to meet the needs of local neighborhoods and their children.

The Head Start for School Readiness Act we are introducing today will keep Head Start on its successful path, and enable this vital program to continue to thrive and improve. I urge our colleagues on both sides of the aisle to join us in advancing and strengthening this program, and give children the head start they need and deserve to prepare for school and for life.

Mr. ENZI. Mr. President, I rise to join my colleagues in introducing the Head Start for School Readiness Act.

Head Start programs are critical to ensuring that all children, regardless of their background, enter school ready to learn and succeed. I want to thank Senator KENNEDY and his staff for his ongoing commitment to our bipartisan approach, which has resulted in a bill that meets the needs of children and families who participate in the Head Start program throughout our Nation. I would also like to thank our colleagues Senators ALEXANDER and DODD and their staff for their fine work as well.

This legislation would reauthorize the Head Start program and help ensure that children in this important program will be better prepared to enter school with the skills to succeed. Success in life depends a great deal on the preparation for that success, which comes early in life. It is well documented in early childhood education research that students who are not reading well by the third grade will struggle with reading most of their lives. Head Start provides early education for over 900,000 children each year, most of whom would not have the opportunity to attend preschool programs elsewhere. It is because of these 900,000 children we have all worked so hard to improve and strengthen this Act.

I am particularly pleased with the accountability provisions we put forth in this legislation. The legislation we introduce today limits the timeframe for Head Start grantees to appeal decisions made by the Secretary to terminate grants. In some instances, Head Start grantees have been found to be operating programs that are unsafe or misusing Federal funds—and are often continuing those bad practices for months, as long as 600 days in some cases—during the termination process. This equates to children not receiving quality services, and instead of being prepared for success, they fall further behind.

Additional steps have been taken in this legislation to increase the quality of the Head Start program including providing the Secretary the authority to terminate a grantee that has multiple and recurring deficiencies that has not made significant and substantial progress toward correcting those deficiencies.

We recognize that a vast majority of the Head Start agencies provide high quality, comprehensive services for

children in the Head Start programs. However, the provisions in this bill will create an important incentive for programs to operate at their best, and in the best interest of the children they serve.

Senator DODD has provided valuable leadership as we worked to develop a clear policy on the roles and responsibilities of the governing body and policy councils. We have worked together to clarify and strengthen the roles of the governing body and policy councils. After careful review, the Committee found that many of the important fiscal and legal responsibilities of Head Start grantees were not explicitly assigned. The bill clarifies those responsibilities leading to more consistent, high quality fiscal and legal management, which will ensure these programs are serving children in the best possible way.

I want to particularly note emphasis we have placed on the role of parents in Head Start programs. It is vital to remember that this program provides services to children and their families. Parents provide valuable insight and experience as to what a Head Start program should do for children.

Senators ALEXANDER, KENNEDY, and DODD have worked tirelessly on this legislation and championed increasing coordination, collaboration, and excellence in early childhood education and care programs. I wish to thank my colleagues on the Committee, particularly Senators KENNEDY, ALEXANDER, and DODD, for their work in drafting this bipartisan legislation to reauthorize the Head Start Act. I believe the legislation we are introducing today will improve the quality and effectiveness of the Head Start program for generations of children to come. It is my hope that our bipartisan efforts will continue to produce results as we move the bill through the Senate and into Conference.

Mr. DODD. Mr. President, I rise today to join my colleagues, Senator KENNEDY, Senator ENZI, and Senator ALEXANDER in introducing the Head Start for School Readiness Act. I am pleased that we are beginning the process of reauthorizing this important legislation early in the 110th Congress.

Since 1965, Head Start has provided comprehensive early childhood development services to low-income children. The evidence is clear: Head Start works for the more than 900,000 children enrolled in centers throughout the country. As we reauthorize this bill, we have the opportunity to refine and improve the program to make it work even better.

This reauthorization bill maintains the important characteristics of Head Start that have made it such an important program, aiding in the social, emotional, physical and cognitive development of low-income preschool children. The program is successful because each center addresses the needs of the local community. It is more than just a school readiness program; it addresses the comprehensive needs of children and their families by providing health and other services to the enrolled children. Families play the most important role in ensuring the success of their children, and our bill maintains an integral role for parents in the decision-making and day to day operations of the program. Parent involvement is a centerpiece of Head Start and I believe this bill strengthens that component.

This reauthorization bill expands eligibility, improves accountability by clarifying program governance, strengthens school readiness for children and enhances teacher quality. In addition, collaboration and coordination with other early childhood development programs and outreach to underserved populations is greatly improved.

The bill we're introducing enables more low-income children to get a head start by allowing programs to serve families with incomes up to 130 percent of the poverty level, while ensuring that the most vulnerable families below the poverty level are served first. This is important for Connecticut and other States where the cost of living is especially high and many working poor families aren't able to access services because they earn just above the poverty level. In addition, the bill expands access to services for infants and toddlers in Early Head Start by increasing the set-aside from 10 percent to 20 percent over the next 5 years. Programs are also provided more discretion to serve eligible individuals based on the needs of the each community.

Although we do not go as far as I would personally like to see in funding for Head Start, we do authorize additional resources in this bill. Despite the tight budget situation, we authorize an increase of six percent from $6.9 billion to $7.35 billion in Fiscal Year 2008, to $7.65 billion in Fiscal Year 2009 and to $7.995 billion in Fiscal Year 2009. I continue to be gravely concerned about the lack of resources for Head Start—funding levels have been essentially flat since 2002. Currently, only half of eligible children are served in Head Start and fewer than 5 percent are served in Early Head Start.

Across the country, Head Start providers are reporting rising costs in transportation, some more than 15 percent due to fuel prices. Other budget concerns include higher unemployment and health care premiums, facilities maintenance and training for staff. Rising operating costs are coinciding with State, local and private funding partners cutting back their contributions to local Head Start programs. This terrible budget crunch has caused providers to make deep cuts in already tight budgets, as they try desperately to not remove children from their enrollments. I understand the challenges facing the Federal budget and look forward to continuing to work with my colleagues on the budget and appropriations committees to increase vital resources for Head Start.

Research shows that child outcomes are directly related to the quality of the teachers and professionals who work with them on a daily basis. I am pleased that we establish goals in this Head Start bill for improving educational standards for Head Start teachers, curriculum specialists and teacher assistants. Understanding that dedicated Head Start teachers and staff work hard for relatively low wages, there will not be penalties associated with programs not meeting the goal we have established. I would hope that we could offer funding to help teachers meet these goals, but that is not possible at this juncture. I will continue to work toward increased funding to assist teachers in pursuing additional educational goals.

When Head Start began more than 40 years ago, it was the only preschool program available for low-income children; now there are many approaches. Collaboration and coordination with other early childhood programs is also an essential piece of this Head Start bill, reducing duplication and encouraging opportunities for shared information and resources.

I look forward to working with my colleagues as we move this bill through the Senate.

By Mr. SCHUMER (for himself, Mr. ROBERTS, Mr. NELSON of Florida, Mrs. DOLE, Ms. STABENOW, and Mr. KYL):

S. 557. A bill to amend the Internal Revenue Code of 1986 to make permanent the depreciation classification of motorsports entertainment complexes; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I rise today to introduce ''The Motorsports Fairness and Permanency Act.'' This bill extends the current tax treatment for speedways and race tracks around the country. Just over two years ago, Congress codified the seven-year depreciation classification for motorsports facilities. However, this provision of the tax code expires at the end of 2007. The bill I am introducing today would make the seven-year classification permanent, providing much needed clarity and certainty for facility owners who are planning capital investments.

There are over fifty motorsports facilities in every part of New York State: from Long Island Motorsports Park to Poughkeepsie Speedway to Utica-Rome Speedway to Wyoming County International Speedway. These tracks provide entertainment for thousands of fans and are important engines of local and regional economic development.

The highest profile facility in New York State is Watkins Glen International. This storied road course has played an important role in open wheel and stock car racing since it opened in 1956. The Glen has hosted NASCAR racing since 1986, and this year's schedule will include the Grand-Am Rolex Sports Car Series, the IndyCar Series and the NASCAR Nextel Cup. With

these high profile events drawing thousands of out-of-state racing fans to Schuyler County it is no surprise that the Glen's economic impact has been estimated at over $200 million a year.

Watkins Glen is also a prime example of the need for continual capital reinvestment at motorsports facilities. Since 2005, the Glen has added new grandstands and spectator suites and upgraded and repaved the track. Planning multi-million dollar capital projects requires a certain and stable tax regime governing these investments. In order to provide this stability and certainty, I am introducing the Motorsports Fairness and Permanency Act, and I am pleased to be joined by Senators ROBERTS, BILL NELSON, DOLE, STABENOW, and KYL as original cosponsors. Enacting this legislation will be crucial to supporting the economic benefits that motorsports facilities provide across New York State and across the country. I hope that my colleagues will join me in supporting this legislation, and I look forward to working with my colleague from Kansas to have it considered in the Finance Committee.

By Mr. DOMENICI (for himself, Mr. KENNEDY, Mr. ENZI, Mr. BROWN, Mr. SMITH, Mr. FEINGOLD, Mr. COLEMAN, Mr. LAUTENBERG, Mr. WARNER, Mrs. BOXER, Ms. MURKOWSKI, Mr. AKAKA, Mr. ROBERTS, Mr. CARDIN, Mr. HATCH, Ms. CANTWELL, Ms. COLLINS, Ms. STABENOW, Ms. SNOWE, Mr. BIDEN, Mr. GRAHAM, and Mr. NELSON of Nebraska):

S. 558. A bill to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Access to mental health services is one of the most important and most neglected civil rights issues facing the Nation. For too long, persons living with mental disorders have suffered discriminatory treatment at all levels of society. They have been forced to pay more for the services they need and to worry about their job security if their employer finds out about their condition. Sadly, in America today, patients with biochemical problems in their liver are treated with better care and greater compassion than patients with biochemical problems in their brain.

That kind of discrimination must end. No one questions the need for affordable treatment of physical illnesses. But those who suffer from mental illnesses face serious barriers in obtaining the care they need at a cost they can afford. Like those suffering from physical illnesses, persons with mental disorders deserve the opportunity for quality care. The failure to obtain treatment can mean years of shattered dreams and unfulfilled potential.

Eleven years ago, Congress passed the first Mental Health Parity Act. That legislation was an important first step in bringing attention to discriminatory practices against the mentally ill, but it did little to correct the injustices that so many Americans continue to face. The 1996 legislation required that annual and lifetime dollar limits for mental health coverage must be no less than the limits for medical and surgical coverage. But more steps are clearly needed to guarantee that Americans suffering from mental illness are not forced to pay more for the services they need, do not face harsher limitations on treatment, and are not denied access to care.

This bill is a chance to take the actions needed to end the longstanding discrimination against persons with mental illness. The late Senator Paul Wellstone and Senator PETE DOMENICI deserve great credit for their bipartisan leadership on mental health parity. If it were not for them, we would not be here today.

The bill prohibits group health plans from imposing treatment limitations or financial requirements on the coverage of mental health conditions that do not also apply to physical conditions. That means no limits on days or treatment visits, and no exorbitant copayments or deductibles. The bill was negotiated by and has the support of the mental health community, the business community, and the insurance industry.

The need is clear. One in five Americans will suffer some form of mental illness this year—but only a third of them will receive treatment. Millions of our fellow citizens are unnecessarily enduring the pain and sadness of seeing a family member, friend, or loved one suffer illnesses that seize the mind and break the spirit.

Battling mental illness is itself a painful process, but discrimination against persons with such illnesses is especially cruel, since the success rates for treatment often equal or surpass those for physical conditions. According to the National Institute of Mental Health, clinical depression treatment can be 70 percent successful, and treatment for schizophrenia can be 60 percent successful.

Over the years we've heard compelling testimony from experts, activists, and patients about the need to equalize coverage of physical and mental illnesses. The Office of Personnel Management talks us that providing full parity to 8.5 million federal employees has led to minimal premium increases. We heard dramatic testimony about the economic and social advantages of parity, including a healthier, more productive workforce.

Some of the most compelling testimony came several years ago from Lisa Cohen, a hardworking American from New Jersey, who suffers from both physical and mental illnesses, and is forced to pay exorbitant costs for treating her mental disorder, while paying little for her physical disorder. She is typical of millions of Americans who not only face the cruel burden of mental illness, but also the cruel burden of discriminatory treatment. No Americans should be denied equal treatment of an illness because it starts in the brain instead of the heart, lungs, or other parts of their body. No patients should be denied access to the treatment that can cure their illness because of where they live or work.

A number of States have already enacted mental health parity laws, but 86 million workers under ERISA have no protection under state mental health statutes.

Mental health parity is a good investment for the Nation. The costs from lost worker productivity and extra physical care outweigh the costs of implementing parity for mental health treatment.

Over the years study after study has shown that parity makes good financial sense. An analysis of more than 46,000 workers at major companies showed that employees who report being depressed or under stress are likely to have substantially higher health costs than co-workers without such conditions. Employees who reported being depressed had health bills 70 percent higher than those who did not suffer from depression. Those reporting high stress had 46 percent higher health costs. McDonnell Douglas found a 4 to 1 return on investment after accounting for lower medical claims, reduced absenteeism, and smaller turnover.

Mental illness also imposes a huge financial burden on the Nation. It costs us $300 billion each year in treatment expenses, lost worker productivity, and crime. This country can afford mental health parity. What we can't afford is to continue denying persons with mental disorders the care they need.

Today is a turning point. We are finally moving toward ending this shameful form of discrimination in our society—discrimination against mental illness. This bill has been seven years in the making, and brings first class medicine to millions of Americans who have been second class patients for too long.

Today, we begin to right that wrong, by guaranteeing equal treatment to the 11 million people receiving mental health services, and promising equal treatment to the remaining 100 million insured workers and their families who never know the day they may need their mental health benefit.

The 1996 Act, was an important step towards ending health insurance discrimination against mental illness. This bill will take another large step forward by closing the loopholes that remain.

It guarantees co-payments, deductibles, coinsurance, out of pocket expenses and annual and lifetime limits that apply to mental health benefits are no different than those applied to medical and surgical benefits.

It guarantees that the frequency of treatment, number of visits, days of coverage and other limits on scope and duration of treatment for mental health services are no different than those applied to medical and surgical benefits.

This equal treatment and financial equity is also applied to substance abuse.

Features of State law that require coverage of mental disorders are protected, to assure those currently protected by state parity laws that their needs will be met.

The medical management strategies needed to prevent denial of medically needed services for patients remain intact.

Finally, the bill is modeled on the parity that is already guaranteed to the 8.5 million persons, including Members of Congress, under the Federal Employee Benefits Program,

Equal treatment of those affected by mental illness is not just an insurance issue. It's a civil rights issue. At its heart, mental health parity is a question of simple justice.

It is long past time to end insurance discrimination and guarantee all people with mental illness the coverage they deserve.

I urge my colleagues to support this important principle, and end the unacceptable double standards that have unfairly plagued our health care systems for so long.

Mr. DOMENICI. Mr. President, I rise today along with my colleagues Senator KENNEDY and Senator ENZI to introduce the Mental Health Parity Act of 2007. I want to thank my colleagues for all of their hard work on this issue and I am glad we are able to introduce this paramount legislation.

Simply put, our legislation will provide parity between mental health coverage and medical and surgical coverage. No longer will people be treated differently only because they suffer from a mental illness. This means 113 million people in group health plans will benefit from our bill.

We are here today after years of hard work. We have worked with the mental health community, the business community, and insurance groups to carefully construct a fair bill. A sampling of the groups include the National Alliance on Mental Illness, the American Psychological Association, the American Psychiatric Association, the National Retail Federation, and Aetna Insurance.

This bill will no longer apply a more restrictive standard to mental health coverage and another more lenient standard be applied to medical and surgical coverage. What we are doing is a matter of simple fairness. Statistics demonstrate that there is a significant need for this change in policy. Currently, 26 percent of American adults or nearly 58 million people suffer from a diagnosable mental illness each year. Six percent of those adults suffer from a serious mental illness. Additionally, more than 30,000 people commit suicide each year in the United States. We need to reduce these numbers, and I believe expanding access to mental health services will allow us to do so.

This bill will provide mental health parity for about 113 million Americans who work for employers with 50 or more employees and ensure health plans do not place more restrictive conditions on mental health coverage than on medical and surgical coverage. Additionally, the legislation includes parity for financial requirements such as deductibles, copayments, and annual lifetime limits. Also, this bill includes parity for treatment limitations regarding the number of covered hospital days and visits. This bill does not Mandate the coverage of mental health nor does it prohibit a health plan from managing mental health benefits in order to ensure only medically necessary treatments are covered.

Again, I would like to thank everyone who contributed to the development of this legislation. I believe we are making a difference today and I look forward to working with my colleagues to move this bill forward.

I ask for unanimous consent that the text of the bill to 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. 558

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 ''Mental Health Parity Act of 2007''.

SEC. 2. MENTAL HEALTH PARITY.

(a) AMENDMENTS OF ERISA.—Subpart B of part 7 of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 712 (29 U.S.C. 1185a) the following:

''SEC. 712A. MENTAL HEALTH PARITY.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall ensure that—

''(1) the financial requirements applicable to such mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), including deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits, except that the plan (or coverage) may not establish separate cost sharing requirements that are applicable only with respect to mental health benefits; and

''(2) the treatment limitations applicable to such mental health benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage), including limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(b) CLARIFICATIONS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not be prohibited from—

''(1) negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits consistent with subsection (a);

''(2) managing the provision of mental health benefits in order to provide medically necessary services for covered benefits, including through the use of any utilization review, authorization or management practices, the application of medical necessity and appropriateness criteria applicable to behavioral health, and the contracting with and use of a network of providers; or

''(3) applying the provisions of this section in a manner that takes into consideration similar treatment settings or similar treatments.

''(c) IN- AND OUT-OF-NETWORK.—

''(1) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and that provides such benefits on both an in- and out-of-network basis pursuant to the terms of the plan (or coverage), such plan (or coverage) shall ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits, except that in no event shall this subsection require the provision of out-of-network coverage for mental health benefits even in the case where out-of-network coverage is provided for medical and surgical benefits.

''(2) CLARIFICATION.—Nothing in paragraph (1) shall be construed as requiring that a group health plan (or coverage in connection with such a plan) eliminate an out-of-network provider option from such plan (or coverage) pursuant to the terms of the plan (or coverage).

''(d) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(e) COST EXEMPTION.—

''(1) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connections with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan (as determined and certified

under paragraph (3)) by an amount that exceeds the applicable percentage described in paragraph (2) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(2) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this paragraph shall be—

''(A) 2 percent in the case of the first plan year in which this section is applied; and

''(B) 1 percent in the case of each subsequent plan year.

''(3) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made by a qualified actuary who is a member in good standing of the American Academy of Actuaries. Such determinations shall be certified by the actuary and be made available to the general public.

''(4) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connections with a group health plan) seeks an exemption under this subsection, determinations under paragraph (1) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(5) NOTIFICATION.—An election to modify coverage of mental health benefits as permitted under this subsection shall be treated as a material modification in the terms of the plan as described in section 102(a)(1) and shall be subject to the applicable notice requirements under section 104(b)(1).

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

''(g) MENTAL HEALTH BENEFITS.—In this section, the term 'mental health benefits' means benefits with respect to mental health services (including substance abuse treatment) as defined under the terms of the group health plan or coverage.''.

(b) PUBLIC HEALTH SERVICE ACT.—Subpart 1 of part A of title XXVII of the Public Health Service Act is amended by inserting after section 2705 (42 U.S.C. 300gg-5) the following:

''SEC. 2705A. MENTAL HEALTH PARITY.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall ensure that—

''(1) the financial requirements applicable to such mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), including deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits, except that the plan (or coverage) may not establish separate cost sharing requirements that are applicable only with respect to mental health benefits; and

''(2) the treatment limitations applicable to such mental health benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage), including limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(b) CLARIFICATIONS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not be prohibited from—

''(1) negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits consistent with subsection (a);

''(2) managing the provision of mental health benefits in order to provide medically necessary services for covered benefits, including through the use of any utilization review, authorization or management practices, the application of medical necessity and appropriateness criteria applicable to behavioral health, and the contracting with and use of a network of providers; or

''(3) be prohibited from applying the provisions of this section in a manner that takes into consideration similar treatment settings or similar treatments.

''(c) IN- AND OUT-OF-NETWORK.—

''(1) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and that provides such benefits on both an in- and out-of-network basis pursuant to the terms of the plan (or coverage), such plan (or coverage) shall ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits, except that in no event shall this subsection require the provision of out-of-network coverage for mental health benefits even in the case where out-of-network coverage is provided for medical and surgical benefits.

''(2) CLARIFICATION.—Nothing in paragraph (1) shall be construed as requiring that a group health plan (or coverage in connection with such a plan) eliminate an out-of-network provider option from such plan (or coverage) pursuant to the terms of the plan (or coverage).

''(d) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(e) COST EXEMPTION.—

''(1) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connections with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan (as determined and certified under paragraph (3)) by an amount that exceeds the applicable percentage described in paragraph (2) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(2) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this paragraph shall be—

''(A) 2 percent in the case of the first plan year in which this section is applied; and

''(B) 1 percent in the case of each subsequent plan year.

''(3) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made by a qualified actuary who is a member in good standing of the American Academy of Actuaries. Such determinations shall be certified by the actuary and be made available to the general public.

''(4) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connections with a group health plan) seeks an exemption under this subsection, determinations under paragraph (1) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(5) NOTIFICATION.—An election to modify coverage of mental health benefits as permitted under this subsection shall be treated as a material modification in the terms of the plan as described in section 102(a)(1) and shall be subject to the applicable notice requirements under section 104(b)(1).

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

''(g) MENTAL HEALTH BENEFITS.—In this section, the term 'mental health benefits' means benefits with respect to mental health services (including substance abuse treatment) as defined under the terms of the group health plan or coverage, and when applicable as may be defined under State law when applicable to health insurance coverage offered in connection with a group health plan.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall apply to group health plans (or health insurance coverage offered in connection with such plans) beginning in the first plan year that begins on or after January 1 of the first calendar year that begins more than 1 year after the date of the enactment of this Act.

(b) TERMINATION OF CERTAIN PROVISIONS.—

(1) ERISA.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended by striking subsection (f) and inserting the following:

''(f) SUNSET.—This section shall not apply to benefits for services furnished after the effective date described in section 3(a) of the Mental Health Parity Act of 2007.''.

(2) PHSA.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg-5) is amended by striking subsection (f) and inserting the following:

"(f) SUNSET.—This section shall not apply to benefits for services furnished after the effective date described in section 3(a) of the Mental Health Parity Act of 2007.".

SEC. 4. SPECIAL PREEMPTION RULE.

(a) ERISA PREEMPTION.—Section 731 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191) is amended—

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

(2) by inserting after subsection (b), the following:

"(c) SPECIAL RULE IN CASE OF MENTAL HEALTH PARITY REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any provision of section 514 to the contrary, the provisions of this part relating to a group health plan or a health insurance issuer offering coverage in connection with a group health plan shall supercede any provision of State law that establishes, implements, or continues in effect any standard or requirement which differs from the specific standards or requirements contained in subsections (a), (b), (c), or (e) of section 712A.

"(2) CLARIFICATIONS.—Nothing in this subsection shall be construed to preempt State insurance laws relating to the individual insurance market or to small employers (as such term is defined for purposes of section 712A(d)).".

(b) PHSA PREEMPTION.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg-23) is amended—

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

(2) by inserting after subsection (b), the following:

"(c) SPECIAL RULE IN CASE OF MENTAL HEALTH PARITY REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any provision of section 514 of the Employee Retirement Income Security Act of 1974 to the contrary, the provisions of this part relating to a group health plan or a health insurance issuer offering coverage in connection with a group health plan shall supercede any provisions of State law that establishes, implements, or continues in effect any standard or requirement which differs from the specific standards or requirements contained in subsections (a), (b), (c), or (e) of section 2705A.

"(2) CLARIFICATIONS.—Nothing in this subsection shall be construed to preempt State insurance laws relating to the individual insurance market or to small employers (as such term is defined for purposes of section 2705A(d)).".

(c) EFFECTIVE DATE.—The provisions of this section shall take effect with respect to a State, on the date on which the provisions of section 2 apply with respect to group health plans and health insurance coverage offered in connection with group health plans.

SEC. 5. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.

(a) GROUP HEALTH PLAN OMBUDSMAN.—

(1) DEPARTMENT OF LABOR.—The Secretary of Labor shall designate an individual within the Department of Labor to serve as the group health plan ombudsman for the Department. Such ombudsman shall serve as an initial point of contact to permit individuals to obtain information and provide assistance concerning coverage of mental health services under group health plans in accordance with this Act.

(2) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall designate an individual within the Department of Health and Human Services to serve as the group health plan ombudsman for the Department. Such ombudsman shall serve as an initial point of contact to permit individuals to obtain information and provide assistance concerning coverage of mental health services under health insurance coverage issued in connection with group health plans in accordance with this Act.

(b) AUDITS.—The Secretary of Labor and the Secretary of Health and Human Services shall each provide for the conduct of random audits of group health plans (and health insurance coverage offered in connection with such plans) to ensure that such plans are in compliance with this Act (and the amendments made by this Act).

(c) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect of the implementation of the amendments made by this Act on the cost of health insurance coverage, access to health insurance coverage (including the availability of in-network providers), the quality of health care, the impact on benefits and coverage for mental health and substance abuse, the impact of any additional cost or savings to the plan, the impact on State mental health benefit mandate laws, other impact on the business community and the Federal Government, and other issues as determined appropriate by the Comptroller General.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under paragraph (1).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor and the Secretary of Health and Human Services shall jointly promulgate final regulations to carry out this Act.

Mr. ENZI. Mr. President, first and foremost I want to thank my respective colleagues Senator KENNEDY and Senator DOMENICI for their dedication and leadership on the issues of mental health parity. Your commitment and willingness to compromise has gotten us to the point where we are today—introducing a mental health parity bill that has the potential to be signed into law this year.

For many this is monumental. Parity for mental health benefits was first championed by the late Senator Paul Wellstone. Senator DOMENICI in memory of our late colleague took over as the lead advocate for this legislation after the passing of Senator Wellstone.

Today is a reflection of your hard work, Senator DOMENICI, as well as the groundwork that was laid by the late Senator Paul Wellstone.

The advocacy of my good colleagues Senator Wellstone and DOMENICI helped to get the Mental Health Parity Act of 1996 signed into law. This legislation acted as a catalyst for many states to take action in passing their own mental health parity laws. To date 38 States have passed some sort of mental health parity or benefit law. Many of these laws go much farther than the 1996 Act. However, there is a concern that while the 1996 Act requires parity for annual and lifetime dollar limits on coverage, group plans may impose more restrictive treatment and cost sharing requirements. This is a legit concern. There is a also a valid concern that requiring parity or mental health benefits will drive up the cost of insurance, and result in group plans offering less coverage or even worse dropping coverage for both mental and physical health. The bill introduced today recognizes both of these concerns and addresses them. This in turn breaks the log jam that has halted efforts in the past three Congress's to pass a Mental Health Parity Act that is more widely known as the Paul Wellston Mental Health Equitable Treatment Act.

The Mental Health Parity Act we are introducing today is a compromise between the proponents and those who opposed the Paul Wellstone Mental Health Equitable Treatment Act. It is a result of two years of discussion and compromise between the business and insurer industry and the mental health community. I want to thank both of you for coming together in good faith to find a middle ground on an issue has polarized stakeholders. Your support and input has been critical to making this process work. Your willingness to work together to accommodate each others concerns, makes it possible for a mental health parity law to be enacted this Congress.

A vital component of the Mental Health Parity Act introduced today recognizes the importance and need for treating mental health equal to physical health, without unfairly mandating group health plans offer mental health coverage. The legislation applies only to those group health plans that already offer physical and surgical benefits as well as mental health benefits. It does not mandate what types of mental health benefits must receive parity, but leaves that to be defined under the terms of the plan or coverage or as defined under State law. What this legislation does do, is require a plan to provide financial requirements and treatment limitations applied to mental health benefits equal to the financial requirements and treatment limitations applied to medical and surgical benefits that the plan covers. For example, deductibles, co-payments, coinsurance, out of pocket expenses, frequency of treatment, number of visits and days of coverage will now be treated equally for mental health and physical health. To allow for health plans to adequately manage the new parity requirement mechanisms are authorized to allow for medical management tools to be used by health plans. Provisions of this law will preempt provisions of State law that differ. But again, this bill would not preempt State laws mandating that mental health benefits be covered. Furthermore, States that elect to adopt the Federal standards would not be subject to preemption.

In addition, the legislation recognizes the stress many small business employers are under to provide health care to their employees, thus, this bill does exempts small employers. Any employer with 50 or less employees will not be affected by the Federal law, but must still comply with its State law or regulation.

Another critical component of this compromised legislation is a cost exemption. Under the provision, an employer may elect to continue to offer mental health parity if a group plan results in an increase of 2 percent in the case of the first plan year and 1 percent in the case of each subsequent plan year.

The compromises made in this legislation are of great importance to making sure this legislation will not burden employers struggling with health care costs, while not compromising the significance or effect this legislation will have in ensuring individuals have better access to critical mental health services. Approximately 1 in 5 Americans ages 18 and older, have a mental disorder that can be diagnosed in a given year according to the Substance Abuse and Mental Health Service Administration. However, their ability to receive treatment may be hindered due to cost issues or the stigma attached to mental illness. This legislation will help to address both by sending the message that mental health is just as important as physical health, and needs to be treated with the same amount of importance. This bill signals to an individual diagnosed with schizophrenia that his or her illness is as real as an individual diagnosed with diabetes and that they should not have to pay more for the mental illness than the physical. This legislation will help an employee covered by an affected plan who has a child with bipolar disorder better access to the treatment that child needs. In the past 20 years new technologies and treatments have advanced our understanding and ability to treat a mental illness. We now know with the right diagnoses, support, treatment and case management a person with mental illness can be a contributing member of society. It is time to update our laws to reflect this.

While introduction today is a huge step forward for a Mental Health Parity law, much more needs to be done to secure its passage. The legislation, as it is currently crafted, still must pass through the Senate Health, Education, Labor and Pensions Committee as early as Wednesday, the full Senate and then the House. At this point, a process has been created that allows for open and honest discussion. I encourage my colleagues and the stakeholders to continue this process and to remain together throughout each step of the way. By working together, instead of against each other, we can achieve passage of this legislation.

Mr. SMITH. Mr. President, I rise today with my colleagues Senator DOMENICI and Senator KENNEDY to introduce a bill that will have tremendous impact for the millions of Americans who will suffer from mental illness in their lifetime. The Mental Health Parity Act of 2007 is an important bill and I look forward to its passage.

Mental illness can affect people of any age, of any race, and of any income. As a parent with a son who struggled with mental illness, I know all too well the indiscriminate nature of the illness and the frightening statistics of its regular occurrence for those we love. The statistics on the prevalence of mental illness are indeed startling. We know that in any given year, more than a quarter of our nation's adults—60 million people—suffer from a diagnosable mental disorder, many of whom suffer in silence. We also know that mental disorders can disrupt lives and are the leading cause of disability for those aged 15–44 in the United States and in Canada.

Mental illness is just as deadly and serious as a physical illness. Suicide takes the lives of more than 30,000 people each year, with more than 700,000 attempts. We also know that suicides outnumber homicides three to one each year. We also know that people who suffer from mental illness suffer from much higher rates of other chronic conditions, such as cardiovascular disease. However, unlike heart attacks and strokes, mental illness is not something that we, as a nation, want to talk about.

However, we know that effective treatment exists for most people suffering. Help is out there, and this bill will help make it available. Mental health is not a Democratic issue or a Republican issue. Too much is at stake when we talk about mental health care reform to get caught up in partisan politics. We need to work together to find solutions. This bill is a big step and an important step in moving that needed reform forward. Through parity, we can alleviate some of the burden on the public mental health system that results when families are forced to turn to the public system when they do not have access to treatment through private plans.

My home State of Oregon had the wisdom and foresight to see that mental health parity was necessary. I am proud that this year they are implementing parity for the people of Oregon. In a 2004 report by the Governor's Mental Health Taskforce, they found that in any given year 175,00 adults and 75,000 children under the age of 18 are in need of mental health services. It also listed as one of the major problems facing the Oregon mental health system the fact that mental health parity was not, at that time, in effect. That is no longer the case and I look forward to seeing significant improvements in the mental health system in Oregon as a result of the hard work done there.

The introduction of this federal legislation is hard fought and so important. I look forward to working with my colleagues to ensure its passage. I urge my colleagues on both sides of the aisle to support this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 77—EXPRESSING SUPPORT FOR THE TRANSITIONAL FEDERAL GOVERNMENT OF THE SOMALI REPUBLIC

Mr. INHOFE (for himself and Mr. BROWNBACK) submitted the following resolution; which was referred to the committee on Foreign Relations:

S. RES. 77

Whereas, after the collapse of the Somali government in 1991, the main judicial system in Somalia devolved into a system of sharia-based Islamic courts, which have increased their power to include security and enforcement functions;

Whereas, in 2000, the courts consolidated to form the Islamic Courts Union (ICU), which came into conflict with secular warlords in the capitol city of Mogadishu by asserting its ever increasing power;

Whereas, the ICU is known to have links to Al-Qaeda and has provided a safe haven for members of Al-Qaeda;

Whereas, by June 2006, ICU forces controlled Mogadishu and much of southern Somalia, creating a potential haven for Islamic terrorists;

Whereas, in 2004, the Transitional Federal Government of the Somali Republic (TFG) was formed in Kenya;

Whereas, in 2006, the TFG army joined forces with the army of the Federal Democratic Republic of Ethiopia to sweep the ICU from power and, after a string of swift military victories, enter Mogadishu; and

Whereas, the current situation is still volatile, creating a short window of opportunity to positively affect Somalia's stability and future status:

Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Senate expresses its support for the Transitional Federal Government of the Somali Republic;

(2) the Senate recognizes Ethiopia, particularly Prime Minister Meles, and Kenya for the noble efforts aimed toward pursuing peace in Somalia and support for the United States in the War on Terror;

(3) the United States should support and push efforts for serious multi-party talks aimed at establishing a national unity government in Somalia;

(4) the United States should take several measures, at an appropriate time, to promote stability;

(5) assistance from the United States will better equip the TFG to face the challenges of restoring peace to this war-torn country;

(6) the United States should promote foreign investment in Somalia and facilitate financial and technical assistance to the TFG; and

(7) the United States should aid the TFG to—

(A) locate and free Somali-owned financial assets throughout the world;

(B) solicit support from other friendly countries; and

(C) encourage nongovernmental organizations to commit more resources and projects to Somalia.