(Mr. BIDEN) was added as a cosponsor of S. 223, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 233

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 233, a bill to prohibit the use of funds for an escalation of United States military forces in Iraq above the numbers existing as of January 9, 2007.

AMENDMENT NO. 4

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of amendment No. 4 proposed to S. 1, a bill to provide greater transparency in the legislative process.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—JANUARY 4, 2007

By Mr. SALAZAR (for himself, Mr. LEAHY, Mr. REID, Mr. MENENDEZ, Mrs. BOXER, and Mrs. FEINSTEIN):

S. 188. A bill to revise the short title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I join Senator SALAZAR in introducing a bill to include Cesar E. Chavez among the names of the great civil rights leaders we honor in the title of last year's Voting Rights Act Reauthorization and Amendments Act of 2006, ''VRARA''. I supported taking this action last year during the Senate Judiciary Committee's consideration of the VRARA when I offered an amendment on behalf of Senator SALAZAR to add the Hispanic civil rights leader to those for whom the law is named. As Senator SALAZAR reminded us, Cesar Chavez is an American hero who sacrificed his life to empower the most vulnerable in America. Like Fannie Lou Hamer, Rosa Parks, and Coretta Scott King, for whom the VRARA is named, he believed strongly in the right to vote as a cornerstone of American democracy. I offered the amendment in the Judiciary Committee and it was adopted without dissent.

In order not to complicate final passage of the Voting Rights Act, the Senate proceeded to adopt the House-passed bill without amendment so that it could be signed into law without having to be reconsidered by the House. At that time, I committed to work with Senator SALAZAR to conform the law to include recognition of the contribution to our civil rights, voting rights and American society by Cesar Chavez.

Cesar Chavez's name should be added to the law as important recognition of the broad landscape of political inclusion made possible by the Voting Rights Act. This bill would not alter the bill's vital remedies for continuing discrimination in voting, but is overdue recognition of the importance of the Voting Rights Act to Hispanic-Americans. Prior to the VRA, Hispanics, like minorities of all races, faced major barriers to participation in the political process, through the use of such devices as poll taxes, exclusionary primaries, intimidation by voting officials, language barriers, and systematic vote dilution.

I urge the Senate quickly to take up and pass this measure as we convene the new Congress and commit ourselves again to ensuring that the great promises of the 14th and 15th amendments are kept for all Americans and that the Voting Rights Act Reauthorization and Amendments Act is fully implemented to protect the rights of all Americans.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. SUNUNU, Mr. LEAHY, and Mr. AKAKA):

S. 236. A bill to require reports to Congress on Federal agency use of data mining; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, I am pleased today to introduce the Federal Agency Data Mining Reporting Act of 2007. I want to thank Senator SUNUNU for once again cosponsoring this bill, which we also introduced in the last Congress. Senator SUNUNU has consistently been a leader on privacy issues, and I am pleased to work with him on this effort. I also want to thank Senators LEAHY, AKAKA, and WYDEN, for their continuing support of the bill.

The controversial data analysis technology known as data mining is capable of reviewing millions of both public and private records on each and every American. The possibility of government law enforcement or intelligence agencies fishing for patterns of criminal or terrorist activity in these vast quantities of digital data raises serious privacy and civil liberties issues—not to mention serious questions about the effectiveness of these types of searches. But four years after Congress first learned about and defunded the Defense Department's program called Total Information Awareness, there is still much Congress does not know about the Federal Government's work on data mining.

We have made some progress. We know from reviews conducted by the Government Accountability Office that as of May 2004 there were nearly 200 Federal data mining programs, more than one hundred of which relied on personal information and 29 of which were for the purpose of investigating terrorists or criminals. And we have learned a few more details on five of those programs from a follow-up report that GAO issued in August 2005. We also have a brief report from the DHS Inspector General published in August 2006, and as a result of my amendment to the DHS appropriations bill we have a July 2006 report from the Privacy Office at the Department of Homeland Security that provides some interesting policy suggestions relating to data mining.

But this information has come to us haphazardly, and lacks detail about the precise nature of the data mining programs being utilized or developed, their efficacy, and the consequences Americans could face as a result. Furthermore, much of the reporting thus far has focused on the Department of Homeland Security. It also appears there has been little if any government-wide consideration of privacy policies for these types of programs. Indeed, public debate on government data mining has been generated more by press stories than as a result of congressional oversight.

My bill would require all Federal agencies to report to Congress within 180 days and every year thereafter on data mining programs developed or used to find a pattern or anomaly indicating terrorist or other criminal activity on the part of individuals, and how these programs implicate the civil liberties and privacy of all Americans. If necessary, specific information in the various reports could be classified.

This is information we need to have. Congress should not be learning the details about data mining programs after millions of dollars are spent testing or using data mining against unsuspecting Americans. The possibility of unchecked, secret use of data mining technology threatens one of the most important values that we are fighting for in the war against terrorism—freedom.

Data mining could rely on a combination of intelligence data and personal information like individuals' traffic violations, credit card purchases, travel records, medical records, and virtually any information contained in commercial or public databases. Congress must conduct oversight to make sure that all government agencies engaged in fighting terrorism and other criminal enterprises—not just the Department of Homeland Security, but also the Department of Justice, the Department of Defense and others—use these types of sensitive personal information effectively and appropriately.

Let me clarify what this bill does not do. It does not have any effect on the government's use of commercial data to conduct individualized searches on people who are already suspects, nor does it require that the government report on these types of searches. It does not end funding for any program, determine the rules for use of data mining technology, or threaten any ongoing investigation that might use data mining technology.

My bill would simply provide Congress with information about the nature of the technology and the data that will be used. The Federal Agency Data Mining Reporting Act would require all government agencies to assess

the efficacy of the data mining technology they are using or developing—that is, whether the technology can deliver on the promises of each program. In addition, my bill would make sure that Congress knows whether the Federal agencies using data mining technology have considered and developed policies or guidelines to protect the privacy and due process rights of individuals, such as privacy technologies and redress procedures. With complete information about the current data mining plans and practices of the Federal Government, Congress will be able to conduct a thorough review of the costs and benefits of the practice of data mining on a program-by-program basis and make considered judgments about whether programs should go forward. Congress will also be able to evaluate whether new privacy rules are necessary.

In addition, Congress must look closely at the government's activities because data mining is unproven in this area. Some argue that data mining can help locate potential terrorists before they strike. But we do not, today, have evidence that pattern-based data mining will prevent terrorism. In fact, some technology experts have warned that this type of data mining is not the right approach for the terrorism problem. Just last month, the Cato Institute released a report—coauthored by a scientist specializing in data analytics and an information privacy expert—concluding that ''[t]he only thing predictable about predictive data mining for terrorism is that it would be consistently wrong.''

Some commercial uses of data mining have been successful, but have arisen in a very different context than counterterrorism efforts. For example, the financial world has successfully used data mining to identify people committing fraud because it has data on literally millions, if not billions, of historical financial transactions. And the banks and credit card companies know, in large part, which of those past transactions have turned out to be fraudulent. So when they apply sophisticated statistical algorithms to that massive amount of historical data, they are able to make a pretty good guess about what a fraudulent transaction might look like in the future.

We do not have that kind of historical data about terrorists and sleeper cells. We have just a handful of individuals whose past actions can be analyzed, which makes it virtually impossible to apply the kind of advanced statistical analysis required to use data mining in this way. That raises serious questions about whether data mining will ever be able to locate an actual terrorist. Before the government starts reviewing personal information about every man, woman and child in this country, we should learn what data mining can and can't do—and what limits and protections are needed if data mining programs do go forward.

We must also bear in mind that there will inevitably be errors in the underlying data. Everyone knows people who have had errors on their credit reports—and that is the one area of commercial data where the law already imposes strict accuracy requirements. Other types of commercial data are likely to be even more inaccurate. Even if the technology itself were effective, I am very concerned that innocent people could be ensnared because of mistakes in the data that make them look suspicious. The recent rise in identity theft, which creates even more data accuracy problems, makes it even more important that we address this issue.

I also want to touch on one issue that has proved difficult in many debates about data mining: how to define the term. What is data mining? From policy debates to government reports, many people have wrestled with this question. While it can be defined more broadly, for the purpose of this reporting requirement, data mining is limited to the process of attempting to predict future events or actions by discovering or locating patterns or anomalies in data. However, for purposes of the reporting requirement in this bill, which seeks information on those data mining programs most likely to threaten the privacy and civil liberties of Americans, I have limited the definition in a couple of other ways. First, the bill's core definition of data mining is to conduct a query, search or other analysis of one or more electronic databases to ''discover a predictive pattern or an anomaly indicative of terrorist or criminal activity on the part of any individual or individuals.'' Data mining has a number of applications at various government agencies outside the context of terrorism and other criminal investigations, but I have limited the definition for purposes of this legislation in order to get reports on the programs most likely to raise privacy concerns. For example, the May 2004 GAO report identified a number of government data mining programs whose goals are managing resources efficiently or identifying fraud, waste and abuse in government programs, and that do not rely on personally identifiable information. I am not seeking reports on programs like these.

Second, as I alluded to earlier, the definition explicitly excludes queries to retrieve information from a database that is based on information—such as address, passport number or license plate number—that is associated with a particular individual or individuals. This type of query is a traditional investigative technique. Although government agencies must be careful in their use of commercial databases, simply querying a Choicepoint database for information about someone who is already a suspect is not data mining.

Most Americans believe that their private lives should remain private. Data mining programs run the risk of intruding into the lives of individuals who have nothing to do with terrorism or other criminal activity and understandably do not want their credit reports, shopping habits and doctor visits to become a part of a gigantic computerized search engine operating without any controls or oversight, and without much promise of locating terrorists. As the Cato report put it, ''[t]he possible benefits of predictive data mining for finding planning or preparation for terrorism are minimal. The financial costs, wasted effort, and threats to privacy and civil liberties are potentially vast.''

At a minimum, the administration should be required to report to Congress about the various data mining programs now underway or being studied, and the impact those programs may have on our privacy and civil liberties, so that Congress can determine whether any benefits of this practice come at too high a price to our privacy and personal liberties. As Senator WYDEN and I have told the Director of National Intelligence, we must have a public discussion about the efficacy and privacy implications of data mining. We wrote a letter to him on November 15, 2006, that included the following:

[W]e believe there needs to be a public discussion before the implementation of any government data mining program that would rely on domestic commercial data and other information about Americans. There are serious questions about whether pattern analysis of such data can effectively identify terrorists, given the relative lack of historical data about terrorist activities. And as the furor over the Total Information Awareness program demonstrated, the American public has serious—and legitimate—concerns about the privacy ramifications of programs designed to fish for patterns of criminal or terrorist activity in vast quantities of digital data, collected by other entities for entirely different reasons. Pattern analysis runs the risk of generating a large number of false positives, meaning that innocent Americans could become the subject of investigation. Before we go down that path, it is critical that we have a public discussion about the efficacy and privacy implications of this technology. And, if we decide that data mining is effective enough to warrant spending taxpayer dollars on it, we should establish strong privacy protections to protect innocent people from being the subject of government suspicion.

Of course, the Intelligence Community should be taking advantage of new technologies in its critical responsibility to protect our country from terrorists, and much of its work must remain classified to protect national security. But we can have a public debate about what privacy rules should constrain data mining programs deployed domestically, without revealing sensitive information like the precise algorithms that the government has developed.

This bill is the first step in this process—a way for Congress and, to the degree appropriate, the public to finally understand what is going on behind the closed doors of the executive branch so that we can start to have a policy discussion about data mining that is long overdue. I urge my colleagues to support this bill. All it asks for is information to which Congress and the American people are entitled.

Mr. President, I ask unanimous consent that the text of this 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. 236

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 ''Federal Agency Data Mining Reporting Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DATA MINING.—The term ''data mining'' means a query, search, or other analysis of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the query, search, or other analysis to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals; and

(B) the query, search, or other analysis does not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases.

(2) DATABASE.—The term ''database'' does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

SEC. 3. REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.

(a) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be made available to the public, except for a classified annex described in subsection (b)(8).

(b) CONTENT OF REPORT.—Each report submitted under subsection (a) shall include, for each activity to use or develop data mining, the following information:

(1) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(2) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(3) A thorough description of the data sources that are being or will be used.

(4) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(5) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(6) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data mining activity.

(7) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data mining in order to—

(A) protect the privacy and due process rights of individuals, such as redress procedures; and

(B) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(8) Any necessary classified information in an annex that shall be available, as appropriate, to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(c) TIME FOR REPORT.—Each report required under subsection (a) shall be—

(1) submitted not later than 180 days after the date of enactment of this Act; and

(2) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subsection (a).

Mr. LEAHY. Mr. President, I am pleased today to join with Senators FEINGOLD, SUNUNU and others to introduce the Federal Agency Data Mining Reporting Act of 2007. This important privacy legislation would begin to restore key checks and balances by requiring Federal agencies to report to Congress on their datamining programs and activities. We joined together to introduce a similar bill last Congress. Regrettably, it received no attention. This year, I intend to make sure that we do a better job in considering Americans' privacy, checks and balances, and the proper balance to protect Americans' privacy rights while fighting smarter and more effectively against security threats.

In recent years, the Federal Government's use of data mining technology has exploded. According to a May 2004 report by the General Accounting Office, there are at least 199 different government data mining programs operating or planned throughout the Federal Government, with at least 52 different Federal agencies currently using data mining technology. And, more and more, these data mining programs are being used with little or no notice to ordinary citizens, or to Congress.

Advances in technologies make data banks and data mining more powerful and more useful than at any other time in our history. These can be useful tools in our national security arsenal, but we should use them appropriately so that they can be most effective. A mistake can cost Americans their jobs and wreak havoc in their lives and reputations that can take years to repair. Without adequate safeguards, oversight and checks and balances, these powerful technologies also become an invitation to government abuse. The government must take steps to ensure that it is properly using this technology. Too often, government data mining programs lack adequate safeguards to protect the privacy rights and civil liberties of ordinary Americans, whose data is collected and analyzed by these programs. Without these safeguards, government data mining programs are prone to produce inaccurate results and are ripe for abuse, error and unintended consequences.

This legislation takes an important first step in addressing these concerns by pulling back the curtain on how this Administration is using this technology. It does not by its terms prohibit the use of this technology, but rather provides an oversight mechanism to begin to ensure it is being used appropriately and effectively. This bill would require Federal agencies to report to Congress about its data mining programs. The legislation provides a much-needed check on federal agencies to disclose the steps that they are taking to protect the privacy and due process rights of American citizens when they use these programs.

We need checks and balances to keep government data bases from being misused against the American people. That is what the Constitution and our laws should provide. We in Congress must make sure that when our government uses technology to detect and deter illegal activity that it does so in a manner that also protects our most basic rights and liberties. This bill advances this important goal, and I urge all Senators to support this important privacy legislation.

By Mrs. FEINSTEIN (for herself, Mr. CRAIG, MR. KENNEDY, Mr. MARTINEZ, Mrs. BOXER, and Mr. VOINOVICH):

S. 237. A bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, Senators CRAIG, KENNEDY, MARTINEZ, BOXER, VOINOVICH and I are once again introducing legislation that will address the chronic labor shortage in our Nation's agricultural industry. This bill is a priority for me—and for the tens of thousands of farmers who are currently suffering—and I hope we will move it forward early in this Congress.

The Agricultural Job Opportunities, Benefits, and Security Act, or AgJOBS, is the product of more than ten years of work. It is a bipartisan bill supported by growers, farmers, and farm workers alike. It passed the Senate last year as part of the comprehensive immigration reform bill last spring in the 109th Congress. It is time to move this bill forward.

The agricultural industry is in crisis. Farmers across the Nation report a 20 percent decline in labor.

The result is that there are simply not enough farm workers to harvest the crops.

The Nation's agricultural industry has suffered. If we do not enact a workable solution to the agricultural labor crisis, we risk a national production loss of $5 billion to $9 billion each year,

according to the American Farm Bureau.

California, in particular, will suffer. California is the single largest agricultural state in the nation. California agriculture accounts for $34 billion in annual revenue. There 76,500 farms that produce half of the nation's fruits, vegetables, and nuts from only 3 percent of the Nation's farmland.

California farms produce approximately 350 different crops: pears, walnuts, raisins, lettuce, onions, cotton, just to name a few.

Many of the farmers who grow these crops have been in the business for generations. They farm the land that their parents and their grandparents farmed before them.

The sad consequence of the labor shortage is that many of these farmers are giving up their farms. Some are leaving the business entirely. Others are bulldozing their fruit trees—literally pulling out trees that have been in the family for generations—because they do not have the labor they need to harvest their fruit.

Once the trees are gone, they are replaced by crops that do not require manual labor. And our pears, our apples, our oranges will come from foreign sources.

The trend is quite clear. If there is not a means to grow and harvest our produce here, we will import produce from China, from Mexico, from other countries who have the labor they need.

We will put American farmers out of business. And there will be a ripple effect felt throughout the economy: in farm equipment, inputs, packaging, processing, transportation, marketing, lending and insurance. Jobs will be lost and our economy will suffer.

The reality is that Americans have come to rely on undocumented workers to harvest their crops for them.

In California alone, we rely on approximately one million undocumented workers to harvest the crops. The United Farm Workers estimate that undocumented workers make up as much as 90 percent the farm labor payroll.

Americans simply will not do the work. It is hard, stooped labor, requiring long and unpredictable hours. Farm workers must leave home and travel from farm to farm to plant, prune, and harvest crops according to the season.

We must come to terms with the fact that we rely on an undocumented migrant work force. We must bring those workers out of the shadows and create a legal and enforceable means to provide labor for agriculture. That realization is what led to the long and careful negotiations creating AgJOBS.

The AgJOBS bill is a two part bill. Part one identifies and deals with those undocumented agricultural workers who have been working in the United States for the past 2 years or more. Part two creates a more usable H–2A Program, to implement a realistic and effective guest worker program.

The first step requires undocumented agricultural workers to apply for a ''blue card'' if they can demonstrate that they have worked in American agriculture for at least 150 workdays over the past 2 years. The blue card entitles the worker to a temporary legal resident status.

The blue card itself is encrypted and machine readable; it is tamper and counterfeit resistant, and contains biometric identifiers unique to the farm worker.

The second step requires that a blue card holder work in American agriculture for an additional 5 years for at least 100 workdays a year, or 3 years at 150 workdays a year.

Blue card workers would have to pay a $500 fine. The workers can travel abroad and reenter the United States and they may work in other, non-agricultural jobs, as long as they meet the agricultural work requirements.

The blue card worker's spouse and minor children, who already live in the United States, may also apply for a temporary legal status and identification card, which would permit them to work and travel.

The total number of blue cards is capped at 1.5 million over a five year period and the program sunsets after 5 years.

At the end of the required work period, the blue card worker may apply for a green card to become a legal permanent resident.

There are also a number of safeguards. If a blue card worker does not apply for a green card, or does not fulfill the work requirements, that individual can be deported.

Likewise, a blue card holder who commits a felony, three misdemeanors, or any crime that involves bodily injury, the threat of serious bodily injury, or harm to property in excess of $500, cannot get a green card and can be deported.

This program, for the first time, allows us to identify those hundreds of thousands of farm workers who now work in the shadows. It requires the farm workers to come forward and to be identified in exchange for the right to work and live legally in the United States. And it gives farmers the legal certainty they need to hire the workers they need.

The program also modifies the H–2A guest worker program so that it realistically responds to our agricultural needs.

Currently, the H–2A program is bureaucratic, unresponsive, expensive, and prone to litigation. Farmers cannot get the labor when they need it. AgJOBS offers a much-needed reform of the outdated system.

The labor certification process, which often takes 60 days or more, is replaced by an ''attestation'' process. The employer can file a fax-back application form agreeing to abide by the requirements of the H–2A program. Approval should occur in 48 to 72 hours.

The interstate clearance order to determine whether there are U.S. workers who can qualify for the jobs is replaced by a requirement that the employer file a job notification with the local office of the state Employment Security Agency. Advertising and positive recruitment must take place in the local labor market area.

Agricultural associations can continue to file applications on behalf of members.

The statutory prohibition against ''adversely affecting'' U.S. workers is eliminated. The Adverse Effect Wage Rate is instead frozen for 3 years, and thereafter indexed by a methodology that will lead to its gradual replacement with a prevailing wage standard.

Employers may elect to provide a housing allowance in lieu of housing if the governor determines that there is adequate rental housing available in the area of employment.

Inbound and return transportation and subsistence are required on the same basis as under the current program, except that trips of less than 100 miles are excluded, and workers whom an employer is not required to provide housing are excluded.

The motor vehicle safety standards for U.S. workers are extended to H–2A workers.

Petitions for admission of H–2A workers must be processed and the consulate or port of entry notified within 7 days of receipt. Requirements are the same as current law.

Petitions extending aliens' stay or changing employers are valid upon filing.

Employers may apply for the admission of new H–2A workers to replace those who abandoned their work or are terminated for cause, and the Department of Homeland Security is required to remove H–2A aliens who abandoned their work.

H–2A visas will be secure and counterfeit resistant.

A new limited federal right of action is available to foreign workers to enforce the economic benefits required under the H–2A program, and any benefits expressly offered by the employer in writing. A statute of limitations of three years is imposed.

Finally, lawsuits in State court under State contract law alleging violations of the H–2A program requirements and obligations are expressly preempted. Such State court lawsuits have been the venue of choice for litigation against H–2A employers in recent years.

AgJOBS is the one part of the immigration bill about which there is uniform agreement. Everyone knows that agriculture in America is supported by undocumented workers. As immigration enforcement tightens up, and increasing numbers of people are prevented from crossing the borders or are being deported, the result is our crops go unharvested.

We are faced today with a very practical dilemma and one that is easy to solve. The legislation has been vetted over and over again. Senator CRAIG, I,

and a multitude of other Senators have sat down with the growers, with the farm bureaus, with the chambers, with everybody who knows agriculture, and they have all signed off on the AgJOBS bill.

This is our opportunity to solve a real problem.

I ask my colleagues to join Senator CRAIG, Senator KENNEDY, Senator MARTINEZ, Senator BOXER, Senator VOINOVICH and me in supporting this legislation.

I also ask by unanimous consent that the text of this 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. 237

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

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''.

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

Sec. 1. Short title, table of contents.
Sec. 2. Definitions.
TITLE I—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS
Subtitle A—Blue Card Status
Sec. 101. Requirements for blue card status.
Sec. 102. Treatment of aliens granted blue card status.
Sec. 103. Adjustment to permanent residence.
Sec. 104. Applications.
Sec. 105. Waiver of numerical limitations and certain grounds for inadmissibility.
Sec. 106. Administrative and judicial review.
Sec. 107. Use of information.
Sec. 108. Regulations, effective date, authorization of appropriations.
Subtitle B—Correction of Social Security Records
Sec. 111. Correction of Social Security records.
TITLE II—REFORM OF H–2A WORKER PROGRAM
Sec. 201. Amendment to the Immigration and Nationality Act.
TITLE III—MISCELLANEOUS PROVISIONS
Sec. 301. Determination and use of user fees.
Sec. 302. Regulations.
Sec. 303. Reports to Congress.
Sec. 304. Effective date.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 101(a).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) TEMPORARY.—A worker is employed on a ''temporary'' basis when the employment is intended not to exceed 10 months.

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

TITLE I—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

Subtitle A—Blue Card Status

SEC. 101. REQUIREMENTS FOR BLUE CARD STATUS.

(a) REQUIREMENT TO GRANT BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant blue card status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2006;

(2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 105(b); and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted blue card status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted blue card status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF BLUE CARD STATUS.—

(1) IN GENERAL.—The Secretary may terminate blue card status granted to an alien under this section only if the Secretary determines that the alien is deportable.

(2) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under section 103, the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(A) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(B) the alien—

(i) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 105(b);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(iv) fails to perform the agricultural employment required under section 103(a)(1)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in section 103(a)(3).

(e) RECORD OF EMPLOYMENT.—

(1) IN GENERAL.—Each employer of an alien granted blue card status under this section shall annually—

(A) provide a written record of employment to the alien; and

(B) provide a copy of such record to the Secretary.

(2) SUNSET.—The obligation under paragraph (1) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted blue card status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted blue card status shall pay a fine of $100 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

SEC. 102. TREATMENT OF ALIENS GRANTED BLUE CARD STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under section 103.

(c) TERMS OF EMPLOYMENT.—

(1) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(2) TREATMENT OF COMPLAINTS.—

(A) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this paragraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(B) INITIATION OF ARBITRATION.—If the Secretary finds that an alien has filed a complaint in accordance with subparagraph (A) and there is reasonable cause to believe that the alien was terminated from employment without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of

such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(C) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding under this paragraph in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Not later than 30 days after the date of the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(D) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of section 103(a).

(E) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this paragraph shall bear the cost of their own attorney's fees for the arbitration.

(F) NONEXCLUSIVE REMEDY.—The complaint process provided for in this paragraph is in addition to any other rights an employee may have in accordance with applicable law.

(G) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to subparagraph (D).

(3) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under section 101(e) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(B) LIMITATION.—The penalty applicable under subparagraph (A) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

SEC. 103. ADJUSTMENT TO PERMANENT RESIDENCE.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) QUALIFYING EMPLOYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the alien has performed at least—

(i) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(ii) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(B) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subparagraph (A) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in section 101(e); or

(B) such documentation as may be submitted under section 104(c).

(3) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of paragraph (1)(A), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that subparagraph if the alien was unable to work in agricultural employment due to—

(A) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(B) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(C) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(4) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(5) FINE.—The alien pays a fine of $400 to the Secretary.

(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted blue card status an adjustment of status under this section and provide for termination of such blue card status if—

(1) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(2) the alien—

(A) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under section 105(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(c) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this section before the expiration of the application period described in subsection (a)(4) or who fails to meet the other requirements of subsection (a) by the end of the application period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(d) PAYMENT OF TAXES.—

(1) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this section, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

(A) no such tax liability exists;

(B) all such outstanding tax liabilities have been paid; or

(C) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(2) APPLICABLE FEDERAL TAX LIABILITY.—In paragraph (1) the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under subsection (a)(1) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(3) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

(e) SPOUSES AND MINOR CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under subsection (a), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(2) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(A) GRANTING OF STATUS AND REMOVAL.—The Secretary may grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted blue card status and shall not remove such derivative spouse or child during the period that the alien granted blue card status maintains such status, except as provided in paragraph (3). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive blue card status under subsection (h) of section 101.

(B) TRAVEL.—The derivative spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(C) EMPLOYMENT.—The derivative spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under paragraph (1) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 105(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

SEC. 104. APPLICATIONS.

(a) SUBMISSION.—The Secretary shall provide that—

(1) applications for blue card status under section 101 may be submitted—

(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary; and

(2) applications for adjustment of status under section 103 shall be filed directly with the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of section 101(a)(1) or 103(a)(1) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for status under section 101(a) or 103(a) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 101(a)(1) or 103(a)(1), as applicable.

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required by section 101(a)(1) or 103(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(1)(B) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this subtitle to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for blue card status under section 101 or an adjustment of status under section 103 has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for blue card status under section 101 or an adjustment of status under section 103 and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for blue card status under section 101 or an adjustment of status under section 103.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for blue card status under section 101 or for an adjustment of status under section 103; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for blue card status under section 101 or an adjustment of status under section 103.

SEC. 105. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under section 103.

(b) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under section 101(a) or an alien's eligibility for adjustment of status under section 103(b)(2)(A) the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for blue card status under section 101 or an adjustment of status under section 103 by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(c) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in section 101(a)(2) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in section 101(a)(2), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 106. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for blue card status under section 101 or adjustment of status under section 103 except in accordance with this section.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 107. USE OF INFORMATION.

Beginning not later than the first day of the application period described in section 101(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 104(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this subtitle and the requirements that an alien is required to meet to receive such benefits.

SEC. 108. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to implement this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

Subtitle B—Correction of Social Security Records

SEC. 111. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

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

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2007,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

TITLE II—REFORM OF H–2A WORKER PROGRAM

SEC. 201. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2007 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over

and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2009, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2009, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the

employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅓ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2007, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 201(a) of this Act and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 201 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 201(a) of this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 201(a) of this Act shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 201 of this Act, and the provisions of this Act.

SEC. 302. REGULATIONS.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this Act and the amendments made by this Act.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this Act and the amendments made by this Act.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this Act and the amendments made by this Act.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 201 of this Act, shall take effect on the effective date of section 201 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 303. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 101(a);

(5) the number of such aliens whose status was adjusted under section 101(a);

(6) the number of aliens who applied for permanent residence pursuant to section 103(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 103(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this Act.

SEC. 304. EFFECTIVE DATE.

Except as otherwise provided, sections 201 and 301 shall take effect 1 year after the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, It's a privilege to join Senator FEINSTEIN and Senator CRAIG and my other colleagues today as we reintroduce the Agricultural Jobs, Opportunity, Benefits, and Security Act. I commend them and Representatives HOWARD BERMAN and CHRIS CANNON for their bipartisan leadership and I'm honored to be part of this landmark legislation.

The bill reflects a far-reaching and welcome agreement between the United Farm Workers and the agricultural industry on one of the most difficult immigration' challenges we face, and we in Congress should make the most of this unique opportunity for progress.

America has a proud tradition as a Nation of immigrants and a Nation of laws. But our current immigration laws fail us on both counts. Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. The agricultural industry would grind to a halt without immigrant farm workers. Yet, the overwhelming majority of these workers lack legal status, and can be easily exploited by unscrupulous employers.

The legislation we are introducing, called the ''AgJOBS Act,'' is an opportunity to correct these long-festering problems. It will give farm workers and their families the dignity and justice they deserve, and it will give agricultural employers a legal workforce.

It is a realistic compromise that now has broad support in Congress, and from business and labor, civic and faith-based organizations, liberals and conservatives, trade associations and immigrant rights groups.

The Act is a needed reform in our immigration law to reflect current economic realities and meet our national security needs more effectively, and do so in a way that respects America's immigrant heritage. It provides a fair and reasonable means for illegal agricultural workers to earn legal status, and it also reforms the current visa program, so that employers unable to obtain American workers can hire needed foreign workers.

The AgJOBS Act is good for both labor and business. The Nation can no longer ignore the fact that more than half of our agricultural workers are undocumented. Growers need an immediate, reliable and legal workforce at harvest time. Farm workers need legal statues to improve their wages and working conditions. Everyone suffers when crops rot in the fields because of the lack of an adequate labor force.

The AgJOBS Act provides a fair and reasonable process for undocumented agricultural workers to earn legal status. Undocumented farm workers are clearly vulnerable to abuse by unscrupulous labor contractors and growers. Their illegal status deprives them of bargaining power and depresses the wages of all farm workers. Our bill provides fair solutions for undocumented workers who have been toiling in our fields and harvesting our fruits and vegetables.

This bill is not an amnesty. To earn the right to remain in this country, workers would not only have to demonstrate past work contributions to the U.S. economy, but also make a substantial future work commitment. These workers will be able to come forward, identify themselves, provide evidence that they have been employed in agriculture and will continue to work hard, and will play by the rules in the future.

This legislation will modify the current temporary foreign agricultural worker program, while preserving and enhancing key labor protections. It achieves a fair balance. It streamlines the H–2A visa application process by reducing paperwork for employers and accelerating processing. But individuals participating in the program receive strong labor protections.

Our legislation will unify families. When temporary residence is granted a farm worker's spouse and minor children will be able to remain legally in the U.S. but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also gain such status.

AgJOBS will also enhance national security and reduce illegal immigration. It will reduce the chaotic, illegal, and all-too-deadly flows of immigrants at our borders by providing safe and legal avenues for farm workers and their families. Future temporary workers will be carefully screened to meet security concerns. Enforcement resources will be more effectively focused on the highest risks. By bringing undocumented farm workers out of the shadows and requiring them to pass through security checks, it will enable officials to concentrate more effectively on terrorists and criminals.

Last year, Senators came together—Democrats and Republicans—to pass a far-reaching immigration reform bill that included the AgJOBS bill. The American people are calling on us to come together again. They know there is a crisis, and they want action now.

President Bush has been a leader on immigration reform, and I'm hopeful that he will renew his efforts with members of his party, so that we can continue action quickly this year on comprehensive reform legislation and end this festering crisis once and for all. The House of Representatives is now ready to be a genuine partner in this effort.

By heritage and history, America is a Nation of immigrants. Our legislation proposes necessary changes in the law while preserving this tradition. This bill will ensure that immigrant farm workers can live the American dream and contribute to our prosperity, our security, and our values, and I hope very much that it can be enacted as soon as possible in this new Congress.

By Mrs. FEINSTEIN (for herself, Mr. GREGG, Mr. SUNUNU, Mr. NELSON of Florida, and Mr. LEAHY):

S. 238. A bill to amend title 18, United States Code, to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to protect one of Americans' most valuable but vulnerable assets: social security numbers.

The bill I propose is identical to legislation that I introduced last year. This is the fifth Congress in which I have proposed legislation to protect social security numbers. I stand before you again today because I believe that this issue is too important to ignore.

We all know that once a person's social security number is compromised, the path to identity theft is a short one. The Federal Trade Commission estimates that as many as 10 million Americans have their identities stolen each year.

The crime takes many forms. Thieves can obtain social security numbers through public records—marriage licenses, professional licenses, and countless other public documents—many of which are available on the internet.

These stolen social security numbers then act like virtual keys, allowing the thieves to unlock an individual's identity.

Thieves open credit cards and charge them to the max. Often, the victim does not even realize what has happened until they are denied credit in the future because of the unpaid debt on the fraudulent credit cards.

Thieves open bank accounts in the victim's name and write bad checks.

Thieves get driver's licenses or identification cards, and even apply for government benefits in the victim's name.

Identity theft is serious. A person whose identity is stolen can lose thousands of dollars and take months or even years to regain their good name and credit.

The damage, loss, and stress of identity theft are considerable.

Victims may lose job opportunities, or be denied loans for education, housing, or cars because of negative information on their credit reports. They may even be arrested for crimes they did not commit.

The ease with which social security numbers can be accessed is distressing, but also, unnecessary.

The Social Security Number Misuse Prevention Act would require government agencies and businesses to do more to protect Americans' social security numbers. The bill would: stop the sale or display of a person's social security number without his or her express consent; prevent Federal, State and local governments from displaying social security numbers on public records posted on the Internet; end the printing of social security numbers on government checks; prohibit the employing of inmates for tasks that give them access to the social security numbers of other individuals; limit the circumstances in which businesses could ask a customer for his or her social security number; commission a study of the current uses of social security numbers and the impact on privacy and data security; and institute criminal and civil penalties for misuse of social security numbers.

This legislation is simple and necessary to stop the growing epidemic of identity theft that has been plaguing America and its citizens.

As we move further into the information age and rely more on information sharing, this problem will only get worse, unless we take action. I urge my colleagues to support the Social Security Number Misuse Prevention Act.

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.

S. 238

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Number Misuse Prevention Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Prohibition of the display, sale, or purchase of Social Security numbers.
Sec. 4. Application of prohibition of the display, sale, or purchase of Social Security numbers to public records.
Sec. 5. Rulemaking authority of the Attorney General.
Sec. 6. Treatment of Social Security numbers on government documents.
Sec. 7. Limits on personal disclosure of a Social Security number for consumer transactions.
Sec. 8. Extension of civil monetary penalties for misuse of a Social Security number.
Sec. 9. Criminal penalties for the misuse of a Social Security number.
Sec. 10. Civil actions and civil penalties.
Sec. 11. Federal injunctive authority.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of Social Security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used Social Security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a Social Security number in order to pay taxes, to qualify for Social Security benefits, or to seek employment. An unintended consequence of these requirements is that Social Security numbers have become one of the tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of Social Security numbers.

(4) The display, sale, or purchase of Social Security numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of Social Security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act provides each individual that has been assigned a Social Security number some degree of protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028A the following:

"§ 1028B. Prohibition of the display, sale, or purchase of Social Security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's Social Security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a Social Security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a Social Security number.

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

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028C, no person may display any individual's Social Security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's Social Security number without the affirmatively expressed consent of the individual.

''(d) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's Social Security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(e) EXCEPTIONS.—Nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a Social Security number—

''(1) required, authorized, or excepted under any Federal law;

''(2) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(3) for a national security purpose;

''(4) for a law enforcement purpose, including the investigation of fraud and the enforcement of a child support obligation;

''(5) if the display, sale, or purchase of the number is for a use occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction), including, but not limited to—

''(A) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(B) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, or volunteers;

''(C) the retrieval of other information from other businesses, commercial enterprises, government entities, or private nonprofit organizations; or

''(D) when the transmission of the number is incidental to, and in the course of, the sale, lease, franchising, or merger of all, or a portion of, a business;

''(6) if the transfer of such a number is part of a data matching program involving a Federal, State, or local agency; or

''(7) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program;

except that, nothing in this subsection shall be construed as permitting a professional or commercial user to display or sell a Social Security number to the general public.

''(f) LIMITATION.—Nothing in this section shall prohibit or limit the display, sale, or purchase of Social Security numbers as permitted under title V of the Gramm-Leach-Bliley Act, or for the purpose of affiliate sharing as permitted under the Fair Credit Reporting Act, except that no entity regulated under such Acts may make Social Security numbers available to the general public, as may be determined by the appropriate regulators under such Acts. For purposes of this subsection, the general public shall not include affiliates or unaffiliated third-party business entities as may be defined by the appropriate regulators.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028B. Prohibition of the display, sale, or purchase of Social Security numbers.''.

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Attorney General shall conduct a study and prepare a report on all of the uses of Social Security numbers permitted, required, authorized, or excepted under any Federal law. The report shall include a detailed description of the uses allowed as of the date of enactment of this Act, the impact of such uses on privacy and data security, and shall evaluate whether such uses should be continued or discontinued by appropriate legislative action.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall report to Congress findings under this subsection. The report shall include such recommendations for legislation based on criteria the Attorney General determines to be appropriate.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 30 days after the date on which the final regulations promulgated under section 5 are published in the Federal Register.

SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section 3(a)(1)), is amended by inserting after section 1028B the following:

"§ 1028C. Display, sale, or purchase of public records containing Social Security numbers

''(a) DEFINITION.—In this section, the term 'public record' means any governmental record that is made available to the general public.

''(b) IN GENERAL.—Except as provided in subsections (c), (d), and (e), section 1028B shall not apply to a public record.

''(c) PUBLIC RECORDS ON THE INTERNET OR IN AN ELECTRONIC MEDIUM.—

''(1) IN GENERAL.—Section 1028B shall apply to any public record first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity after the date of enactment of this section, except as limited by the Attorney General in accordance with paragraph (2).

''(2) EXCEPTION FOR GOVERNMENT ENTITIES ALREADY PLACING PUBLIC RECORDS ON THE INTERNET OR IN ELECTRONIC FORM.—Not later than 60 days after the date of enactment of this section, the Attorney General shall issue regulations regarding the applicability of section 1028B to any record of a category of public records first posted onto the Internet or provided in an electronic medium by, or on behalf of a government entity prior to the date of enactment of this section. The regulations will determine which individual

records within categories of records of these government entities, if any, may continue to be posted on the Internet or in electronic form after the effective date of this section. In promulgating these regulations, the Attorney General may include in the regulations a set of procedures for implementing the regulations and shall consider the following:

''(A) The cost and availability of technology available to a governmental entity to redact Social Security numbers from public records first provided in electronic form after the effective date of this section.

''(B) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028B with respect to such records.

''(C) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028B should apply to such records.

Nothing in the regulation shall permit a public entity to post a category of public records on the Internet or in electronic form after the effective date of this section if such category had not been placed on the Internet or in electronic form prior to such effective date.

''(d) HARVESTED SOCIAL SECURITY NUMBERS.—Section 1028B shall apply to any public record of a government entity which contains Social Security numbers extracted from other public records for the purpose of displaying or selling such numbers to the general public.

''(e) ATTORNEY GENERAL RULEMAKING ON PAPER RECORDS.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Attorney General shall determine the feasibility and advisability of applying section 1028B to the records listed in paragraph (2) when they appear on paper or on another nonelectronic medium. If the Attorney General deems it appropriate, the Attorney General may issue regulations applying section 1028B to such records.

''(2) LIST OF PAPER AND OTHER NONELECTRONIC RECORDS.—The records listed in this paragraph are as follows:

''(A) Professional or occupational licenses.

''(B) Marriage licenses.

''(C) Birth certificates.

''(D) Death certificates.

''(E) Other short public documents that display a Social Security number in a routine and consistent manner on the face of the document.

''(3) CRITERIA FOR ATTORNEY GENERAL REVIEW.—In determining whether section 1028B should apply to the records listed in paragraph (2), the Attorney General shall consider the following:

''(A) The cost or burden to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments of complying with section 1028B.

''(B) The benefit to the general public, businesses, commercial enterprises, nonprofit organizations, and to Federal, State, and local governments if the Attorney General were to determine that section 1028B should apply to such records.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 3(a)(2)), is amended by inserting after the item relating to section 1028B the following:

''1028C. Display, sale, or purchase of public records containing Social Security numbers.''.

(b) STUDY AND REPORT ON SOCIAL SECURITY NUMBERS IN PUBLIC RECORDS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study and prepare a report on Social Security numbers in public records. In developing the report, the Comptroller General shall consult with the Administrative Office of the United States Courts, State and local governments that store, maintain, or disseminate public records, and other stakeholders, including members of the private sector who routinely use public records that contain Social Security numbers.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1). The report shall include a detailed description of the activities and results of the study and recommendations for such legislative action as the Comptroller General considers appropriate. The report, at a minimum, shall include—

(A) a review of the uses of Social Security numbers in non-federal public records;

(B) a review of the manner in which public records are stored (with separate reviews for both paper records and electronic records);

(C) a review of the advantages or utility of public records that contain Social Security numbers, including the utility for law enforcement, and for the promotion of homeland security;

(D) a review of the disadvantages or drawbacks of public records that contain Social Security numbers, including criminal activity, compromised personal privacy, or threats to homeland security;

(E) the costs and benefits for State and local governments of removing Social Security numbers from public records, including a review of current technologies and procedures for removing Social Security numbers from public records; and

(F) an assessment of the benefits and costs to businesses, their customers, and the general public of prohibiting the display of Social Security numbers on public records (with separate assessments for both paper records and electronic records).

(c) EFFECTIVE DATE.—The prohibition with respect to electronic versions of new classes of public records under section 1028C(b) of title 18, United States Code (as added by subsection (a)(1)) shall not take effect until the date that is 60 days after the date of enactment of this Act.

SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).

(b) DISPLAY, SALE, OR PURCHASE RULEMAKING WITH RESPECT TO INTERACTIONS BETWEEN BUSINESSES, GOVERNMENTS, OR BUSINESS AND GOVERNMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Chairman of the Federal Trade Commission, and such other heads of Federal agencies as the Attorney General determines appropriate, shall conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the uses occurring as a result of an interaction between businesses, governments, or business and government (regardless of which entity initiates the interaction) permitted under section 1028B(e)(5) of title 18, United States Code (as added by section 3(a)(1)).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following:

(A) The benefit to a particular business, to customers of the business, and to the general public of the display, sale, or purchase of an individual's Social Security number.

(B) The costs that businesses, customers of businesses, and the general public may incur as a result of prohibitions on the display, sale, or purchase of Social Security numbers.

(C) The risk that a particular business practice will promote the use of a Social Security number to commit fraud, deception, or crime.

(D) The presence of adequate safeguards, procedures, and technologies to prevent—

(i) misuse of Social Security numbers by employees within a business; and

(ii) misappropriation of Social Security numbers by the general public, while permitting internal business uses of such numbers.

(E) The presence of procedures to prevent identity thieves, stalkers, and other individuals with ill intent from posing as legitimate businesses to obtain Social Security numbers.

(F) The impact of such uses on privacy.

SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the Social Security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

''SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's Social Security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal, State, or local law requirement; or

''(2) if the Social Security number is necessary to verify the identity of the consumer to effect, administer, or enforce the specific transaction requested or authorized by the consumer, or to prevent fraud.

''(b) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(c) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).

''(d) LIMITATION ON CLASS ACTIONS.—No class action alleging a violation of this section shall be maintained under this section by an individual or any private party in Federal or State court.

''(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

''(1) IN GENERAL.—

''(A) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under this section, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

''(i) enjoin that practice;

''(ii) enforce compliance with such section;

''(iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or

''(iv) obtain such other relief as the court may consider appropriate.

''(B) NOTICE.—

''(i) IN GENERAL.—Before filing an action under subparagraph (A), the attorney general of the State involved shall provide to the Attorney General—

''(I) written notice of the action; and

''(II) a copy of the complaint for the action.

''(ii) EXEMPTION.—

''(I) IN GENERAL.—Clause (i) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

''(II) NOTIFICATION.—With respect to an action described in subclause (I), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

''(2) INTERVENTION.—

''(A) IN GENERAL.—On receiving notice under paragraph (1)(B), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

''(B) EFFECT OF INTERVENTION.—If the Attorney General intervenes in the action under paragraph (1), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

''(A) conduct investigations;

''(B) administer oaths or affirmations; or

''(C) compel the attendance of witnesses or the production of documentary and other evidence.

''(4) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under this section, no State may, during the pendency of that action, institute an action under paragraph (1) against any defendant named in the complaint in that action for violation of that practice.

''(5) VENUE; SERVICE OF PROCESS.—

''(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(f) SUNSET.—This section shall not apply on or after the date that is 6 years after the effective date of this section.''.

(b) EVALUATION AND REPORT.—Not later than the date that is 6 years and 6 months after the date of enactment of this Act, the Attorney General, in consultation with the chairman of the Federal Trade Commission, shall issue a report evaluating the effectiveness and efficiency of section 1150A of the Social Security Act (as added by subsection (a)) and shall make recommendations to Congress as to any legislative action determined to be necessary or advisable with respect to such section, including a recommendation regarding whether to reauthorize such section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a Social Security number occurring after the date that is 1 year after the date of enactment of this Act.

SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a Social Security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the Social Security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the Social Security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a Social Security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a Social Security card, or possesses a counterfeit Social Security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the Social Security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any

other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional Social Security account number or a number which purports to be a Social Security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's Social Security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C), shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date described in section 3(c).

(f) REPEAL.—Section 201 of the Social Security Protection Act of 2004 is repealed.

SEC. 9. CRIMINAL PENALTIES FOR THE MISUSE OF A SOCIAL SECURITY NUMBER.

(a) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's Social Security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following:

''(9) except as provided in subsections (e) and (f) of section 1028B of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in section 1028B(a) of title 18, United States Code) any individual's Social Security account number without having met the prerequisites for consent under section 1028B(d) of title 18, United States Code; or

''(10) obtains any individual's Social Security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

SEC. 10. CIVIL ACTIONS AND CIVIL PENALTIES.

(a) CIVIL ACTION IN STATE COURTS.—

(1) IN GENERAL.—Any individual aggrieved by an act of any person in violation of this Act or any amendments made by this Act may, if otherwise permitted by the laws or rules of the court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent violations of the regulations prescribed under this Act. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) STATUTE OF LIMITATIONS.—An action may be commenced under this subsection not later than the earlier of—

(A) 5 years after the date on which the alleged violation occurred; or

(B) 3 years after the date on which the alleged violation was or should have been reasonably discovered by the aggrieved individual.

(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedies available to the individual.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated any section of this Act or of any amendments made by this Act shall be subject, in addition to any other penalties that may be prescribed by law—

(A) to a civil penalty of not more than $5,000 for each such violation; and

(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the Social Security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty action under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.

SEC. 11. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or the amendments made by this Act, the Federal Government shall have injunctive authority with respect to any violation by a public entity of any provision of this Act or of any amendments made by this Act.

By Mrs. FEINSTEIN:

S. 239. A bill to require Federal agencies, and persons engaged in interstate commerce, in possession of data containing sensitive personally identifiable information, to disclose any breach of such information; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Notification of Risk to Personal Data Act.

It is vitally important that Congress take immediate action to ensure that individuals are notified when companies, Federal agencies, and other institutions suffer security breaches that could jeopardize their personal information.

The Notification of Risk to Personal Data Act is a simple, straightforward bill that would require that notice be sent to individuals in the event of a data breach which compromises their personal information.

Providing individuals with knowledge that their personal information has been accessed by a hacker will allow them to take action to prevent or limit the damage caused by these security breaches.

The need for such legislation is, unfortunately, self-evident given the spate of data breaches we have all read and heard about. Unfortunately, almost every week we learn of a new breach.

For example, there have been major data breaches in just the last few months at Boeing, UCLA, the Colorado Department of Human Services, Starbucks, the Chicago Voters' Database, and Akron Children's Hospital.

Given this ongoing problem, it is not surprising that Americans have made it clear that they want Congress to act. A September 2005 CBS News/New York Times national poll on privacy and identity theft found that 89 percent of Americans are ''concerned'' about the theft of their personal identity information and 68 percent of Americans feel that Congress should do more to regulate personal data and its collection.

According to the Federal Trade Commission identity theft affects approximately 10 million Americans each year. In 2004, there were 635,173 identity theft and fraud complaints made to the Federal Trade Commission's Consumer Sentinel. In 2004, identity fraud cost Americans $52.6 billion dollars. Over the past 2 years, approximately 18 million individuals in this country have been exposed or affected by identity theft.

Data breaches threaten individual's economic and emotional well being. A person whose identity is stolen can lose thousands of dollars and it can take months or even years for a person to regain their good name and credit. So when a data breach occurs, people have a right to find out as soon as possible.

That is why I have introduced and tried to pass legislation that would: require that the Federal Government and business entities notify individuals when there has been a security breach involving their personal data; ensure that the notice is provided without unreasonable delay; create very limited exceptions to notification for national security and law enforcement purposes, as well as instances in which law enforcement certifies that there is no threat of harm to the individual; provide civil remedies against those who do not notify individuals and the provisions of the bill would be enforced by State attorney generals; and pre-empt all state laws so that there is a single, nationwide notification requirement.

I strongly believe that individuals have a right to be notified when their most sensitive information is compromised—because it is truly their information.

The instant legislation will give all Americans more control and confidence about the safety of their sensitive personal information. They will know when their data has been compromised so that they take the appropriate steps to protect themselves.

In November 2005, the Judiciary Committee approved the Personal Data Privacy and Security Act. That bill included similar notification legislation. Unfortunately, the Senate took no further action and the bill expired at the end of the 109th Congress.

Since then, the problem of identity theft has worsened—there have been numerous large scale data security breaches involving companies, federal agencies, and universities.

We cannot afford to keep waiting to act. I urge the Senate to pass the Notification of Risk to Personal Data Act to give Americans the information they need to protect themselves from identity theft.

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. 239

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 ''Notification of Risk to Personal Data Act of 2007''.

SEC. 2. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this Act shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this Act, including evidence demonstrating the necessity of any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a Federal law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement agency to the agency or business entity that experienced the breach.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a Federal law enforcement agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this Act.

SEC. 3. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 2 shall not apply to an agency if the agency certifies, in writing, that notification of the security breach as required by section 2 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—An agency may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which an agency issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service.

(b) SAFE HARBOR.—An agency or business entity will be exempt from the notice requirements under section 2, if—

(1) a risk assessment concludes that there is no significant risk that the security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the agency or business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment; and

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 2 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if the information subject to the security breach includes sensitive personally identifiable information in addition to the sensitive personally identifiable information identified in section 13.

SEC. 4. METHODS OF NOTICE.

An agency, or business entity shall be in compliance with section 2 if it provides both:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity;

(B) Telephone notice to the individual personally; or

(C) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information was, or is reasonably believed to have been, acquired by an unauthorized person exceeds 5,000.

SEC. 5. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 4, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 10, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 6. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 1,000 individuals under section 2(a), the agency or business entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices.

SEC. 7. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency shall give notice of a security breach to the United States Secret Service if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code;

(2) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(3) the attorney general of each State affected by the security breach.

(c) 14-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under this section shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

SEC. 8. ENFORCEMENT.

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this Act and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $50,000 per person.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this Act, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this Act.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this Act.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this Act are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ‘‘, or evidence that the consumer has received notice that the consumer’s financial information has or may have been compromised,’’ after ‘‘identity theft report’’.

SEC. 9. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of a business entity in a practice that is prohibited under this Act, the State or the State or local law enforcement agency on behalf of the residents of the agency’s jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $50,000 per day.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this Act, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) initiate an action in the appropriate United States district court under section 8 and move to consolidate all pending actions, including State actions, in such court;

(3) intervene in an action brought under subsection (a)(2); and

(4) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this Act or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this Act against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this Act establishes a private cause of action against a business entity for violation of any provision of this Act.

SEC. 10. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this Act shall supersede any other provision of Federal law or any provision of law of any State relating to notification of a security breach, except as provided in section 5(b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this Act.

SEC. 12. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 3(b) of this Act and the response of the United States Secret Service to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 3(a) of this Act.

SEC. 13. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) AGENCY.—The term ‘‘agency’’ has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ‘‘affiliate’’ means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ‘‘business entity’’ means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(5) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, acquisition of or access to sensitive personally identifiable information that is unauthorized or in excess of authorization.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(6) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes—

(A) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name, if identified as such.

(III) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password that is required for an individual to obtain money, goods, services or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code or password that is required for an individual to obtain money, goods, services or any other thing of value.

SEC. 14. EFFECTIVE DATE.

This Act shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

By Mr. CRAIG (for himself, Mr. DOMENICI, Mr. BINGAMAN, Mr. ENZI, Mr. STEVENS, Mr. BENNETT, Ms. MURKOWSKI, and Mr. BUNNING):

S. 240. A bill to reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I am today introducing, along with Senators DOMENICI, BINGAMAN, ENZI, STEVENS, BENNETT, MURKOWSKI, and BUNNING, the National Geologic Maping Reauthorization Act of 2007. This is an act that has been very beneficial to the Nation and deserves to be reauthorized.

The National Geologic Mapping Act was originally signed into law in 1992, creating the National Cooperative Geologic Mapping Program (NCGMP). This program exists as a partnership between the USGS and the State geological surveys, whose purpose is to provide the Nation with urgently-needed geologic maps that can be and are used by a diverse clientele. These maps are vital to understanding groundwater regimes, mineral resources, geologic hazards such as landslides and earthquakes, and geology essential for all types of land use planning; as well as providing basic scientific data. The NCGMP contains three parts; FedMap—the U.S. Geological Survey's geologic mapping program, StateMap—the State geological survey's part of the act, and EdMap—a program to encourage the training of future geologic mappers at our colleges and universities. All three components are reviewed annually by a Federal Advisory Committee to ensure program effectiveness and to provide future guidance.

FedMap geologic mapping priorities are determined by the needs of Federal land-management agencies, regional customer forums, and cooperatively with the State geological surveys. FedMap also coordinates national geologic mapping standards. StateMap is a competitive program wherein the States submit proposals for geologic mapping that are critiqued by a peer review panel. A requirement of this section of the legislation is that each Federal dollar be matched one-for-one with State funds. Each participating State has a State Advisory Committee to ensure that its proposal addresses priority areas and needs as determined in the NGMA. The success of this program ensured reauthorization of similar legislation in 1997 and in 1999 with widespread bipartisan support in both the House and Senate.

To date, millions of dollars been awarded to State geological surveys through StateMap, and these Federal dollars have been more than matched by State dollars. The high quality geologic maps produced will be used by a very broad base of customers including geotechnical consultants, Federal, State and local land managers, and mineral and energy exploration companies. Information on how to obtain all of these maps is provided on the Internet by the National Geologic Map Database, allowing ease of access for all users.

EdMap has trained over 550 university students at 118 universities across the Nation. The best testament to the quality of this training are its beneficiaries—an unusually high percentage of these students go on to careers in Earth Science, becoming university professors, energy company exploration scientists, or mapping specialists themselves. Their EdMap program experience provides them with a remarkable self-confidence, having completed a difficult and independent field mapping experience.

The National Geologic Mapping Reauthorization Act benefits numerous citizens every day by assuring there is accurate, usable geologic information available to communities and individuals so that safe, educated resource use decisions can be made. I encourage my colleagues to support this legislation and am committed to its timely consideration.

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. 240

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 ''National Geologic Mapping Reauthorization Act of 2007''.

SEC. 2. FINDINGS.

Section 2(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(a)) is amended—

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

''(1) although significant progress has been made in the production of geologic maps since the establishment of the national cooperative geologic mapping program in 1992, no modern, digital, geologic map exists for approximately 75 percent of the United States;''; and

(2) in paragraph (2)—

(A) in subparagraph (C), by inserting ''homeland and'' after ''planning for'';

(B) in subparagraph (E), by striking ''predicting'' and inserting ''identifying'';

(C) in subparagraph (I), by striking ''and'' after the semicolon at the end;

(D) by redesignating subparagraph (J) as subparagraph (K); and

(E) by inserting after subparagraph (I) the following:

''(J) recreation and public awareness; and''; and

(3) in paragraph (9), by striking ''important'' and inserting ''available''.

SEC. 3. PURPOSE.

Section 2(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(b)) is amended by inserting ''and management'' before the period at the end.

SEC. 4. DEADLINES FOR ACTIONS BY THE UNITED STATES GEOLOGICAL SURVEY.

Section 4(b)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1)) is amended in the second sentence—

(1) in subparagraph (A), by striking ''not later than'' and all that follows through the semicolon and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2007;'';

(2) in subparagraph (B), by striking ''not later than'' and all that follows through ''in accordance'' and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2007 in accordance''; and

(3) in the matter preceding clause (i) of subparagraph (C), by striking ''not later than'' and all that follows through ''submit'' and inserting ''submit biennially''.

SEC. 5. GEOLOGIC MAPPING PROGRAM OBJECTIVES.

Section 4(c)(2) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(c)(2)) is amended—

(1) by striking ''geophysical-map data base, geochemical-map data base, and a''; and

(2) by striking ''provide'' and inserting ''provides''.

SEC. 6. GEOLOGIC MAPPING PROGRAM COMPONENTS.

Section 4(d)(1)(B)(ii) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(d)(1)(B)(ii)) is amended—

(1) in subclause (I), by striking ''and'' after the semicolon at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(III) the needs of land management agencies of the Department of the Interior.''.

SEC. 7. GEOLOGIC MAPPING ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 5(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)) is amended—

(1) in paragraph (2)—

(A) by inserting ''the Secretary of the Interior or a designee from a land management agency of the Department of the Interior,'' after ''Administrator of the Environmental Protection Agency or a designee,'';

(B) by inserting ''and'' after ''Energy or a designee,''; and

(C) by striking '', and the Assistant to the President for Science and Technology or a designee''; and

(2) in paragraph (3)—

(A) by striking ''Not later than'' and all that follows through ''consultation'' and inserting ''In consultation'';

(B) by striking ''Chief Geologist, as Chairman'' and inserting ''Associate Director for Geology, as Chair''; and

(C) by striking ''one representative from the private sector'' and inserting ''2 representatives from the private sector''.

(b) DUTIES.—Section 5(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) by redesignating paragraph (3) as paragraph (4); and

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

''(3) provide a scientific overview of geologic maps (including maps of geologic-based hazards) used or disseminated by Federal agencies for regulation or land-use planning; and''.

(c) CONFORMING AMENDMENT.—Section 5(a)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)(1)) is amended by striking ''10-member'' and inserting ''11-member''.

SEC. 8. FUNCTIONS OF NATIONAL GEOLOGIC-MAP DATABASE.

Section 7(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31f(a)) is amended—

(1) in paragraph (1), by striking ''geologic map'' and inserting ''geologic-map''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) all maps developed with funding provided by the National Cooperative Geologic Mapping Program, including under the Federal, State, and education components;''.

SEC. 9. BIENNIAL REPORT.

Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended by striking ''Not later'' and all that follows through ''biennially'' and inserting ''Not later than 3 years after the date of enactment of the National Geologic Mapping Reauthorization Act of 2007 and biennially''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.

Section 9 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31h) is amended—

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

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $64,000,000 for each of fiscal years 2007 through 2016.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''2000'' and inserting ''2005'';

(B) in paragraph (1), by striking ''48'' and inserting ''50''; and

(C) in paragraph (2), by striking 2 and inserting ''4''.

By Mr. WYDEN (for himself and Mr. AKAKA):

S. 241. A bill to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I introduce legislation to authorize the Secretary of the Interior to enter into cooperative agreements to protect National Parks through collaborative efforts on lands inside and outside of National Park System units. My bill passed the Senate in the 109th Congress, but unfortunately did not have an opportunity to pass in the House before the end of the Congress. Today, I reintroduce the bill hoping that it can expeditiously pass again in the Senate and continue on to pass in the House.

This legislation is based on very successful watershed protection legislation enacted for the Forest Service and the Bureau of Land Management, now commonly referred to as the Wyden amendment. The Wyden amendment, first enacted in 1998 for Fiscal Year 1999, has resulted in countless Forest Service and Bureau of Land Management cooperative agreements with neighboring state and local land owners to accomplish high priority restoration, protection and enhancement work on public and private lands. It has not required additional funding, but has allowed the agencies to leverage their scarce restoration dollars thereby allowing the Federal dollars to stretch farther.

The legislation I introduce today will allow the Park Service to use a similar authority to attack natural threats to National Parks, such as invasive weeds, before they cross onto Parks' land. The National Park Service tells me that if they have to wait until the weeds hit the Parks before treating them the costs for treatment rise exponentially and the probability of beating the weeds back drops exponentially.

Examples of projects the National Park Service would pursue with this authority, as well as the groups with which they would partner, are attached. I am pleased that Senator AKAKA is joining me as an original cosponsor of this legislation and I hope my other colleagues will join me as cosponsors of this legislation and in ensuring its swift passage. I ask unanimous consent that the text of the bill and a list of projects be printed in the RECORD.

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

S. 241

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 ''Natural Resource Protection Cooperative Agreement Act''.

SEC. 2. COOPERATIVE AGREEMENTS FOR NATIONAL PARK NATURAL RESOURCE PROTECTION.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') may enter into cooperative agreements with State, local, or tribal governments, other Federal agencies, other public entities, educational institutions, private nonprofit organizations, or willing private landowners to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of National Park System units.

(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall—

(1) provide for—

(A) clear and direct benefits to natural resources of a unit of the National Park System;

(B) the preservation, conservation, and restoration of coastal and riparian systems, watersheds, and wetlands;

(C) preventing, controlling or eradicating invasive exotic species that occupy land within a unit of the National Park System or adjacent to a unit of the National Park System; or

(D) restoration of natural resources, including native wildlife habitat;

(2) include a statement of purpose demonstrating how the agreement will—

(A) enhance science-based natural resource stewardship at the unit of the National Park System; and

(B) benefit the parties to the agreement;

(3) specify any staff required and technical assistance to be provided by the Secretary or other parties to the agreement in support of activities inside and outside the unit of the National Park System that will—

(A) protect natural resources of the unit; and

(B) benefit the parties to the agreement;

(4) identify any materials, supplies, or equipment that will be contributed by the parties to the agreement or by other Federal agencies;

(5) describe any financial assistance to be provided by the Secretary or the partners to implement the agreement;

(6) ensure that any expenditure by the Secretary pursuant to the agreement is determined by the Secretary to support the purposes of natural resource stewardship at a unit of the National Park System; and

(7) shall include such terms and conditions that are agreed to by the Secretary and the other parties to the agreement.

(c) LIMITATIONS.—The Secretary shall not use any amounts associated with an agreement entered into under subsection (a) for the purposes of land acquisition, regulatory activity, or the development, maintenance, or operation of infrastructure, except for ancillary support facilities that the Secretary determines to be necessary for the completion of projects or activities identified in the agreement.

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

POTENTIAL COOPERATIVE PROJECTS ADJACENT TO OR NEARBY NPS LANDS:

STATE: ALABAMA

Exotic Plants

Park Unit: Russell Cave National Monument. Partner: Alabama Department of Game and Fish. Projects/Pest: Autumn olive.

STATE: ALASKA

Exotic Plants

Park Unit: Denali National Park and Preserve. Partner: Private landowner and Alaska Department of Transportation. Projects/Pest: Remove multiple species from an isolated location in Kantishna. White sweet clover along the Park's Highway.

Park Unit: Gates of the Arctic National Park and Preserve. Partner: Alaska Department of Transportation, Bureau of Land Management. Projects/Pest: Multiple species moving up the Dalton Highway towards the park.

Park Unit: Glacier Bay National Park and Preserve. Partner: Town of Gustavus. Projects/Pest: Remove multiple species from isolated locations.

Park Unit: Kenai Fjords National Park. Partner: U.S. Forest Service. Projects/Pest: Yellow sweetclover on Exit Glacier Road.

Park Unit: Klondike Gold Rush Historical Park. Partner: Town of Skagway. Projects/Pest: White sweetclover, Butter-and-eggs.

Park Unit: Sitka National Historical Park. Partner: City of Sitka. Projects/Pest: Japanese knotweed.

Park Unit: Wrangell-St. Elias National Park and Preserve. Partner: Town of McCarthy and Alaska Department of Transportation, Bureau of Land Management. Projects/Pest: Remove multiple species from isolated locations and White sweetclver on area roadways.

STATE: ARIZONA

Exotic Plants

Park Unit: Canyon de Chelly National Monument. Partner: Navajo Indian Reservation Project/Pest: Tamarisk and Russian olive.

Park Unit: Grand Canyon National Park. Partner: Hualapai Indian Reservation. Project/Pest: Remove Tamarisk from shared drainages.

Park Unit: Hubbell Trading Post National Historic Site. Partner: Navajo Indian Reservation. Project/Pest: Pueblo Colorado Wash tamarisk and Russian olive.

STATE: CALIFORNIA

Exotic Plants

Park Unit: Death Valley National Park. Partners: Private lands (Shoshone, CA), Bureau of Land Management, State Fish and Game. Projects/Pest: Amargosa River tamarisk control Saline Valley tamarisk.

Park Unit: Golden Gate National Recreation Area. Partners: Private land. Projects/Pest: Remove Pampas grass serving as a seed source re-infesting NPS lands.

Park Unit: Golden Gate National Recreation Area. Partner: State and Private lands. Projects/Pest: Jubata grass.

Park Unit: Mojave National Preserve. Partners: Private and State land. Project/Pest: Tamarisk near I–15 corridor, scattered in-holdings and mine sites.

Aquatic Resources

Park Unit: Golden Gate National Recreation Area. Partners: Private and Public lands. Projects/Pest: Work with City/College and others to facilitate movement of listed butterfly between two separated NPS parcels.

Park Unit: Point Reyes National Seashore. Partners: Private lands. Project/Pest: Restore eroded stream channels benefiting the salmonid fishery in the park.

Park Unit: Santa Monica Mountains National Recreation Area. Partners: Private lands, City and County government, NGO's. Project/Pest: Numerous projects to stabilize, mitigate or restore land disturbances affecting runoff and erosion processes.

Geologic Resources

Park Unit: Redwood National Park. Partners: Private lands. Project/Pest: Work collaboratively to implement erosion control measures from roads associated with timber harvest.

STATE: COLORADO

Exotic Plants

Park Unit: Dinosaur National Monument. Partner: Utah State land. Project/Pest: Jones Hole Creek, spotted knapweed and tamarisk.

Park Unit: Mesa Verde National Park Partner: Ute Mountain Indian Reservation. Project/Pest: Mancos River tamarisk.

STATE: DISTRICT OF COLUMBIA

Exotic Plants

Park Unit: National Capitol Area East. Partners: Private landowners. Project/Pest: Asian Spiderwort (Murdannia keisak).

STATE: GEORGIA

Exotic Plants

Park Unit: Chickamauga and Chattanooga National Military Park, Partners: Lookout Land Trust and Private business, Project/Pest: Kudzu.

STATE: HAWAII

Exotic Plants

Park Unit: Haleakala National Park. Partners: State, Private landowners, Private industry, NGO's, General public Project/Pest: Miconia Fountain Grass, Bocconia, Pampas Grass.

Park Unit: Hawaii Volcanoes National Park. Partners: State, Private landowners, NGO's, Private industry. Project/Pest: Miconia Fountain Grass, Bocconia, Pampas Grass.

Park Unit: Kaluapapa National Historical Park Partners: State, Private landowners, NGO's, Private industry Project/Pest: Miconia Fountain Grass, Bocconia, Pampas Grass.

STATE: IDAHO

Geologic Resources

Park Unit: Hagerman Fossil Beds National Monument. Partners: Private lands. Project/Pest: Prevent irrigation canal seepage causing slumpage/wasting of fossil resources and impacts to Snake River.

STATE: KENTUCKY

Exotic Plants

Park Unit: Mammoth Cave National Park. Partners: Private landowner and State University. Project/Pest: Garlic mustard.

STATE: MARYLAND

Exotic Plants

Park Unit: Antietam National Battlefield. Partners: State and County Department of Transportation. Project/Pest: Tree of Heaven.

Park Unit: Assateague Island National Seashore. Partners: State agency. Projects/Pest: Eragrostis curvula (weeping lovegrass) coming into park from state lands.

Park Unit: Catoctin Mounain Park. Partners: State roads, Railroad right-of-way. Project/Pest: Mile-a-minute.

STATE: MASSACHUSETTS

Exotic Plants

Park Unit: Minute Man National Historical Park. Partners: Local municipalities. Projects/Pest: Variety of exotic plants along boundaries of park.

Wetlands

Park Unit: Cape Cod National Seashore. Partners: Town of Well fleet, MA. Projects/Pest: CACO has three large wetlands that are impaired due to salt marsh diking that has restricted tidal flow to the systems, some impacted for more than 100 years. Having the ability to access and utilize funds to alter and improve the water control structures ultimately is all that is needed to restore thousands of acres of wetlands within the park boundary.

STATE: MISSOURI

Geologic Resources

Park Unit: Ozark National Scenic Riverways. Partners: Private lands, Federal agencies. Project/Pest: Develop understanding of and extent of karst environment in and around the park.

STATE: MONTANA

Exotic Plants

Park Unit: Glacier National Park. Partners: Blackfeet tribe. Project/Pest: Numerous exotic plant species.

Native Species

Park Unit: Glacier National Park. Partners: Montana Fish, Wildlife and Parks, U.S. Forest Service, BNSF Railroad and others. Project/Pest: Fencing along boundaries, white and limber pine restoration and wetland surveys.

STATE: NEVADA

Exotic Plants

Park Unit: Great Basin National Park. Partners: Private, State and U.S. Forest Service. Project/Pest: Scattered spotted knapweed and thistle in shared drainages with the park.

Park Unit: Lake Mead National Recreation Area. Partners: County, State, Private, Bureau of Land Management. Project/Pest: Virgin River, Las Vegas Wash, Muddy River, tall whitetop, Russian knapweed, camelthorn and tamarisk.

STATE: NEW JERSEY

Aquatic Resources

Park Unit: Morristown National Historical Park. Partners: Private landowners. Project/Pest: Develop and implement in concert with private landowners best management practices to reduce pesticide and storm water runoff into Primrose Creek which contains a genetically pure stock of native brook trout.

STATE: NEW MEXICO

Exotic Plants

Park Unit: Pecos National Historical Park. Partner: Private landowners, U.S. Forest Service, and State agencies. Projects/Pest: tamarisk.

STATE: NEW YORK

Exotic Plants

Park Unit: Delaware Water Gap National Recreation Area. Partners: State agencies, Local municipalities, watershed associations. Projects/Pest: Variety of exotic plants along park boundaries.

Park Unit: Gateway National Recreation Area. Partners: State agency. Projects/Pest: Oriental bittersweet invading from park into state lands.

STATE: NORTH CAROLINA

Exotic Plants

Park Unit: Blue Ridge Parkway. Partner: The Nature Conservancy, U.S. Forest Service. Projects/Pest: Oriental Bittersweet

Park Unit: Carl Sandburg Home National Historic Site. Partner: Adjacent Homeowner Association Projects/Pest: English Ivy.

Park Unit: Guilford Courthouse National Military Park. Partner: Guilford County Parks and Recreation. Projects/Pest: Wild yam and Privet.

STATE: OKLAHOMA

Exotic Plants

Park Unit: Washita Battlefield National Historic Site. Partner: Private landowners,

U.S. Forest Service. Projects/Pest: Scotch thistle.

STATE: OREGON

Exotic Plants

Park Unit: John Day Fossil Beds National Monument. Partner: Private Landowners, County Weed Districts and Watershed Councils. Projects/Pest: Medusa head, Tarweed, Russian Knapweed Yellow Start thistle, Whitetop and other weeds.

Park Unit: Lewis and Clark National Historical Park (formerly Fort Clatsop National Memorial). Partner: Private Timber lands, Private Agriculture lands and Oregon State Parks. Projects/Pest: Scotch Broom, Reed Canary Grass, English Holly, and other invasive plants.

STATE: PENNSYLVANIA

Exotic Plants

Park Unit: Upper Delaware Scenic and Recreational River. Partners: Local municipalities, Private landowners. Projects/Pest: Mainly Japanese knotweed along Delaware River and tributaries.

Aquatic Resources

Park Unit: Valley Forge National Historical Park. Partners: Private landowners, County/State governments, non-profit groups. Project/Pest: Implement Valley Creek Restoration Plan and EA which identifies management strategies and restoration opportunities within the watershed and outside the park including the retrofitting of 24 detention basins, creation of 30 ground water infiltration sites, re-vegetation of miles of eroding stream banks, and planting of riparian buffers throughout the watershed.

STATE: TENNESSEE

Exotic Plants

Park Unit: Big South Fork National River and Recreation Area. Partners: Tennessee Division of Forestry and Tennessee State Parks. Project/Pest: Multi-flora rose and Privet.

Park Unit: Cumberland Gap National Historical Park. Partners: City of Middlesboro. Project/Pest: Privet.

Park Unit: Obed Wild and Scenic River. Partners: Tennessee Wildlife Resources Agency. Project/Pest: Multi-flora rose and Privet.

STATE: TEXAS

Exotic Plants

Park Unit: Big Bend National Park. Partners: State and Local government, Private landowners and Country of Mexico. Project/Pest: Tamarisk along Rio Grande River Drainage.

STATE: UTAH

Exotic Plants

Park Unit: Arches National Park. Partners: State and Bureau of Land Management. Project/Pest: Courthouse Wash and Salt Creek tamarisk.

Park Unit: Canyonlands National Park. Partners: Private and The Nature Conservancy. Project/Pest: Dugout Ranch area, tamarisk and knapweed.

Park Unit: Capitol Reef National Park. Partners: Private and U.S. Forest Service. Projects/Pest: Sulphur Creek and Upper Fremont River, tamarisk.

Park Unit: Zion National Park. Partners: Private and State lands. Projects/Pest: Upper and Lower Virgin River, tamarisk.

STATE: VIRGINIA

Exotic Plants

Park Unit: Colonial National Historical Park. Partners: NGO (Colonial Williamsburg Foundation). Projects/Pest: kudzu, English ivy, and tree of heaven straddling common boundary.

Park Unit: Shenandoah National Park. Partners: Private lands (east boundary and west boundary). Projects/Pest: Kudzu straddling east boundary; bamboo straddling west boundary.

Park Unit: Wolf Trap National Park for the Performing Arts. Partners: County and private lands. Project/Pest: Lesser Celandine.

STATE: WASHINGTON

Exotic Plants

Park Unit: Ebey's Landing National Historical Reserve. Partner: Washington State Parks, The Nature Conservancy of Washington, Island County, Ebey's Landing Trust Board, Washington State Department of Transportation. Projects/Pest: Poison Hemlock.

Park Unit: Lake Roosevelt National Recreation Area. Partner: U.S. Forest Service, State, Tribal, and Private lands. Projects/Pest: Eurasian watermilfoil.

Park Unit: Olympic National Park. Partner: U.S. Forest Service, State, Tribal, and Private (including timber company) lands. Projects/Pest: Several species of knotweed.

Aquatic Resources

Park Unit: Olympic National Park. Partners: Private lands, State lands and U.S. Fish and Wildlife Service lands. Project/Pest: Cooperatively characterize aquifer parameters such as storage and transmission coefficients, monitor ground water levels, spring flow river flow install new monitoring wells to determine response of aquifer to water withdrawals.

STATE: WEST VIRGINIA

Exotic Plants

Park Unit: Appalachian National Scenic Trail. Partners: Non-NPS owners of trail lands. Projects/Pest: Variety of exotic plants coming into easements along the trail—major problem throughout the length of this linear park.

STATE: WYOMING

Aquatic Resources

Park Unit: Yellowstone National Park. Partners: State of Montana. Project/Pest: Initiate groundwater studies in the Yellowstone Groundwater Area north of the park.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. KENNEDY, Mr. MCCAIN, Ms. STABENOW, Mr. SPECTER, Mr. BINGAMAN, Ms. COLLINS, Mrs. FEINSTEIN, Mr. DURBIN, Mr. NELSON of Florida, Mr. PRYOR, Mr. KOHL, Mr. LEVIN, Mr. SCHUMER, Mr. LEAHY, Mr. OBAMA, Mr. WYDEN, Mr. SANDERS, Mr. KERRY, Mr. BROWN, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, Mr. SALAZAR, Mrs. CLINTON, Mrs. BOXER, AND Mr. TESTER):

S. 242. A bill to amend the Federal food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, I have come to the floor for just a couple of minutes to describe a piece of legislation that I and Senator OLYMPIA SNOWE have introduced today with 30 of our colleagues in the Senate dealing with the issue of drug reimportation.

Mr. President, I ask unanimous consent to show on the floor of the Senate a couple of bottles.

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

Mr. DORGAN. I would like to show two bottles that contained Lipitor, a drug that most of us know is a cholesterol-lowering drug. Lipitor is made by a company in a plant—in this case in Ireland—and in Ireland they put Lipitor in these two bottles, and they send the Lipitor in this bottle to Canada, and they send the Lipitor in this bottle to the United States.

The difference? Well, there is no difference. It is the same pill, put in the same bottle, made by the same company, an FDA-approved drug. The difference is the United States consumer pays 65 percent more for this drug than the consumer in Canada.

But it is not just Lipitor. And it is not just a plant in Ireland by this company that produces it and sends it to here and then to Canada, and charges the American consumer the highest prices. It is virtually all of the brand drugs. And in virtually every case, the American consumer is paying the highest prices for prescription drugs—the highest prices in the world.

My colleague, Senator SNOWE and I and many others in this Chamber—Senator STABENOW, Senator KENNEDY, Senator MCCAIN, and so many others—30 Senators have introduced this legislation that allows the reimportation of FDA-approved drugs—produced in FDA-inspected plants—allows the reimportation of those lower priced prescription drugs into this country. It allows American consumers to take advantage of the global economy by buying that FDA-approved drug where it is sold for a fraction of the price.

One day, some while ago, on a beautiful summer day, outside of Oakes, ND, I was meeting with a group of farmers. At this farmyard, we were sitting on bales of straw and having a long discussion, and there was one older fellow there in his eighties, early eighties. He said to me: My wife has been suffering from breast cancer for 3 years. She is an elderly woman battling breast cancer now for 3 years. For 3 years, we have driven from the southern part of North Dakota into Canada to buy Tamoxifen for my wife to treat this breast cancer. She needs this medicine to fight the breast cancer, and the only way we can afford it is for us to get in the car and drive to Canada and buy Tamoxifen at 20 percent of the price we would have to pay in this country.

American consumers should not have to do that. They ought to be allowed to reimport prescription drugs that are made in FDA-approved plants and are FDA-approved drugs.

The legislation we have introduced today is necessary. I do not want American consumers to have to purchase prescription drugs elsewhere. I want them to be able to purchase them in this country at a fair price. The problem is, we are now paying the highest prices in the world. If we allow the reimportation, it will put downward pressure on prices in this country. That is our real goal.

Now the Congressional Budget Office has done a study. They tell us that brandname drugs cost 35 to 55 percent less in most other countries than they do in the United States. The AARP, American Association of Retired Persons, has done a study showing the drugs most frequently used by senior citizens in our country have increased by a 6.3-percent price increase from June 2005 to June 2006—double the rate of inflation.

The Congressional Budget Office estimates that if we pas the legislation we have now introduced today, there will be a savings of about $50 billion in direct savings over the next decade for American consumers, with $6.1 billion of that savings to the Federal budget.

So we believe this is important. We have been blocked from getting this legislation through the Congress for some long while. The leadership of this institution supports it. The legislation is bipartisan—broadly bipartisan.

Now let me say one other thing. Some people say, and particularly the pharmaceutical industry says, this cannot be done safely, it will jeopardize safety for American consumers. Well, let me say that the consumers in the European countries have been doing this for 20, 25 years. There is something called parallel trading. They have been doing it for 20, 25 years without any issues of safety. If you want to buy a drug in Spain, and you live in France, no problem. If you want to buy a drug in Italy, and you live in Germany, no problem. They have been doing that—called parallel trading—for 25 years. Surely, we can accomplish that in this country as well.

Let me show a couple of charts, briefly.

First, Americans are charged the highest prices in the world. This one chart compares it to Canada: Lipitor, Prevacid, Zocor, Zoloft, Celebrex. I will not go through the entire list.

Dr. Peter Rost, vice president of marketing for Pfizer, came to Washington, and here is what he said:

> The biggest argument against reimportation is safety. What everyone has conveniently forgotten to tell you is that in Europe reimportation of drugs has been in place for 20 years.

He went on to say there is not any issue of safety.

And, finally, the American Association of Retired Persons endorses the legislation we have introduced today. I will not read all of that.

But the final chart shows what is happening with respect to spending on prescription drugs, and where it is heading, and why we ought to do something to give consumers the opportunity to see fair prices on prescription drugs.

Miracle drugs offer no miracles to those who cannot afford to buy them. I have no brief against the pharmaceutical industry. I want them to keep producing lifesaving, miracle drugs for this country. In fact, we produce a great deal of public spending in the NIH and elsewhere that gives them the research base for which a good number of those drugs is produced.

But let me also say that the pharmaceutical industry owes the American consumer a fair deal. We should not be paying the highest prices in the world for prescription drugs. It is not fair. And if the pharmaceutical industry is going to use a global economy in order to move its commodities and its various ingredients for prescription drugs around the world to produce in Ireland or to produce here or in Puerto Rico, then the American people ought to be able to use the global economy to get a better price on FDA-approved drugs.

We have waited a long while. I have worked on this I guess 6 or 8 years. We have been blocked repeatedly from getting a vote in the Congress, both in the House and the Senate. Now we have introduced, with broad, bipartisan support, an identical piece of legislation in the House and in the Senate.

I believe we will get a vote in both bodies and pass legislation and send it to the President of the United States. It will save $50 billion over the next decade on prescription drug bills for the American people, save the Federal Government $5 billion or $6 billion in spending, and give a fair deal to the American people that they will be able to buy prescription drugs at a fair price.

Mr. President, I look forward to consideration of this measure in the Senate. I am pleased on behalf of my colleague Senator SNOWE and myself and a broad group of Republicans and Democrats in the Senate to push this legislation.

I see Senator SANDERS is here, and I know she has worked on this issue for a long while as well. We have a broad, bipartisan group. We are going to push this and get this done in this session of Congress.

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

S. 246. A bill to enhance compliance assistance for small business; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I have long worked to reduce the burden that Federal regulations bear on small businesses. Over the past twenty years, the number and complexity of Federal regulations have multiplied at an alarming rate. These regulations impose a much more significant impact on small businesses than larger businesses. A recent report prepared for the Small Business Administration's Office of Advocacy found that in 2004, the per-employee cost of Federal regulations for firms with fewer than 20 employees was $7,647. That was 44.8 percent more than the $5,282 per-employee cost faced by businesses with 500 or more workers.

That is why today, I rise with Senators KERRY, ENZI, and LANDRIEU to introduce the Small Business Compliance Assistance Enhancement Act of 2007. Our bill would clarify requirements that exist under Federal law to ensure that agencies produce useful small business compliance guides that explain, in a readable format, the compliance requirements of complex rules. This ''small,'' targeted reform, which would not create any new rules or requirements, would have a major benefit for small businesses across the country.

In 1996, the Senate passed without opposition the Small Business Regulatory Enforcement Fairness Act (SBREFA) to make the Regulatory Flexibility Act more effective in curtailing the impact of regulations on small businesses. One of the most important provisions of SBREFA is a requirement that agencies produce compliance assistance materials to help small businesses satisfy regulatory obligations. Unfortunately, over the years, agencies have done a poor job of meeting this requirement. The Government Accountability Office (GAO) has found that agencies have ignored this requirement or failed miserably in their attempts to satisfy it. The GAO has also found that the language of SBREFA is unclear in some places about what is actually required. Consequently, small businesses have been forced to figure out on their own how to comply with these regulations. This makes compliance that much more difficult to achieve, and therefore reduces the effectiveness of the regulation.

The Small Business Compliance Assistance Enhancement Act of 2007 would close those loopholes and requires agencies to produce quality compliance assistance materials for small businesses. Our bill is drawn directly from the GAO's recommendations and is intended only to clarify an already existing requirement. Similarly, the compliance guides that the agencies will produce are merely suggestions about how to satisfy a regulation's requirements without imposing further requirements or additional enforcement measures. Nor does this bill, in any way, interfere or undercut an agency's ability to enforce its regulations to the full extent they currently enjoy. Furthermore, our bill was included as part of the Small Business Reauthorization and Improvements Act that was unanimously reported out of the Senate Small Business Committee in the 109th Congress.

All too often, small businesses do not maintain the staff, or possess the financial resources to comply with complex Federal regulations. This puts them at a disadvantage compared to larger businesses, and reduces the effectiveness of the agency's regulations. If an agency cannot describe how to comply with its regulation, how can we expect a small business to figure it out? This was the reason the requirement to provide compliance assistance was originally included in SBREFA, and this rationale is just as valid today as it was in 1996.

Specifically, our bill would clarify that a small business compliance guide

is required whenever an agency determines that a rule will have ''a significant economic impact on a substantial number of small entities''. This would avoid confusion about whether the agency should produce a compliance guide.

Second, our bill would also clarify how a guide shall be designated. Under current law, agencies must ''designate'' the publications prepared under the section as small business compliance guides. However, the form in which those designations should occur is unclear. This term would be changed to ''entitle.'' Consistent use of the phrase ''Small Entity Compliance Guide'' in the title could make it easier for small entities to locate the guides that the agencies develop. This would also aid in using on line searches—a technology that was not widely used when SBREFA was passed. Thus, agencies would be directed to publish guides entitled ''Small Entity Compliance Guide.''

Third, our bill would clarify how a guide shall be published. SBREFA currently requires that agencies ''shall publish'' the guides, but it does not indicate where or how they should be published. At least one agency has published the guides as part of the preamble to the subject rule, thereby requiring affected small entities to read the Federal Register to obtain the guides. Under our bill, agencies would be directed, at a minimum, to make their compliance guides easily accessible and available through their websites. In addition, agencies would be directed to forward their compliance guides to known industry contacts such as small businesses or associations with small business members that will be affected by the regulation.

Fourth, our bill also clarifies when a guide shall be published. Section 212 of SBREFA currently does not indicate when compliance guides should be published. This means that even if an agency was required to produce a compliance guide, the agency may claim that they have not violated that requirement since there is no deadline established for when they had to produce that guide. Under our bill, agencies would be instructed to publish the compliance guides coincident with, or as soon as possible after, the final rule is published, provided that the guides must be published no later than the effective date of the rule's compliance requirements.

Finally, our bill would clarify the phrase ''compliance requirements.'' At a minimum, this term means what a small business has to do to satisfy the regulation, and when they will know they have met the requirements. This should include a description of the procedures a small business might employ. If, as is the case with many OSHA and EPA regulations, testing is required, the agency should explain how that testing should be conducted. Our bill makes clear that the procedural description should be merely suggestive—an agency would not be able to enforce this procedure if a small business was able to satisfy the requirements through a different approach.

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. 246

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Compliance Assistance Enhancement Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Small businesses represent 99.7 percent of all employers, employ half of all private sector employees, and pay 44.3 percent of total United States private payroll.

(2) Small businesses generated 60 to 80 percent of net new jobs annually over the last decade.

(3) Very small firms with fewer than 20 employees spend nearly 50 percent more per employee than larger firms to comply with Federal regulations. Small firms spend twice as much on tax compliance as their larger counterparts. Based on an analysis in 2004, firms employing fewer than 20 employees face an annual regulatory burden of $7,647 per employee, compared to a burden of $5,282 per employee for a firm with over 500 employees.

(4) Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) requires agencies to produce small entity compliance guides for each rule or group of rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code.

(5) The Government Accountability Office has found that agencies have rarely attempted to comply with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note). When agencies did try to comply with that requirement, they generally did not produce adequate compliance assistance materials.

(6) The Government Accountability Office also found that section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) and other sections of that Act need clarification to be effective.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To clarify the requirement contained in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) for agencies to produce small entity compliance guides.

(2) To clarify other terms relating to the requirement in section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

(3) To ensure that agencies produce adequate and useful compliance assistance materials to help small businesses meet the obligations imposed by regulations affecting such small businesses, and to increase compliance with these regulations.

SEC. 3. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

''(6) REPORTING.—Not later than 1 year after the date of enactment of the Small Business Compliance Assistance Enhancement Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives describing the status of the agency's compliance with paragraphs (1) through (5).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

By Mr. BOND:

S. 247. A bill to designate the United States courthouse located at 555 Independence Street, Cape Girardeau, Missouri, as the ''Rush Hudson Limbaugh, Sr. United States Courthouse''; to the

Committee on Environment and Public Works.

Mr. BOND. Mr. President, I rise today to introduce legislation designating the new Federal Courthouse in Cape Girardeau, MO. as the Rush Hudson Limbaugh, Sr. United States Courthouse.

When people talk about the American Dream, the ''Spirit of America'' and the people who helped make this country great, all one really has to do is mention the name of the late Rush Hudson Limbaugh Sr.

Mr. Limbaugh led an extraordinary life in which he practiced law for almost 80 years until his death at age 104 in 1996. At the time of his death, Mr. Limbaugh was the Nation's oldest practicing lawyer and still came into work about twice a week at the law firm he founded over 50 years before in Cape Girardeau, MO.

Known by his peers as a superb trial lawyer with impeccable character and integrity, he was a beloved icon of the Missouri legal community, especially in Southeast Missouri where he lived all his life.

Born in 1891, on a small farm in rural Bollinger County, he was the youngest of eight children and attended school in a one room primary school house. It is said that a passion for the law first developed in Rush as a 10-year-old boy when a Daniel Webster Oration that he memorized inspired him to become a lawyer. Fourteen years later, he began a legal career that lasted eight decades. Throughout those 80 years, his interest in the law and his dedication to his clients never wavered.

Rush paid his way through college at the University of Missouri at Columbia by working on the university farm and doing odd jobs such as carpentry, firing up furnaces, caring for animals and waiting tables. While in college, his oratory skills won him awards which he later utilized with great success in the courtroom.

In 1914, he entered law school, and after two years, he skipped the third year and passed the Missouri Bar examination. In 1916, he was admitted into the Missouri Bar and his long distinguished legal career began in Cape Girardeau.

Over his career, Rush argued more than 60 cases in front of the Missouri Supreme Court along with many prominent civil cases. He was a specialist in probate law and helped draft the 1955 Probate Code of Missouri. He also tried cases before the Interstate Commerce Commission, the U.S. Labor Board and the Internal Revenue Appellate Division.

From 1955 through 1956, he was President of the Missouri Bar and later served as President of the State Historical Society of Missouri. In addition to this, Mr. Limbaugh was a leading member of numerous legal and civic organizations including the American Bar Association, the Missouri Bar Foundation, the Missouri Human Rights Commission, the Cape Girardeau Board of Education and the Salvation Army Advisory Board

However, Rush's contributions were not just limited to Missouri. In the late 1950's, Rush served as a U.S. State Department special envoy to India where he promoted American jurisprudence and constitutional government among lawyers, judges and university students in that newly formed country. And in the 1960's, he served as Chairman of the American Bar Association's special committee on the Bill of Rights.

Rush was truly an inspiration and mentor to many aspiring lawyers, especially the ones in his own family. His two sons, Rush Jr. and Steven, both practiced law with him for many years. His son, Steven N. Limbaugh, currently serves as a Senior Federal Judge in St. Louis. Four of his grandsons followed in his footsteps and pursued legal careers including his grandson Steven Jr. who is now a Missouri Supreme Court Justice.

Perhaps the best measure of Rush Hudson Limbaugh' legacy as a lawyer and as a human being comes from the praise and admiration of his peers in the legal community. ''A top notch all-around lawyer; the epitome of what a lawyer ought to be said one colleague. ''A legend in his time,'' said another.

However, his grandson Steven may have offered the best possible description of this great citizen: ''He was an extraordinary man, exemplary in every way, yet very humble. He was a lawyer's lawyer, a community servant and a gentle and kind man whose family was the very center of his life.''

It is only fitting that the new Federal courthouse in Cape Girardeau, Missouri be named after this great hero of American Jurisprudence.

I ask unanimous consent that the text of this 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. 247

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

SECTION 1. RUSH HUDSON LIMBAUGH, SR. UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 555 Independence Street, Cape Girardeau, Missouri, shall be known and designated as the ''Rush Hudson Limbaugh, Sr. United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the ''Rush Hudson Limbaugh, Sr. United States Courthouse''.

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

S. 248. A bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the work opportunity credit, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. President, I am pleased to join my Colleague, Senator SNOWE, in introducing legislation to improve and permanently extend the Work Opportunity and the Welfare-to-Work tax credits. Last year, I was pleased to help enact legislation that consolidated, streamlined, and extended these credits through the end of 2007. Now it is time to make these tax credits permanent.

The current extension expires at the end of this year. So immediate action is needed to make these credits permanent and make several improvements to the programs to improve their effectiveness. Recurring lapses and extensions make administration of this credit burdensome both for the taxpaying employer, who cannot keep track of who is or is not qualified, and for the IRS, which needs to ensure that taxpayers are complying with the ever-shifting law. Last year, the program lapsed until late December, when Congress finally passed a retroactive extension.

Over the past decade, the Work Opportunity Tax Credit, WOTC, and the Welfare-to-Work credits have helped more than 2.2 million public assistance dependent individuals to enter the workforce. These hiring tax incentives have demonstrated their effectiveness. They help to level the job selection playing field for low-skilled individuals. They provide employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment. And this is particularly important during periods of high unemployment. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals who reach their welfare eligibility ceiling.

Because of the costs involved in setting up and administering a WOTC and Welfare-to-Work program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy applicants. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

The new combined WOTC and Welfare-to-Work credits provide employers with a graduated tax credit equal to 25 percent of the first $6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first $6,000 in wages for those working more than 400 hours. In the category of longterm welfare recipients, employers receive a maximum credit of $4,000, or 40 percent of qualified first year wages up to $10,000. Employers receive a maximum credit of $5,000, or 50 percent of qualified wages up to $10,000, for retaining for a second year individuals in the long-term welfare assistance category.

In my home State of Montana, many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC and Welfare-to-Work program, however, are low-income families under the Food Stamp Program, the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, programs, and also low income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during an 18-month period, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC or TANF recipients, and 52 U.S. veterans.

The bill that we are introducing today provides for a permanent program extension of the combined credits. After a decade of experience with WOTC and Welfare-to- Work, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. One change would increase the age of eligibility for those individuals seeking work who reside in enterprise zones or empowerment communities. Another change would include referrals from the Ticket to Work program in the Vocational Rehabilitation category. These two changes are modest improvements to the program.

Further, this bill adds a new subcategory with an enhanced credit for employers who hire veterans with service-connected disabilities occurring on or after September 11, 2001. As of July 2006, nearly 20,000 members of our Armed Forces were wounded in action in Operation Iraqi Freedom and Operation Enduring Freedom. Many of these veterans are now permanently disabled. Of these brave men and women who have been wounded, nearly 5,000 are members of the National Guard and Reserves. Our National Guard and Reserves are carrying a huge burden in our current conflicts abroad.

Many of these wounded veterans come from rural States such as my home State of Montana. In Montana, we have the highest proportion of veterans per capita of any state. According to the most recent census, veterans account for nearly one out of every six people in Montana. And veterans and families of veterans constitute a significant portion of the population in rural states throughout the country.

When not deployed, many National Guardsmen and reservists in Montana support their families with second and even third jobs. At any time, they can be deployed overseas, to our borders, or even to aid with national disasters such as hurricanes or forest fires. If they are injured or disabled, however, many become unable to perform the jobs that they did before deployment. They will need to transition into a new job or career. It is our duty to provide the proper means for veterans to make that transition. It is our duty to help them to live as independent citizens.

Since August 2002, the share of veterans collecting unemployment insurance has nearly doubled. During any given year, half a million veterans across the Nation experience homelessness. We are not providing enough resources for veterans looking for work. We are too often failing our injured and our disabled veterans.

Many seriously injured and disabled veterans simply do not know what they are going to do once they return home. We need to help these young men and women. And a modest tax incentive to get them back into the workforce is one place to start.

I look forward to working with Senator SNOWE to get a permanent work incentive for these individuals. And I encourage our Colleagues to join us in this effort.

By Mrs. FEINSTEIN:

S. 249. A bill to permit the National Football League to restrict the movement of its franchises, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, last November, John York, the owner of the San Francisco 49ers, announced his intention to move the team to Santa Clara.

The 49ers have been an integral part of San Francisco for the past 60 years. The team was founded in 1946 as part of the All-American Football Conference and joined the National Football League in 1950, when the two leagues merged.

The team's name is derived from the city's history, celebrating the miners who rushed to San Francisco in search of gold in 1849 and helped build the city.

The team has been a part of San Francisco for so long, and is such a central part of its culture, that the prospect of the team leaving concerns many of the people of San Francisco.

In response, I am introducing the Football Fairness Act that provides a new and limited antitrust exemption that is designed to slow the frequent movement of National Football League teams and prevent communities from suffering the financial and intangible costs of these moves.

As Mayor of San Francisco, I had the pleasure of witnessing several 49ers' Super Bowl victory parades.

What I remember most about those victories is the way the team's success brought the city together. I've also seen other cities unite in celebration of their teams' championships.

Our football teams are more than just businesses. They are a common denominator that cut across class, race, and gender to bond the people of a city. They are a key component of a city's culture and identity.

There are instances where a city cannot support a team, but it is disheartening when a city that can—and does—support a team is nevertheless abandoned and the loyalty of the fans discarded.

In 1985, then 49ers owner Eddie DeBartolo explored the possibility of moving the team to San Jose. As Mayor of San Francisco, I worked with the 49ers and we were able to reach an agreement to keep the team in San Francisco.

Today, I remain hopeful that an agreement to keep the team will be reached that will benefit the people of San Francisco and the 49ers' organization.

However, this situation highlights a broader trend of NFL teams abandoning cities after those communities invested substantial funds and good will into a team.

This persistent movement is bad for our cities.

In the last 25 years, National Football League teams have moved 7 times: Oakland Raiders to Los Angeles in 1982, Baltimore Colts to Indianapolis in 1984, St. Louis Cardinals to Tempe in 1988, Los Angeles Rams to St. Louis in 1994, Los Angeles Raiders to Oakland in 1994, Cleveland Browns to Baltimore in 1996, and Houston Oilers to Nashville in 1997.

However, during that same time period only 1 Major League Baseball franchise moved. In 2004, with the approval of Major League Baseball, the Montreal Expos became the Washington Nationals.

Why has there been stability in baseball, while National Football League teams have moved so frequently?

Unlike the NFL, Major League Baseball has an antitrust exemption which gives the league and its owners control over the movement of its teams.

When the Oakland Raiders sought to relocate to Los Angeles in 1982, the National Football League's owners voted to prevent the move. However, the courts found that the NFL's intervention was a violation of antitrust laws, and the League could do nothing to prevent the Raiders from moving.

Just 12 years later, the Raiders left Los Angeles to return to the same city and stadium it had abandoned.

If a city is incapable of supporting a team, it is understandable that a franchise would move. However, of the six cities that have seen National Football League teams leave in the last 25 years, five of those cities later received another NFL franchise.

It is clear that NFL teams are not moving because cities cannot support teams.

To address the real costs imposed on communities by the persistent and unnecessary franchise movement that we

have witnessed, I am introducing the Football Fairness Act.

The Football Fairness Act is straightforward and it is limited.

It would permit the National Football League to review and restrict its teams' movement. This should help keep the fans who support the NFL from being left out of the equation.

The Act is targeted. It limits the exemption from antitrust laws solely to the National Football League's ability to prevent the movement of its franchises. Consequently, the Act will not diminish competition.

I urge my colleague to support the Football Fairness Act and help prevent the damage done to fans and communities by frequent NFL franchise movement.

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. 249

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 ''Football Fairness Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) National Football League teams foster a strong local identity with the people of the cities and regions in which they are located, providing a source of civic pride for their supporters;

(2) National Football League teams provide employment opportunities, revenues, and a valuable form of entertainment for the cities and regions in which they are located;

(3) there are significant public investments associated with National Football League facilities;

(4) it is in the public interest to encourage the National Football League to operate under policies that promote stability among its member teams and to promote the equitable resolution of disputes arising from the proposed relocation of National Football League teams; and

(5) National Football League teams travel in interstate to compete and utilize materials shipped in interstate commerce, and National Football League games are broadcast nationally.

SEC. 3. CLARIFICATION OF ANTITRUST LAWS RELATED TO RELOCATION.

It shall not be unlawful by reason of any provision of the antitrust laws for the National Football League to enforce rules authorizing the membership of the league to decide that a member club of such league shall not be relocated.

SEC. 4. INAPPLICABILITY TO CERTAIN MATTERS.

(a) IN GENERAL.—Nothing contained in this Act shall—

(1) alter, determine, or otherwise affect the applicability or inapplicability of the antitrust laws, the labor laws, or any other provision of law relating to the wages, hours, or other terms and conditions of employment of players in the National Football League, to any employment matter regarding players in the National Football League, or to any collective bargaining rights and privilege of any player union in the National Football League;

(2) alter or affect the applicability or inapplicability of the antitrust laws or any applicable Federal or State law relating to broadcasting or telecasting, including section 1 of Public Law 87–331 (15 U.S.C. 1291), any agreement between the National Football League or its member teams, and any person not affiliated with the National Football League for the broadcasting or telecasting of the games of the National Football League or its member teams on any form of television;

(3) affect any contract, or provision of a contract, relating to the use of a stadium or arena between a member team and the owner or operator of any stadium or arena or any other person;

(4) exempt from the antitrust laws any agreement to fix the prices of admission to National Football League games;

(5) exempt from the antitrust laws any predatory practice or other conduct with respect to competing sports leagues that would otherwise be unlawful under the antitrust laws; or

(6) except as provided in this Act, alter, determine, or otherwise affect the applicability or inapplicability of the antitrust laws to any act, contract, agreement, rule, course of conduct, or other activity by, between, or among persons engaging in, conducting, or participating in professional football.

(b) ANTITRUST LAWS.—As used in this section, the term ''antitrust laws'' has the meaning given to such term in the first section of the Clayton Act (15 U.S.C. 12) and in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

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

S. 250. A bill to reduce the costs of prescription drugs for Medicare beneficiaries and to guarantee access to comprehensive prescription drug coverage under part D of the Medicare program, and for other purposes; to the Committee on Finance.

Mrs. SNOWE. Mr. President, today I join with my colleague and friend Senator RON WYDEN, to introduce legislation which we have sponsored since 2004 to ensure the sound fiscal management of our Medicare prescription drug benefit. Together we both supported the enactment of the Medicare Modernization Act in 2003 (MMA), and we remain committed to seeing our seniors able to rely on a high quality, affordable benefit.

Today millions of American seniors are at last receiving assistance with the high cost of prescription drugs. For so many, that will make a difference between choosing whether to take needed medications and the other necessities of life. We have indeed come a very long way. We look forward to realizing all the incredible benefits of this coverage as we see the results of more affordable access to prescription drugs—better health for our seniors, and substantial health care savings.

This new benefit marks a milestone for Medicare. And that is an apt analogy because today Part D represents a landmark, not a destination. There is no doubt that this benefit is not all it could or should be, but it is a giant step forward in helping millions of seniors to afford medications which are so essential to health care today. For modem drugs not only treat disease, but actually can prevent its development.

While we have seen this landmark progress, it has not come without difficulty. Yet today seniors are saving substantially on their prescription drugs and we see reports that four of five enrollees are pleased with the assistance they are receiving.

It is undoubtedly the help they are getting which has resulted in such satisfaction. Because the confusion, the complexity, and often a lack of oversight on the plans has created some serious consumer issues which we will continue to address. But today the first issue before us is the cost of prescription drugs in the plans.

Over 3 years ago the Congress was given a price tag for this benefit that was simply unrealistic. Recognizing an absence of cost management, I joined with Senator WYDEN to address the escalating cost projections we were seeing. Today, some say all is well, as we hear that the estimated cost of the benefit declined somewhat from a peak estimate of about $720 billion over 10 years. Yet I must note that some of the reasons for that reduction are too quickly glossed over. Enrollment is lower than it was estimated to be as more Americans chose to stay in private coverage. We also saw this past year that we failed to reach many of those low income seniors who most needed help. Today as seniors enter their first full year of coverage, we will see a more realistic year—particularly in terms of more beneficiaries facing the donut hole.

We have heard estimates that the average senior is saving an average of $1,000 per year, but we should ask how that savings is being achieved. The discovery by many seniors—when they reached the donut hole—that their cost of medications was the same or even higher than what they paid prior to enrolling in Part D—that should be a red flag that we may not be seeing the purchasing power of seniors harnessed for the savings they deserve.

Back in 2005 the Medicare Actuary had estimated that drug plans would negotiate a discount of about 15 percent off undiscounted retail prices. So last year we were curious—just how were they doing in Maine? My staff compared prices for the top 24 medications used by seniors and found that our plan prices for those medications averaged less than 12 percent below the price any senior could already obtain, by simply walking into a retail pharmacy. That is not even using membership or association discounts, or using an on-line pharmacy like Drugstore.com—where seniors could obtain better prices. That result—finding a single senior could do better than a plan—is certainly disappointing.

That points to a system that is working well in terms of subsidy, but certainly needs to improve in terms of negotiating substantial discounts. But we are told that the cost of the benefit is lower, and that premiums were stable this year. Yet if you ask what standalone drug coverage actually costs this

year, CMS will tell you that those premiums have gone up about 10 percent. Not unlike increases in the deductible, the size of the donut hole, and out-of-pocket expense. As Senator WYDEN and I learned from GAO reports we have received, the prices of drugs used by seniors have inexorably increased since 2000 at two to three times the inflation rate.

So the costs of this program will remain a concern. Most of us envisioned that not only would the taxpayer contribute to helping seniors with drug expenses, but we would realize substantial savings from lower prices on prescription drugs.

That is why Senator WYDEN and I proposed to achieve some balance in the public private partnership which is Part D today, and it is why today we are again introducing the Medicare Enhancements for Needed Drugs Act—the MEND Act. In this drug benefit the HHS Secretary should have a proper role in negotiation. Negotiation, not price setting.

It is clear that what the Congress intended to do was to create a true public-private partnership, utilizing competitive forces to bring more choices to seniors—in drugs, benefit plan designs, pharmacies, and more. So seniors can vote with their pocketbooks, and we can see their choices in the market influence the kind of benefit they receive. That is not the same as a system in which the government sets prices, and that is why our legislation specifically bans such a practice. Under our legislation, the Federal Government cannot set either prices or formularies—that is absolutely clear.

What I believe most of us desire to do is give the present system the best tools to achieve success. That means that the Secretary must have an oversight role. He should be examining performance and pointing out where plans need to improve. But today if he noticed a product on which poor discounts were being achieved, and he attempted to discuss that publicly, he would likely be accused of interference. Further, if a plan reported intransigence in trying to negotiate with a manufacturer, the Secretary could not respond. That makes no sense. It is a disservice taxpayers, beneficiaries, and the plans as well.

Our legislation rescinds the ''non-interference'' clause and directs the Secretary to negotiate for any necessary fallback plan, and in addition, to respond to requests for help from plans which cannot obtain reasonable negotiation.

We have also added two additional areas in which the Secretary must negotiate. First, as the CBO has stated that negotiation of single-source drugs could yield savings, our legislation directs the Secretary to engage in negotiation regarding those unique products. We also know that some drugs exist because the taxpayer provides substantial support to see them developed. The public deserves a fair price on those products it made possible, so the Secretary should weigh in those cases.

Finally, our bill protects beneficiaries by assuring that seniors will have access to a comprehensive coverage option—at least one plan in each region must provide the option to avoid the coverage gap, dreaded ''donut hole''. Today seniors in 11 States simply cannot obtain such coverage and they must at least have the option of protecting themselves.

These are reasonable ways to help plans succeed, and to protect both beneficiaries and taxpayers within the public-private partnership on which this benefit rests.

I call on my colleagues to join us in this effort, so that we may improve the partnership between private enterprise and the Federal Government in serving our seniors.

I ask consent that the bill's text be printed in the CONGRESSIONAL RECORD.

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

S. 250

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 ''Medicare Enhancements for Needed Drugs Act of 2007''.

SEC. 2. GAO STUDIES AND REPORTS ON PRICES OF PRESCRIPTION DRUGS.

(a) REVIEW AND REPORTS ON RETAIL PRICES OF PRESCRIPTION DRUGS.—

(1) INITIAL REVIEW.—The Comptroller General of the United States shall conduct a review of the retail cost of prescription drugs in the United States during 2000 through 2006, with an emphasis on the prescription drugs most utilized for individuals age 65 or older.

(2) SUBSEQUENT REVIEW.—After conducting the review under paragraph (1), the Comptroller General shall continuously review the retail cost of such drugs through December 31, 2010, to determine the changes in such costs.

(3) REPORTS.—

(A) INITIAL REVIEW.—Not later than 90 days after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the initial review conducted under paragraph (1).

(B) SUBSEQUENT REVIEW.—Not later than April 1 of 2008, 2009, 2010, and 2011, the Comptroller General shall submit to Congress a report on the subsequent review conducted under paragraph (2).

(b) ANNUAL GAO STUDY AND REPORT ON RETAIL AND ACQUISITION PRICES OF CERTAIN PRESCRIPTION DRUGS.—

(1) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study that compares the average retail cost in the United States for each of the 20 most utilized prescription drugs for individuals age 65 or older with—

(A) the average price at which private health plans acquire each such drug;

(B) the average price at which the Department of Defense under the Defense Health Program acquires each such drug;

(C) the average price at which the Department of Veterans Affairs under the laws administered by the Secretary of Veterans Affairs acquires each such drug; and

(D) the average negotiated price for each such drug that eligible beneficiaries enrolled in a prescription drug plan under part D of title XVIII of the Social Security Act that provides only basic prescription drug coverage have access to under such plans.

(2) ANNUAL REPORT.—Not later than October 1, 2007, and annually thereafter, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1), together with such recommendations as the Comptroller General determines appropriate.

SEC. 3. INCLUSION OF AVERAGE AGGREGATE BENEFICIARY COSTS AND SAVINGS IN COMPARATIVE INFORMATION FOR BASIC MEDICARE PRESCRIPTION DRUG PLANS.

Section 1860D–1(c)(3) of the Social Security Act (42 U.S.C. 1395w–101(c)(3)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

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

''(vi) AVERAGE AGGREGATE BENEFICIARY COSTS AND SAVINGS.—With respect to plan years beginning on or after January 1, 2008, the average aggregate costs, including deductibles and other cost-sharing, that a beneficiary will incur for covered part D drugs in the year under the plan compared to the average aggregate costs that an eligible beneficiary with no prescription drug coverage will incur for covered part D drugs in the year.''; and

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

''(C) AVERAGE AGGREGATE BENEFICIARY COSTS AND SAVINGS INFORMATION ONLY FOR BASIC PRESCRIPTION DRUG PLANS.—The Secretary shall not provide comparative information under subparagraph (A)(vi) with respect to—

''(i) a prescription drug plan that provides supplemental prescription drug coverage; or

''(ii) a Medicare Advantage plan.''.

SEC. 4. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

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

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

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

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

''(A) negotiate contracts with manufacturers of covered part D drugs when the drug is a single source drug without a therapeutic equivalent;

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

''(C) participate in the negotiation of contracts for any covered part D drugs for which there is a substantial amount of Federal research funding in the development of the drug; and

''(D) negotiate contracts with manufacturers of covered part D drugs for each standard fallback prescription drug plan under subsection (g) and each comprehensive fallback prescription drug plan under subsection (k).

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be construed to limit the

authority of the Secretary under paragraph (1) to the mandatory responsibilities under paragraph (2).

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

''(5) USE OF SAVINGS.—The savings to the Medicare Prescription Drug Account through the use of the authority provided under this subsection (including the mandatory responsibilities under paragraph (2)) shall be used to strengthen the program under this part and to reduce the Federal deficit.''.

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

SEC. 5. ACCESS TO A COMPREHENSIVE MEDICARE PRESCRIPTION DRUG PLAN.

(a) REQUIREMENT FOR ACCESS.—Section 1860D–3(a) of the Social Security Act (42 U.S.C. 1395w–103(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—The Secretary'' and inserting ''CHOICE

''(A) CHOICE OF AT LEAST TWO PLANS IN EACH AREA.—The Secretary''; and

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

''(B) CHOICE OF A COMPREHENSIVE PRESCRIPTION DRUG PLAN.—In addition to the requirement under subparagraph (A), the Secretary shall ensure that each part D eligible individual has available a choice of enrollment in a comprehensive prescription drug plan (as defined in paragraph (4)) in the area in which the individual resides. In any such case in which such a plan is not available, the part D eligible individual shall be given the opportunity to enroll in a comprehensive fallback prescription drug plan.''; and

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

''(4) COMPREHENSIVE PRESCRIPTION DRUG PLAN.—For purposes of this section, the term 'comprehensive prescription drug plan' means a prescription drug plan that provides coverage of covered part D drugs after an individual has reached the initial coverage limit under paragraph (3) of section 1860D–2(b) but has not reached the annual out-of-pocket threshold under paragraph (4)(B) of such section that is the same as the coverage for such drugs that is provided under the plan after the individual has met the deductible under paragraph (1) of such section but has not reached such initial coverage limit.''.

(b) COMPREHENSIVE FALLBACK PRESCRIPTION DRUG PLAN.—Section 1860D–11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by adding at the end the following new subsection:

''(k) GUARANTEEING ACCESS TO COMPREHENSIVE COVERAGE.—

''(1) SOLICITATION OF BIDS.—Separate from the bidding process under subsections (b) and (g), the Secretary shall provide for a process for the solicitation of bids from eligible comprehensive fallback entities (as defined in paragraph (2)) for the offering in all comprehensive fallback service areas (as defined in paragraph (3)) in one or more PDP regions of a comprehensive fallback prescription drug plan (as defined in paragraph (4)) during the contract period specified in subsection (g)(5) (as made applicable to this subsection under paragraph (6)).

''(2) ELIGIBLE COMPREHENSIVE FALLBACK ENTITY.—For purposes of this section, the term 'eligible comprehensive fallback entity' means, with respect to all comprehensive fallback service areas in a PDP region for a contract period, an entity that—

''(A) meets the requirements to be a PDP sponsor (or would meet such requirements but for the fact that the entity is not a risk-bearing entity); and

''(B) does not submit a bid under section 1860D–11(b) for any prescription drug plan for any PDP region for the first year of such contract period.

For purposes of subparagraph (B), an entity shall be treated as submitting a bid with respect to a prescription drug plan if the entity is acting as a subcontractor of a PDP sponsor that is offering such a plan. The previous sentence shall not apply to entities that are subcontractors of an MA organization except insofar as such organization is acting as a PDP sponsor with respect to a prescription drug plan.

''(3) FALLBACK SERVICE AREA.—For purposes of this subsection, the term 'comprehensive fallback service area' means, for a PDP region with respect to a year, any area within such region for which the Secretary determines before the beginning of the year that the access requirements of the first sentence of section 1860D–3(a)(1)(B) will not be met for part D eligible individuals residing in the area for the year.

''(4) COMPREHENSIVE FALLBACK PRESCRIPTION DRUG PLAN.—For purposes of this part, the term 'comprehensive fallback prescription drug plan' means a prescription drug plan that—

''(A) offers the standard prescription drug coverage and access to negotiated prices described in section 1860D–2(a)(1)(A);

''(B) offers coverage of covered part D drugs after an individual has reached the initial coverage limit under paragraph (3) of section 1860D–2(b) but has not reached the annual out-of-pocket threshold under paragraph (4)(B) of such section that is the same as the coverage for such drugs that is offered after the individual has met the deductible under paragraph (1) of such section but has not reached such initial coverage limit; and

''(C) meets such other requirements as the Secretary may specify.

''(5) MONTHLY BENEFICIARY PREMIUM.—Except as provided in section 1860D–13(b) (relating to late enrollment penalty) and subject to section 1860D–14 (relating to low-income assistance), the monthly beneficiary premium to be charged under a comprehensive fallback prescription drug plan offered in all comprehensive fallback service areas in a PDP region shall be uniform and shall be an amount equal to—

''(A) 25.5 percent of an amount equal to the Secretary's estimate of the average monthly per capita actuarial cost, including administrative expenses, under the comprehensive fallback prescription drug plan of providing the coverage described in paragraph (4)(A) in the region, as calculated by the Chief Actuary of the Centers for Medicare & Medicaid Services; and

''(B) 100 percent of an amount equal to the Secretary's estimate of the average monthly per capita actuarial cost, including administrative expenses, under the comprehensive fallback prescription drug plan of providing the coverage described in paragraph (4)(B) in the region, as calculated by the Chief Actuary of the Centers for Medicare & Medicaid Services.

In calculating such administrative expenses, the Chief Actuary shall use a factor that is based on similar expenses of prescription drug plans that are not standard or comprehensive fallback prescription drug plans.

''(6) INCORPORATION OF STANDARD FALLBACK PRESCRIPTION DRUG PLAN PROVISIONS.—The provisions of paragraphs (1)(B), (5), and (7) of subsection (g) shall apply to comprehensive fallback prescription drug plans and entities offering such plans in the same manner as such provisions apply to standard fallback prescription drug plans and entities offering such plans.

''(7) SAME ENTITY MAY OFFER BOTH FALLBACK PRESCRIPTION DRUG PLANS IN AN AREA.—The Secretary may award a contract to an entity under this subsection with respect to an area and period and a contract under subsection (g) with respect to the same area and period.''.

(c) CONFORMING AMENDMENTS.—

(1) ACCESS.—Section 1860D–3 of the Social Security Act (42 U.S.C. 1395w–103) is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A) of subsection (a), as redesignated by subsection (a), by inserting ''standard'' before ''fallback'';

(ii) in paragraph (2), by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''; and

(B) in subsection (b)(2), by striking ''fallback prescription drug plan for that area under section 1860D–11(g)'' and inserting ''standard or comprehensive fallback prescription drug plan for that area under subsections (g) and (k) of section 1860D–11, as applicable''.

(2) LIMITED RISK PLANS.—Section 1860D–11(f) of the Social Security Act (42 U.S.C. 1395w–111(f)) is amended—

(A) in paragraph (1)—

(i) by striking ''1860D–3(a)'' and inserting ''1860D–3(a)(1)(A)''; and

(ii) by inserting ''standard'' before ''fallback''; and

(B) in paragraph (2)(A), by striking ''1860D–3(a)'' and inserting ''1860D–3(a)(1)(A)''; and

(C) in each of subparagraphs (A) and (B) of paragraph (4), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback''.

(3) STANDARD FALLBACK PRESCRIPTION DRUG PLAN.—Section 1860D–11(g) of the Social Security Act (42 U.S.C. 1395w–111(g)) is amended—

(A) in the heading, by inserting ''STANDARD PRESCRIPTION DRUG'' after ''ACCESS TO'';

(B) by inserting ''STANDARD'' before ''FALLBACK'' each place it appears;

(C) by striking ''FALLBACK'' each place it appears and inserting ''STANDARD FALLBACK'';

(D) by inserting ''standard'' before ''fallback'' each place it appears; and

(E) in paragraph (3), by striking ''1860D–3(a)'' and inserting ''1860D–3(a)(1)(A)''.

(4) ANNUAL REPORT.—Section 1860D–11(h) of the Social Security Act (42 U.S.C. 1395w–111(h)) is amended by striking ''(f) and (g)'' and inserting ''(f), (g), and (k)''.

(5) LIMITATION ON ENTITIES OFFERING FALLBACK PRESCRIPTION DRUG PLANS.—Section 1860D–12(b)(2) of the Social Security Act (42 U.S.C. 1395w–112(b)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'';

(B) in subparagraph (A)—

(i) by striking ''section 1860D–11(g)'' and inserting ''subsection (g) or (k) of section 1860D–11'';

(ii) by striking ''such section'' and inserting ''such subsections, as applicable''; and

(iii) by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'';

(C) in subparagraph (B), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'';

(D) in subparagraph (C), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback'' and

(E) in the flush matter following subparagraph (C), by striking ''a fallback'' and inserting ''a standard or comprehensive fallback''.

(6) COLLECTION OF PREMIUM.—Section 1860D–13(c)(3) of the Social Security Act (42

U.S.C. 1395w–113(c)(3)) is amended by striking ''a fallback'' and inserting ''a standard or comprehensive fallback''.

(7) PAYMENT.—Section 1860D–15(g) of the Social Security Act (42 U.S.C. 1395w–115(g)) is amended by striking ''offering'' and all that follows and inserting the following: ''offering.—

''(1) a standard prescription drug plan (as defined in paragraph (4) of section 1860D–11(g)), the amount payable shall be the amounts determined under the contract for such plan pursuant to paragraph (5) of such section; and

''(2) a comprehensive prescription drug plan (as defined in paragraph (4) of section 1860D–11(k)), the amount payable shall be the amounts determined under the contract for such plan pursuant to such paragraph (5) (as made applicable to section 1860D–11(k) under paragraph (6) of such section).''.

(8) PAYMENT FROM ACCOUNT.—Section 1860D–16(b)(1)(B) of the Social Security Act (42 U.S.C. 1395w–116(b)(1)(B)) is amended by inserting ''standard and comprehensive'' before ''fallback''.

(9) DEFINITION.—Section 1860D–41(a)(5) of the Social Security Act (42 U.S.C. 1395w–151(a)(5)) is amended to read as follows:

''(5) STANDARD FALLBACK PRESCRIPTION DRUG PLAN; COMPREHENSIVE FALLBACK PRESCRIPTION DRUG PLAN.—The terms 'standard fallback prescription drug plan' and 'comprehensive fallback prescription drug plan' have the meaning given those terms in subsection (g)(4) and (k)(4), respectively, of section 1860D–11.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2008.

Mr. WYDEN. Mr. President, Senator SNOWE and I said we would work to improve the Medicare Part D benefit ever since we voted for its passage. Senator SNOWE and I think one of the most egregious errors in the Medicare drug benefit was to write into law that the Secretary cannot have bargaining power under any circumstances. That is why today we are introducing the Medicare Enhancements for Needed Drugs Act of 2007. This legislation lifts the prohibition on bargaining power and requires the Secretary to negotiate on behalf of seniors.

We believed that one of the most important things missing from the Part D benefit was cost containment—and allowing Medicare to negotiate for drug prices would be an important cost containment measure. Our legislation clearly prohibits price setting or the creation of a uniform formulary. What our legislation allows Medicare to do is to be a smart shopper—just as any consumer would be—by allowing Medicare to go in the market and use its clout just like any other big purchaser.

Under our proposal, the Secretary could negotiate in any circumstance, but must negotiate in several instances: for single source drugs for which there is no therapeutic equivalent; drugs for which taxpayer funding was substantial in its research and development; and for any fallback plan the Secretary must provide. In addition, our legislation requires the Secretary to provide a fallback plan if there is not comprehensive coverage, including coverage for the so-called donut hole, available in a region.

The Congressional Budget Office has stated there might be savings achieved if the Secretary could negotiate for single source drugs for which there is no therapeutic equivalent. To be good stewards of taxpayer dollars, to be able to strengthen the program and to help seniors truly save, we must look toward using every logical tool to lower costs. Not to try to achieve lower prices in areas identified as potentially saving the program, taxpayers and seniors would be foolish.

I don't know of a single private entity, whether it's a timber company in my home State of Oregon, or a big auto company, who when they're buying something in bulk doesn't say, hey pal, how about a discount? So why shouldn't Medicare, if it needs to negotiate, have that authority just in case? Why wouldn't we want to assure that Medicare can be a smart shopper?

I look forward to working with my colleagues as the Senate Finance Committee works on this issue.

By Mr. FEINGOLD:

S. 252. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation that would put an end to automatic pay raises for Members of Congress.

As I have noted when I raised this issue in past years, Congress has the authority to raise its own pay, something that most of our constituents cannot do. Because this is such a singular power, Congress ought to exercise it openly, and subject to regular procedures including debate, amendment, and a vote on the record.

But current law allows Congress to avoid that public debate and vote. All that is necessary for Congress to get a pay raise is that nothing be done to stop it. The annual pay raise takes effect unless Congress acts.

This stealth pay raise mechanism began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that Act, Members of Congress voted to make themselves entitled to an annual raise equal to half a percentage point less than the employment cost index, one measure of inflation.

On occasion, Congress has voted to deny itself the raise, and the traditional vehicle for the pay raise vote is the Treasury appropriations bill. But that vehicle is not always made available to those who want a public debate and vote on the matter. Just last year, for example, the Senate did not consider the Treasury appropriations bill. Instead, we passed a series of continuing resolutions to fund government operations usually addressed in that bill and other appropriations bills that were not taken up. Because of that, Senators were effectively prevented from offering an amendment to force an up or down vote on the annual pay raise. And that situation was not unique.

As I have noted in the past, getting a vote on the annual congressional pay raise is a haphazard affair at best, and it should not be that way. The burden should not be on those who seek a public debate and recorded vote on the Member pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end.

This issue is not a new question. It was something that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the States.

The 27th Amendment to the Constitution now states: ''No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.''

I honor that limitation. Throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. The stealth pay raises like the one that Congress allowed for 2006 certainly violate the spirit of that amendment at the very least.

This practice must end and this bill will end it. Senators and Congressmen should have to vote up-or-down to raise Congressional pay, and my bill would require just that. We owe our constituents nothing less.

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. 252

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

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2009.

By Ms. LANDRIEU:

S. 253. A bill to permit the cancellation of certain loans under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. LANDRIEU. Mr. President, it gives me great pleasure to introduce the Disaster Loan Fairness Act of 2007. This legislation strikes provisions contained in the Community Disaster Loan Act of 2005 and the Emergency Supplemental spending bill for hurricane relief, which prohibited forgiveness of Special Community Disaster Loans authorized in those measures.

Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act requires forgiveness of a loan if an independent audit determines that its recipient cannot sustain its repayment obligations after a 3-year grace period. The statute recognizes the very real possibility that hard-hit communities may need to be excused from repayment. For the first time in the history of the program though, forgiveness was specifically prohibited by the Community Disaster Loan Act of 2005. These were the strictest terms ever required. Clamping down in the wake of the worst disaster in history did not make sense at the time, and it does not make sense now.

In the last Congress, I introduced S. 1872, which eliminated this provision governing the first round of loans authorized in October of 2005. Louisiana applicants received about $739 million in this first round. This bill accomplishes that same objective, and also strikes forgiveness restrictions attached to a second round of loans authorized in June of 2006, through which Louisianans received about $261 million in Orleans, St. Bernard, and St. Tammany Parishes. These recipients in the second round included sheriffs, fire districts, levee districts, school boards, sewage and water boards, port harbor and terminal authorities, regional transit authorities and parish governments.

Essential operational expenditures must be made to facilitate recovery in the wake of a disaster, including services like police, fire protection, transit and sanitation. One of the great ironies of the Community Disaster Loan Program is the fact that it exists largely to supplement shortcomings in the Stafford Act. Between 1970 and 1974, the program was administered as a grant program before the Stafford Act converted it to a loan program. FEMA will not reimburse emergency responders for their straight-time salaries, and a large portion of these loans were needed for payroll expenses to essential employees.

This bill does not necessarily forgive all loans made to hurricane-affected communities. Communities must apply for cancellation, and forgiveness is only permitted when an independent review of a city's fiscal health finds justification to cancel the debt. Even then, communities must still repay loan funds used for capital improvements, debt servicing, assessments, intragovernmental services, cost-sharing and otherwise reimbursable activities. It is also important to remember that the size of the loans has been limited to a proportion of the community's operating budget since these programs were first authorized.

The majority of disaster loans have been repaid, and the program is used only by areas that have suffered a major disaster. In 29 years, the program has only received 64 applications associated with 21 disasters. Compared to 1,104 disasters declared in total, that is a very small proportion. There were no loans issued under this authority for 6 years prior to FY 2005. These figures indicate that this program has not been abused by jurisdictions that could do without the funds. Program administrators and independent auditors have found cause to cancel 93 percent of loan funding distributed to hard-hit areas over the years, but this represents the inevitable fact that disasters can be catastrophic, and areas requiring significant help are less likely to be whole again after only 3 years.

The City of New Orleans was forced to lay off 3,000 people—over 80 percent of its workforce. Let us act now to ensure that other cities are not forced to follow, by giving a break to disaster loan recipients who prove unable to repay their debt. They will still have 3 years to try, and some may succeed, but we must adjust to the reality of the situation. It is time we relieve Gulf Coast communities of the burdens they were forced to shoulder in order to keep police cars, fire trucks and sanitation trucks rolling, reopen schools and bring cities back to life by getting things working.

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

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

S. 253

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 ''Disaster Loan Fairness Act of 2007''.

SEC. 2. CANCELLATION OF LOANS.

(a) IN GENERAL.—Section 2(a) of the Community Disaster Loan Act of 2005 (Public Law 109–88; 119 Stat. 2061) is amended by striking ''*Provided further*, That notwithstanding section 417(c)(1) of the Stafford Act, such loans may not be canceled:''.

(b) DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT.—Chapter 4 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 471) is amended under the heading ''DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT'' under the heading ''FEDERAL EMERGENCY MANAGEMENT AGENCY'' under the heading ''DEPARTMENT OF HOMELAND SECURITY'', by striking ''*Provided further*, That notwithstanding section 417(c)(1) of such Act, such loans may not be canceled:''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective on the date of enactment of the Community Disaster Loan Act of 2005 (Public Law 109–88; 119 Stat. 2061).

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

S. 255. A bill to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, water is the life's blood for New Mexico. When the water dries up in New Mexico, so will many of its communities. As such, the scarcity of water in New Mexico is a dire situation. Unfortunately, the New Mexico Office of the State Engineer (NM OSE) lacks the tools necessary to undertake the Herculean task of effectively managing New Mexico's water resources.

Today, I introduce legislation that would allow New Mexico to make informed decisions about its limited water resources.

In order to effectively perform water rights administration, as well as comply with New Mexico's compact deliveries, the State Engineer is statutorily required to perform assessments and investigations of the numerous stream systems and ground water basins located within New Mexico. However, the NM OSE is ill equipped to vigorously and comprehensively undertake the daunting but critically important task of water resource planning. At present, the NM OSE lacks adequate resources to perform necessary hydrographic surveys and data collection. As such, ensuring a future water supply for my home state requires that Congress provide the NM OSE with the resources necessary to fulfill its statutory mandate.

The bill I introduce today would create a standing authority for the State of New Mexico to seek and receive technical assistance from the Bureau of Reclamation and the United States Geological Survey. It would also provide the NM OSE the sum of $12.5 million in federal assistance to perform hydrologic models of New Mexico's most important water systems. This bill would provide the NM OSE with the best resources available when making crucial decisions about how best preserve our limited water stores.

Ever decreasing water supplies in New Mexico have reached critical levels and require immediate action. The Congress cannot sit idly by as water shortages cause death to New

Mexico's communities. I hope the Senate will give this legislation its every consideration. I thank Senator BINGAMAN, Chairman of the Energy and Natural Resources Committee for cosponsoring this important legislation.

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. 255

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 ''New Mexico Water Planning Assistance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey.

(2) STATE.—The term ''State'' means the State of New Mexico.

SEC. 3. COMPREHENSIVE WATER PLAN ASSISTANCE.

(a) IN GENERAL.—Upon the request of the Governor of the State and subject to subsections (b) through (f), the Secretary shall—

(1) provide to the State technical assistance and grants for the development of comprehensive State water plans;

(2) conduct water resources mapping in the State; and

(3) conduct a comprehensive study of groundwater resources (including potable, brackish, and saline water resources) in the State to assess the quantity, quality, and interaction of groundwater and surface water resources.

(b) TECHNICAL ASSISTANCE.—Technical assistance provided under subsection (a) may include—

(1) acquisition of hydrologic data, groundwater characterization, database development, and data distribution;

(2) expansion of climate, surface water, and groundwater monitoring networks;

(3) assessment of existing water resources, surface water storage, and groundwater storage potential;

(4) numerical analysis and modeling necessary to provide an integrated understanding of water resources and water management options;

(5) participation in State planning forums and planning groups;

(6) coordination of Federal water management planning efforts;

(7) technical review of data, models, planning scenarios, and water plans developed by the State; and

(8) provision of scientific and technical specialists to support State and local activities.

(c) ALLOCATION.—In providing grants under subsection (a), the Secretary shall, subject to the availability of appropriations, allocate—

(1) $5,000,000 to develop hydrologic models and acquire associated equipment for the New Mexico Rio Grande main stem sections and Rios Pueblo de Taos and Hondo, Rios Nambe, Pojoaque and Teseque, Rio Chama, and Lower Rio Grande tributaries;

(2) $1,500,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for the San Juan River and tributaries;

(3) $1,000,000 to complete the hydrographic survey development of hydrologic models and acquire associated equipment for Southwest New Mexico, including the Animas Basin, the Gila River, and tributaries;

(4) $4,500,000 for statewide digital orthophotography mapping; and

(5) such sums as are necessary to carry out additional projects consistent with subsection (b).

(d) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The non-Federal share of the total cost of any activity carried out using a grant provided under subsection (a) shall be 50 percent.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the activity assisted.

(e) NON-REIMBURSABLE BASIS.—Any assistance or grants provided to the State under this Act shall be made on a non-reimbursable basis.

(f) AUTHORIZED TRANSFERS.—On request of the State, the Secretary shall directly transfer to 1 or more Federal agencies any amounts made available to the State to carry out this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2008 through 2012.

SEC. 5. SUNSET OF AUTHORITY.

The authority of the Secretary to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 22—REAFFIRMING THE CONSTITUTIONAL AND STATUTORY PROTECTIONS ACCORDED SEALED DOMESTIC MAIL, AND FOR OTHER PURPOSES

Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. CARPER, Mr. COLEMAN, and Mr. AKAKA) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 22

Whereas all Americans depend on the United States Postal Service to transact business and communicate with friends and family;

Whereas postal customers have a constitutional right to expect that their sealed domestic mail will be protected against unreasonable searches;

Whereas the circumstances and procedures under which the Government may search sealed mail are well defined, including provisions under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and generally require prior judicial approval;

Whereas the United States Postal Inspection Service has the authority to open and search a sealed envelope or package when there is immediate threat to life or limb or an immediate and substantial danger to property;

Whereas the Postal Accountability and Enhancement Act (Public Law 109–435) expressly reaffirmed the right of postal customers to have access to a class of mail sealed against inspection;

Whereas the United States Postal Service affirmed January 4, 2007, that the enactment of the Postal Accountability and Enhancement Act (Public Law 109–435) does not grant Federal law enforcement officials any new authority to open domestic mail;

Whereas the signing statement on the Postal Accountability and Enhancement Act (Public Law 109–435) issued by President Bush on December 20, 2006, raises questions about the President's commitment to abide by these basic privacy protections; and

Whereas the Senate rejects any interpretation of the President's signing statement on the Postal Accountability and Enhancement Act (Public Law 109–435) that in any way diminishes the privacy protections accorded sealed domestic mail under the Constitution and Federal laws and regulations:

Now, therefore, be it

Resolved, That the Senate reaffirms the constitutional and statutory protections accorded sealed domestic mail.

Ms. COLLINS. Mr. President, I rise today to submit a Senate resolution that will reaffirm the fundamental constitutional and statutory protections accorded sealed domestic mail. I am very pleased to have the distinguished chairman of the Senate Governmental Affairs and Homeland Security Committee, Senator LIEBERMAN, as a cosponsor, Senator CARPER, who was the author of the postal reform bill with me in the last Congress, Senator COLEMAN, and Senator AKAKA, all of whom have been very active on postal issues.

On December 20, President Bush signed into law the Postal Accountability and Enhancement Act that Senator CARPER and I originally introduced in 2004. This new law represents the most sweeping reforms to the U.S. Postal Service in more than 30 years.

The Presiding Officer and new chairman of the committee knows well that of all the legislation our committee produced last year, in many ways this was the most difficult to bring to completion.

The act, which will help the 225-year-old Postal Service, meets the challenges of the 21st century, establishes a new rate-setting system, helps ensure a stronger financial future for the Postal Service, provides more stability and predictability in rates, and protects the basic feature of universal service. One of the act's many provisions provides continued authority for the Postal Service to establish a class of mail sealed against inspection.

The day President Bush signed the Postal Reform Act into law, he also issued a signing statement construing that particular provision to permit ''searches in exigent circumstances, such as to protect human life and safety.'' While I understand that the President's spokesman has explained that the signing statement did not intend to change the scope of this new law, it has resulted in considerable confusion and widespread concern about the President's commitment to abide by the basic privacy protections afforded sealed domestic mail. For some, it raised the specter of the Government unlawfully monitoring our mail in the name of national security.

Given this unfortunate perception, I wish to be very clear as the author of this legislation. Nothing in the Postal Reform Act, nor in the President's signing statement, alters in any way