

Washington (Ms. CANTWELL), the Senator from Colorado (Mr. SALAZAR), the Senator from Vermont (Mr. SANDERS), the Senator from Michigan (Ms. STABENOW), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 961, a bill to amend title 46, United States Code, to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II, and for other purposes.

S. 972

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 972, a bill to provide for the reduction of adolescent pregnancy, HIV rates, and other sexually transmitted diseases, and for other purposes.

S. 1003

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1003, a bill to amend title XVIII of the Social Security Act to improve access to emergency medical services and the quality and efficiency of care furnished in emergency departments of hospitals and critical access hospitals by establishing a bipartisan commission to examine factors that affect the effective delivery of such services, by providing for additional payments for certain physician services furnished in such emergency departments, and by establishing a Centers for Medicare & Medicaid Services Working Group, and for other purposes.

S. 1038

At the request of Mr. CORNYN, the name of the Senator from New Mexico (Mr. DOMENICI) was withdrawn as a cosponsor of S. 1038, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

S. 1083

At the request of Mr. CORNYN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1083, a bill to amend the Immigration and Nationality Act to increase competitiveness in the United States, and for other purposes.

S. 1129

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1129, a bill to amend the Internal Revenue Code of 1986 to modify the definition of governmental plan with respect to Indian tribal governments.

S. 1164

At the request of Mr. CARDIN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1164, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1173

At the request of Mrs. BOXER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1173, a bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 1185

At the request of Mr. BINGAMAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1185, a bill to provide grants to States to improve high schools and raise graduation rates while ensuring rigorous standards, to develop and implement effective school models for struggling students and dropouts, and to improve State policies to raise graduation rates, and for other purposes.

S. 1190

At the request of Mr. DURBIN, the names of the Senator from Maine (Ms. SNOWE), the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1190, a bill to promote the deployment and adoption of telecommunications services and information technologies, and for other purposes.

S. 1205

At the request of Mr. SMITH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1205, a bill to require a pilot program on assisting veterans service organizations and other veterans groups in developing and promoting peer support programs that facilitate community reintegration of veterans returning from active duty, and for other purposes.

S. 1237

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1237, a bill to increase public safety by permitting the Attorney General to deny the transfer of firearms or the issuance of firearms and explosives licenses to known or suspected dangerous terrorists.

S. 1257

At the request of Mr. LIEBERMAN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1257, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

S. CON. RES. 26

At the request of Mrs. CLINTON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 26, a concurrent resolution recognizing the 75th anniversary of the Military Order of the Purple Heart and commending recipients of the Purple Heart for their courageous demonstrations of gallantry and heroism on behalf of the United States.

S. CON. RES. 27

At the request of Mrs. CLINTON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 27, a concurrent resolution supporting the goals and ideals of "National Purple Heart Recognition Day".

S. RES. 183

At the request of Ms. LANDRIEU, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 183, a resolution supporting the goals and ideals of National Charter Schools Week, April 30, 2007, through May 4, 2007.

AMENDMENT NO. 982

At the request of Mr. ALLARD, the names of the Senator from Missouri (Mr. BOND), the Senator from Utah (Mr. HATCH) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of amendment No. 982 proposed to S. 1082, a bill to amend the Federal Food, Drug, and Cosmetic Act to reauthorize and amend the prescription drug user fee provisions, and for other purposes.

AMENDMENT NO. 993

At the request of Mr. GREGG, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of amendment No. 993 proposed to S. 1082, a bill to amend the Federal Food, Drug, and Cosmetic Act to reauthorize and amend the prescription drug user fee provisions, and for other purposes.

AMENDMENT NO. 1004

At the request of Ms. LANDRIEU, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 1004 proposed to S. 1082, a bill to amend the Federal Food, Drug, and Cosmetic Act to reauthorize and amend the prescription drug user fee provisions, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BURR, Mr. ISAKSON, Ms. MURKOWSKI, and Mr. ROBERTS):

S. 1262. A bill to protect students receiving student loans, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

S. 1262

Mr. ENZI. Mr. President, I rise to speak about the Student Loan Accountability and Disclosure Reform Act which I, along with Senators ALEXANDER, BURR, ISAKSON, ALLARD and MURKOWSKI, am introducing today. In this era of rising college costs, it is more important than ever to make sure that the colleges, lenders and guaranty agencies that provide loans to help students pay for college operate in a fair, accountable and transparent manner.

In fiscal year 2007, the Federal Government, through the Federal Family Education Loan, FFEL, and Direct

Loan programs is expected to back and provide \$65.9 billion in new loans to students and their parents for attendance at over 6,000 schools. The FFEL program accounts for about 79 percent of new student loan volume. There are approximately 3,200 FFEL lenders. Thirty-five State and private, non-profit guaranty agencies back the FFEL loans.

Overall, the programs are expected to provide financing to 14.3 million students and their families this year. These students and their families are depending upon us to protect them from those individuals who are using the financial loan programs to benefit themselves to the detriment of students.

The focus of this bill is to make colleges, lenders and guaranty agencies accountable, by prohibiting lenders and guaranty agencies from offering inducements, and colleges from accepting them, and by requiring disclosures to students, their families and the public.

There are a lot of ethical, hard-working financial aid administrators and lenders who have spent their lives helping students go to college. It is a shame that a few bad actors have cast a shadow over the whole student loan industry. However, in light of recent revelations about the behavior of a few college officials and a few lenders, it is clear that we need to take steps to protect students and their families from any actions and arrangements that are not fully disclosed.

A key part of this bill is a Code of Conduct for institutions of higher education. It prohibits colleges and their employees with responsibility for student financial aid from receiving anything of value from any lender in exchange for advantages sought by the lender. The prohibition applies not only to gifts and trips, but to compensation for service on advisory boards and consulting contracts.

Colleges are prohibited from designating "preferred lenders." However, they may collect information from lenders, at the college's invitation or upon the request of a lender, including interest rates, payment of origination and other fees, discounts, services and terms and conditions of the loans, and the lender's contact information, on a standard electronic template. All templates submitted will be made available to current and prospective students and their families. Colleges will provide students and parents with a guide that enables the students and parents to do their own evaluation of the loan products, benefits, and services offered by the lenders. An annual attestation of college compliance by a high level college official with the Code of Conduct is required.

The bill expands prohibitions on guaranty agencies and lenders, including provisions that prohibit the offering of any premiums, payments, prizes, and tuition payments. Guaranty agencies are precluded from performing any

services for colleges without compensation. Lenders may not provide information technology equipment at below market value. Both lenders and guaranty agencies are prohibited from sending unsolicited electronic mailings to potential borrowers.

Finally, the recent revelations of questionable relationships between colleges and lenders have led to new calls to eliminate any areas of potential conflicts of interest. For this reason, it is time to phase out the ability of colleges to act as lenders in the FFEL program, a provision commonly referred to as "school-as-lender."

Higher education is crucial to maintaining America's competitiveness. Education at all levels, including lifelong education opportunities, is vital to ensuring that America retains its competitive edge in the global economy. In this global economy, learning is never over and school is never out. If students and families are to make informed decisions about how to pay for college, they must have clear, accurate, comprehensive information on which to base their decisions.

We must help and protect the 14.3 million students and their families who will seek student loans this year to pay for the education they need. Therefore, we must maintain the integrity of the student loan programs. Let's fix the system and restore the confidence of students that they are being treated fairly from the beginning, and through the time they are repaying their loans and realizing their goals.

I want to thank Senators ALEXANDER, BURR, ISAKSON, ALLARD, and MURKOWSKI for joining me in this effort.

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

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

S. 1262

*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 "Student Loan Accountability and Disclosure Reform Act".

#### SEC. 2. INSURANCE PROGRAM AGREEMENTS.

Paragraph (3) of section 428(b) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(3)) is amended to read as follows:

"(3) RESTRICTIONS ON INDUCEMENTS, PAYMENTS, MAILINGS, AND ADVERTISING.—A guaranty agency shall not—

"(A) offer, directly or indirectly, premiums, payments, stock or other securities, prizes, travel, entertainment expenses, tuition repayment, or other inducements to—

"(i) any institution of higher education or the employees of an institution of higher education in order to secure applicants for loans made under this part; or

"(ii) any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 428H or a loan made as part of the guaranty agency's lender-of-last-resort program pursuant to

section 439(q)) for the purpose of securing the designation of the guaranty agency as the insurer of such loans;

"(B) conduct unsolicited mailings, by postal or electronic means, of student loan application forms to students enrolled in secondary school or postsecondary educational institutions, or to the parents of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans guaranteed under this part by the guaranty agency;

"(C) perform, for an institution of higher education participating in a program under this title and without appropriate compensation by such institution, any function that the institution is required to perform under part B, D, or G (except for the exit counseling described in section 485(b));

"(D) pay, on behalf of the institution of higher education, another person to perform any function that the institution of higher education is required to perform under part B, D, or G (except for the exit counseling described in section 485(b)); or

"(E) conduct fraudulent or misleading advertising concerning loan availability, terms, or conditions.

It shall not be a violation of this paragraph for a guaranty agency to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department.".

#### SEC. 3. DISCLOSURE RULES FOR EDUCATIONAL LOANS.

Title I of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end the following:

#### PART E—DISCLOSURE RULES FOR EDUCATIONAL LOANS

##### SEC. 151. DISCLOSURE RULES RELATING TO EDUCATIONAL LOANS.

"(a) DEFINITIONS.—In this part:

"(1) COST OF ATTENDANCE.—The term 'cost of attendance' has the meaning given the term in section 472.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

"(A) has the meaning given the term in section 102; and

"(B) includes an employee or agent of the institution of higher education or any organization or entity directly or indirectly controlled by such institution.

"(3) LENDER.—The term 'lender' means—

"(A) any lender of a loan made, insured, or guaranteed under title IV, including a consolidation loan under section 428C;

"(B) any lender that is a financial institution, as such term is defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

"(C) for any loan issued or provided to a student under part D of title IV, the Secretary.

"(4) PRIVATE EDUCATIONAL LOAN.—The term 'private educational loan' means a private loan that—

"(A) is not made, insured, or guaranteed under title IV; and

"(B) is offered to a borrower by an institution of higher education through an award letter or other notification.

"(b) DISCLOSURES.—

"(1) DISCLOSURES BY LENDERS.—Before a lender issues or otherwise provides a loan under title IV or a private educational loan to a student, the lender shall provide the student, in writing, with the disclosures described in paragraph (2).

"(2) DISCLOSURES.—The disclosures required by this paragraph shall include a clear and prominent statement—

“(A) that the borrower may qualify for Federal financial assistance through a program under title IV, in lieu of or in addition to a loan from a non-Federal source;

“(B) of the interest rates available with respect to such Federal financial assistance;

“(C) showing sample educational loan costs, disaggregated by type;

“(D) that describes, with respect to each loan being provided to the student by the lender—

“(i) how the applicable interest rate is determined, including whether the rate is based on the credit score of the borrower;

“(ii) the types of repayment plans that are available;

“(iii) whether, and under what conditions, early repayment may be made without penalty;

“(iv) when and how often the loan would be recalculated;

“(v) all fees, deferments, or forbearance;

“(vi) all available repayment benefits, and the percentage of all borrowers who qualify for such benefits;

“(vii) the collection practices in the case of default;

“(viii) the late payment penalties and associated fees; and

“(ix) whether the amount of all loans issued by the lender to the borrower exceeds the student's cost of attendance; and

“(E) such other information as the Secretary may require.”.

#### SEC. 4. REVIEW OF PRIVATE EDUCATIONAL LOAN MARKET.

Section 495 of the Higher Education Act of 1965 (20 U.S.C. 1099a) is amended by adding at the end the following:

“(c) REVIEW OF PRIVATE EDUCATION LOAN MARKETS.—The Secretary and the Secretary of the Treasury shall conduct an evaluation of markets for educational loans to—

“(1) evaluate any variations in availability, terms, and conditions of educational loans provided to students who qualify for a simplified needs test under section 479 or any income-contingent simplified version of the Free Application for Federal Student Aid;

“(2) identify possible discriminatory lending patterns affecting students described in paragraph (1); and

“(3) report, not later than 1 year after the date of enactment of the Student Loan Accountability and Disclosure Reform Act to the Committee on Health, Education, Labor, and Pensions and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Education and Labor and the Committee on Financial Services of the House of Representatives, on findings and recommendations for the need to afford protections from predatory lending practices to such students.”.

#### SEC. 5. DISQUALIFICATION OF ELIGIBLE LENDER.

Section 435(d)(5) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(5)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (H) and (I), respectively; and

(2) by striking subparagraphs (A) and (B) and inserting the following:

“(A) offered, directly or indirectly, points, premiums, payments (including payments for referrals and for processing or finder fees), prizes, stock or other securities, travel, entertainment expenses, tuition repayment, the provision of information technology equipment at below-market value, additional financial aid funds, or other inducements to any institution of higher education or any employee of an institution of higher education in order to secure applicants for loans under this part;

“(B) conducted unsolicited mailings, by postal or electronic means, of student loan

application forms to students enrolled in secondary school or postsecondary institutions, or to parents of such students, except that applications may be mailed, by postal or electronic means, to students or borrowers who have previously received loans under this part from such lender;

“(C) entered into any type of consulting arrangement, or other contract to provide services to a lender, with an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution;

“(D) compensated an employee who is employed in the financial aid office of an institution of higher education, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution, and who is serving on an advisory board, commission, or group established by a lender or group of lenders for providing such service, except that the eligible lender may reimburse such employee for reasonable expenses incurred in providing such service;

“(E) performed for an institution of higher education, without compensation from the institution, any function that the institution of higher education is required to carry out under part B, D, or G (except for general debt counseling, such as the exit counseling described in section 485(b));

“(F) paid, on behalf of an institution of higher education, another person to perform any function that the institution of higher education is required to perform under part B, D, or G (except for general debt counseling, such as the exit counseling described in section 485(b));

“(G) provided payments or other benefits to a student at an institution of higher education to act as the lender's representative to secure applications under this title from individual prospective borrowers, unless such student—

“(i) is also employed by the lender for other purposes; and

“(ii) made all appropriate disclosures regarding such employment.”.

#### SEC. 6. CERTIFICATIONS; CODE OF CONDUCT REGARDING STUDENT LOANS.

Section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) by striking paragraph (6) and inserting the following:

“(6) The institution will not provide any student with any statement or certification to a lender that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and subparagraphs (A) and (B) of section 428(b)(1) unless—

“(A) the loan in question is a private educational loan as defined under section 151(a); and

“(B) the student does not qualify for the simplified needs test under section 479 or any income-contingent simplified version of the Free Application for Federal Student Aid.”;

(B) by redesignating paragraphs (21), (22), and (23) as (22), (23), and (24), respectively; and

(C) by inserting after paragraph (20) the following:

“(21)(A) The institution will establish, follow, and enforce a code of conduct regarding student loans that includes not less than the following:

“(i) REVENUE SHARING PROHIBITION.—The institution is prohibited from receiving anything of value from any lender in exchange for any advantage sought by the lender.

“(ii) GIFT AND TRIP PROHIBITION.—Any employee who is employed in the financial aid office of the institution, or who otherwise

has responsibilities with respect to student loans or other financial aid of the institution, is prohibited from taking from any lender any gift or trip worth more than nominal value, except for reasonable expenses for professional development that will improve the efficiency and effectiveness of programs under this title and for domestic travel to such professional development.

“(iii) CONTRACTING ARRANGEMENTS.—Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution, shall be prohibited from entering into any type of consulting arrangement or other contract to provide services to a lender.

“(iv) ADVISORY BOARD COMPENSATION.—Any employee who is employed in the financial aid office of the institution, or who otherwise has responsibilities with respect to student loans or other financial aid of the institution, and who serves on an advisory board, commission, or group established by a lender or group of lenders shall be prohibited from receiving anything of value as compensation from the lender or group of lenders for serving on such advisory board, commission, or group, except that the employee may be reimbursed for reasonable expenses incurred in providing such service.

“(v) LENDER INFORMATION REQUIREMENTS.—The institution—

“(I) will not designate any lender as a preferred lender for loans under this title or private educational loans;

“(II) may invite a lender of such loans to submit to the institution a standard electronic template that specifies the rates, services, discounts, and terms and conditions of the loans, and the lender's contact information;

“(III) upon request of a lender interested in offering loans under this title or private educational loans to students at the institution, will provide the lender with the ability to submit the standard electronic template described in subclause (II) to the institution;

“(IV) will make all submitted standard electronic templates available to current and prospective students of the institution, and the parents of such students;

“(V) if such student, or a parent of such student, requests information on the lenders that have submitted standard electronic templates to the institution, will provide the student or parent with a guide that—

“(aa) enables students and parents to do their own evaluation of the loan products, benefits, and services offered by such lenders; and

“(bb) includes the disclosures required under clause (vi).

“(vi) DISCLOSURES.—An institution required to make the disclosures under this clause will—

“(I) disclose the criteria and process used to develop the guide described in clause (v)(V) regarding the products offered by each lender that submitted a standard electronic template, as described in clause (v)(II);

“(II) disclose which lenders listed in the guide have an agreement in place to sell the loans of the lender to another lender; and

“(III) provide a notice to the student that the student has the right to select a lender of the student's choosing, regardless of any information regarding the lender in the institution's guide under clause (v) or whether the lender submitted a standard electronic template to the institution.

“(vii) LENDER SERVICES TO INSTITUTIONS OF HIGHER EDUCATION.—

“(I) Any agent, employee, or independent contractor of a lender who is performing any service for the institution shall disclose the individual's relationship with the lender to

any students and parents for whom the individual provides such service.

“(II) Any agreement for the performance of a service by a lender for the institution shall comply with all applicable State and institution ethics laws and codes of ethics.

“(viii) INTERACTION WITH BORROWERS.—The institution will not—

“(I) for any first-time borrower, assign, through award packaging or other methods, the borrower's loan to a particular lender; and

“(II) refuse to certify, or, delay certification of, any loan in accordance with paragraph (6) based on the borrower's selection of a particular lender or guaranty agency.

“(B) The institution will designate an individual who shall be responsible for signing an annual attestation on behalf of the institution that the institution agrees to, and is in compliance with, the requirements of the code of conduct described in this paragraph. Such individual shall be the chief executive officer, chief operating officer, chief financial officer, or comparable official, of the institution, and shall annually submit the signed attestation to the Secretary.

“(C) The institution will make the code of conduct widely available to the institution's faculty members, students, and parents through a variety of means, including the institution's website.”;

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

(3) by inserting after subsection (c) the following:

“(d) VIOLATION OF CODE OF CONDUCT REGARDING STUDENT LOANS.—

“(1) IN GENERAL.—Upon a finding by the Secretary, after reasonable notice and an opportunity for a hearing, that an institution of higher education that has entered into a program participation agreement with the Secretary under subsection (a) willfully contravened the institution's attestation of compliance with the provisions of subsection (a)(21), the Secretary may impose a penalty described in paragraph (2).

“(2) PENALTIES.—A violation of paragraph (1) shall result in the limitation, suspension, or termination of the eligibility of the institution for the loan programs under this title.”.

#### SEC. 7. TERMINATION OF SCHOOL-AS-LENDER PROGRAM.

Section 435(d) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)) (as amended by section 5) is further amended—

(1) in paragraph (1)(E), by inserting “subject to paragraph (8);” before “an eligible institution”; and

(2) by adding at the end the following:

“(8) SUNSET OF AUTHORITY FOR SCHOOL AS LENDER PROGRAM.—

“(A) SUNSET.—The authority provided under subsection (d)(1)(E) for an institution to serve as an eligible lender, and under paragraph (7) for an eligible lender to serve as a trustee for an institution of higher education or an organization affiliated with an institution of higher education, shall expire on June 30, 2008.

“(B) APPLICATION TO EXISTING INSTITUTIONAL LENDERS.—An institution that was an eligible lender under this subsection, or an eligible lender that served as a trustee for an institution of higher education or an organization affiliated with an institution of higher education under paragraph (7), before June 30, 2008, shall—

“(i) not issue any new loans in such a capacity under part B after June 30, 2008; and

“(ii) shall continue to carry out the institution's responsibilities for any loans issued by the institution under part B on or before June 30, 2008, except that, beginning on June 30, 2010, the eligible institution or trustee may, notwithstanding any other provision of

this Act, sell or otherwise dispose of such loans if all profits from the divestiture are used for need-based grant programs at the institution.”.

By Mr. CRAIG:

S. 1265. A bill to amend title 38, United States Code, to expand eligibility for veterans' mortgage life insurance to include members of the Armed Forces receiving specially adapted housing assistance from the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I have sought recognition to comment on legislation I am introducing that will continue a positive trend in the provision of benefits to severely injured servicemembers and their families by making assistance available when it is needed most. My bill would give active duty servicemembers who utilize VA's specially adapted housing grant assistance with the ability to also purchase Veterans' Mortgage Life Insurance, or VMLI, through VA. Under current law, the receipt of specially adapted housing grants is the gateway to VMLI eligibility. And only those separated from service and legally classified as “veterans” are able to purchase coverage through VMLI.

Servicemembers and veterans who are blind, have lost the use of both their legs, and who have other severely disabling conditions are eligible to receive up to \$50,000 in grants from VA to assist with needed housing adaptations, such as the widening of doorways, the construction of wheelchair ramps, and the installment of handrails. Notwithstanding this grant assistance, servicemembers and veterans must still pay any underlying mortgage that exists on the modified home. To ensure that survivors are not saddled with mortgage debt they cannot afford following the death of a severely disabled veteran, VA's VMLI program is available. Under VMLI, up to \$90,000 of coverage, or coverage in the amount of any outstanding mortgage debt, whichever is less, is available. Veterans pay premiums at standard mortality rates and VA contributes subsidy payments so that all program expenses are met.

Until recently, grants under the specially adapted housing program could only be made to individuals who had separated from military service. In recognition of what can be an extremely lengthy recovery and separation process for those with profoundly disabling conditions, in 2004 we in Congress allowed housing grants to be made to active duty servicemembers. However, we did not extend the same access to VA's VMLI program for those still on active duty, an oversight that my legislation would remedy.

VA estimates that roughly 30 servicemembers per year will receive specially adapted housing grants, thus giving rise to VMLI eligibility should my bill be enacted. Because it is optional, VA expects only 15 servicemembers per year to purchase

VMLI policies. Therefore, subsidy costs associated with my legislation are minimal, less than \$500,000 over 10 years.

This Congress increasingly is recognizing that the benefits provided to our wounded servicemembers need to flow immediately, and that outmoded distinctions between “veteran” and “active duty servicemember” mean little when it comes to honoring our commitment to them. My legislation continues what I believe is an encouraging trend that looks at the career of a military man or woman as a continuum. It is a continuum that begins the day they enlist and it ends the day they die. Our Government's benefits should reflect that reality.

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

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

S. 1265

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

#### SECTION 1. EXPANSION OF ELIGIBILITY FOR VETERANS' MORTGAGE LIFE INSURANCE TO INCLUDE MEMBERS OF THE ARMED FORCES RECEIVING SPECIALLY ADAPTED HOUSING ASSISTANCE FROM THE DEPARTMENT OF VETERANS AFFAIRS.

Section 2106 of title 38, United States Code, is amended—

(1) by striking “veteran” each place it appears and inserting “veteran or member of the Armed Forces”;

(2) in subsection (a), by striking “veterans' election” and inserting “election of the veteran or member of the Armed Forces”;

(3) in subsection (f), by inserting “, members of the Armed Forces,” after “veterans”; and

(4) in subsection (i)—

(A) in paragraph (1), by striking “veteran's indebtedness” and inserting “indebtedness of the veteran or member of the Armed Forces”; and

(B) in paragraph (2), by striking “veteran's ownership” and inserting “ownership of the veteran or member of the Armed Forces”.

By Mr. CRAIG:

S. 1266. A bill to amend title 38, United States Code, to increase assistance for veterans interred in cemeteries other than national cemeteries, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I have sought recognition to comment on legislation I am introducing that will improve the availability of dignified burials for those who have served our country. The Veterans' Dignified Burial Assistance Act of 2007 would make three improvements to programs designed to ensure that veterans are perpetually honored for their service. Let me start by describing the first improvement which had its genesis, I am proud to say, in my home State of Idaho.

We have in Idaho a State veterans' cemetery located in Boise. The cemetery was established with the help of VA's State Cemetery Grants Program, a program which pays for 100 percent of

the costs of establishing, expanding, and improving state cemeteries. Over one thousand veterans have been interred in the Idaho State Cemetery since it opened in 2004. I want to focus on 91 of those veterans who were interred through a program pioneered in Idaho called "Missing in America."

Through the Missing in America program Idaho cemetery officials, working with veterans' organizations and others, have actively sought to locate the unclaimed cremated remains of veterans throughout the State. They contacted funeral homes, county coroner offices, and any other place where those remains may have been located. Remarkably, they discovered the remains of 91 veterans. After verifying that they had eligibility, all 91 veterans were given a dignified burial.

I suspect what was found in Idaho would be found in other States. My legislation would incentivize other States to develop Missing in America programs like Idaho's by allowing revenue from VA's plot allowance benefit to go to states which seek out and inter unclaimed remains.

Under current law, State cemeteries may be reimbursed for the cost of interring eligible veterans. For each eligible veteran interred, a \$300 plot allowance may be paid by VA. Revenue from the plot allowance is used to operate and maintain the appearance of State cemeteries. However, plot allowance revenue is not payable to States when veterans are interred more than 2 years after the permanent burial or cremation of the veteran's body. Thus, since each of the 91 veterans interred in Idaho had been left sitting on shelves in an urn for a great deal longer than 2 years, no plot allowance is payable. This doesn't make sense. Just as our system of benefits does not abandon or give up on veterans who are homeless or chronically ill, so too should our burial benefits system be designed not to abandon or give up on veterans whose remains are unclaimed. To that end, my legislation would waive the 2-year limit so that States could receive plot allowance revenue for interment of the unclaimed remains of veterans. The extra plot allowance revenue could be used to help states meet costs associated with running this program and other cemetery operation costs. Most importantly, my legislation would reward States for giving veterans what is long overdue: a fitting burial.

The second way my legislation helps to ensure dignified burials is by increasing VA's plot allowance benefit from \$300 to \$400. As I mentioned earlier, the plot allowance can be paid directly to a State cemetery for the interment of eligible veterans. But it can also be paid to the survivors of veterans who purchase burial space on their own in the private market. Under current law, veterans who die in a VA facility, who are in receipt of disability compensation, or who have low incomes and are in receipt of VA pension

are eligible to receive the \$300 plot allowance benefit. The plot allowance, created in 1973, is designed to ensure that veterans are not buried in a pauper's grave. When the benefit was created, it covered 13 percent of the average cost of an adult funeral. Today, it only covers approximately 5 percent of the cost. An independent assessment of VA burial benefits directed by Congress and published in 2000 recommended, as an option, increasing the plot allowance to \$670, which at the time of the assessment represented 13 percent of the average cost of an adult funeral. Since that assessment was published, the major veterans' organizations have persistently recommended that Congress increase this benefit. In its most recent budget submission, the authors of the Independent Budget recommended that the plot allowance be increased to \$745. In 2001, Congress took a first step, raising the benefit from \$150 to \$300. My legislation would take yet another, measured step.

Finally, my legislation would authorize \$5 million per year under VA's State Cemetery Grant Program for VA to assist States in meeting operational and maintenance expenses. As I mentioned, the State Cemetery Grant Program finances the cost of establishing, expanding, or improving State cemeteries. States must agree to provide suitable land for a cemetery and they must meet administrative, operational, and maintenance costs.

My purpose in introducing this aspect of the legislation is twofold. First, VA is in the midst of the largest national cemetery expansion since the Civil War. Guiding its cemetery expansion effort was a prospective look at where and how many veterans will be living 20 years from now. Based on that prospective analysis, national cemeteries are being built in those areas of the country that have veterans' populations of 170,000 or more and that are not residing within, or expected to reside within, 75 miles of an open State or national cemetery. It is therefore highly likely that after this expansion has concluded, no additional national cemeteries will be built for quite some time. Thus, in order to serve veterans' populations in less densely populated areas in the future, VA and the States will need to rely more on the State Cemetery Grant Program. Allowing reimbursement for some maintenance or operational expenses will serve to make the program more attractive to States, which may otherwise decline to participate in the program due to budget constraints. In fact, the 2000 independent assessment I spoke about earlier made the same point, recommending Congressional consideration of amending the grant program to allow for reimbursement of the sort contemplated in my legislation.

My second purpose behind this provision is a bit more parochial. There are eight States in the country without any national cemetery, including Idaho. These are States with small or

scattered veterans' populations. VA's criteria for establishing national cemeteries makes it unlikely that veterans in these States will ever have access to a national cemetery within the borders of their home State. Yet their service was national in character, and the desire for recognition of that national service through interment in a national cemetery is real, if not practical. It is my opinion that the Federal obligation to veterans residing in States like my own is therefore heightened. And if the only way to heighten that obligation is by requiring reimbursement of a greater share of the expenses now borne by the States, so be it. To my mind, this would be an equitable outcome, and one that I hope VA factors into criteria it will develop should my legislation be enacted.

Let me make one final and very important point. The cost of my legislation is in the \$8 million per year range. Although I am convinced of the merits of the legislation, I am also committed to adhering to our budget rules which require that appropriate spending offsets be identified before new spending is advanced. I assure my colleagues that should my legislation be reported from the Veterans' Affairs Committee, it will be fully offset in accordance with our rules and my own principle of fiscal discipline.

In summary, the Veterans' Dignified Burial Assistance Act of 2007 will help us along in our collective goal of providing veterans with lasting resting places to honor their lives and service. This is good legislation, and I urge the support of my colleagues.

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. 1266

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans' Dignified Burial Assistance Act of 2007".

**SEC. 2. INCREASE IN ASSISTANCE FOR VETERANS INTERRED IN CEMETERIES OTHER THAN NATIONAL CEMETERIES.**

(a) INCREASE IN PLOT OR INTERMENT ALLOWANCE.—Section 2303(b) of title 38, United States Code, is amended by striking "\$300" each place it appears and inserting "\$400".

(b) REPEAL OF TIME LIMITATION FOR STATE FILING FOR REIMBURSEMENT FOR INTERMENT COSTS.—

(1) IN GENERAL.—The second sentence of section 3.1604(d)(2) of title 38, Code of Federal Regulations, shall have no further force or effect as it pertains to unclaimed remains of deceased veterans.

(2) RETROACTIVE APPLICATION.—The provision of paragraph (1) shall take effect as of October 1, 2006.

(c) GRANTS FOR OPERATION AND MAINTENANCE OF STATE VETERANS' CEMETERIES.

(1) IN GENERAL.—Subsection (a) of section 2408 of such title is amended—

(A) by inserting "(1)" before "Subject to";

(B) by designating the second sentence as paragraph (2) and indenting the margin of such paragraph, as so designated, two ems from the left margin; and

(C) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking “assist such State in establishing, expanding, or improving veterans’ cemeteries owned by such State.” and inserting “assist such State in the following:

“(A) Establishing, expanding, or improving veterans’ cemeteries owned by such State.

“(B) Operating and maintaining such cemeteries.”

(2) LIMITATION ON AMOUNTS AWARDED.—Subsection (e) of such section is amended—

(A) by inserting “(1)” before “Amounts”; and

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

“(2) In any fiscal year, the aggregate amount of grants awarded under this section for the purposes specified in subsection (a)(1)(B) may not exceed \$5,000,000.”

(3) CONFORMING AMENDMENTS.—(A) Subsection (b) of such section is amended—

(i) by striking “Grants under this section” and inserting “Grants under this section for the purposes described in subsection (a)(1)(A)”;

(ii) by striking “a grant under this section” each place it appears and inserting “such a grant”.

(B) Subsection (d) of such section is amended by inserting “, or in operating and maintaining a veterans’ cemetery,” after “veterans’ cemetery”.

(C) Subsection (f)(1) of such section is amended by inserting “, or in operating and maintaining veterans’ cemeteries,” after “veterans’ cemeteries”.

(4) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe regulations to carry out the amendments made by this subsection.

By Mr. LUGAR (for himself, Mr. DODD, Mr. GRAHAM, Mr. DOMENICI, and Ms. LANDRIEU):

S. 1267. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I am pleased to rise today with my colleagues Senators DODD, GRAHAM, DOMENICI, and LANDRIEU to introduce the Free Flow of Information Act.

The free flow of information is an essential element of democracy. A free press promotes an open marketplace of information and provides public and private sector accountability to our Nation’s electorate. By ensuring the free flow of information, citizens can work to bring about improvements in our governance and in our civic life. It is in our nation’s best interest to have an independent press that is free to question, challenge, and investigate issues and stories, without concern for political party, position or who holds power. The role of the media as a conduit between government and the citizens it serves must not be devalued.

This principle that we practice at home is also one that we promote abroad. Spreading democracy abroad has become a pillar of United States foreign policy, and we have recognized that a free and independent press is both essential to building democracies and a barometer of the health of young

and often imperfect democratic systems. The example of press freedom we set in this country is an important beacon to guide other nations as they make the transition from autocratic forms of government.

Unfortunately, the free flow of information to citizens of the United States is inhibited and our open market of information is being threatened. While gathering information on a story, a journalist is sometimes required to accept information under a promise of confidentiality. Without assurance of anonymity, many conscientious citizens with evidence of wrongdoing would stay silent. Restricting the manner in which appropriate news is gathered is tantamount to restricting the information that the public has the right to hear.

After a long period when there were few clashes between the media and authorities, a disturbing new trend has developed. More than 30 reporters have recently been served subpoenas or questioned in at least four different Federal jurisdictions about their confidential sources. From 1991 to September 6, 2001, the Department of Justice issued 88 subpoenas to the media, 17 of which sought information leading to the identification of confidential sources. In fact, three journalists have been imprisoned at the request of the Department of Justice, U.S. attorneys under its supervision, or special prosecutors since 2000. As a result, the press is hobbled in performing the public service of reporting news. I fear the end result of such actions is that many whistleblowers will refuse to come forward and reporters will be unable to provide the American people with information they deserve.

Most jurisdictions in our country have recognized that confidential sources are integral to the press’s role of keeping the public informed, and have provided some kind of shield so that journalists can keep secret the names of such sources. Every State and the District of Columbia, excluding Wyoming, has, by legislation or court ruling, created a privilege for reporters not to reveal their confidential sources. My own State of Indiana provides qualified reporters appropriate protection from having to reveal any such information in court.

The Federal courts of appeals, however, have an inconsistent view of this matter. Some circuits allow the privilege in one category of cases, while others have expressed skepticism about whether any privilege exists at all. It does not make sense to have a Federal system of various degrees of press freedom dependent upon where you live or who provides the subpoena. In fact, 34 State attorneys general have argued that the lack of a clear standard of Federal protection undermines state laws.

In addition, there is ambiguity between official Department of Justice rules and unofficial criteria used to secure media subpoenas. The Department

of Justice guidelines also do not apply to special prosecutors or private civil litigants. There is an urgent need for Congress to state clear and concise policy guidance.

In response to this situation, 2 years ago, I was pleased to join with my colleague Congressman MIKE PENCE, and Congressman RICK BOUCHER in the House of Representatives and Senator CHRIS DODD in the Senate to introduce the Free Flow of Information Act. This legislation provides journalists with certain rights and abilities to seek sources and report appropriate information without fear of intimidation or imprisonment. The bill sets national standards which must be met before a Federal entity may issue a subpoena to a member of the news media in any Federal criminal or civil case. It sets out certain tests that civil litigants or prosecutors must meet before they can force a journalist to turn over information. Litigants or prosecutors must show, for instance, that they have tried, unsuccessfully, to get the information in other ways and that the information is critical to the case. These standards were based on Justice Department guidelines and common law standards.

Subsequently, additional protections have been added to this bill to ensure that information will be disclosed in cases where the information is critical to prevent death or bodily harm or in cases which relate to the unlawful disclosure of trade secrets. The bill also permits a reporter to be compelled to reveal the source in certain national security situations. Finally, the bill would provide protections to ensure that source information can be provided when personal health records and financial records were disclosed in violation of Federal law.

By providing the courts with a framework for compelled disclosure, our legislation promotes greater transparency of government, maintains the ability of the courts to operate effectively, and protects whistleblowers who identify government or corporate misdeeds.

It is also important to note what this legislation does not do. The legislation neither gives reporters a license to break the law, nor permits reporters to interfere with criminal investigation efforts. State shield laws have been on the books for years, and I have not seen any evidence to support a correlation between reporter privilege laws and criminal activity or threats to public safety. Furthermore, the Free Flow of Information Act does not weaken our national security. The explicit national security exception will ensure that reporters are protected while maintaining an avenue for prosecution and disclosure when considering the defense of our country. This qualified privilege has been carefully crafted to balance the distinct and important roles of both the press and law enforcement.

As ranking member of the United States Senate Foreign Relations Committee, I believe that passage of this bill would have positive diplomatic consequences. This legislation not only confirms America's Constitutional commitment to press freedom, it also advances President Bush's American foreign policy initiatives to promote and protect democracy. Our Nation always leads best when it leads by example.

Unfortunately, the press remains under siege in a number of foreign countries. For instance, Reporters Without Borders points out that 125 journalists are currently in jail around the world, with more than half of these cases in China, Cuba, and Burma. This is not good company for the United States of America. Global public opinion is always on the lookout to advertise perceived American double standards.

I would like to thank my colleague, Senator CHRIS DODD as well as MIKE PENCE and RICK BOUCHER, in the House of Representatives for their tireless work on this issue. I look forward to continuing work with each of them to protect the free flow of information.

Mr. DODD. Mr. President, I rise to join my colleague Senator LUGAR, along with Representatives BOUCHER and PENCE in the House of Representatives, in introducing the Free Flow of Information Act. This bill would protect journalists from being forced to reveal their confidential sources, not as an end in itself, but as a means to a well-informed public. I applaud the tireless efforts of the senior Senator from Indiana, Mr. LUGAR, in once again bringing this important issue to the attention of Congress and indeed the nation.

I hardly have to read the litany of grave wrongs that have been exposed because journalists called the powerful to account. And I don't have to remind you how many of those exposures relied on confidential sources. Without confidential sources, would we still be ignorant about abuse of power in the Watergate era? Without confidential sources, would Enron still be profiting from fraud? How long would torture at Abu Ghraib have persisted, if proof hadn't been provided to the press?

The free flow of information provides the American people its most meaningful check on abuses such as those. Thomas Jefferson said it best: "If I had to make a choice, to choose the government without the press or to have the press but without the government, I will select the latter without hesitation." Jefferson clearly understood that a free Government cannot possibly last without a free press.

But today, we find this cornerstone of self-government facing a new threat. This threat has not come from the dictates of a dangerous government, but from the best of intentions. In a spate of recent cases, prosecutors have used subpoenas, fines, and jail time to compel journalists to reveal their anonymous

sources. Judith Miller of The New York Times was jailed for 85 days for refusing to reveal a source. Two San Francisco Chronicle reporters were found in contempt of court for refusing to identify sources and hand over material related to the BALCO steroids investigation. A Rhode Island journalist was sentenced to home arrest on similar charges. Last year alone, a total of some two dozen reporters have been subpoenaed or questioned about confidential sources. They were all journalists prosecuted only for the offense of journalism.

The impact of these subpoenas on the broader issue of freedom of information is undeniable. Last summer, for instance, the editor-in-chief of Time magazine testified before the Senate Judiciary Committee. This is what he said about the fallout from the Justice Department's efforts to obtain confidential information from a Time reporter: "Valuable sources have insisted that they no longer trusted the magazine and that they would no longer cooperate on stories. The chilling effect is obvious."

The chilling effect is obvious. Experience has shown us that the most effective constraint on free speech need not be blatant censorship: A few cases like Ms. Miller's and the San Francisco Chronicle's, and news will begin censoring itself. We can only speculate as to how many editors and publishers put the brakes on a story for fear that it could land one of their reporters in a spider web of subpoenas, charges of contempt, and prison. When we minimize the impact of confidential sources, serious journalism is crippled. We will find our papers full of stories more and more palatable to the powerful and secretive. No one argues that that is the intention of those prosecuting these cases; but few deny that it could, in time, be their effect.

When journalists are hauled into court and threatened with imprisonment if they don't divulge their sources, we are entering dangerous territory for a democracy. The information we need to remain sovereign will be degraded; the public's right to know will be threatened; and I suggest to you that the liberties we hold dear will be threatened as well.

That is exactly why we need a Federal reporter shield. Forty-nine States and the District of Columbia have already recognized that need by enacting similar protection on the state level either through legislation or court decisions; the Free Flow of Information Act simply extends that widely recognized protection to the Federal courts.

The new version of this bill expands coverage in two significant ways. First, it will not only protect the information journalists obtain under the promise of confidentiality; it will also cover the "work product" of journalists as well, whether or not it was subject to that promise. And second, it no longer limits protection to mainstream reporters; the new version also shields any person

"engaged in journalism." In today's expansive media environment, it would be unacceptable to deny the shield to our citizen-journalists.

Of course, the reporter shield is not absolute. The public's need to know must be weighed against other goods, and that is why the bill establishes a balancing test that takes into account "both the public interest in compelling disclosure and the public interest in gathering news and maintaining the free flow of information." Specifically, the bill will not protect anonymity when disclosure of a source would prevent imminent harm to national security, imminent death or bodily harm, or the release of personal or health related information. In other words, we are balancing our right to know with our need for security, whether physical or economic. Secrecy is as necessary in extreme circumstances as it is dangerous on the whole.

It is on the idea of balance that I would like to conclude. A prosecution, whatever its individual merits, sacrifices something higher when it turns on reporters; and so those merits must be balanced against the broader harms such a prosecution can work. If a free press inexorably creates a free government, as Jefferson suggested, then the agents of that free government, prosecutors included, owe a high debt to journalism. When prosecutors threaten journalism, they have begun to renege on that debt. So I am proud to support this valuable bill, a step toward rebalancing the pursuit of justice and the diffusion of truth.

By Mr. INHOFE:

S. 1269. A bill to improve border security in the United States and for other purposes; to the Committee on the Judiciary.

Mr. INHOFE. Mr. President, I once again today introduced S. 1269, the ENFORCE Act, because this body has failed to move forward with sound immigration legislation. My bill is a strong step in the right direction to help solve our growing problem of illegal immigration.

I did this already. I did this last year. We had a chance to talk about it, but we never were able to get this up to a vote. I do want to keep this subject moving because people are not talking about this anymore. This bill focuses on securing our borders and empowering our citizens and law enforcement officers to fight the all-time high flood of illegal immigrants. There are around a million illegal aliens infiltrating our borders each year. It also addresses some of the lesser known but equally destructive exploitations of our Nation by some of these illegal immigrants.

I wish to be clear, for some reason—I am not sure why—I have been honored over the years to speak at naturalization ceremonies. It is one of the emotional things a person can go through. When you see people coming into this country and doing it the way

they are supposed to, they learn the history. Those who have gone through the legal process know more about the history of America than the average person you run into on the street. I am very strongly in favor of legal immigration.

In 1997, the U.S. Commission on Immigration Reform stated that “measured, legal immigration has led to create one of the world’s greatest multi-ethnic nations.” I agree with that statement. I also agree with their statement that when immigrants become “Americanized,” they help cultivate a shared commitment to “liberty, democracy, and equal opportunity” in our Nation. That is legal immigration. I agree with that.

However, I am quoting now from Roy Beck, executive director of Numbers USA. He stated:

A presence of 8 to 11 million illegal aliens—I think the figure is now approximately 12 million—

in this country is a sign that this country has lost control of its borders and the ability to determine who is a member of this national community. And a country that has lost that ability increasingly loses its ability to determine the rules of its society—environmental protections, labor protection, health protections, safety protections.

Further quoting:

In fact, a country that cannot keep illegal immigration to a low level quickly ceases to be a real country, or a real community. Rather than being self-governed, such a country begins to have its destiny largely determined by citizens of other countries who manage to move in illegally.

With that being said, I cannot and I will not stand idly by and watch our great Nation collapse under the pressures of uncontrolled illegal immigration. This is a crisis, one that must be addressed aggressively. While I would not belabor the point, I will chronicle some of illegal immigration’s specific threats to our Nation’s vitality and how this bill will address them.

First and foremost, the issue of border security must be addressed. My bill would help ramp up border security by providing a way for civilians and retired law enforcement officers to assist the Border Patrol in stopping illegal border crossings. Keep in mind, if you are a retired Federal law enforcement officer, they have a mandatory retirement age of 57. There are many of these who would work for expenses. What we are advocating is a three-tiered system where you have the Border Patrol who are skilled the way they are today but have them fortified by this army of retired law enforcement officers and then bring in the third tier which are those which we have watched in the past that have been very effective in adding to the numbers on the border.

It is already working. It is very similar to the National Border Neighborhood Watch. I know in my State of Oklahoma it has been a very effective program. It is more eyes to watch and more talent to arrest, when necessary. A more obscure issue that also war-

rant reform is the legal status of what has become known as anchor babies.

To better their odds of remaining in the United States, illegal immigrants have taken advantage of a constitutional provision granting automatic citizenship to anyone born on U.S. soil. Unfortunately, by providing citizenship to these “anchor babies,” as they are known, our Nation rewards the illegal entry of their parents and facilities the further exploitation of our borders and national resources.

This trend has contributed to the alarming fact that the illegal immigrant population is growing faster than the birthrate of American citizens. According to the Center for Immigration Studies, based on numbers from the National Center of Health Statistics, in 2002, there were about 8.4 million illegal aliens, which represented about 3.3 percent of the total U.S. population. That same year, there were about 383,000 babies born to illegal aliens, which represents about 9.5 percent of all U.S. births in 2002.

This problem continues to grow exponentially and serves as a strong incentive for more aliens to illegally cross into our country in hopes of shortcircuiting citizenship requirements. Language included in the ENFORCE Act will put an end to this much exploited practice.

Another “supposed” obligation we face is the education of illegal aliens. Some States, such as my State of Oklahoma, allow the illegal aliens the advantage of receiving in-State tuition at our State colleges and universities. I believe it is inexcusable to give away State-subsidized educations to those who do not pay taxes. This act will address this problem by making it unlawful for illegal aliens to receive this particular handout.

The ENFORCE Act includes several provisions to halt illegal immigrants’ continued exploitation of our tax laws and our Social Security benefits. One of the greatest problems in this area is illegal immigrants’ abuse of the individual tax identification number. That is the ITIN program.

Currently, it so closely resembles the Social Security number that many illegal immigrants are able to use it in place of a Social Security card to bypass our tax laws or receive wrongly awarded benefits. The ENFORCE Act will require a change in the physical appearance of this particular document so its identity can no longer be mistaken for that of a Social Security number, and it will also prohibit that document from being used for identification purposes.

Additionally, my bill will require Social Security numbers to expire as soon as a person’s permission to be in the United States expires. So it would expire at the same time that permission expires.

It will prohibit illegal immigrants who gain legal status from collecting Social Security benefits for the time they worked illegally in the country.

Finally, the legality of day-labor centers is a topic that must be addressed by any comprehensive immigration reform package. These day-labor centers exist within illegal immigration-friendly “sanctuary sites” and not just in San Francisco. Day-labor centers are State-designated and funded sites where illegal aliens congregate and wait for employers to pick them up for a day of illegal work.

One such site was approved in 2005 in Fairfax County, VA, to be paid for by taxpayer dollars. Sanctuary cities such as these enable and encourage unlawful activity by both illegal aliens and the employers who hire them. The ENFORCE Act will outlaw the creation of those particular centers.

Illegal immigrants continue to cause a myriad of problems for our country and for law-abiding citizens such as you and me. Illegal immigrants not only drain our economy through their exploitation of public services and resources, but we must not forget the national security threat posed by would-be terrorists who have entered our country illegally or remain here unlawfully by overstaying their visas.

The Center for Immigration Study says:

Even though illegal aliens make little use of welfare, from which they are generally barred, the costs of illegal immigration in terms of government expenditures for education, criminal justice, and emergency medical care are significant. Illegal immigration is straining our economy, jeopardizing our security, and burdening our education and health care systems.

So this ENFORCE Act will provide solid tools to eliminate illegal immigration and strongly enforce the existing U.S. immigration laws. The seriousness of this crisis warrants that Americans of all political stripes come together to address this problem.

One thing that is not included in this legislation that I think should be included in any kind of reform—and some of my colleagues can remember I had on the floor of the Senate the legislation making English the official language of the United States—and it is interesting that some 88 percent of the American people want this, and some 70 percent of the Hispanic population want this also. It is also interesting that there are 50 countries around the world that have English as their official language, including Ghana in West Africa and some other countries, and yet we do not have it for ourselves. But that is going to be handled separately at a different time.

History shows us that declaring “immigration bankruptcy” does not work. We saw that in the amnesty of 1986. Simply granting citizenship to immigrants who are currently in our country illegally is not the answer. We have to enhance our border security, hold those accountable who encourage illegal immigration, and ensure that those who violate our laws by entering our country illegally do not remain here and are not easily welcomed back.

So I am introducing that legislation, and I am going to be bringing it up at the appropriate time.

By Mr. AKAKA (for himself, Mr. KENNEDY, Mr. INOUYE, Mr. OBAMA, Mr. DURBIN, Mr. HARKIN, Mr. SALAZAR, and Mr. ISAKSON):

S. 1270. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, today I am introducing the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act to ensure fair treatment of commercial airline pilot retirees. I thank my cosponsors, Senators KENNEDY, INOUYE, OBAMA, DURBIN, HARKIN, and SALAZAR. I also thank Representative GEORGE MILLER for introducing the companion legislation in the other body.

My bill corrects an injustice imposed on pilots whose pensions have been terminated and handed over to the Pension Benefit Guaranty Corporation, PBGC. This bill will lower the age requirement to receive the maximum pension benefits allowed by the PBGC to age 60 for pilots, who are mandated by the Federal Aviation Administration, FAA, to retire before age 65. With the airline industry experiencing severe financial distress, we need to enact this legislation to assist pilots whose companies have been or will be unable to continue their defined benefit pension plans. This bill will require the PBGC to take into account the fact that the pilots are required to retire at the age of 60 when calculating their benefits.

The FAA requires commercial aviation pilots to retire when they reach the age of 60. Pilots are therefore denied the maximum pension benefit administered by the PBGC because they are required to retire before the age of 65. Herein lies the problem. If pilots want to work beyond the age of 60, they have to request a waiver from the FAA. It is my understanding that the FAA has only granted these waivers for pilots working for foreign airlines that fly to and from the United States. Therefore, retired pilots whose pensions are administered by the PBGC do not receive the maximum pension guarantee because they are forced to retire at age 60.

For plans terminated in 2005, the maximum benefit for someone that retires at 65 is \$45,614 a year. For those who retire at 60, the maximum is \$29,649. This significant reduction in benefits puts pilots in a difficult position. Their pensions have been reduced significantly and they are prohibited from reentering their profession due to

the mandatory retirement age. They are unable to go back to their former jobs. My legislation ensures that pilots are able to obtain the maximum PBGC benefit without being unfairly penalized for having to retire at 60. We must pass this bill to provide some relief for United Airlines, Aloha Airlines, US Airways, Delta, TWA, and other pilots who have had their pensions terminated and taken over by the PBGC and suffer from this wrongly imposed penalty.

In the previous Congress, this legislation was included in the Senate-passed version of the Pension Security and Transparency Act of 2005. However, this provision was not included in the conference report. I urge my colleagues to support this bill so that we can finally provide some relief for our pilots who already have suffered financially due to the termination of their pension plans.

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

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

S. 1270

*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 "Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act".

**SEC. 2. AGE REQUIREMENT FOR AIRLINE PILOTS.**

(a) **SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.**—Section 4022(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(3)) is amended by inserting at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this paragraph shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65."

(b) **AGGREGATE LIMIT ON BENEFITS GUARANTEED; CRITERIA APPLICABLE.**—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65."

**SEC. 3. EFFECTIVE DATE.**

The amendments made by this Act shall apply to benefits payable on or after the date of enactment of this Act.

By Mr. KYL:

S. 1273. A bill to amend the Internal Revenue Code of 1986 to allow permanent look-through treatment of payments between related foreign corporations; to the Committee on Finance.

Mr. KYL. Mr. President, today I am introducing legislation to make permanent a provision of our tax that was enacted in 2006 as part of the Increase

Prevention and Reconciliation Act, but expires at the end of 2008. The controlled-foreign corporation (CFC) look-through provision allows U.S.-based multinational companies to better compete with foreign companies by enabling them to be more flexible in their overseas operations. In this age of global competition, I hope my colleagues will agree that the United States needs to maintain a business climate that encourages U.S.-based companies to grow and succeed. The CFC look-through provision is an important part of that effort.

For several years now, I have been encouraging my colleagues to recognize that our tax system puts many of our best U.S. employers at a competitive disadvantage as compared to foreign-based companies. Many foreign countries only impose tax on income earned within their borders; the United States taxes U.S. companies on their worldwide income.

The general rule is that income from a foreign subsidiary is not taxed by the United States until those earnings are brought back to the U.S. parent, usually in the form of a dividend. Subpart F of the Internal Revenue Code sets forth a number of exceptions to this general rule, imposing current U.S. tax, instead of allowing deferral of taxation, on subsidiary earnings generally when that income is passive in nature. One exception to the general deferral rule imposes tax on the U.S. parent when a foreign-based subsidiary receives dividends, interest, rents or royalties from another subsidiary that is located in a different country. If the two subsidiaries are in the same country, however, U.S. tax is generally deferred until the income is repatriated to the U.S. parent.

In 2005, I introduced legislation to extend this "same-country" treatment, the CFC look-through provision, to payments between related foreign subsidiaries that are located in different countries, and I was pleased that the 2006 tax reconciliation bill included this provision. Today, I am introducing legislation to make the CFC look-through permanent.

Today's global economy is significantly different from the environment that existed when the subpart F rules were first introduced in 1962. As the global economy has changed, the traditional model for operating a global business has changed as well. In today's world, it makes no sense to impose a tax penalty when a company wants to fund the operations of a subsidiary in one country from the active business earnings of a subsidiary in another country. For example, to operate efficiently, a U.S.-based manufacturer could establish specialized manufacturing sites, distribution hubs, and service centers. As a result, multiple related-party entities may be required to fulfill a specific customer order. Before the CFC look-through was enacted last year, U.S. tax law inappropriately increased the cost for these foreign

subsidiaries to serve their customers in a very competitive business environment by imposing current tax on these related-party payments, even though the income continues to be used in active operations in the foreign market.

In another example, financial institutions have established foreign subsidiaries with headquarters in a financial center, such as London, and branches in multiple countries in the same geographic region. This permits an efficient “hub and spoke” form of regional operation; however, this efficient business model made it difficult for the same-country exception to be met for payments of dividends and interest.

Before the CFC look-through was enacted, American companies were at a real and significant competitive disadvantage as compared to foreign-based companies. U.S.-based multinationals were penalized for responding to market or investment opportunities by redeploying active foreign earnings among foreign businesses conducted through multiple subsidiaries. To remove this impediment, Congress amended subpart F to provide a general exception for inter-affiliate payments of dividends, interest, rents or royalties that are generated from an active business.

Congress was right to apply look-through treatment to payments of dividends, interest, rents and royalties between subsidiaries. If the underlying earnings would not have been subject to subpart F, the payments should not be subpart F income. Look-through treatment for payments of dividends, interest, rents and royalties should be permitted as long as the payments are made out of active business, non-subpart F, income. Look-through principles are already well developed for other purposes of the Internal Revenue Code. For example, a look-through approach to the characterization of foreign income is used for purposes of calculating foreign tax credits. A consistent application of look-through principles simplifies the interaction between subpart F and the foreign tax credit rules.

If we want to keep U.S.-based multinational companies, which employ millions of workers here at home headquartered in the United States, we must modernize our tax rules so that our companies can be competitive around the globe. I urge my colleagues to cosponsor this legislation to make permanent this modest change in the law that will enhance the position of U.S.-based employers trying to succeed in competitive foreign markets.

By Mr. DURBIN:

S. 1274. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of food for humans and pets; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 1274

*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 “Human and Pet Food Safety Act of 2007”.

**SEC. 2. FOOD SAFETY FOR HUMANS AND PETS.**

(a) **ADVERSE EVENTS; INSPECTIONS; RECALL.**—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

**SEC. 417. NOTIFICATION AND RECALL.**

“(a) **NOTICE TO SECRETARY OF VIOLATION.**—

“(1) **IN GENERAL.**—A person that has reason to believe that any food introduced into or in interstate commerce, or held for sale (whether or not the first sale) after shipment in interstate commerce, may be in violation of this Act shall immediately notify the Secretary of the identity and location of the food.

“(2) **MANNER OF NOTIFICATION.**—Notification under paragraph (1) shall be made in such manner and by such means as the Secretary may require by regulation.

“(b) **RECALL AND CONSUMER NOTIFICATION; VOLUNTARY ACTIONS.**—If the Secretary determines that food is in violation of this Act when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce and that there is a reasonable probability that the food, if consumed, would present a threat to public health, as determined by the Secretary, the Secretary shall give the appropriate persons (including the manufacturers, importers, distributors, or retailers of the food) an opportunity to—

“(1) cease distribution of the food;

“(2) notify all persons—

“(A) processing, distributing, or otherwise handling the food to immediately cease such activities with respect to the food; or

“(B) to which the food has been distributed, transported, or sold, to immediately cease distribution of the food;

“(3) recall the food;

“(4) in conjunction with the Secretary, provide notice of the finding of the Secretary—

“(A) to consumers to whom the food was, or may have been, distributed; and

“(B) to State and local public health officials; or

“(5) take any combination of the measures described in this paragraph, as determined by the Secretary to be appropriate in the circumstances.

“(c) **CIVIL AND CRIMINAL PENALTIES.**—

“(1) **CIVIL SANCTIONS.**—

“(A) **CIVIL PENALTY.**—Any person that commits an act that violates the notification and recall standards under subsection (b) (including a regulation promulgated or order issued under this Act) may be assessed a civil penalty by the Secretary of not more than \$10,000 for each such act.

“(B) **SEPARATE OFFENSE.**—Each act described in subparagraph (A) and each day during which that act continues shall be considered a separate offense.

“(2) **OTHER REQUIREMENTS.**—

“(A) **WRITTEN ORDER.**—The civil penalty described in paragraph (1) shall be assessed by the Secretary by a written order, which shall specify the amount of the penalty and the basis for the penalty under subparagraph (B) considered by the Secretary.

“(B) **AMOUNT OF PENALTY.**—Subject to paragraph (1)(A), the amount of the civil penalty shall be determined by the Secretary, after considering—

“(i) the gravity of the violation;

“(ii) the degree of culpability of the person;

“(iii) the size and type of the business of the person; and

“(iv) any history of prior offenses by the person under this Act.

“(C) **REVIEW OF ORDER.**—The order may be reviewed only in accordance with subsection (d).

“(3) **EXCEPTION.**—No person shall be subject to the penalties of this subsection—

“(A) for having received, proffered, or delivered in interstate commerce any food, if the receipt, proffer, or delivery was made in good faith, unless that person refuses to furnish (on request of an officer or employee designated by the Secretary)—

“(i) the name, address and contact information of the person from whom that person purchased or received the food;

“(ii) copies of all documents relating to the person from whom that person purchased or received the food; and

“(iii) copies of all documents pertaining to the delivery of the food to that person; or

“(B) if that person establishes a guaranty signed by, and containing the name and address of, the person from whom that person received in good faith the food, stating that the food is not adulterated or misbranded within the meaning of this Act.

“(D) **JUDICIAL REVIEW.**—

“(1) **IN GENERAL.**—An order assessing a civil penalty under subsection (c) shall be a final order unless the person—

“(A) not later than 30 days after the effective date of the order, files a petition for judicial review of the order in the United States court of appeals for the circuit in which that person resides or has its principal place of business or the United States Court of Appeals for the District of Columbia; and

“(B) simultaneously serves a copy of the petition by certified mail to the Secretary.

“(2) **FILING OF RECORD.**—Not later than 45 days after the service of a copy of the petition under paragraph (1)(B), the Secretary shall file in the court a certified copy of the administrative record upon which the order was issued.

“(3) **STANDARD OF REVIEW.**—The findings of the Secretary relating to the order shall be set aside only if found to be unsupported by substantial evidence on the record as a whole.

“(e) **COLLECTION ACTIONS FOR FAILURE TO PAY.**—

“(1) **IN GENERAL.**—If any person fails to pay a civil penalty assessed under subsection (c) after the order assessing the penalty has become a final order, or after the court of appeals described in subsection (d) has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute in a United States district court of competent jurisdiction a civil action to recover the amount assessed.

“(2) **LIMITATION ON REVIEW.**—In a civil action under paragraph (1), the validity and appropriateness of the order of the Secretary assessing the civil penalty shall not be subject to judicial review.

“(f) **PENALTIES PAID INTO ACCOUNT.**—The Secretary—

“(1) shall deposit penalties collected under this section in an account in the Treasury; and

“(2) may use the funds in the account, without further appropriation or fiscal year limitation—

“(A) to carry out enforcement activities under food safety law; or

“(B) to provide assistance to States to inspect retail commercial food establishments, such as an establishment that holds, stores, or transports food or food ingredients, or

other food or firms under the jurisdiction of State food safety programs.

“(g) DISCRETION OF THE SECRETARY TO PROSECUTE.—Nothing in this section, section 418, or section 419 requires the Secretary to report for prosecution, or for the commencement of an action, the violation of this Act in a case in which the Secretary finds that the public interest will be adequately served by the assessment of a civil penalty under this section.

“(h) REMEDIES NOT EXCLUSIVE.—The remedies provided in this section may be in addition to, and not exclusive of, other remedies that may be available.

**SEC. 418. MANDATORY RECALL ACTION.**

“(a) MANDATORY ACTIONS.—If a person referred to in section 417(b) refuses to or does not adequately carry out the actions described in that section within the time period and in the manner prescribed by the Secretary, the Secretary shall—

“(1) have authority to control and possess the food, including ordering the shipment of the food from a food establishment, such as an establishment that holds, stores, or transports food or food ingredients, to the Secretary;

“(A) at the expense of such food establishment; or

“(B) in an emergency (as determined by the Secretary), at the expense of the Secretary; and

“(2) by order, require, as the Secretary determines to be necessary, the person to immediately—

“(A) cease distribution of the food; and

“(B) notify all persons—

“(i) processing, distributing, or otherwise handling the food to immediately cease such activities with respect to the food; or

“(ii) if the food has been distributed, transported, or sold, to immediately cease distribution of the food.

“(b) NOTIFICATION TO CONSUMERS BY SECRETARY.—The Secretary shall, as the Secretary determines to be necessary, provide notice of the finding of the Secretary under paragraph (1)—

“(1) to consumers to whom the food was, or may have been, distributed; and

“(2) to State and local public health officials.

“(c) NONDISTRIBUTION BY NOTIFIED PERSONS.—A person that processes, distributes, or otherwise handles the food, or to which the food has been distributed, transported, or sold, and that is notified under section 417(b)(2) or subsection (a)(2)(B) of this section shall immediately cease distribution of the food.

“(d) AVAILABILITY OF RECORDS TO SECRETARY.—Each person referred to in section 417 that processed, distributed, or otherwise handled food shall make available to the Secretary information necessary to carry out this subsection, as determined by the Secretary, regarding—

“(1) persons that processed, distributed, or otherwise handled the food; and

“(2) persons to which the food has been transported, sold, distributed, or otherwise handled.

**(e) INFORMAL HEARINGS ON ORDERS.**

“(1) IN GENERAL.—The Secretary shall provide any person subject to an order under subsection (a) with an opportunity for an informal hearing, to be held as soon as practicable but not later than 2 business days after the issuance of the order.

“(2) SCOPE OF THE HEARING.—In a hearing under paragraph (1), the Secretary shall consider the actions required by the order and any reasons why the food that is the subject of the order should not be recalled.

**(f) POST-HEARING RECALL ORDERS.**

“(1) AMENDMENT OF ORDER.—If, after providing an opportunity for an informal hearing

under subsection (e), the Secretary determines that there is a reasonable probability that the food that is the subject of an order under subsection (a), if consumed, would present a threat to the public health, the Secretary, as the Secretary determines to be necessary, may—

“(A) amend the order to require recall of the food or other appropriate action;

“(B) specify a timetable in which the recall shall occur;

“(C) require periodic reports to the Secretary describing the progress of the recall; and

“(D) provide notice of the recall to consumers to whom the food was, or may have been, distributed.

“(2) VACATION OF ORDERS.—If, after providing an opportunity for an informal hearing under subsection (e), the Secretary determines that adequate grounds do not exist to continue the actions required by the order, the Secretary shall vacate the order.

“(g) REMEDIES NOT EXCLUSIVE.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

**SEC. 419. FOREIGN INSPECTIONS; IMPORTS.**

“(a) AUTHORITY TO INSPECT.—The Secretary shall have the authority to visit any foreign country that imports to the United States human or pet food. Such a visit shall be for the purpose of auditing the food safety or pet food programs of such foreign country or to conduct investigations in the event that a food or ingredient of a food is found to violate this Act.

**(b) IMPORTS.**

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary shall establish a system under which a foreign government or foreign manufacturer, importer, distributor, or retailer that seeks to import food to the United States shall submit a request for certification to the Secretary.

“(2) CERTIFICATION STANDARD.—A foreign government or foreign manufacturer, importer, distributor, or retailer requesting a certification to import food to the United States shall demonstrate, in a manner determined appropriate by the Secretary, that food produced under the supervision of a foreign government or by the foreign manufacturer, importer, distributor, or retailer has met standards for food safety, inspection, labeling, and consumer protection that are at least equivalent to standards applicable to food produced in the United States.

**(3) CERTIFICATION APPROVAL.**

“(A) REQUEST BY FOREIGN GOVERNMENT.—Prior to granting the certification request of a foreign government, the Secretary shall review, audit, and certify the food safety program of a requesting foreign government (including all statutes, regulations, and inspection authority) as at least equivalent to the food safety program in the United States, as demonstrated by the foreign government.

“(B) REQUEST BY FOREIGN ESTABLISHMENT.—Prior to granting the certification request of a foreign manufacturer, importer, distributor, or retailer that seeks to import food to the United States, the Secretary shall certify, based on an onsite inspection, the food safety programs and procedures of a requesting foreign firm as at least equivalent to the food safety programs and procedures of the United States.

“(4) LIMITATION.—A foreign government or foreign manufacturer, importer, distributor, or retailer approved by the Secretary to import food to the United States under this section shall be certified to export only the approved food products to the United States for a period not to exceed 5 years.

“(5) WITHDRAWAL OF CERTIFICATION.—The Secretary may withdraw certification of any

food from a foreign government or foreign manufacturer, importer, distributor, or retailer that seeks to import food to the United States—

“(A) if such food is linked to an outbreak of human illness;

“(B) following an investigation by the Secretary that finds that the food safety programs and procedures of the foreign government or foreign manufacturer, importer, distributor, or retailer are no longer equivalent to the food safety programs and procedures in the United States; or

“(C) following a refusal to allow United States officials to conduct such audits and investigations as may be necessary to fulfill the requirements under this section.

“(6) RENEWAL OF CERTIFICATION.—The Secretary shall audit a foreign government and a foreign manufacturer, importer, distributor, or retailer that seeks to import food to the United States at least every 5 years to ensure the continued compliance with the standards set forth in this section.

“(7) REQUIRED ROUTINE INSPECTION.—The Secretary shall routinely inspect food and food animals (via a physical examination) before it enters the United States to ensure that it is—

“(A) safe;

“(B) labeled as required for food produced in the United States; and

“(C) otherwise meets requirements under this Act.

**(8) RECORDS INSPECTION.**

“(A) IN GENERAL.—The responsible party or importer shall permit an authorized person to have access to records required to be maintained under this section during an inspection pursuant to section 704.

“(B) DEFINITIONS.—For purposes of this paragraph—

“(i) the term ‘authorized person’ means an officer or employee of the Department of Health and Human Services, who has—

“(I) appropriate credentials, as determined by the Secretary; and

“(II) been duly designated by the Secretary to have access to the records required under this section; and

“(ii) the term ‘responsible party’ means, with respect to an article of food, any person responsible for the manufacturing, processing, packaging, or holding for such food for consumption in the United States.

“(9) ENFORCEMENT.—The Secretary is authorized to—

“(A) deny importation of food from any foreign government that does not permit United States officials to enter the foreign country to conduct such audits and inspections as may be necessary to fulfill the requirements under this section;

“(B) deny importation of food from any foreign government or foreign manufacturer, importer, distributor, or retailer that does not consent to an investigation by the Administration when food from that foreign country or foreign firm is linked to a food-borne illness outbreak or is otherwise found to be adulterated or mislabeled; and

“(C) promulgate rules and regulations to carry out the purposes of this section, including setting terms and conditions for the destruction of products that fail to meet the standards of this Act.

“(10) DETENTION AND SEIZURE.—Any food imported for consumption in the United States may be detained, seized, or condemned pursuant to section 418.”

**SEC. 3. ENSURING EFFICIENT AND EFFECTIVE COMMUNICATIONS DURING A RECALL.**

The Secretary shall, during an ongoing recall of human or pet food shall—

(1) work with companies, relevant professional associations, and other organizations

to collect and aggregate information pertaining to the recall;

(2) use existing networks of communication including electronic forms of information dissemination to enhance the quality and speed of communication with the public; and

(3) post information regarding recalled products on the Internet website of the Food and Drug Administration in a consolidated, searchable form that is easily accessed and understood by the public.

#### SEC. 4. ENSURING THE SAFETY OF PET FOOD.

(a) PROCESSING AND INGREDIENT STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”), in consultation with the Association of American Feed Control Officials, and other relevant stakeholder groups, including veterinary medical associations, animal health organizations, and pet food manufacturers, shall by regulation establish—

(1) processing and ingredient standards with respect to feed, pet food, animal waste, and ingredient definitions; and

(2) updated standards for the labeling of pet food that includes nutritional information and ingredient information.

#### (b) EARLY WARNING SURVEILLANCE SYSTEMS AND NOTIFICATION DURING PET FOOD RECALLS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall by regulation establish an early warning and surveillance system to identify contaminations of the pet food supply and outbreaks of illness from pet food. In establishing such system, the Secretary shall—

(A) use surveillance and monitoring mechanisms similar to, or in coordination with, those mechanisms used by the Centers for Disease Control and Prevention to monitor human health, such as the Foodborne Diseases Active Surveillance Network (FoodNet) and PulseNet;

(B) consult with relevant professional associations and private sector veterinary hospitals; and

(C) work with Health Alert Networks and other notification networks to inform veterinarians and relevant stakeholders during any recall of pet food.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out paragraph (1) such sums as may be necessary.

#### SEC. 5. SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds that—

(1) the safety and integrity of the United States food supply is vital to the public health, to public confidence in the food supply, and to the success of the food sector of the Nation’s economy;

(2) illnesses and deaths of individuals and companion pets caused by contaminated food—

(A) have contributed to a loss of public confidence in food safety; and

(B) have caused significant economic losses to manufacturers and producers not responsible for contaminated food items;

(3) the task of preserving the safety of the food supply of the United States faces tremendous pressures with regard to—

(A) emerging pathogens and other contaminants and the ability to detect all forms of contamination; and

(B) an increasing volume of imported food, without adequate monitoring and inspection;

(4) the United States is increasing the amount of food that it imports such that—

(A) from 2003 to the present, the value of food imports has increased from \$45,600,000,000 to \$64,000,000,000; and

(B) imported food accounts for 13 percent of the average Americans diet including 31 percent of fruits, juices, and nuts, 9.5 percent of red meat and 78.6 percent of fish and shellfish; and

(5) the number of full time equivalent Food and Drug Administration employees conducting inspections has decreased from 2003 to 2007.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) it is vital for Congress to provide the Food and Drug Administration with additional resources, authorities, and direction with respect to ensuring the safety of the food supply of the United States;

(2) additional Food and Drug Administration inspectors are required if we are to improve Food and Drug Administration’s ability to safeguard the food supply of the United States; and

(3) because of the increasing volume of international trade in food products the Secretary of Health and Human Services should make it a priority to enter into agreements, including memoranda of understanding, with the trading partners of the United States with respect to food safety.

#### SEC. 6. ANNUAL REPORT TO CONGRESS.

The Secretary of Health and Human Service shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report that includes, with respect to the preceding 1-year period—

(1) the number and amount of food products imported into the United States, aggregated by country, and type of food, if any;

(2) a listing of the number of inspectors of imported food products and the number of inspections performed on such products; and

(3) aggregated data on the findings of such inspections, including data related to violations of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 201 et seq.), and enforcement mechanisms used to follow-up on such findings and violations.

## SUBMITTED RESOLUTIONS

### SENATE CONCURRENT RESOLUTION 30—URGING ALL SIDES TO THE CURRENT POLITICAL CRISIS IN UKRAINE TO ACT RESPONSIBLY AND USE DIALOGUE TO RESOLVE THE CRISIS AND ENSURE A FREE AND TRANSPARENT DEMOCRATIC SYSTEM IN UKRAINE BASED ON THE RULE OF LAW

Mr. DODD submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

#### S. CON. RES. 30

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) acknowledges and welcomes the strong relationship formed between the United States and Ukraine since the restoration of Ukraine’s independence in 1991;

(2) urges all sides to the current political crisis in Ukraine to act responsibly and use dialogue to resolve the crisis;

(3) urges all sides to adhere to the rule of law and resolve disputes in a peaceful manner consistent with Ukraine’s democratic values and national interest, in keeping with its commitments as a member of the Organiza-

tion for Security and Cooperation in Europe (OSCE);

(4) expresses strong and continuing support for the efforts of the Ukrainian people to establish a full democracy, the rule of law, and respect for human rights;

(5) pledges its continued assistance to the strengthening of a free and transparent democratic system in Ukraine based on the rule of law and the continued development of a free market economy in Ukraine; and

(6) reaffirms its commitment to Ukraine’s independence, sovereignty and territorial integrity, and assumption of Ukraine’s rightful place as a full member of the international community of democracies.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1008. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1082, to amend the Federal Food, Drug, and Cosmetic Act to reauthorize and amend the prescription drug user fee provisions, and for other purposes; which was ordered to lie on the table.

SA 1009. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1010. Mr. COCHRAN (for himself, Mr. CARPER, Mr. NELSON, of Nebraska, Mr. HATCH, Mr. BENNETT, Mr. ENZI, Mr. BURR, and Mr. MENENDEZ) submitted an amendment intended to be proposed to amendment SA 990 submitted by Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. McCAIN, Ms. STABENOW, Mr. NELSON of Florida, Mr. PRYOR, Mr. SANDERS, Mr. WHITEHOUSE, and Mrs. McCASKILL) to the bill S. 1082, *supra*.

SA 1011. Ms. STABENOW (for herself, Mr. THUNE, Mr. LOTT, Mr. BROWN, and Mr. KOHL) submitted an amendment intended to be proposed by her to the bill S. 1082, *supra*.

SA 1012. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1013. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1014. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 990 submitted by Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. McCAIN, Ms. STABENOW, Mr. NELSON of Florida, Mr. PRYOR, Mr. SANDERS, Mr. WHITEHOUSE, and Mrs. McCASKILL) to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1015. Mr. HAGEL (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1016. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1017. Mr. GREGG (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed to amendment SA 990 submitted by Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. McCAIN, Ms. STABENOW, Mr. NELSON of Florida, Mr. PRYOR, Mr. SANDERS, Mr. WHITEHOUSE, and Mrs. McCASKILL) to the bill S. 1082, *supra*; which was ordered to lie on the table.

SA 1018. Mr. DEMINT (for himself, Mr. INHOFE, Mr. BROWNBACK, Mr. MARTINEZ, Mr. VITTER, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*.

SA 1019. Mr. CASEY (for himself and Mr. SPECTER) submitted an amendment intended to be proposed by him to the bill S. 1082, *supra*; which was ordered to lie on the table.