wireless network technology program, and for other purposes.

S. 308

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 308, a bill to prohibit an escalation in United States military forces in Iraq without prior authorization by Congress.

S. RES. 22

At the request of Mr. LEAHY, his name was added as a cosponsor of S. Res. 22, a resolution reaffirming the constitutional and statutory protections accorded sealed domestic mail, and for other purposes.

AMENDMENT NO. 14

At the request of Mr. DEMINT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 14 proposed to S. 1, a bill to provide greater transparency in the legislative process.

AMENDMENT NO. 20

At the request of Mr. BENNETT, the names of the Senator from Tennessee (Mr. CORKER), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Iowa (Mr. GRASSLEY) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of amendment No. 20 proposed to S. 1, a bill to provide greater transparency in the legislative process.

AMENDMENT NO. 51

At the request of Mr. COBURN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 51 proposed to S. 1, a bill to provide greater transparency in the legislative process.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. DORGAN, Ms. CANTWELL, Mr. COLEMAN, Mr. STEVENS, Ms. MURKOWSKI, Mr. SMITH, and Mr. DODD):

S. 310. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity; to the Committee on Indian Affairs.

Mr. AKAKA. Mr. President, I rise today with the senior Senator from Hawaii to introduce the Native Hawaiian Government Reorganization Act of 2007. This bill, which is of great importance to the people of Hawaii, establishes a process to extend the Federal policy of self-governance and self-determination to Hawaii's indigenous people. The bill provides parity in Federal policies that empower our country's other indigenous people—merican Indians and Alaska Natives—to participate in a government-to-government relationship with the United States.

January 17, 2007, commemorates the 114th anniversary of Hawaii's beloved Queen Liliuokalani being deposed. Although this event may seem like a distant memory, it is a poignant event that expedited the decline of a proud and self-governing people. The overthrow facilitated Native Hawaiians being disenfranchised from not only their culture and land, but from their way of life. Native Hawaiians had to endure the forced imprisonment of their Queen and witness the deterioration and near eradication of their culture and tradition in their own homeland, at the hands of foreigners committed exclusively to propagating Western values and conventions.

While Congress has traditionally treated Native Hawaiians in a manner parallel to American Indians and Alaska Natives, the Federal policy of self-governance and self-determination has not been formally extended to Native Hawaiians. The bill itself does not extend Federal recognition—it authorizes the process for Federal recognition.

The Native Hawaiian Government Reorganization Act of 2007 does three things: (1) It authorizes an office in the Department of the Interior to serve as a liaison between Native Hawaiians and the United States; (2) It forms an interagency coordinating group composed of officials from Federal agencies who currently administer programs and services impacting Native Hawaiians; and (3) It authorizes a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship.

Once the Native Hawaiian governing entity is recognized, the bill establishes an inclusive, democratic negotiations process representing both Native Hawaiians and non-Native Hawaiians. Negotiations between the Native Hawaiian entity and the Federal and State governments may address issues such as the transfer of lands, assets, and natural resources and jurisdiction over such lands, assets, and natural resources, as well as other longstanding issues resulting from the overthrow of the Kingdom of Hawaii. Any transfers of governmental authority or power will require implementing legislation at the State and Federal levels.

The Hawaii congressional delegation has devoted much time and careful consideration into crafting this legislation. When I first started this process in 1999, our congressional delegation created five working groups to assist with the drafting of this legislation. The working groups were composed of individuals from the Native Hawaiian community, the State of Hawaii, Federal Government, Indian country, Members of Congress, and experts in constitutional law. Collectively, more than 100 people worked together on the initial draft of this legislation. The meetings held with the Native Hawaiian community were open to the public and a number of individuals who had differing views attended the meetings and provided their alternative views on the legislation.

In August 2000, the Senate Committee on Indian Affairs and the House Committee on Resources held joint field hearings on the legislation in Hawaii for 5 days. While the bill passed the U.S. House of Representatives in the 106th Congress, the Senate failed to take action. The bill was subsequently considered by the 107th, 108th, and 109th Congresses. In each Congress, the bill has been favorably reported by the Senate Committee on Indian Affairs and its companion measure has been favorably reported by the House Committee on Resources in the 106th through the 108th Congress.

Most recently in the 109th Congress clarifications were made to the bill. I want to inform my colleagues to the fact that this bill is identical to legislative language negotiated between Senator INOUYE and myself, and officials from the Department of Justice, Office of Management and Budget, and the White House. The language satisfactorily addresses concerns expressed in July 2005 by the Bush administration regarding the liability of the United States in land claims, the impact of the bill on military readiness, gaming, and civil and criminal jurisdiction in Hawaii.

With respect to liability of the United States as it relates to land claims, as the author of the Apology Resolution, P.L. 103–150, as well as the Native Hawaiian Government Reorganization Act, I have always maintained that this legislation is not intended to serve as a settlement of any claims nor as a cause of action for any claims. The negotiated language makes clear that any grievances regarding historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii are to be addressed in the negotiations process between the Native Hawaiian governing entity and Federal and State governments.

As a senior member of the Senate Committee on Homeland Security and Governmental Affairs, as well as the incoming Chairman on the Subcommittee on Readiness and Management of the Senate Committee on Armed Services, military readiness for our Armed Forces is of great importance to me. Due to concerns raised by the Department of Defense to the consultation requirements expected to be facilitated by the Office of Native Hawaiian Relations in the Department of the Interior and the Native Hawaiian Interagency Coordinating Group; negotiated language exempts the Department from these consultation requirements. However, these exemptions do not alter nor terminate requirements of the DoD to consult with Native Hawaiians under the Native Graves Protection and Repatriation Act, NAGPRA, National Historic Preservation Act, NHPA, and other existing statutes.

The bill does not authorize gaming by the Native Hawaiian governing entity. Negotiated language clarifies that gaming may not be conducted by Native Hawaiians or the Native Hawaiian governing entity as a matter of

claimed inherent authority or under the authority of any Federal laws or regulations promulgated by the Secretary of the Interior or the National Indian Gaming Commission. The bill also makes clear that the prohibition applies to any efforts to establish gaming by Native Hawaiians and the Native Hawaiian governing entity in Hawaii and in any other State or Territory. This language only applies to efforts to establish gaming operations as a matter of inherent authority as indigenous peoples or under federal laws pertaining to gaming by native peoples.

The bill makes clear that civil and criminal jurisdiction currently held by the Federal and State governments will remain with the Federal and State governments unless otherwise negotiated and implementing legislation is enacted.

I have described the clarifications that have been made so my colleagues know that our negotiations with the administration have been successful. This language has been publicly available since September 2005 and has been widely distributed. Although such clarifications have been made, I am proud to report that the bill remains true to its intent and purpose—to clarify the existing legal and political relationship between Hawaii's indigenous people, Native Hawaiians and the United States.

Along with our efforts to work with the Bush administration, during the past 4 years, we have worked closely with Hawaii's first Republican governor in 40 years, Governor Linda Lingle to enact this legislation. We have also worked closely with the Hawaii State legislature which has passed three resolutions unanimously in support of federal recognition for Native Hawaiians. I am pleased to announce today that I am again joined by members from both sides of the aisle to introduce this important measure. I mention this, to underscore the fact that this is bipartisan legislation.

In addition to its widespread support by both Native Hawaiians and non-Native Hawaiians in Hawaii, in resolutions adopted by the oldest and largest national Indian organization, the National Congress of American Indians, and the largest organization representing the Native people of Alaska, the Alaska Federation of Natives, the members of both groups have consistently expressed their strong support for enactment of a bill to provide for recognition by the United States of a Native Hawaiian governing entity. Organizations such as the American Bar Association, Japanese American Citizen League, and the National Indian Education Association have also passed resolutions in support of federal recognition for Hawaii's indigenous peoples.

Today I provide my colleagues with a framework to understand the need for this legislation by briefly reviewing (1) Hawaii's past, ancient Hawaiian society prior to Western contact, (2) Hawaii's present, the far reaching consequences of the overthrow, and (3) Hawaii's future.

Hawaii was originally settled by Polynesian voyagers arriving as early as 300 A.D, 1200 years before Europe's great explorers Magellan and Columbus. The Hawaiians braved immense distances guided by their extensive knowledge of navigation and understanding of the marine environment. Isolation followed the era of long voyages, enabling Native Hawaiians to develop distinct political, economic, and social structures which were mutually supportive. As stewards of the land and sea, Native Hawaiians were intimately linked to the environment and they developed innovative methods of agriculture, aquaculture, navigation and irrigation.

With an influx of foreigners into Hawaii, Native Hawaiian populations plummeted due to death from common Western diseases. Those that survived witnessed foreign interest and involvement in their government grow until Queen Liliuokalani was forced by American citizens to abdicate her right to the throne. This devastated the Native Hawaiian people, forever tainting the waters of their identity and tattering the very fabric of their society. For some this injustice, this wound has never healed, manifesting itself in a sense of inferiority and hopelessness leaving many Native Hawaiians at the lowest levels of achievement by all social and economic measures.

Mr. President, 14 years ago the United States enacted the Apology Resolution, 103–150, which acknowledged the 100th anniversary of the overthrow of the Kingdom of Hawaii in which the United States offered an apology to Native Hawaiians and declared its policy to support reconciliation efforts. This is a landmark declaration for it recognizes not only are Native Hawaiians the indigenous people of Hawaii, but of the urgent need for the U.S. to actively engage in reconciliation efforts. This acknowledgment played a crucial role in initiating a healing process and although progress has been made, the path ahead is uncertain.

Frustration has led to anger and festered in the hearts of Hawaii's younger generations, with each child that is taught about this period of Hawaiian history, a loss is relived. It is a burden that Native Hawaiians since the overthrow continue to carry, to know that they were violated in their own homeland and their governance was ripped away unjustly. Despite the perceived harmony, it is the generation of my grandchildren that is growing impatient and frustrated with the lack of progress being made. Influenced by a deep sadness and growing intolerance, an active minority within this generation seeks independence from the United States.

It is for this generation that I work to enact this bill so that there is the structured process to deal with these emotional issues. It is important that discussions are held and that there is a framework to guide appropriate action. For Hawaii is the homeland of the Native Hawaiian people.

A lack of action by the U.S. will only incite and fuel us down a path to a divided Hawaii. A Hawaii where lines and boundaries are drawn and unity severed. However, the legislation I introduce today seeks to build upon the foundation of reconciliation. It provides a structured process to bring together the people of Hawaii, along a path of healing to a Hawaii where its indigenous people are respected and culture is embraced.

Respecting the rights of America's first people—American Indians, Alaska Natives, and Native Hawaiians is not un-American. Through enactment of this legislation, we have the opportunity to demonstrate that our country does not just preach its ideas, but lives according to its founding principles. That the United States will admit when it has trespassed against a people and remain resolute to make amends. We demonstrate our character to ourselves and to the world by respecting the rights of our country's indigenous people. As it has for America's other indigenous peoples, I believe the United States must fulfill its responsibility to Native Hawaiians.

I am proud of the fact that this bill respects the rights of Hawaii's indigenous peoples through a process that is consistent with Federal law, and it provides the structured process for the people of Hawaii to address the longstanding issues which have plagued both Native Hawaiians and non-Native Hawaiians since the overthrow of the Kingdom of Hawaii. We have an established record of the United States' commitment to the reconciliation with Native Hawaiians. This legislation is another step building upon that foundation and honoring that commitment.

I ask my colleagues to join me in enacting this legislation which is of great importance to all the people of Hawaii.

Mr. President, I ask unanimous consent that the text of this measure 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. 310

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 ''Native Hawaiian Government Reorganization Act of 2007''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution vests Congress with the authority to address the conditions of the indigenous, native people of the United States;

(2) Native Hawaiians, the native people of the Hawaiian archipelago that is now part of the United States, are indigenous, native people of the United States;

(3) the United States has a special political and legal relationship to promote the welfare of the native people of the United States, including Native Hawaiians;

(4) under the treaty making power of the United States, Congress exercised its constitutional authority to confirm treaties between the United States and the Kingdom of Hawaii, and from 1826 until 1893, the United States—

(A) recognized the sovereignty of the Kingdom of Hawaii;

(B) accorded full diplomatic recognition to the Kingdom of Hawaii; and

(C) entered into treaties and conventions with the Kingdom of Hawaii to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

(5) pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42), the United States set aside approximately 203,500 acres of land to address the conditions of Native Hawaiians in the Federal territory that later became the State of Hawaii;

(6) by setting aside 203,500 acres of land for Native Hawaiian homesteads and farms, the Hawaiian Homes Commission Act assists the members of the Native Hawaiian community in maintaining distinct native settlements throughout the State of Hawaii;

(7) approximately 6,800 Native Hawaiian families reside on the Hawaiian Home Lands and approximately 18,000 Native Hawaiians who are eligible to reside on the Hawaiian Home Lands are on a waiting list to receive assignments of Hawaiian Home Lands;

(8)(A) in 1959, as part of the compact with the United States admitting Hawaii into the Union, Congress established a public trust (commonly known as the ''ceded lands trust''), for 5 purposes, 1 of which is the betterment of the conditions of Native Hawaiians;

(B) the public trust consists of lands, including submerged lands, natural resources, and the revenues derived from the lands; and

(C) the assets of this public trust have never been completely inventoried or segregated;

(9) Native Hawaiians have continuously sought access to the ceded lands in order to establish and maintain native settlements and distinct native communities throughout the State;

(10) the Hawaiian Home Lands and other ceded lands provide an important foundation for the ability of the Native Hawaiian community to maintain the practice of Native Hawaiian culture, language, and traditions, and for the survival and economic self-sufficiency of the Native Hawaiian people;

(11) Native Hawaiians continue to maintain other distinctly native areas in Hawaii;

(12) on November 23, 1993, Public Law 103–150 (107 Stat. 1510) (commonly known as the ''Apology Resolution'') was enacted into law, extending an apology on behalf of the United States to the native people of Hawaii for the United States' role in the overthrow of the Kingdom of Hawaii;

(13) the Apology Resolution acknowledges that the overthrow of the Kingdom of Hawaii occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United States their claims to their inherent sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a plebiscite or referendum;

(14) the Apology Resolution expresses the commitment of Congress and the President—

(A) to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii;

(B) to support reconciliation efforts between the United States and Native Hawaiians; and

(C) to consult with Native Hawaiians on the reconciliation process as called for in the Apology Resolution;

(15) despite the overthrow of the government of the Kingdom of Hawaii, Native Hawaiians have continued to maintain their separate identity as a single distinct native community through cultural, social, and political institutions, and to give expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency;

(16) Native Hawaiians have also given expression to their rights as native people to self-determination, self-governance, and economic self-sufficiency—

(A) through the provision of governmental services to Native Hawaiians, including the provision of—

(i) health care services;

(ii) educational programs;

(iii) employment and training programs;

(iv) economic development assistance programs;

(v) children's services;

(vi) conservation programs;

(vii) fish and wildlife protection;

(viii) agricultural programs;

(ix) native language immersion programs;

(x) native language immersion schools from kindergarten through high school;

(xi) college and master's degree programs in native language immersion instruction; and

(xii) traditional justice programs, and

(B) by continuing their efforts to enhance Native Hawaiian self-determination and local control;

(17) Native Hawaiians are actively engaged in Native Hawaiian cultural practices, traditional agricultural methods, fishing and subsistence practices, maintenance of cultural use areas and sacred sites, protection of burial sites, and the exercise of their traditional rights to gather medicinal plants and herbs, and food sources;

(18) the Native Hawaiian people wish to preserve, develop, and transmit to future generations of Native Hawaiians their lands and Native Hawaiian political and cultural identity in accordance with their traditions, beliefs, customs and practices, language, and social and political institutions, to control and manage their own lands, including ceded lands, and to achieve greater self-determination over their own affairs;

(19) this Act provides a process within the framework of Federal law for the Native Hawaiian people to exercise their inherent rights as a distinct, indigenous, native community to reorganize a single Native Hawaiian governing entity for the purpose of giving expression to their rights as native people to self-determination and self-governance;

(20) Congress—

(A) has declared that the United States has a special political and legal relationship for the welfare of the native peoples of the United States, including Native Hawaiians;

(B) has identified Native Hawaiians as a distinct group of indigenous, native people of the United States within the scope of its authority under the Constitution, and has enacted scores of statutes on their behalf ; and

(C) has delegated broad authority to the State of Hawaii to administer some of the United States' responsibilities as they relate to the Native Hawaiian people and their lands;

(21) the United States has recognized and reaffirmed the special political and legal relationship with the Native Hawaiian people through the enactment of the Act entitled, ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3; 73 Stat. 4), by—

(A) ceding to the State of Hawaii title to the public lands formerly held by the United States, and mandating that those lands be held as a public trust for 5 purposes, 1 of which is for the betterment of the conditions of Native Hawaiians; and

(B) transferring the United States' responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii, but retaining the exclusive right of the United States to consent to any actions affecting the lands included in the trust and any amendments to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42) that are enacted by the legislature of the State of Hawaii affecting the beneficiaries under the Act;

(22) the United States has continually recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the aboriginal, indigenous, native people who exercised sovereignty over the Hawaiian Islands;

(B) Native Hawaiians have never relinquished their claims to sovereignty or their sovereign lands;

(C) the United States extends services to Native Hawaiians because of their unique status as the indigenous, native people of a once-sovereign nation with whom the United States has a special political and legal relationship; and

(D) the special relationship of American Indians, Alaska Natives, and Native Hawaiians to the United States arises out of their status as aboriginal, indigenous, native people of the United States; and

(23) the State of Hawaii supports the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States as evidenced by 2 unanimous resolutions enacted by the Hawaii State Legislature in the 2000 and 2001 sessions of the Legislature and by the testimony of the Governor of the State of Hawaii before the Committee on Indian Affairs of the Senate on February 25, 2003, and March 1, 2005.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORIGINAL, INDIGENOUS, NATIVE PEOPLE.—The term ''aboriginal, indigenous, native people'' means people whom Congress has recognized as the original inhabitants of the lands that later became part of the United States and who exercised sovereignty in the areas that later became part of the United States.

(2) ADULT MEMBER.—The term ''adult member'' means a Native Hawaiian who has attained the age of 18 and who elects to participate in the reorganization of the Native Hawaiian governing entity.

(3) APOLOGY RESOLUTION.—The term ''Apology Resolution'' means Public Law 103–150 (107 Stat. 1510), a Joint Resolution extending an apology to Native Hawaiians on behalf of the United States for the participation of agents of the United States in the January 17, 1893, overthrow of the Kingdom of Hawaii.

(4) COMMISSION.—The term ''commission'' means the Commission established under section 7(b) to provide for the certification that those adult members of the Native Hawaiian community listed on the roll meet the definition of Native Hawaiian set forth in paragraph (10).

(5) COUNCIL.—The term ''council'' means the Native Hawaiian Interim Governing Council established under section 7(c)(2).

(6) INDIAN PROGRAM OR SERVICE.—

(A) IN GENERAL.—The term ''Indian program or service'' means any federally funded or authorized program or service provided to an Indian tribe (or member of an Indian tribe) because of the status of the members of the Indian tribe as Indians.

(B) INCLUSIONS.—The term ''Indian program or service'' includes a program or service provided by the Bureau of Indian Affairs, the Indian Health Service, or any other Federal agency.

(7) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) INDIGENOUS, NATIVE PEOPLE.—The term ''indigenous, native people'' means the lineal descendants of the aboriginal, indigenous, native people of the United States.

(9) INTERAGENCY COORDINATING GROUP.—The term ''Interagency Coordinating Group'' means the Native Hawaiian Interagency Coordinating Group established under section 6.

(10) NATIVE HAWAIIAN.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of establishing the roll authorized under section 7(c)(1) and before the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the term ''Native Hawaiian'' means—

(i) an individual who is 1 of the indigenous, native people of Hawaii and who is a direct lineal descendant of the aboriginal, indigenous, native people who—

(I) resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and

(II) occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or

(ii) an individual who is 1 of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act (42 Stat. 108, chapter 42) or a direct lineal descendant of that individual.

(B) NO EFFECT ON OTHER DEFINITIONS.—Nothing in this paragraph affects the definition of the term ''Native Hawaiian'' under any other Federal or State law (including a regulation).

(11) NATIVE HAWAIIAN GOVERNING ENTITY.—The term ''Native Hawaiian Governing Entity'' means the governing entity organized by the Native Hawaiian people pursuant to this Act.

(12) NATIVE HAWAIIAN PROGRAM OR SERVICE.—The term ''Native Hawaiian program or service'' means any program or service provided to Native Hawaiians because of their status as Native Hawaiians.

(13) OFFICE.—The term ''Office'' means the United States Office for Native Hawaiian Relations established by section 5(a).

(14) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(15) SPECIAL POLITICAL AND LEGAL RELATIONSHIP.—The term ''special political and legal relationship'' shall refer, except where differences are specifically indicated elsewhere in the Act, to the type of and nature of relationship the United States has with the several federally recognized Indian tribes.

SEC. 4. UNITED STATES POLICY AND PURPOSE.

(a) POLICY.—The United States reaffirms that—

(1) Native Hawaiians are a unique and distinct, indigenous, native people with whom the United States has a special political and legal relationship;

(2) the United States has a special political and legal relationship with the Native Hawaiian people which includes promoting the welfare of Native Hawaiians;

(3) Congress possesses the authority under the Constitution, including but not limited to Article I, section 8, clause 3, to enact legislation to address the conditions of Native Hawaiians and has exercised this authority through the enactment of—

(A) the Hawaiian Homes Commission Act, 1920 (42 Stat. 108, chapter 42);

(B) the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (Public Law 86–3, 73 Stat. 4); and

(C) more than 150 other Federal laws addressing the conditions of Native Hawaiians;

(4) Native Hawaiians have—

(A) an inherent right to autonomy in their internal affairs;

(B) an inherent right of self-determination and self-governance;

(C) the right to reorganize a Native Hawaiian governing entity; and

(D) the right to become economically self-sufficient; and

(5) the United States shall continue to engage in a process of reconciliation and political relations with the Native Hawaiian people.

(b) PURPOSE.—The purpose of this Act is to provide a process for the reorganization of the single Native Hawaiian governing entity and the reaffirmation of the special political and legal relationship between the United States and that Native Hawaiian governing entity for purposes of continuing a government-to-government relationship.

SEC. 5. UNITED STATES OFFICE FOR NATIVE HAWAIIAN RELATIONS.

(a) ESTABLISHMENT.—There is established within the Office of the Secretary, the United States Office for Native Hawaiian Relations.

(b) DUTIES.—The Office shall—

(1) continue the process of reconciliation with the Native Hawaiian people in furtherance of the Apology Resolution;

(2) upon the reaffirmation of the special political and legal relationship between the single Native Hawaiian governing entity and the United States, effectuate and coordinate the special political and legal relationship between the Native Hawaiian governing entity and the United States through the Secretary, and with all other Federal agencies;

(3) fully integrate the principle and practice of meaningful, regular, and appropriate consultation with the Native Hawaiian governing entity by providing timely notice to, and consulting with, the Native Hawaiian people and the Native Hawaiian governing entity before taking any actions that may have the potential to significantly affect Native Hawaiian resources, rights, or lands;

(4) consult with the Interagency Coordinating Group, other Federal agencies, and the State of Hawaii on policies, practices, and proposed actions affecting Native Hawaiian resources, rights, or lands; and

(5) prepare and submit to the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report detailing the activities of the Interagency Coordinating Group that are undertaken with respect to the continuing process of reconciliation and to effect meaningful consultation with the Native Hawaiian governing entity and providing recommendations for any necessary changes to Federal law or regulations promulgated under the authority of Federal law.

(c) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Office.

SEC. 6. NATIVE HAWAIIAN INTERAGENCY COORDINATING GROUP.

(a) ESTABLISHMENT.—In recognition that Federal programs authorized to address the conditions of Native Hawaiians are largely administered by Federal agencies other than the Department of the Interior, there is established an interagency coordinating group to be known as the ''Native Hawaiian Interagency Coordinating Group''.

(b) COMPOSITION.—The Interagency Coordinating Group shall be composed of officials, to be designated by the President, from—

(1) each Federal agency that administers Native Hawaiian programs, establishes or implements policies that affect Native Hawaiians, or whose actions may significantly or uniquely impact Native Hawaiian resources, rights, or lands; and

(2) the Office.

(c) LEAD AGENCY.—

(1) IN GENERAL.—The Department of the Interior shall serve as the lead agency of the Interagency Coordinating Group.

(2) MEETINGS.—The Secretary shall convene meetings of the Interagency Coordinating Group.

(d) DUTIES.—The Interagency Coordinating Group shall—

(1) coordinate Federal programs and policies that affect Native Hawaiians or actions by any agency or agencies of the Federal Government that may significantly or uniquely affect Native Hawaiian resources, rights, or lands;

(2) consult with the Native Hawaiian governing entity, through the coordination referred to in section 6(d)(1), but the consultation obligation established in this provision shall apply only after the satisfaction of all of the conditions referred to in section 7(c)(6); and

(3) ensure the participation of each Federal agency in the development of the report to Congress authorized in section 5(b)(5).

(e) APPLICABILITY TO DEPARTMENT OF DEFENSE.—This section shall have no applicability to the Department of Defense or to any agency or component of the Department of Defense, but the Secretary of Defense may designate 1 or more officials as liaison to the Interagency Coordinating Group.

SEC. 7. PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY AND THE REAFFIRMATION OF THE SPECIAL POLITICAL AND LEGAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE NATIVE HAWAIIAN GOVERNING ENTITY.

(a) RECOGNITION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—The right of the Native Hawaiian people to reorganize the single Native Hawaiian governing entity to provide for their common welfare and to adopt appropriate organic governing documents is recognized by the United States.

(b) COMMISSION.—

(1) IN GENERAL.—There is authorized to be established a Commission to be composed of 9 members for the purposes of—

(A) preparing and maintaining a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the single Native Hawaiian governing entity; and

(B) certifying that the adult members of the Native Hawaiian community proposed for inclusion on the roll meet the definition of Native Hawaiian in section 3(10).

(2) MEMBERSHIP.—

(A) APPOINTMENT.—

(i) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall appoint the members of the Commission in accordance with subparagraph (B).

(ii) CONSIDERATION.—In making an appointment under clause (i), the Secretary may take into consideration a recommendation made by any Native Hawaiian organization.

(B) REQUIREMENTS.—Each member of the Commission shall demonstrate, as determined by the Secretary—

(i) not less than 10 years of experience in the study and determination of Native Hawaiian genealogy; and

(ii) an ability to read and translate into English documents written in the Hawaiian language.

(C) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment.

(3) EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(4) DUTIES.—The Commission shall—

(A) prepare and maintain a roll of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity; and

(B) certify that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(5) STAFF.—

(A) IN GENERAL.—The Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(6) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(7) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(8) EXPIRATION.—The Secretary shall dissolve the Commission upon the reaffirmation of the special political and legal relationship between the Native Hawaiian governing entity and the United States.

(c) PROCESS FOR THE REORGANIZATION OF THE NATIVE HAWAIIAN GOVERNING ENTITY.—

(1) ROLL.—

(A) CONTENTS.—The roll shall include the names of the adult members of the Native Hawaiian community who elect to participate in the reorganization of the Native Hawaiian governing entity and are certified to be Native Hawaiian as defined in section 3(10) by the Commission.

(B) FORMATION OF ROLL.—Each adult member of the Native Hawaiian community who elects to participate in the reorganization of the Native Hawaiian governing entity shall submit to the Commission documentation in the form established by the Commission that is sufficient to enable the Commission to determine whether the individual meets the definition of Native Hawaiian in section 3(10).

(C) DOCUMENTATION.—The Commission shall—

(i) identify the types of documentation that may be submitted to the Commission that would enable the Commission to determine whether an individual meets the definition of Native Hawaiian in section 3(10);

(ii) establish a standard format for the submission of documentation; and

(iii) publish information related to clauses (i) and (ii) in the Federal Register.

(D) CONSULTATION.—In making determinations that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10), the Commission may consult with Native Hawaiian organizations, agencies of the State of Hawaii including but not limited to the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and the State Department of Health, and other entities with expertise and experience in the determination of Native Hawaiian ancestry and lineal descendancy.

(E) CERTIFICATION AND SUBMITTAL OF ROLL TO SECRETARY.—The Commission shall—

(i) submit the roll containing the names of the adult members of the Native Hawaiian community who meet the definition of Native Hawaiian in section 3(10) to the Secretary within two years from the date on which the Commission is fully composed; and

(ii) certify to the Secretary that each of the adult members of the Native Hawaiian community proposed for inclusion on the roll meets the definition of Native Hawaiian in section 3(10).

(F) PUBLICATION.—Upon certification by the Commission to the Secretary that those listed on the roll meet the definition of Native Hawaiian in section 3(10), the Secretary shall publish the roll in the Federal Register.

(G) APPEAL.—The Secretary may establish a mechanism for an appeal for any person whose name is excluded from the roll who claims to meet the definition of Native Hawaiian in section 3(10) and to be 18 years of age or older.

(H) PUBLICATION; UPDATE.—The Secretary shall—

(i) publish the roll regardless of whether appeals are pending;

(ii) update the roll and the publication of the roll on the final disposition of any appeal; and

(iii) update the roll to include any Native Hawaiian who has attained the age of 18 and who has been certified by the Commission as meeting the definition of Native Hawaiian in section 3(10) after the initial publication of the roll or after any subsequent publications of the roll.

(I) FAILURE TO ACT.—If the Secretary fails to publish the roll, not later than 90 days after the date on which the roll is submitted to the Secretary, the Commission shall publish the roll notwithstanding any order or directive issued by the Secretary or any other official of the Department of the Interior to the contrary.

(J) EFFECT OF PUBLICATION.—The publication of the initial and updated roll shall serve as the basis for the eligibility of adult members of the Native Hawaiian community whose names are listed on those rolls to participate in the reorganization of the Native Hawaiian governing entity.

(2) ORGANIZATION OF THE NATIVE HAWAIIAN INTERIM GOVERNING COUNCIL.—

(A) ORGANIZATION.—The adult members of the Native Hawaiian community listed on the roll published under this section may—

(i) develop criteria for candidates to be elected to serve on the Native Hawaiian Interim Governing Council;

(ii) determine the structure of the Council; and

(iii) elect members from individuals listed on the roll published under this subsection to the Council.

(B) POWERS.—

(i) IN GENERAL.—The Council—

(I) may represent those listed on the roll published under this section in the implementation of this Act; and

(II) shall have no powers other than powers given to the Council under this Act.

(ii) FUNDING.—The Council may enter into a contract with, or obtain a grant from, any Federal or State agency to carry out clause (iii).

(iii) ACTIVITIES.—

(I) IN GENERAL.—The Council may conduct a referendum among the adult members of the Native Hawaiian community listed on the roll published under this subsection for the purpose of determining the proposed elements of the organic governing documents of the Native Hawaiian governing entity, including but not limited to—

(aa) the proposed criteria for citizenship of the Native Hawaiian governing entity;

(bb) the proposed powers and authorities to be exercised by the Native Hawaiian governing entity, as well as the proposed privileges and immunities of the Native Hawaiian governing entity;

(cc) the proposed civil rights and protection of the rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities of the Native Hawaiian governing entity; and

(dd) other issues determined appropriate by the Council.

(II) DEVELOPMENT OF ORGANIC GOVERNING DOCUMENTS.—Based on the referendum, the Council may develop proposed organic governing documents for the Native Hawaiian governing entity.

(III) DISTRIBUTION.—The Council may distribute to all adult members of the Native Hawaiian community listed on the roll published under this subsection—

(aa) a copy of the proposed organic governing documents, as drafted by the Council; and

(bb) a brief impartial description of the proposed organic governing documents;

(IV) ELECTIONS.—The Council may hold elections for the purpose of ratifying the proposed organic governing documents, and on certification of the organic governing documents by the Secretary in accordance with paragraph (4), hold elections of the officers of the Native Hawaiian governing entity pursuant to paragraph (5).

(3) SUBMITTAL OF ORGANIC GOVERNING DOCUMENTS.—Following the reorganization of the Native Hawaiian governing entity and the adoption of organic governing documents, the Council shall submit the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(4) CERTIFICATIONS.—

(A) IN GENERAL.—Within the context of the future negotiations to be conducted under the authority of section 8(b)(1), and the subsequent actions by the Congress and the State of Hawaii to enact legislation to implement the agreements of the 3 governments, not later than 90 days after the date on which the Council submits the organic governing documents to the Secretary, the Secretary shall certify that the organic governing documents—

(i) establish the criteria for citizenship in the Native Hawaiian governing entity;

(ii) were adopted by a majority vote of the adult members of the Native Hawaiian community whose names are listed on the roll published by the Secretary;

(iii) provide authority for the Native Hawaiian governing entity to negotiate with Federal, State, and local governments, and other entities;

(iv) provide for the exercise of governmental authorities by the Native Hawaiian governing entity, including any authorities that may be delegated to the Native Hawaiian governing entity by the United States and the State of Hawaii following negotiations authorized in section 8(b)(1) and the enactment of legislation to implement the agreements of the 3 governments;

(v) prevent the sale, disposition, lease, or encumbrance of lands, interests in lands, or other assets of the Native Hawaiian governing entity without the consent of the Native Hawaiian governing entity;

(vi) provide for the protection of the civil rights of the citizens of the Native Hawaiian governing entity and all persons affected by the exercise of governmental powers and authorities by the Native Hawaiian governing entity; and

(vii) are consistent with applicable Federal law and the special political and legal relationship between the United States and the indigenous, native people of the United States; provided that the provisions of Public Law 103–454, 25 U.S.C. 479a, shall not apply.

(B) RESUBMISSION IN CASE OF NONCOMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (a).—

(i) RESUBMISSION BY THE SECRETARY.—If the Secretary determines that the organic governing documents, or any part of the documents, do not meet all of the requirements set forth in subparagraph (A), the Secretary shall resubmit the organic governing documents to the Council, along with a justification for each of the Secretary's findings as to why the provisions are not in full compliance.

(ii) AMENDMENT AND RESUBMISSION OF ORGANIC GOVERNING DOCUMENTS.—If the organic governing documents are resubmitted to the Council by the Secretary under clause (i), the Council shall—

(I) amend the organic governing documents to ensure that the documents meet all the requirements set forth in subparagraph (A); and

(II) resubmit the amended organic governing documents to the Secretary for certification in accordance with this paragraph.

(C) CERTIFICATIONS DEEMED MADE.—The certifications under paragraph (4) shall be deemed to have been made if the Secretary has not acted within 90 days after the date on which the Council has submitted the organic governing documents of the Native Hawaiian governing entity to the Secretary.

(5) ELECTIONS.—On completion of the certifications by the Secretary under paragraph (4), the Council may hold elections of the officers of the Native Hawaiian governing entity.

(6) REAFFIRMATION.—Notwithstanding any other provision of law, upon the certifications required under paragraph (4) and the election of the officers of the Native Hawaiian governing entity, the special political and legal relationship between the United States and the Native Hawaiian governing entity is hereby reaffirmed and the United States extends Federal recognition to the Native Hawaiian governing entity as the representative governing body of the Native Hawaiian people.

SEC. 8. REAFFIRMATION OF DELEGATION OF FEDERAL AUTHORITY; NEGOTIATIONS; CLAIMS.

(a) REAFFIRMATION.—The delegation by the United States of authority to the State of Hawaii to address the conditions of the indigenous, native people of Hawaii contained in the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'' approved March 18, 1959 (Public Law 86–3, 73 Stat. 4), is reaffirmed.

(b) NEGOTIATIONS.—

(1) IN GENERAL.—Upon the reaffirmation of the special political and legal relationship between the United States and the Native Hawaiian governing entity, the United States and the State of Hawaii may enter into negotiations with the Native Hawaiian governing entity designed to lead to an agreement addressing such matters as—

(A) the transfer of lands, natural resources, and other assets, and the protection of existing rights related to such lands or resources;

(B) the exercise of governmental authority over any transferred lands, natural resources, and other assets, including land use;

(C) the exercise of civil and criminal jurisdiction;

(D) the delegation of governmental powers and authorities to the Native Hawaiian governing entity by the United States and the State of Hawaii;

(E) any residual responsibilities of the United States and the State of Hawaii; and

(F) grievances regarding assertions of historical wrongs committed against Native Hawaiians by the United States or by the State of Hawaii.

(2) AMENDMENTS TO EXISTING LAWS.—Upon agreement on any matter or matters negotiated with the United States, the State of Hawaii, and the Native Hawaiian governing entity, the parties are authorized to submit—

(A) to the Committee on Indian Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives, recommendations for proposed amendments to Federal law that will enable the implementation of agreements reached between the 3 governments; and

(B) to the Governor and the legislature of the State of Hawaii, recommendations for proposed amendments to State law that will enable the implementation of agreements reached between the 3 governments.

(3) GOVERNMENTAL AUTHORITY AND POWER.—Any governmental authority or power to be exercised by the Native Hawaiian governing entity which is currently exercised by the State or Federal Governments shall be exercised by the Native Hawaiian governing entity only as agreed to in negotiations pursuant to section 8(b)(1) of this Act and beginning on the date on which legislation to implement such agreement has been enacted by the United States Congress, when applicable, and by the State of Hawaii, when applicable. This includes any required modifications to the Hawaii State Constitution in accordance with the Hawaii Revised Statutes.

(c) CLAIMS.—

(1) DISCLAIMERS.—Nothing in this Act—

(A) creates a cause of action against the United States or any other entity or person;

(B) alters existing law, including existing case law, regarding obligations on the part of the United States or the State of Hawaii with regard to Native Hawaiians or any Native Hawaiian entity;

(C) creates obligations that did not exist in any source of Federal law prior to the date of enactment of this Act; or

(D) establishes authority for the recognition of Native Hawaiian groups other than the single Native Hawaiian Governing Entity.

(2) FEDERAL SOVEREIGN IMMUNITY.—

(A) SPECIFIC PURPOSE.—Nothing in this Act is intended to create or allow to be maintained in any court any potential breach-of-trust actions, land claims, resource-protection or resource-management claims, or similar types of claims brought by or on behalf of Native Hawaiians or the Native Hawaiian governing entity for equitable, monetary, or Administrative Procedure Act-based relief against the United States or the State of Hawaii, whether or not such claims specifically assert an alleged breach of trust, call for an accounting, seek declaratory relief, or seek the recovery of or compensation for lands once held by Native Hawaiians.

(B) ESTABLISHMENT AND RETENTION OF SOVEREIGN IMMUNITY.—To effectuate the ends expressed in section 8(c)(1) and 8(c)(2)(A), and notwithstanding any other provision of Federal law, the United States retains its sovereign immunity to any claim that existed prior to the enactment of this Act (including, but not limited to, any claim based in whole or in part on past events), and which could be brought by Native Hawaiians or any Native Hawaiian governing entity. Nor shall any preexisting waiver of sovereign immunity (including, but not limited to, waivers set forth in chapter 7 of part I of title 5, United States Code, and sections 1505 and 2409a of title 28, United States Code) be applicable to any such claims. This complete retention or reclaiming of sovereign immunity also applies to every claim that might attempt to rely on this Act for support, without regard to the source of law under which any such claim might be asserted.

(C) EFFECT.—It is the general effect of section 8(c)(2)(B) that any claims that may already have accrued and might be brought against the United States, including any claims of the types specifically referred to in section 8(c)(2)(A), along with both claims of a similar nature and claims arising out of the same nucleus of operative facts as could give rise to claims of the specific types referred to in section 8(c)(2)(A), be rendered nonjusticiable in suits brought by plaintiffs other than the Federal Government.

(3) STATE SOVEREIGNTY IMMUNITY.—

(A) Notwithstanding any other provision of Federal law, the State retains its sovereign immunity, unless waived in accord with State law, to any claim, established under any source of law, regarding Native Hawaiians, that existed prior to the enactment of this Act.

(B) Nothing in this Act shall be construed to constitute an override pursuant to section 5 of the Fourteenth Amendment of State sovereign immunity held under the Eleventh Amendment.

SEC. 9. APPLICABILITY OF CERTAIN FEDERAL LAWS.

(a) INDIAN GAMING REGULATORY ACT.—

(1) The Native Hawaiian governing entity and Native Hawaiians may not conduct gaming activities as a matter of claimed inherent authority or under the authority of any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) or under any regulations thereunder promulgated by the Secretary or the National Indian Gaming Commission.

(2) The foregoing prohibition in section 9(a)(1) on the use of Indian Gaming Regulatory Act and inherent authority to game apply regardless of whether gaming by Native Hawaiians or the Native Hawaiian governing entity would be located on land within the State of Hawaii or within any other State or Territory of the United States.

(b) TAKING LAND INTO TRUST.—Notwithstanding any other provision of law, including but not limited to part 151 of title 25, Code of Federal Regulations, the Secretary

shall not take land into trust on behalf of individuals or groups claiming to be Native Hawaiian or on behalf of the native Hawaiian governing entity.

(c) REAL PROPERTY TRANSFERS.—The Indian Trade and Intercourse Act (25 U.S.C. 177), does not, has never, and will not apply after enactment to lands or lands transfers present, past, or future, in the State of Hawaii. If despite the expression of this intent herein, a court were to construe the Trade and Intercourse Act to apply to lands or land transfers in Hawaii before the date of enactment of this Act, then any transfer of land or natural resources located within the State of Hawaii prior to the date of enactment of this Act, by or on behalf of the Native Hawaiian people, or individual Native Hawaiians, shall be deemed to have been made in accordance with the Indian Trade and Intercourse Act and any other provision of Federal law that specifically applies to transfers of land or natural resources from, by, or on behalf of an Indian tribe, Native Hawaiians, or Native Hawaiian entities.

(d) SINGLE GOVERNING ENTITY.—This Act will result in the recognition of the single Native Hawaiian governing entity. Additional Native Hawaiian groups shall not be eligible for acknowledgment pursuant to the Federal Acknowledgment Process set forth in part 83 of title 25 of the Code of Federal Regulations or any other administrative acknowledgment or recognition process.

(e) JURISDICTION.—Nothing in this Act alters the civil or criminal jurisdiction of the United States or the State of Hawaii over lands and persons within the State of Hawaii. The status quo of Federal and State jurisdiction can change only as a result of further legislation, if any, enacted after the conclusion, in relevant part, of the negotiation process established in section 8(b).

(f) INDIAN PROGRAMS AND SERVICES.—Notwithstanding section 7(c)(6), because of the eligibility of the Native Hawaiian governing entity and its citizens for Native Hawaiian programs and services in accordance with subsection (g), nothing in this Act provides an authorization for eligibility to participate in any Indian program or service to any individual or entity not otherwise eligible for the program or service under applicable Federal law.

(g) NATIVE HAWAIIAN PROGRAMS AND SERVICES.—The Native Hawaiian governing entity and its citizens shall be eligible for Native Hawaiian programs and services to the extent and in the manner provided by other applicable laws.

SEC. 10. SEVERABILITY.

If any section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections or provisions shall continue in full force and effect.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. INOUYE. Mr. President, I am pleased to join my colleague, Senator AKAKA, as a cosponsor of the Native Hawaiian Government Reorganization Act of 2007.

During the 109th Congress, the Administration expressed concerns with this legislation that stem from its experience with Indian tribes. The history of the Native Hawaiians and their treatment by the United States is similar to that of Indian tribes and Alaska Natives. I want to commend the Administration for devoting staff to work with us to achieve consensus on mutually agreeable language. I am confident that this measure not only addresses the Administration's concerns but also the concerns of some of our colleagues.

Having served on the Indian Affairs Committee for the past 28 years, I know that most of our colleagues are more familiar with conditions and circumstances in Indian country, and naturally, they bring their experience with Indian country to bear in considering this measure, which has been pending in the Senate for the past eight years.

Accordingly, I believe it is important that our colleagues understand what this bill seeks to accomplish as well as how it differs from legislation affecting Indian country.

It is a little known fact that beginning in 1910 and since that time, the Congress has passed and the President has signed into law over 160 Federal laws designed to address the conditions of Native Hawaiians.

Thus, Federal laws which authorize the provision of health care, education, housing, and job training and employment services, as well as programs to provide for the preservation of the Native Hawaiian language, Native language immersion, Native cultural and grave protections and repatriation of Native sacred objects have been in place for decades.

The Native Hawaiian programs do not draw upon funding that is appropriated for American Indians or Alaska Natives—there are separate authorizations for programs that are administered by different Federal agencies—not the Bureau of Indian Affairs or the Indian Health Service, for instance—and the Native Hawaiian program funds are not drawn from the Interior Appropriations Subcommittee account. Thus, they have no impact on the funding that is provided for the other indigenous, native people of the United States.

However, unlike the native people residing on the mainland, Native Hawaiians have not been able to exercise their rights as Native people to self-determination or self-governance because their government was overthrown on January 17, 1893.

This bill would provide a process for the reorganization of the Native Hawaiian government and the resumption of a political and legal relationship between that government and the government of the United States.

Because the Native Hawaiian government is not an Indian tribe, the body of Federal Indian law that would otherwise customarily apply when the United States extends Federal recognition to an Indian tribal group does not apply.

Thus, the bill provides authority for a process of negotiations amongst the United States, the State of Hawaii, and the reorganized Native Hawaiian government to address such matters as the exercise of civil and criminal jurisdiction by the respective governments, the transfer of land and natural resources and other assets, and the exercise of governmental authority over those lands, natural resources and other assets.

Upon reaching agreement, the U.S. Congress and the legislature of the State of Hawaii would have to enact legislation implementing the agreements of the three governments, including amendments that will necessarily have to be made to existing Federal law, such as the Hawaii Admissions Act and the Hawaiian Homes Commission Act, and to State law, including amendments to the Hawaii State Constitution, before any of the new governmental relationships and authorities can take effect.

That is why concerns which are premised on the manner in which Federal Indian law provides for the respective governmental authorities of the State governments and Indian tribal governments simply do not apply in Hawaii.

We have every confidence that consistent with the Federal policy for over 35 years, the restoration of the rights to self-determination and self-governance will enable the Native Hawaiian people, as the direct, lineal descendants of the aboriginal, indigenous native people of what has become our nation's fiftieth state, to take their rightful place in the family of governments that makes up our constitutional system of governance.

By Mr. WARNER (for himself, Mr. WEBB, Mr. GRASSLEY, Mr. CORNYN, Mr. THUNE, and Mr. GRAHAM):

S. 315. A bill to establish a digital and wireless network technology program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WARNER. Mr. President, I rise today to reintroduce the Minority Serving Institution Digital and Wireless Technology Opportunity Act. This legislation, which was crafted by Senator Allen and I in years past, will provide vital resources to address the technology gap that exists at many Minority Serving Institutions, MSIs.

In the past, Senator Allen took the role of lead sponsor on this important bill. With his leadership, this exact legislation has passed twice unanimously. Unfortunately, the 109th Congress adjourned before the House of Representatives considered the bill. Accordingly, today I am privileged to serve as the lead sponsor of this legislation in the 110th Congress. I am pleased to have my Virginia colleague Senator JIM WEBB as an original cosponsor of this bill. I hope this important bill will soon become law.

Over 60 percent of all jobs require information technology skills. Jobs in the information technology field pay significantly higher salaries than jobs in non-information technology fields. At the same time, many of our Minority Serving Institutions lack the capital to offer assistance to their students to bridge the ''Digital Divide'' between students who are able to develop the skills necessary to succeed in

a technology based economy and those who are not.

This legislation will establish a grant program for these institutions of higher education to bring increased access to computers, technology, and the Internet to their student populations. Specifically, this legislation authorizes $250 million in Federal grants for Minority Serving Institutions to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology and wireless technology and infrastructure to develop and provide educational services. In addition, the grants could be used for such activities as campus wiring, equipment upgrades, and technology training. Finally, Minority Serving Institutions could use these funds to offer their students universal access to campus networks, increase connectivity rates, or make infrastructure improvements.

I am proud to say that Virginia is home to five Historically Black Colleges and Universities, HBCUs—Norfolk State University, St. Paul's College, Virginia Union University, Hampton University, and Virginia State University—that are eligible for these technology grants. There are over 200 Hispanic Serving Institutions, over 100 Historically Black Colleges and Universities and over 30 Tribal Colleges throughout the United States.

Again, in 2005, this bill passed in the Senate by unanimous consent. In 2003, this bill passed in the Senate with a roll call vote of 97–0. I am pleased to support this legislation, as I have done in the past, and I look forward to strengthening the technology provided to students at Minority Serving Institutions.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. LEAHY, Mr. SCHUMER, and Mr. FEINGOLD):

S. 316. A bill to prohibit brand name drug companies from compensating generic drug companies to delay the entry of a generic drug into the market; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Preserve Access to Affordable Generics Act. This legislation will stop one of the most egregious tactics used by the brand-name pharmaceutical industry to keep generic competitors off the market, leaving consumers with unnecessary high drug prices.

The way it is done is simple—a drug company that holds a patent on a blockbuster brand-name drug, pays a generic drug maker off to delay the sale of a competing generic product that might dip into their profits. The brand name company profits so much by delaying competition that it can easily afford to pay off the generic company, leaving consumers the big losers who continue to pay unnecessarily high drug prices.

Last year, the Supreme Court refused to consider an appeal by the Federal Trade Commission to reinstate antitrust charges against a brand-name drugs maker. Since the recent court decisions allowing these backroom deals, there has been a sharp rise in the number of settlements in which brand-name companies pay off generic competitors to keep their cheaper drugs off the market. In a report issued last year, the FTC found that more than two-thirds of the 10 settlement agreements made in 2006 included a pay-off from the brand in exchange for a promise by the generic company to delay entry into the market.

The decision by the Supreme Court is a blow to consumers who save billions of dollars on generics every year. When brand, name drugs lose patent rights, this opens the door for consumers, employers, third-party payers, and other purchasers to save billions—63 percent on average—by using generic versions of these drugs. A recent study released earlier this year by Pharmaceutical Care Management Association, showed that health plans and consumers could save $26.4 billion over the next 5 years by using the generic versions of 14 popular drugs that are scheduled to lose their patent protections before 2010.

Last year, I was successful in including an additional $10 million in the fiscal year 07 Agriculture Appropriations bill for the Food and Drug Administration's Office of Generic Drugs, an effort to help reduce the growing backlog of generic drug applications. The FDA Office of Generic Drugs has reported a backlog of more than 800 generic drug applications with more applications for new generics being received than ever before.

But even approval by the FDA doesn't always guarantee that consumers will have access to these affordable drugs. Brand-name pharmaceutical manufacturers have learned to circumvent the Drug Price Competition and Patent Term Restoration Act, commonly referred to as Hatch-Waxman, using litigation and other means to extend the life of patents and keep generics from entering the market Of the six approved first generics for LA popular brand-name drugs taken by seniors over the last year, only two have actually reached the market, while the others are being kept of the shelves by patent disputes.

We cannot profess to care about the high cost of prescription drugs while turning a blind eye to anticompetitive backroom deals between brand and generic drug companies. It's time to stop these drug company pay-offs that only serve the companies involved and deny consumers to affordable generic drugs. I urge my colleagues to join me in this effort.

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. 316

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 ''Preserve Access to Affordable Generics Act''.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) prescription drugs make up 11 percent of the national health care spending but are 1 of the largest and fastest growing health care expenditures;

(2) 56 percent of all prescriptions dispensed in the United States are generic drugs, yet they account for only 13percent of all expenditures;

(3) generic drugs, on average, cost 63 percent less than their brand-name counterparts;

(4) consumers and the health care system would benefit from free and open competition in the pharmaceutical market and the removal of obstacles to the introduction of generic drugs;

(5) full and free competition in the pharmaceutical industry, and the full enforcement of antitrust law to prevent anticompetitive practices in this industry, will lead to lower prices, greater innovation, and inure to the general benefit of consumers.

(6) the Federal Trade Commission has determined that some brand name pharmaceutical manufacturers collude with generic drug manufacturers to delay the marketing of competing, low-cost, generic drugs;

(7) collusion by the brand name pharmaceutical manufacturers is contrary to free competition, to the interests of consumers, and to the principles underlying antitrust law;

(8) in 2005, 2 appellate court decisions reversed the Federal Trade Commission's longstanding position, and upheld settlements that include pay-offs by brand name pharmaceutical manufacturers to generic manufacturers designed to keep generic competition off the market;

(9) in the 6 months following the March 2005 court decisions, the Federal Trade Commission found there were three settlement agreements in which the generic received compensation and agreed to a restriction on its ability to market the product;

(10) the FTC found that more than ⅔ of the approximately ten settlement agreements made in 2006 include a pay-off from the brand in exchange for a promise by the generic company to delay entry into the market; and

(11) settlements which include a payment from a brand name manufacturer to a generic manufacturer to delay entry by generic drugs are anti-competitive and contrary to the interests of consumers.

(b) PURPOSES.—The purposes of this Act are—

(1) to enhance competition in the pharmaceutical market by prohibiting anticompetitive agreements and collusion between brand name and generic drug manufacturers intended to keep generic drugs off the market;

(2) to support the purpose and intent of antitrust law by prohibiting anticompetitive agreements and collusion in the pharmaceutical industry; and

(3) to clarify the law to prohibit payments from brand name to generic drug manufacturers with the purpose to prevent or delay the entry of competition from generic drugs.

SEC. 3. UNLAWFUL COMPENSATION FOR DELAY.

The Clayton Act (15 U.S.C. 12 et seq.) is amended—

(1) by redesignating section 25 as section 29; and

(2) by inserting after section 27 the following:

"SEC. 28. UNLAWFUL INTERFERENCE WITH GENERIC MARKETING.

''(a) It shall be unlawful under this Act for any person, in connection with the sale of a drug product, to directly or indirectly be a party to any agreement resolving or settling a patent infringement claim which—

''(1) an ANDA filer receives anything of value; and

''(2) the ANDA filer agrees not to research, develop, manufacture, market, or sell the ANDA product for any period of time.

''(b) Nothing in this section shall prohibit a resolution or settlement of patent infringement claim in which the value paid by the NDA holder to the ANDA filer as a part of the resolution or settlement of the patent infringement claim includes no more than the right to market the ANDA product prior to the expiration of the patent that is the basis for the patent infringement claim.

''(c) In this section:

''(1) The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

''(2) The term 'agreement resolving or settling a patent infringement claim' includes, any agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

''(3) The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(4) The term 'ANDA filer' means a party who has filed an ANDA with the Federal Drug Administration.

''(5) The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(6) The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(7) The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(8) The term 'NDA holder' means—

''(A) the party that received FDA approval to market a drug product pursuant to an NDA;

''(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subclauses (i) and (ii) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(9) The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(10) The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.''.

SEC. 4. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 3155 note) is amended by—

(1) striking ''the Commission the'' and inserting ''the Commission (1) the''; and

(2) inserting before the period at the end the following: ''; and (2) a description of the subject matter of any other agreement the parties enter into within 30 days of an entering into an agreement covered by subsection (a) or (b)''.

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

''(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare under penalty of perjury that the following is true and correct: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.''.

SEC. 5. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting ''section 28 of the Clayton Act or'' after ''that the agreement has violated''.

SEC. 6. STUDY BY THE FEDERAL TRADE COMMISSION.

(a) REQUIREMENT FOR A STUDY.—Not later than 180 days after the date of enactment of this Act and pursuant to its authority under section 6(a) of the Federal Trade Commission Act (15 U.S.C. 46(a)) and its jurisdiction to prevent unfair methods of competition, the Federal Trade Commission shall conduct a study regarding—

(1) the prevalence of agreements in patent infringement suits of the type described in section 28 of the Clayton Act, as added by this Act, during the last 5 years;

(2) the impact of such agreements on competition in the pharmaceutical market; and

(3) the prevalence in the pharmaceutical industry of other anticompetitive agreements among competitors or other practices that are contrary to the antitrust laws, and the impact of such agreements or practices on competition in the pharmaceutical market during the last 5 years.

(b) CONSULTATION.—In conducting the study required under this section, the Federal Trade Commission shall consult with the Antitrust Division of the Department of Justice regarding the Justice Department's findings and investigations regarding anticompetitive practices in the pharmaceutical market, including criminal antitrust investigations completed by the Justice Department with respect to practices or conduct in the pharmaceutical market.

(c) REQUIREMENT FOR A REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall submit a report to the Judiciary Committees of Senate and House of Representatives, and to the Department of Justice regarding the findings of the study conducted under subsection (a). This report shall contain the Federal Trade Commission's recommendation as to whether any amendment to the antitrust laws should be enacted to correct any substantial lessening of competition found during the study.

(d) FEDERAL AGENCY CONSIDERATION.—Upon receipt of the report required by subsection (c), the Attorney General or the Chairman of the Federal Trade Commission, as appropriate, shall consider whether any additional enforcement action is required to restore competition or prevent a substantial lessening of competition occurring as a result of the conduct or practices that were the subject of the study conducted under subsection (b).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Trade Commission such sums as may be necessary to carry out the provisions of this Act.

Mr. LEAHY. Mr. President, I am pleased to join Senators KOHL, FEINGOLD, GRASSLEY and SCHUMER in introducing the Preserve Access to Affordable Generics Act of 2007. This legislation is a continuation of a longstanding, bipartisan effort to provide consumers with more choices for medications at lower costs. Better access to affordable prescription medication is of vital importance to seniors, families, and consumers across the Nation who are struggling to keep up with the ever increasing costs of health care.

This legislation builds on the Drug Competition Act, which I authored in 2001 and which became law in 2003 in the Medicare Modernization Act. Recently, two Federal courts undermined the intent of this law; the legislation we introduce today will address that problem. The Preserve Access to Affordable Generics Act will result in lower prescription drug costs for all Americans by preventing a pernicious practice in which brand-name pharmaceutical companies pay other drug companies not to produce and market generic drugs—which can be 80 percent less expensive than their brand-name counterparts—as part of private patent settlement agreements.

The Hatch-Waxman Act was intended to facilitate the entry of lower-cost generic drugs into the market, making medication more affordable, while protecting patent rights to foster innovation. It created a process, known as the Abbreviated New Drug Application, ANDA, to speed approval of generics. Under ANDA, an applicant can receive expedited approval from the FDA to market a generic product. An applicant using ANDA may certify that the manufacturing of its new drug will either not infringe on a previously patented drug on which it is based, or that the existing patent is invalid. After certifying an ANDA, the generic applicant must give notice to the patent-holder, at which point the patent-holder has 45 days to file a patent infringement against the applicant.

More times than not, disputes over an ANDA are resolved through private settlements. Unfortunately, the

underpinnings of these private settlements are becoming more and more questionable; drug companies are abusing Hatch-Waxman provisions, and using settlement opportunities to limit consumer choices and keep consumer prices artificially high. The FTC had been policing these deals to ensure they were not anticompetitive until two recent appellate court decisions limited it's role.

Hatch-Waxman created a good framework for promoting innovation while speeding the market entry of affordable drugs. The trend of anticompetitive agreements between brand-name pharmaceutical companies and generic companies to delay entry into the market is a troubling abuse of that good law. Some drug firms have colluded to pad their profits by forcing consumers to pay higher prices than they would pay for lower-cost generics. Congress never intended for brand-name drug companies to be able to grease the palms of generic companies by paying them not to produce generic medicines.

Rarely do we have such a clear-cut opportunity as this to remove obvious impediments that prevent the marketplace from working as it should—to the benefit of consumers. Congress should seize this opportunity and enact legislation that plainly makes anticompetitive deals, such as those I have outlined, illegal.

The Preserve Access to Affordable Generics Act will accomplish this goal. I look forward to working with my colleagues on both sides of the aisle to pass this timely and needed legislation.

By Mrs. FEINSTEIN (for herself and Mr. CARPER):

S. 317. A bill to amend the Clean Air Act to establish a program to regulate the emission of greenhouse gases from electric utilities; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with Senator CARPER to introduce the Electric Utility Cap and Trade Act.

Today, we are introducing the first of five bills to address the number one environmental issue facing this planet—global warming.

This bill establishes a national cap and trade system over the electricity sector. It will reduce emissions from this sector by 25 percent by 2020.

What distinguishes this bill is that it has the support of 6 major energy companies.

Together, these companies operate in 42 States and produce approximately 150,000 megawatts of energy. This is greater than 15 percent of the U.S. electricity market.

These companies include, first, Pacific Gas & Electric (PG&E) Corporation, which is the parent of Pacific Gas and Electric Company. PG&E is California's largest utility and serves approximately 1 in every 20 Americans. PG&E Corporation currently owns approximately 6,500 megawatts of generation.

Second, Calpine, which operates in 20 States and Canada, generating 26,000 megawatts of energy.

Third, Florida Power & Light, which operates in 26 States, generating more than 30,000 megawatts.

Fourth, Entergy, which operates in Arkansas, Louisiana, Mississippi, and Texas, generating approximately 30,000 megawatts.

Fifth, Exelon, which operates in Illinois and Pennsylvania, generating 38,000 megawatts of energy.

Sixth, Public Service Enterprise Group, which is the largest provider of energy in New Jersey, generating approximately 15,000 megawatts.

These companies' support is greatly appreciated, and I think it signals a new willingness in the energy industry to seriously tackle global warming.

This bill is just the beginning of a major program. Over the next weeks and months, we will also be introducing a cap and trade bill for the industrial sector; a bill that increases fuel economy standards by ten miles per gallon over the next ten years; a bill to promote bio-diesel and E–85; and other low carbon fuels and an energy efficiency bill modeled after California's program.

This is an ambitious agenda, but I believe it is the right way to go if we are to slow global warming.

A great debate has raged in the halls of Congress, in academia, and in the field over the past two decades.

At issue were three fundamental questions: First, is the earth warming? Second, if so, is the warming caused by human activity? And third, can it be stopped?

Over the past few years, a consensus has been forged. An overwhelming body of evidence has been gathered. And, an inescapable conclusion has been reached: The earth is warming. The warming is caused by human activity, namely the combustion of fossil fuels.

It cannot be stopped, because carbon dioxide does not dissipate. It stays in the atmosphere for 30, 40, or 50 years or more.

When we pick up the newspaper each day we see the results. We read about ice sheets the size of small nations breaking off the ice shelves in the Arctic and Antarctic. We read about polar bears committing acts of cannibalism, something unknown in recent memory. We read about species disappearing, seas rising, coral reefs dying, and glaciers melting.

But, all this dire news does not mean we should throw up our hands and do nothing. If we act now, and if we act with purpose, the most serious consequences can be averted. Global warming can be contained to 1–2 degrees Fahrenheit.

But if we do not act, and temperatures spike by 5 degrees or more, the world around us will change forever. There's no going back.

The question becomes what can we do? I've spent the last year trying to answer this question. And the conclusion I've reached is that there is no single answer, no silver bullet, no one thing to turn the tide. But rather, we need many answers in many different areas.

And more importantly, we need people of common purpose, working together, to find innovative solutions. And that's why we're here today.

As I was searching for answers, I picked up the phone and called PG&E Corporation's CEO, Peter Darbee. I said, ''Peter, would you help me out on Global Warming legislation?''

To his immense credit, Peter went back, studied the issue, and said ''You're right. Something must be done.'' And he's been terrific. He's helped at every step of the way.

It means so much to me that PG&E, Calpine, Florida Power and Light, and all the companies that comprise the Clean Energy Group's Clean Air Policy Initiative have endorsed the legislation we are introducing today.

This is the most aggressive global warming bill that industry has supported to date. And I want to thank the CEOs of these companies today for their courage and leadership in taking this step.

Here's what the bill would do. The bill would establish a cap and trade program for the electricity sector, which is the single largest piece of the global warming puzzle, accounting for 33 percent of all U.S. emissions.

First, the bill would a cap at 2006 levels in 2011—a 6 percent reduction from anticipated levels of greenhouse gases from the electric sector.

In 2015, it would ratchet the cap down to 2001 levels—a 16 percent reduction from anticipated levels.

In 2016, the bill would reduce the cap further to 1 percent below 2001 levels. And, from 2017 to 2019 it would require additional annual 1 percent reductions.

By 2020, emissions would be reduced 25 percent below anticipated levels.

And after that, emissions will be reduced even further—by an additional 1.5 percent a year and potentially more, if the EPA, based on scientific evidence, believes that more needs to be done to avert the most dire consequences of global warming.

That's the cap.

The trade part of the bill gives companies flexibility to embrace new technologies, encourage innovation, and promote green practices—not just in this area, but across the economy.

As I said, this bill is only one part of the answer. One piece of the puzzle.

Congress has a window of opportunity to act. If we act boldly and quickly, then perhaps we can make a difference.

But if we resort to the feuding which has characterized past Congresses, our world will be the poorer for it. I think there is but one choice.

I urge my colleagues to join me in supporting this legislation and I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 317

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Electric Utility Cap and Trade Act of 2007''.

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

TITLE I—GLOBAL CLIMATE CHANGE

SEC. 101. GLOBAL CLIMATE CHANGE.

(a) IN GENERAL.—The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''TITLE VII—GLOBAL CLIMATE CHANGE

''SEC. 701. DEFINITIONS.

''In this title:

''(1) AFFECTED UNIT.—

''(A) IN GENERAL.—The term 'affected unit' means an electric generating facility that—

''(i) has a nameplate capacity greater than 25 megawatts;

''(ii) combusts greenhouse gas-emitting fuels; and

''(iii) generates electricity for sale.

''(B) INCLUSIONS.—The term 'affected unit' includes—

''(i) a cogeneration facility; and

''(ii) a facility owned or operated by any instrumentality of—

''(I) the Federal Government; or

''(II) any State, local, or tribal government.

''(2) AFFORESTATION.—The term 'afforestation' means the conversion to a forested condition of land that has been in a nonforested condition for at least 15 years.

''(3) ALLOCATION.—The term 'allocation', with respect to an allowance, means the issuance of an allowance directly to covered units, at no cost, under this title.

''(4) ALLOWANCE.—The term 'allowance' means an authorization under this title to emit 1 metric ton of carbon dioxide (or a carbon dioxide equivalent), as allocated to a covered unit pursuant to section 716.

''(5) CARBON DIOXIDE EQUIVALENT.—The term 'carbon dioxide equivalent' means, with respect to a greenhouse gas, the quantity of the greenhouse gas that makes the same contribution to global warming as 1 metric ton of carbon dioxide, as determined by the Administrator.

''(6) COGENERATION FACILITY.—The term 'cogeneration facility' means a facility that—

''(A) cogenerates steam and electricity; and

''(B) supplies, on a net annual basis, to the electric power grid—

''(i) more than ⅓ of the potential electric output capacity of the facility; and

''(ii) more than 25 megawatts of electrical output from the facility.

''(7) COVERED UNIT.—The term 'covered unit' means—

''(A) an affected unit;

''(B) a nuclear generating unit (including a facility owned or operated by any instrumentality of the Federal Government or of any State, local, or tribal government), but only to the extent of incremental nuclear generation of the unit; and

''(C) a renewable energy unit (including a facility owned or operated by any instrumentality of the Federal Government or of any State, local, or tribal government).

''(8) CREDIT.—

''(A) IN GENERAL.—The term 'credit' means an authorization under this title to emit greenhouse gases equivalent to 1 metric ton of carbon dioxide.

''(B) INCLUSIONS.—The term 'credit' includes—

''(i) an allowance;

''(ii) an offset credit;

''(iii) an early reduction credit; or

''(iv) an international credit.

''(9) EARLY REDUCTION CREDIT.—The term 'early reduction credit' means a credit issued under section 718 for a reduction in the quantity of emissions or an increase in sequestration equivalent to 1 metric ton of carbon dioxide.

''(10) FUND.—The term 'Fund' means the Climate Action Trust Fund established by section 717(a)(1).

''(11) GREENHOUSE GAS.—The term 'greenhouse gas' means—

''(A) carbon dioxide;

''(B) methane;

''(C) nitrous oxide;

''(D) hydrofluorocarbons;

''(E) perfluorocarbons; and

''(F) sulfur hexafluoride.

''(12) GREENHOUSE GAS AUTHORIZED ACCOUNT REPRESENTATIVE.—The term 'greenhouse gas authorized account representative' means, for a covered unit, an individual who is authorized by the owner and operator of the covered unit to represent and legally bind the owner and operator in matters pertaining to this title.

''(13) GREENHOUSE GAS-EMITTING FUEL.—

''(A) IN GENERAL.—The term 'greenhouse gas-emitting fuel' means any fuel that produces a greenhouse gas as a combustion product.

''(B) INCLUSIONS.—The term 'greenhouse gas-emitting fuel' includes—

''(i) fossil fuels;

''(ii) municipal waste;

''(iii) industrial waste;

''(iv) agricultural waste; and

''(v) biomass that is not grown using sustainable techniques.

''(C) EXCLUSION.—The term 'greenhouse gas-emitting fuel' does not include biomass that is grown using sustainable techniques.

''(14) INCREMENTAL NUCLEAR GENERATION.—The term 'incremental nuclear generation' means, as determined by the Administrator and measured in megawatt hours, the difference between—

''(A) the quantity of electricity generated by a nuclear generating unit in a calendar year; and

''(B) the quantity of electricity generated by the nuclear generating unit in calendar year 1990.

''(15) INDUSTRY SECTOR.—The term 'industry sector' means any sector of the economy of a country (including, where applicable, the forestry sector) that is responsible for significant quantities of greenhouse gas emissions.

''(16) INTERNATIONAL CREDIT.—The term 'international credit' means a credit recognized for a reduction in the quantity of emissions or an increase in sequestration equivalent to 1 metric ton of carbon dioxide that—

''(A) arises from activities outside the United States; and

''(B) is authorized for use under section 719.

''(17) INVASIVE SPECIES.—The term 'invasive species' means a species (including pathogens, seeds, spores, or any other biological material relating to a species) the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

''(18) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

''(19) LEAKAGE.—The term 'leakage' means an increase in greenhouse gas emissions or a decrease in sequestration of greenhouse gases that is—

''(A) outside the area of a project; and

''(B) attributable to the project.

''(20) NATIVE PLANT.—The term 'native plant' means an indigenous, terrestrial, or aquatic plant species that evolved naturally in an ecosystem.

''(21) NEW AFFECTED UNIT.—The term 'new affected unit' means an affected unit that has operated for not more than 3 years.

''(22) NEW COVERED UNIT.—The term 'new covered unit' means a covered unit that has operated for not more than 3 years.

''(23) NOXIOUS WEED.—The term 'noxious weed' means a plant species that is—

''(A) characterized by being—

''(i) aggressive and difficult to manage;

''(ii) poisonous, toxic, parasitic, or a carrier or host of insects or disease representing a serious threat to native species or crops; or

''(iii) nonnative to, new to, or not common to, the United States (or a region of the United States); or

''(B) otherwise designated as a noxious weed by the Secretary of Agriculture or an appropriate State official.

''(24) NUCLEAR GENERATING UNIT.—The term 'nuclear generating unit' means an electric generating facility that uses nuclear energy to generate electricity for sale.

''(25) OFFSET CREDIT.—The term 'offset credit' means a credit issued for an offset project pursuant to subtitle B certifying a reduction in the quantity of emissions or an increase in sequestration equivalent to 1 metric ton of carbon dioxide.

''(26) OFFSET PRACTICE.—The term 'offset practice' means a practice that—

''(A) reduces greenhouse gas emissions or increases sequestration other than by reducing the combustion of greenhouse gas-emitting fuel at an affected unit; and

''(B) may be eligible to create an offset credit under this title.

''(27) OFFSET PROJECT.—The term 'offset project' means a project that reduces greenhouse gas emissions or increases sequestration of carbon dioxide or a carbon dioxide equivalent by a method other than reduction of combustion of greenhouse gas-emitting fuel at an affected unit.

''(28) PANEL.—The term 'Panel' means the Climate Science Advisory Panel established by section 712(b)(1).

''(29) PLANT MATERIAL.—The term 'plant material' means—

''(A) a seed;

''(B) a part of a plant; or

''(C) a whole plant.

''(30) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from—

''(A) wind;

''(B) organic waste (excluding incinerated municipal solid waste);

''(C) biomass (including anaerobic digestion from farm systems and landfill gas recovery); or

''(D) a hydroelectric, geothermal, solar thermal, photovoltaic, tidal, wave, or other nonfossil fuel, nonnuclear source.

''(31) RENEWABLE ENERGY UNIT.—The term 'renewable energy unit' means an electric generating unit that exclusively uses renewable energy to generate electricity for sale.

''(32) RESTORATION.—

''(A) IN GENERAL.—The term 'restoration' means assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed.

''(B) INCLUSION.—The term 'restoration' includes the reestablishment in an ecosystem of preexisting biotic integrity with respect to species composition and community structure.

''(33) SEQUESTRATION.—The term 'sequestration' means the separation, isolation, or removal of greenhouse gases from the atmosphere.

''(34) SEQUESTRATION FLOW.—The term 'sequestration flow' means the uptake of greenhouse gases each year from sequestration practices, as calculated under section 732.

''(35) SUSTAINABLE TECHNIQUE.—The term 'sustainable technique' means an agricultural, forestry, or animal husbandry technique that does not result in—

''(A) a long-term net depletion of natural resources; or

''(B) a net emission of greenhouse gas during the lifecycle of biomass production, harvest, processing, and consumption.

''(36) UNFCCC.—The term 'UNFCCC' means the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

''Subtitle A—Stopping and Reversing Greenhouse Gas Emissions

''SEC. 711. REGULATIONS; GREENHOUSE GAS TONNAGE LIMITATION.

''(a) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations to establish an allowance trading program to address emissions of greenhouse gases from affected units in the United States.

''(b) GREENHOUSE GAS TONNAGE LIMITATION.—Beginning in calendar year 2011, the annual tonnage limitation for the aggregate quantity of emissions of greenhouse gases from affected units in the United States shall be equal to—

''(1) for each of calendar years 2011 through 2014, the aggregate quantity of emissions emitted from affected units in calendar year 2006, as determined by the Administrator based on certified and quality-assured continuous emissions monitoring data for greenhouse gases, or data that the Administrator determines to be of similar reliability for affected units without continuous monitoring systems, reported to the Administrator by affected units in accordance with this subtitle;

''(2) for calendar year 2015, the aggregate quantity of emissions emitted from affected units in calendar year 2001, as determined by the Administrator based on certified and quality-assured continuous emissions monitoring data for greenhouse gases, or data that the Administrator determines to be of similar reliability for affected units without continuous monitoring systems, reported to the Administrator by affected units in accordance with this subtitle;

''(3) for each of calendar years 2016 through 2019, the aggregate quantity of emissions emitted from affected units during the calendar year that is 1 percent less than the aggregate quantity of emissions from affected units allowed pursuant to this section during the preceding calendar year; and

''(4) for calendar year 2020 and each calendar year thereafter, the aggregate quantity of emissions emitted during the calendar year that is 1.5 percent less than the aggregate quantity of emissions from affected units allowed pursuant to this section during the preceding calendar year, except as modified by the Administrator pursuant to section 713.

''SEC. 712. SCIENTIFIC REVIEW OF THE SAFE CLIMATE LEVEL.

''(a) DEFINITION AND OBJECTIVE OF MAINTAINING THE SAFE CLIMATE LEVEL.—

''(1) FINDING.—Congress finds that ratification by the Senate in 1992 of the UNFCCC, commitments which were affirmed by the President in 2002, established for the United States an objective of 'stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system'.

''(2) DEFINITION OF SAFE CLIMATE LEVEL.—In this section, the term 'safe climate level' means the climate level referred to in paragraph (1).

''(b) CLIMATE SCIENCE ADVISORY PANEL.—

''(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this title, the Administrator shall establish an advisory panel, to be known as the 'Climate Science Advisory Panel'.

''(2) DUTIES.—The Panel shall—

''(A) inform Congress and the Administrator of the state of climate science;

''(B) not later than December 31, 2011, and not less frequently than every 4 years thereafter, issue a report that is endorsed by at least 7 members of the Panel that describes recommendations for the Administrator, based on the best available information in the fields of climate science, including reports from the Intergovernmental Panel on Climate Change, relating to—

''(i) the specific concentration, in parts per million, of all greenhouse gases in carbon dioxide equivalents at or below which constitutes the safe climate level; and

''(ii) the projected timeframe for achieving the safe climate level.

''(3) COMPOSITION.—

''(A) IN GENERAL.—The Panel shall be composed of 8 climate scientists and 3 former Federal officials, as described in subparagraphs (B) through (D).

''(B) CLIMATE SCIENTISTS.—Not later than 270 days after the date of enactment of this title, the President of the National Academy of Sciences shall appoint to serve on the Panel 8 climate scientists from among individuals who—

''(i) have earned doctorate degrees;

''(ii) have performed research in physical, biological, or social sciences, mathematics, economics, or related fields, with a particular focus on or link to 1 or more aspects of climate science;

''(iii) have records of peer-reviewed publications that include—

''(I) publications in main-stream, high-quality scientific journals (such as journals associated with respected scientific societies or those with a high impact factor, as determined by the Institute for Scientific Information);

''(II) recent publications relating to earth systems, and particularly relating to the climate system; and

''(III) a high publication rate, typically at least 2 or 3 papers per year; and

''(iv) have participated in high-level committees, such as those formed by the National Academy of Sciences or by leading scientific societies.

''(C) RESTRICTION.—A majority of climate scientists appointed to the Panel under subparagraph (B) shall be participating, as of the date of appointment to the Panel, in active research in the physical or biological sciences, with a particular focus on or link to 1 or more aspects of climate science.

''(D) FEDERAL OFFICIALS.—

''(i) IN GENERAL.—Subject to clause (ii), the Administrator shall appoint as members of the Panel, the longest-serving former Administrators of the Environmental Protection Agency for each of the 3 most recent former Presidents.

''(ii) TIMING.—The 3 most recent former Presidents described in clause (i) shall be identified as of the deadline for appointments to the Panel under subparagraph (B) or (E)(ii), whichever is applicable.

''(iii) SUBSTITUTES.—If a former Administrator described in clause (i) declines appointment, or is unable to serve, as a member of the Panel, the Administrator shall appoint in place of the former Administrator—

''(I) the longest-serving former Administrator for the applicable President who agrees to serve; or

''(II) if no individual described in subclause (I) accepts appointment as a member of the Panel, the longest-serving Assistant Administrator for Air and Radiation for the applicable President who agrees to serve.

''(E) TERMS OF SERVICE AND VACANCIES.—

''(i) TERMS.—The initial term of a member of the Panel shall be—

''(I) to the maximum extent practicable, the period covered by, and extending through the date of issuance of, each report under paragraph (2)(B); but

''(II) not longer than 4 years.

''(ii) SUBSEQUENT PANELS AND REPORTS.—On the issuance of each report under paragraph (2)(B)—

''(I) the Panel that submitted the report shall terminate; and

''(II)(aa) pursuant to subparagraphs (B) and (C), the President of the National Academy of Sciences shall appoint climate scientists (including at least 3 climate scientists who served as members of the preceding Panel) to serve as members of a new Panel by not later than 15 months after the deadline for issuance of the report under paragraph (2)(B); and

''(bb) pursuant to subparagraph (D), the Administrator shall appoint 3 Federal officials as members of the new Panel by the deadline described in item (aa).

''(iii) VACANCIES.—Vacancies in the membership of the Panel—

''(I) shall not affect the power of the remaining members to execute the functions of the Panel; and

''(II) shall be filled in the same manner in which the original appointment was made.

''(F) CHAIRPERSON AND VICE CHAIRPERSON.—The Panel shall elect a Chairperson and Vice Chairperson as soon as practicable.

''(G) COMPENSATION OF MEMBERS.—A member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Panel.

''(H) TRAVEL EXPENSES.—A member of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Panel.

''(4) STAFF.—

''(A) IN GENERAL.—The Chairperson of the Panel may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Panel to perform the duties of the Panel.

''(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Panel.

''(C) COMPENSATION.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Panel may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

''(ii) EXCEPTION.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(D) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(i) IN GENERAL.—An employee of the Federal Government may be detailed to the staff of the Panel without reimbursement.

''(ii) TREATMENT OF DETAILEES.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(E) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson or executive director of the Panel may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

''(5) HEARINGS.—The Panel may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out this section.

''(6) INFORMATION FROM FEDERAL AGENCIES.—

''(A) IN GENERAL.—The Panel may secure directly from a Federal agency such information as the Panel considers necessary to carry out this section.

''(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Panel, the head of the agency shall provide the information to the Panel.

''(7) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other agencies of the Federal Government.

''SEC. 713. REQUIRED REVIEW OF EMISSION REDUCTIONS NEEDED TO MAINTAIN THE SAFE CLIMATE LEVEL.

''(a) REVIEW AND DETERMINATION REGARDING REDUCTION RATE.—Not later than December 31, 2015, the Administrator, after providing public notice and opportunity to comment, shall promulgate a final rule pursuant to which the Administrator shall review the reduction rate for greenhouse gas emissions required under section 711(b)(4) and determine—

''(1) whether to—

''(A) accept the recommendations of the Panel under section 712(b)(2)(B) regarding the safe climate level and the timeframe for achieving the safe climate level; or

''(B) establish a different safe climate level or timeframe, together with a detailed explanation of the justification of the Administrator for rejection of the recommendations of the Panel; and

''(2) whether, in order to achieve the safe climate level within the timeframe described in paragraph (1), the reduction rate under section 711(b)(4) is most accurately characterized as requiring—

''(A) the appropriate level of emission reductions;

''(B) lesser emission reductions than are necessary; or

''(C) greater emission reductions than are necessary.

''(b) MODIFICATION OF REDUCTION RATE.—

''(1) IN GENERAL.—If the Administrator makes a determination described in subparagraph (B) or (C) of subsection (a)(2), the final rule promulgated pursuant to subsection (a) shall establish a required level of emissions reductions for each calendar year, beginning with calendar year 2020, based on the considerations described in paragraph (2).

''(2) CONSIDERATIONS.—

''(A) PRIMARY CONSIDERATION.—In establishing the required level of emission reductions pursuant to paragraph (1), the Administrator shall take into consideration primarily the emission reductions necessary to stabilize atmospheric greenhouse gas concentrations at the safe climate level within the timeframe specified under section 712(b)(2)(B).

''(B) SECONDARY CONSIDERATIONS.—In establishing the required level of emission reductions pursuant to paragraph (1), in addition to the primary consideration described in paragraph (1), the Administrator shall take into consideration—

''(i) technological capability to reduce greenhouse gas emissions;

''(ii) the progress that foreign countries have made toward reducing their greenhouse gas emissions;

''(iii) the economic impacts within the United States of implementing this subtitle, including impacts on the major emitting sectors; and

''(iv) the economic impacts within the United States of inadequate action.

''(c) ENFORCEMENT PROVISION.—

''(1) IN GENERAL.—If the Administrator fails to meet a deadline for promulgation of any regulation under subsection (a), the Administrator shall withhold from allocation to covered units that would otherwise be entitled to an allocation of allowances under this subtitle a total of 10 percent of the allowances for each covered unit for each year after the deadline until the Administrator promulgates the applicable regulation.

''(2) RETURN OF ALLOWANCES.—On promulgation of a delayed regulation described in paragraph (1), the Administrator shall distribute any allowances withheld under that paragraph—

''(A) among the covered units from which the allowances were withheld; and

''(B) in accordance with the applicable formula under section 716.

''(d) SUBSEQUENT RULEMAKINGS.—

''(1) IN GENERAL.—Not later than December 31, 2019, and every 4 years thereafter, the Administrator shall promulgate a new final rule described in subsection (a) in accordance with this section.

''(2) EFFECTIVE DATE.—If a new final rule promulgated pursuant to paragraph (1) changes a level of emission reductions required under the preceding final rule, the effective date of the new final rule shall be January 1 of the calendar year that is 5 years after the deadline for promulgation of the new final rule under paragraph (1).

''SEC. 714. DISTRIBUTION OF ALLOWANCES BETWEEN AUCTIONS AND ALLOCATIONS; NATURE OF ALLOWANCES.

''(a) DISTRIBUTION OF ALLOWANCES BETWEEN AUCTIONS AND ALLOCATIONS.—

''(1) IN GENERAL.—For each calendar year, the total quantity of allowances to be auctioned and allocated under this subtitle shall be equal to the annual tonnage limitation for emissions of greenhouse gases from affected units specified in section 711 for the calendar year.

''(2) DISTRIBUTION.—The proportion of allowances to be auctioned pursuant to section 715 and allocated pursuant to section 716 for each calendar year beginning in calendar year 2011 shall be as follows:

''Percentages of Allowances to be Auctioned and Allocated

Calendar Year	Percentage to be Auctioned	Percentage to be Allocated
2011	15	85
2012	18	82
2013	21	79
2014	24	76
2015	27	73
2016	30	70
2017	33	67

''Percentages of Allowances to be Auctioned and Allocated—Continued

Calendar Year	Percentage to be Auctioned	Percentage to be Allocated
2018	36	64
2019	39	61
2020	42	58
2021	45	55
2022	48	52
2023	51	49
2024	54	46
2025	57	43
2026	60	40
2027	63	37
2028	66	34
2029	69	41
2030	72	28
2031	75	25
2032	80	20
2033	85	15
2034	90	10
2035	95	5
2036 and thereafter	100	0

''(b) NATURE OF ALLOWANCES.—An allowance—

''(1) shall not be considered to be a property right; and

''(2) may be terminated or limited by the Administrator.

''(c) NO JUDICIAL REVIEW.—An auction or allocation of an allowance by the Administrator shall not be subject to judicial review.

''SEC. 715. AUCTION OF ALLOWANCES.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations establishing a procedure for the auction of the quantity of allowances specified in section 714(a) for each calendar year.

''(b) DEPOSIT OF PROCEEDS.—The Administrator shall deposit all proceeds from auctions conducted under this section in the Fund for use in accordance with section 717.

''SEC. 716. ALLOCATION OF ALLOWANCES.

''(a) ALLOCATION TO NEW COVERED UNITS.—

''(1) ESTABLISHMENT.—For each calendar year, the Administrator, in consultation with the Secretary of Energy, shall, based on projections of electricity output for new covered units, promulgate regulations establishing—

''(A) a reserve of allowances to be allocated among new covered units for the calendar year; and

''(B) the methodology for allocating those allowances among new covered units.

''(2) LIMITATION.—The number of allowances allocated under paragraph (1) during a calendar year shall be not more than 3 percent of the total number of allowances allocated among covered units for the calendar year.

''(3) UNUSED ALLOWANCES.—For each calendar year, the Administrator shall reallocate to each covered unit any unused allowances from the new unit reserve established under paragraph (1) in the proportion that—

''(A) the number of allowances allocated to each covered unit for the calendar year; bears to

''(B) the number of allowances allocated to all covered units for the calendar year.

''(b) ALLOCATION TO COVERED UNITS THAT ARE NOT NEW COVERED UNITS.—

''(1) TIMING OF ALLOCATIONS.—Subject to subsection (c), the Administrator shall allocate allowances among covered units that are not new covered units—

''(A) not later than December 31, 2007, for calendar year 2011; and

''(B) not later than December 31 of calendar year 2008 and of each calendar year thereafter, for each fourth calendar year that begins after that December 31.

''(2) ALLOCATIONS.—

''(A) IN GENERAL.—Subject to subsection (c), the Administrator shall allocate to each covered unit that is not a new covered unit a quantity of allowances that is equal to the product obtained by multiplying—

''(i) the quantity of allowances available for allocation under this subsection; and

''(ii) the quotient obtained by dividing—

''(I) the annual average quantity of electricity generated by the unit (including only incremental nuclear generation for nuclear generating units) during the most recent 3-calendar year period for which data is available, updated each calendar year and measured in megawatt hours; by

''(II) the difference between—

''(aa) the total of the average quantities calculated under subclause (I) for all covered units; and

''(bb) the quantity of electricity generated by all affected units and new affected units that, pursuant to subsection (c), do not receive any allowances.

''(B) QUANTITY TO BE ALLOCATED.—For each calendar year, the quantity of allowances allocated under subparagraph (A) to covered units that are not new covered units shall be equal to the difference between—

''(i) the annual tonnage limitation for emissions of greenhouse gases from affected units specified in section 711 for the calendar year, as modified, if applicable, under section 713; and

''(ii) the quantity of allowances reserved under subsection (a) for the calendar year.

''(c) COAL-FIRED AFFECTED UNITS AND NEW AFFECTED UNITS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subtitle, no allowance shall be allocated under this subtitle to a coal-fired affected unit or a coal-fired new affected unit unless the affected unit or new affected unit—

''(A) is powered by qualifying advanced clean coal technology, as defined pursuant to paragraph (2); or

''(B) entered operation before January 1, 2007.

''(2) DEFINITION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—

''(A) IN GENERAL.—Not later than 18 months after the date of enactment of this title, the Administrator, by regulation, shall define the term 'qualifying advanced clean coal technology' with respect to electric power generation.

''(B) REQUIREMENT.—In promulgating a definition pursuant to subparagraph (A), the Administrator shall ensure that the term 'qualifying advanced clean coal technology' reflects advances in available technology, taking into consideration—

''(i) net thermal efficiency;

''(ii) measures to capture and sequester carbon dioxide; and

''(iii) output-based emission rates for—

''(I) carbon dioxide;

''(II) sulfur dioxide;

''(III) oxides of nitrogen;

''(IV) filterable and condensable particulate matter; and

''(V) mercury.

''(C) REVIEW AND REVISION.—

''(i) IN GENERAL.—Not later than July 1, 2009, and each July 1 of every second year thereafter, the Administrator shall review and, if appropriate, revise the definition under subparagraph (A) based on technological advances during the preceding 2 calendar years.

''(ii) NOTICE AND COMMENT REQUIRED.—Subject to clause (iii), after the initial definition is established under subparagraph (A), no subsequent review or revision under this subparagraph shall be subject to the notice and comment provisions of section 307 of this Act or of section 553 of title 5, United States Code.

''(iii) EFFECT.—Nothing in clause (ii) precludes the application of the notice and comment provisions of section 307 of this Act or of section 553 of title 5, United States Code, as the Administrator determines to be practicable.

''SEC. 717. CLIMATE ACTION TRUST FUND.

''(a) ESTABLISHMENT AND ADMINISTRATION.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a fund, to be known as the 'Climate Action Trust Fund', consisting of—

''(A) such amounts as are deposited in the Fund under paragraph (2); and

''(B) any interest earned on investment of amounts in the Fund under paragraph (4).

''(2) TRANSFERS TO FUND.—The Secretary of the Treasury shall deposit in the Fund amounts equivalent to the proceeds received by the Administrator as a result of the conduct of auctions of allowances under section 715.

''(3) EXPENDITURES FROM FUND.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Administrator shall use amounts in the Fund to carry out the programs described in this section.

''(B) ADMINISTRATIVE EXPENSES.—Of amounts in the Fund, there shall be made available to pay the administrative expenses necessary to carry out this title, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor—

''(i) $90,000,000 for each fiscal year, to the Administrator; and

''(ii) $30,000,000 for each fiscal year, to the Secretary of Agriculture.

''(C) PANEL.—Of amounts in the Fund, there shall be made available to pay the expenses of the Panel under section 712 $7,000,000 for each fiscal year, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''(4) INVESTMENT OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary of Treasury shall invest such portion of the Fund as

is not, in the judgment of the Administrator, required to meet current withdrawals.

''(B) INTEREST-BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

''(C) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(i) on original issue at the issue price; or

''(ii) by purchase of outstanding obligations at the market price.

''(D) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Administrator at the market price.

''(E) RETURN OF PROCEEDS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

''(5) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate such regulations as are necessary to administer the Fund in accordance with this section.

''(b) USES OF FUND.—

''(1) NO FURTHER APPROPRIATION.—The Administrator shall distribute amounts in the Fund for use in accordance with this section, without further appropriation.

''(2) REGULATIONS.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate regulations establishing an innovative low- and zero-emitting carbon technologies program, a clean coal technologies program, and an energy efficiency technology program that include—

''(i) the funding mechanisms that will be available to support the development and deployment of the technologies addressed by each program, including low-interest loans, loan guarantees, grants, and financial awards; and

''(ii) the criteria for the methods by which proposals will be funded to develop and deploy the technologies.

''(B) REVISION OF CRITERIA.—Not later than January 1, 2014, and every 3 years thereafter, the Administrator shall review and, if appropriate, revise, based on technological advances, the criteria referred to in subparagraph (A)(ii).

''(C) ADAPTATION ASSISTANCE FOR WORKERS AND COMMUNITIES.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate regulations governing the distribution of funds pursuant to subsection (g).

''(c) INNOVATIVE LOW- AND ZERO-EMITTING CARBON ELECTRICITY GENERATION TECHNOLOGIES PROGRAM.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use not more than 35 percent to support the development and deployment of low- and zero-emitting carbon electricity generation technologies.

''(2) REGULATIONS.—The regulations establishing the innovative low- and zero-emitting carbon electricity generation technologies program referred to in subsection (b)(2)(A) shall establish the areas of technology development that will qualify for funding under that program, including technologies for the generation of electricity from renewable energy sources.

''(d) CLEAN COAL TECHNOLOGIES PROGRAM.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use not more than 20 percent to support the development and deployment of clean coal technologies.

''(2) REGULATIONS.—The regulations establishing the clean coal technologies program referred to in subsection (b)(2)(A) shall establish the criteria for use in defining qualifying clean coal technologies for electric power generation, while ensuring that those technologies represent an advance in available technology, taking into consideration net thermal efficiency and measures to capture and sequester carbon dioxide.

''(e) ENERGY EFFICIENCY TECHNOLOGY PROGRAM.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use not more than 15 percent to support the development and deployment of technologies for increasing the efficiency of energy end use in buildings and industry.

''(2) REGULATIONS.—The regulations establishing the energy efficiency program referred to in subsection (b)(2)(A) shall establish the areas of technology development that will qualify for funding under the energy efficiency program.

''(f) FEDERAL FUNDING OF RESEARCH INTO AND DEVELOPMENT OF ENERGY AND EFFICIENCY TECHNOLOGIES.—For each calendar year, the Administrator shall use not more than 10 percent of the amounts in the Fund to support research into and development of energy and efficiency technologies.

''(g) ADAPTATION ASSISTANCE FOR WORKERS AND COMMUNITIES NEGATIVELY AFFECTED BY CLIMATE CHANGE AND GREENHOUSE GAS REGULATION.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use at least 10 percent to provide adaptation assistance for workers and communities—

''(1) to address local or regional impacts of climate change and the impacts, if any, from greenhouse gas regulation, including by providing assistance to displaced workers and disproportionately affected communities; and

''(2) to mitigate impacts of climate change and the impacts, in any, from greenhouse gas regulation on low-income energy consumers.

''(h) FISH AND WILDLIFE HABITAT.—

''(1) IN GENERAL.—For each calendar year, of amounts remaining in the Fund after making the expenditures described in subparagraphs (B) and (C) of subsection (a)(3), the Administrator shall use at least 10 percent to mitigate the impacts of climate change on fish and wildlife habitat in accordance with this subsection.

''(2) WILDLIFE RESTORATION FUND.—

''(A) IN GENERAL.—For each calendar year, the Administrator shall transfer not less than 70 percent of the amounts made available under paragraph (1) to the Federal aid to wildlife restoration fund established under section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(1))—

''(i) to carry out climate change impact mitigation actions pursuant to comprehensive wildlife conservation strategies; and

''(ii) to provide relevant information, training, monitoring, and other assistance to develop climate change impact mitigation and adaptation plans and integrate the plans into State comprehensive wildlife conservation strategies.

''(B) AVAILABILITY.—Amounts transferred to the Federal aid to wildlife restoration fund under this paragraph shall—

''(i) be available, without further appropriation, for obligation and expenditure; and

''(ii) remain available until expended.

''(3) PROTECTION OF NATURAL RESOURCES.—

''(A) IN GENERAL.—For each calendar year, the Administrator, in consultation with the Secretary of Agriculture, the Secretary of Commerce, the Chief of Engineers, and State and national wildlife conservation organizations, shall transfer not more than 30 percent of the funds made available under paragraph (1) to the Secretary of the Interior for use in carrying out Federal and State programs and projects—

''(i) to protect natural communities that are most vulnerable to climate change;

''(ii) to restore and protect natural resources that directly guard against damages from climate change events; and

''(iii) to restore and protect ecosystem services that are most vulnerable to climate change.

''(B) ADMINISTRATION.—Amounts transferred to the Secretary of the Interior under this paragraph shall—

''(i) be available, without further appropriation, for obligation and expenditure;

''(ii) remain available until expended;

''(iii)(I) be obligated not later than 2 years after the date of transfer; or

''(II) if the amounts are not obligated in accordance with subclause (I), be transferred to the Federal aid to wildlife restoration fund for use in accordance with paragraph (2); and

''(iv) supplement, and not supplant, the amount of Federal, State, and local funds otherwise expended to carry out programs and projects described in subparagraph (A).

''(C) PROGRAMS AND PROJECTS.—Programs and projects for which funds may be used under this paragraph include—

''(i) Federal programs and projects—

''(I) to identify Federal land and water at greatest risk of being damaged or depleted by climate change;

''(II) to monitor Federal land and water to allow for early detection of impacts;

''(III) to develop adaptation strategies to minimize the damage; and

''(IV) to restore and protect Federal land and water at the greatest risk of being damaged or depleted by climate change;

''(ii) Federal programs and projects to identify climate change risks and develop adaptation strategies for natural grassland, wetlands, migratory corridors, and other habitats vulnerable to climate change on private land enrolled in—

''(I) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

''(II) the grassland reserve program established under subchapter C of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.); and

''(III) the wildlife habitat incentive program established under section 1240N of that Act (16 U.S.C. 3839bb–1);

''(iii) programs and projects under the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.), the North American Bird Conservation Initiative, and the Neotropical Migratory Bird Conservation Act (16 U.S.C. 6101 et seq.) to protect habitat for migratory birds that are vulnerable to climate change impacts;

''(iv) programs and projects—

''(I) to identify coastal and marine resources (such as coastal wetlands, coral reefs, submerged aquatic vegetation, shellfish beds, and other coastal or marine ecosystems) at the greatest risk of being damaged by climate change;

''(II) to monitor those resources to allow for early detection of impacts;

''(III) to develop adaptation strategies;

''(IV) to protect and restore those resources; and

''(V) to integrate climate change adaptation requirements into State plans developed under the coastal zone management program established under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), the national estuary program established under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330), the Coastal and Estuarine Land Conservation Program established under the fourth proviso of the matter under the heading 'PROCUREMENT, ACQUISITION, AND CONSTRUCTION (INCLUDING TRANSFERS OF FUNDS)' of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (16 U.S.C. 1456d), or other comparable State programs;

''(v) programs and projects to conserve habitat for endangered species and species of conservation concern that are vulnerable to the impact of climate change;

''(vi) programs and projects under the Forest Legacy Program established under section 7 of the Cooperative Forestry Assistance Act (16 U.S.C. 2103c), to support State efforts to protect environmentally sensitive forest land through conservation easements to provide refuges for wildlife;

''(vii) other Federal or State programs and projects identified by the heads of agencies described in subparagraph (A) as high priorities—

''(I) to protect natural communities that are most vulnerable to climate change;

''(II) to restore and protect natural resources that directly guard against damages from climate change events; and

''(III) to restore and protect ecosystem services that are most vulnerable to climate change;

''(viii) to address climate change in Federal land use planning and plan implementation and to integrate climate change adaptation strategies into—

''(I) comprehensive conservation plans prepared under section 4(e) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(e));

''(II) general management plans for units of the National Park System;

''(III) resource management plans of the Bureau of Land Management; and

''(IV) land and resource management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.) and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.); and

''(ix) projects to promote sharing of information on climate change wildlife impacts and mitigation strategies across agencies, including funding efforts to strengthen and restore habitat that improves the ability of fish and wildlife to adapt successfully to climate change through the Wildlife Conservation and Restoration Account established by section 3(a)(2) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(2)).

''SEC. 718. EARLY REDUCTION CREDITS.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations that provide for the issuance on a 1-time basis, certification, and use of early reduction credits for greenhouse gas reduction or sequestration projects carried out during any of calendar years 2000 through 2010.

''(b) ELIGIBLE PROJECTS.—A greenhouse gas reduction or sequestration project shall be eligible for early reduction credits if the project—

''(1) is carried out in the United States;

''(2) meets the standards contained in regulations promulgated by the Administrator under subsection (a) that the Administrator determines to be applicable to the project, including consistency with the requirements of—

''(A) paragraphs (2) through (5) of section 736(a), with respect to greenhouse gas reduction projects; and

''(B) section 732(a), with respect to sequestration projects; and

''(3) was reported—

''(A) under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

''(B) to a State or regional greenhouse gas registry.

''(c) LIMITATION.—

''(1) IN GENERAL.—The aggregate quantity of early reduction credits available for greenhouse gas reduction or sequestration projects for the period of calendar years 2000 through 2010 shall not exceed 10 percent of the tonnage limitation for calendar year 2011 for emissions of greenhouse gases from affected units under section 711.

''(2) NO OTHER EXCEEDANCE OF TONNAGE LIMITATION.—No provision of this subtitle (other than paragraph (1)) or any regulation promulgated under this subtitle authorizes the issuance or use of a quantity of credits greater than the annual tonnage limitation for emissions of greenhouse gases from affected units for a calendar year.

''SEC. 719. RECOGNITION AND USE OF INTERNATIONAL CREDITS.

''(a) USE OF INTERNATIONAL CREDITS.—

''(1) IN GENERAL.—Except as provided in this section and section 720, the owner of each affected unit may satisfy the obligation of the affected unit under section 722 to surrender a quantity of credits associated with the greenhouse gas emissions of the affected unit by submitting international credits representing up to 25 percent of the total annual submission requirements of the affected unit.

''(2) NEW AFFECTED UNITS.—The owner of a new affected unit may satisfy up to 50 percent of the obligation of the new affected unit under section 722 to surrender a quantity of credits associated with the greenhouse gas emissions of the new affected unit by submitting international credits.

''(b) FACILITY CERTIFICATION.—The owner of an affected unit who submits an international credit under this section shall certify that the international credit—

''(1) has not been retired from use in the registry of the applicable foreign country; and

''(2) satisfies the requirements of subsection (c) or (d).

''(c) INTERNATIONAL CREDITS FROM COUNTRIES WITH MANDATORY GREENHOUSE GAS LIMITS.—The owner of an affected unit may submit an international credit under this subsection if—

''(1) the international credit is issued by a foreign country pursuant to a governmental program that imposes mandatory absolute tonnage limits on greenhouse gas emissions from the country or 1 or more industry sectors pursuant to protocols adopted through the UNFCCC process; and

''(2) the Administrator has promulgated regulations, taking into consideration applicable UNFCCC protocols, approving for use under this subsection international credits from such categories of countries as the regulations establish, and the regulations permit the use of international credits from the foreign country that issued the credit.

''(d) INTERNATIONAL CREDITS FROM COUNTRIES WITHOUT MANDATORY GREENHOUSE GAS LIMITS.—

''(1) IN GENERAL.—Subject to paragraph (2), the owner of an affected unit may submit an international credit under this subsection if—

''(A) the international credit is issued by a foreign country that has not imposed mandatory absolute tonnage limits on greenhouse gas emissions from the country or 1 or more industry sectors pursuant to protocols adopted through the UNFCCC process;

''(B) the international credit is issued pursuant to protocols adopted through the UNFCCC process; and

''(C) the Administrator has promulgated regulations, taking into consideration applicable UNFCCC protocols, approving for use under this subsection international credits from such categories of countries as the regulations establish, and the regulations permit the use of international credits from the foreign country that issued the credit.

''(2) DECISION ON CONTINUED APPROVAL.—Not later than December 31, 2015, the Administrator shall determine, pursuant to the regulations promulgated under paragraph (1)(C), whether to continue to approve for use under this subsection international credits from any country that—

''(A) has not imposed mandatory absolute tonnage limits on greenhouse gas emissions from the country or 1 or more industry sectors pursuant to protocols adopted through the UNFCCC process; and

''(B) generates more than 0.5 percent of global greenhouse gas emissions as of 2010 or as of the most recent year for which data are available.

''SEC. 720. AVOIDING SIGNIFICANT ECONOMIC HARM.

''(a) IN GENERAL.—Pursuant to the regulations promulgated under this section, the Administrator may permit affected units—

''(1) to use allowances in a calendar year before the calendar year for which the allowances were allocated; and

''(2) to increase the use by the affected units of international credits up to 50 percent of the total annual submission requirements of the affected units under section 722.

''(b) REGULATIONS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Administrator, in coordination with the Secretary of the Treasury, shall promulgate regulations requiring the continuous monitoring of the operation of the carbon market and the effect of that market on the economy of the United States.

''(2) REQUIREMENTS.—The regulations shall—

''(A) establish the criteria for determining whether allowance prices have reached and sustained a level that is causing or will cause significant harm to the economy of the United States; and

''(B) take into consideration—

''(i) the obligation of the United States under this subtitle to stabilize greenhouse gas concentrations in the atmosphere at the safe climate level; and

''(ii) the costs of the anticipated impacts of climate change in the United States.

''(3) PREVENTION OF ECONOMIC HARM.—If the Administrator determines that allowance prices have reached and sustained a level that is causing or will cause significant harm to the economy of the United States, the regulations shall establish—

''(A) a program under which an affected unit may use allowances in a calendar year before the calendar year for which the allowances were allocated, including—

''(i) a requirement that allowances borrowed from the allocation of a future year reduce the allocation of allowances to the affected unit for the future year on a 1-to-1 basis;

''(ii) a requirement for payment of interest on borrowed allowances requiring the submission of additional credits upon repayment of the allowances equal to the product obtained by multiplying—

''(I) the number of years between the advance use of allowances by an affected unit under clause (i) and the submission of additional credits under this clause; and

''(II) the sum obtained by adding—

''(aa) the Federal short-term rate, as defined pursuant to section 1274(d)(1)(C)(i) of the Internal Revenue Code of 1986; and

''(bb) 2 percent; and

''(iii) a limitation that in no event may an affected unit—

''(I) satisfy more than 10 percent of the obligation of the affected unit under section 722 to surrender allowances by submitting allowances in a calendar year before the calendar year for which the allowances were allocated; and

''(II) use allowances in a calendar year that is more than 5 years before the calendar year for which the allowances were allocated; and

''(B) a program under which the owner of an affected unit may satisfy the obligation of the affected unit under section 722 to surrender allowances for the calendar year in which the determination is made by submitting international credits representing up to 50 percent of the total annual submission requirements of the affected unit.

''SEC. 721. USE AND TRANSFER OF CREDITS.

''(a) USE IN OTHER GREENHOUSE GAS ALLOWANCE TRADING PROGRAMS.—

''(1) IN GENERAL.—A credit obtained under this subtitle may be used in any other greenhouse gas allowance trading program, including a program of 1 or more States or subdivisions of States, that is approved by the Administrator and an authorized official for the other program for use of the allowance.

''(2) RECIPROCITY.—A credit obtained from another greenhouse gas trading program, including a program of 1 or more States or subdivisions of States, that is approved by the Administrator and an authorized official for the other program may be used in the trading program under this title.

''(b) ALLOWANCE USE BEFORE APPLICABLE CALENDAR YEAR.—Except as provided in section 720, an allowance auctioned or allocated under this subtitle may not be used before the calendar year for which the allowance was auctioned or allocated.

''(c) TRANSFER.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the transfer of a credit shall not take effect until receipt and recording by the Administrator of a written certification of the transfer that is executed by an authorized official of the person making the transfer.

''(2) SPECIAL RULE FOR ALLOWANCES.—Notwithstanding paragraph (1), the transfer of an allowance auctioned or allocated under this subtitle may take effect before the calendar year for which the allowance was auctioned or allocated.

''(d) BANKING OF CREDITS.—Any affected unit may use a credit obtained under this subtitle in the calendar year for which the credit was auctioned or allocated, or in a subsequent calendar year, to demonstrate compliance with section 722.

''SEC. 722. COMPLIANCE AND ENFORCEMENT.

''(a) IN GENERAL.—For calendar year 2011 and each calendar year thereafter, the owner of each affected unit shall surrender to the Administrator a quantity of credits that is equal to the total tons of carbon dioxide or, with respect to other greenhouse gases, tons in carbon dioxide equivalent, associated with the combustion by the affected unit of greenhouse gas-emitting fuels during the calendar year.

''(b) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations establishing the procedures for the surrender of credits.

''(c) PENALTY.—The owner of an affected unit that emits greenhouse gases associated with the combustion by the affected unit of a greenhouse gas-emitting fuel in excess of the number of credits that the owner of the affected unit holds for use of the affected unit for the calendar year shall—

''(1) submit to the Administrator 1.3 credits for each metric ton of excess greenhouse gas emissions of the affected unit; and

''(2) pay an excess emissions penalty equal to the product obtained by multiplying—

''(A) the number of tons of carbon dioxide, or the carbon dioxide equivalent of other greenhouse gases, emitted in excess of the total quantity of credits held by the affected unit; and

''(B)(i) except as provided in clause (ii), $100, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor; or

''(ii) if the average market price for a metric ton of carbon dioxide equivalent during a calendar year exceeds $60, $200, as adjusted for changes beginning on January 1, 2007, in accordance with the Consumer Price Index for All-Urban Consumers published by the Department of Labor.

''Subtitle B—Offset Credits

''SEC. 731. OUTREACH INITIATIVE ON REVENUE ENHANCEMENT FOR AGRICULTURAL PRODUCERS.

''(a) PURPOSES.—The purposes of this subtitle are to achieve climate benefits, reduce overall costs to the United States economy, and enhance revenue for domestic agricultural producers, foresters, and other landowners by—

''(1) establishing procedures by which domestic agricultural producers, foresters, and other landowners can measure and report reductions in greenhouse gas emissions and increases in sequestration; and

''(2) publishing a handbook of guidance for domestic agricultural producers, foresters, and other landowners to market emission reductions to companies.

''(b) ESTABLISHMENT.—The Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service, the Chief of the Forest Service, the Administrator of the Cooperative State Research, Education, and Extension Service, and landgrant colleges and universities, in consultation with the Administrator and the heads of other appropriate departments and agencies, shall establish an outreach initiative to provide information to agricultural producers, agricultural organizations, foresters, and other landowners about opportunities under this subtitle to earn new revenue.

''(c) COMPONENTS.—The initiative under this section—

''(1) shall be designed to ensure that, to the maximum extent practicable, agricultural organizations and individual agricultural producers, foresters, and other landowners receive detailed practical information about—

''(A) opportunities to earn new revenue under this subtitle;

''(B) measurement protocols, monitoring, verifying, inventorying, registering, insuring, and marketing offsets under this title;

''(C) emerging domestic and international markets for energy crops, allowances, and offsets; and

''(D) local, regional, and national databases and aggregation networks to facilitate achievement, measurement, registration, and sales of offsets;

''(2) shall provide—

''(A) outreach materials, including the handbook published under subsection (d)(1), to interested parties;

''(B) workshops; and

''(C) technical assistance; and

''(3) may include the creation and development of regional marketing centers or coordination with existing centers (including centers within the Natural Resources Conservation Service or the Cooperative State Research, Education, and Extension Service or at land-grant colleges and universities).

''(d) HANDBOOK.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator and after public input, shall publish a handbook for use by agricultural producers, agricultural cooperatives, foresters, other landowners, offset buyers, and other stakeholders that provides easy-to-use guidance on achieving, reporting, registering, and marketing offsets.

''(2) DISTRIBUTION.—The Secretary of Agriculture shall ensure, to the maximum extent practicable, that the handbook is distributed widely through land-grant colleges and universities and other appropriate institutions.

''SEC. 732. OFFSET MEASUREMENT FOR AGRICULTURAL, FORESTRY, WETLANDS, AND OTHER LAND USE-RELATED SEQUESTRATION PROJECTS.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations establishing the requirements regarding the issuance, certification, and use of offset credits for greenhouse gas reductions from agricultural, forestry, wetlands, and other land use-related sequestration projects, including requirements—

''(1) for a region-specific discount factor for business-as-usual practices for specific types of sequestration projects, in accordance with subsection (c);

''(2) that ensure that the reductions are real, additional, verifiable, and enforceable;

''(3) that address leakage;

''(4) that the reductions are not otherwise required by any law (including a regulation) or other legally binding requirement;

''(5) for the quantification, monitoring, reporting, and verification of the reductions;

''(6) that ensure that offset credits are limited in duration to the period of sequestration of greenhouse gases, and rectify any loss of sequestration other than a loss caused by an error in calculation identified under this subtitle, by requiring the submission of additional credits of an equivalent quantity to the lost sequestration; and

''(7) that quantify sequestration flow.

''(b) ELIGIBILITY TO CREATE OFFSET CREDITS.—

''(1) IN GENERAL.—A sequestration project that commences operation on or after January 1, 2011, is eligible to create offset credits under this subtitle if the sequestration project satisfies the other applicable requirements of this subtitle.

''(2) EXCEPTION FOR AGRICULTURAL PROJECTS.—Notwithstanding paragraph (1), sequestration flow from an agricultural project that occurs on or after January 1, 2011, may provide the basis for offset credits under this subtitle regardless of the date on which the agricultural sequestration project to which the sequestration flow is attributable commenced, if the project satisfies the other applicable requirements of this subtitle.

''(c) DISCOUNTING FOR BUSINESS-AS-USUAL PRACTICES.—

''(1) IN GENERAL.—In order to streamline the availability of offset credits for agricultural and other land use-related sequestration projects, the regulations promulgated under subsection (a) shall provide for the calculation and reporting of region-specific discount factors by the Secretary of Agriculture—

''(A) to be used by developers of agricultural projects and other land use-related sequestration projects; and

''(B) to account for business-as-usual practices for specific types of sequestration projects.

''(2) CALCULATION.—Unless otherwise provided in this subtitle, the region-specific discount factor for business-as-usual practices for sequestration projects shall be calculated by dividing—

''(A) the difference between—

''(i) the quantity of greenhouse gases sequestered in the region as a result of the offset practice under this subtitle; and

''(ii) the quantity of greenhouse gases sequestered in the region as a result of the projected business-as-usual implementation of the applicable offset practice; by

''(B) the quantity of greenhouse gases sequestered in the region as a result of the offset practice under this subtitle.

''(3) REQUIREMENTS.—

''(A) IN GENERAL.—The regulations promulgated under this section shall, to the maximum extent practicable—

''(i) define geographic regions with reference to land that has similar agricultural characteristics; and

''(ii) subject to subparagraph (B), define baseline historical reference periods for each category of sequestration practice, using the most recent period of sufficient length for which there are reasonably comprehensive data available.

''(B) EXCEPTION.—If the Secretary of Agriculture determines that entities have increased implementation of the relevant offset practice during the most recent period in anticipation of legislation granting credit for the offsets, the regulations described in subparagraph (A)(ii) may define baseline historical reference periods for each category of sequestration practice using an earlier period.

''(d) QUANTIFYING SEQUESTRATION FLOW.—The regulations that quantify sequestration flow shall include—

''(1) a default rate of sequestration flow, regionally specific to the maximum extent practicable, for each offset practice or combination of offset practices, that is estimated conservatively to allow for site-specific variations and data uncertainties;

''(2) a downward adjustment factor for any offset practice or combination of practices for which, in the judgment of the Secretary of Agriculture, there are substantial uncertainties in the sequestration flows estimated in paragraph (1), but still reasonably sufficient data to calculate a default rate of flow; and

''(3) offset practice- or project-specific measurement, monitoring, and verification requirements for—

''(A) offset practices or projects for which there are insufficiently reliable data to calculate a default rate of sequestration flow; or

''(B) projects for which the project proponent chooses to use project-specific requirements.

''(e) USE OF NATIVE PLANT SPECIES IN OFFSET PROJECTS.—

''(1) REGULATIONS.—Not later than 18 months after the date of enactment of this title, the Administrator, in consultation with the Secretary of Agriculture, shall promulgate regulations for selection, use, and storage of native and nonnative plant materials in the offset projects described in paragraph (2)—

''(A) to ensure native plant materials are given primary consideration, in accordance with applicable Department of Agriculture guidance for use of native plant materials;

''(B) to prohibit the use of Federal- or State-designated noxious weeds; and

''(C) to prohibit the use of a species listed by a regional or State invasive plant council within the applicable region or State.

''(2) APPLICABILITY.—The regulations under paragraph (1) shall apply to qualifying offset projects described in sections 733(b)(2), 734(a)(2), and 734(b)(1).

''SEC. 733. CATEGORIES OF AGRICULTURAL OFFSET PRACTICES.

''(a) REGULATIONS.—Not later than 2 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations establishing the categories of offset practices that—

''(1) reduce greenhouse gases as a result of agricultural sequestration projects; and

''(2) are eligible to receive offset credits under this subtitle.

''(b) OFFSET PRACTICES.—Offset practices described in subsection (a) shall include—

''(1) agricultural sequestration practices, including—

''(A) no-till agriculture;

''(B) conservation tillage (ridge till or minimum till);

''(C) winter cover cropping;

''(D) switching from a cycle of—

''(i) planting wheat or other crops and then fallowing land; to

''(ii) continuous cropping;

''(E) any other offset practices identified by the Administrator, in consultation with the Secretary of Agriculture; and

''(F) combinations of any of the offset practices described in subparagraphs (A) through (E); and

''(2) conversion of cropland to rangeland or grassland.

''SEC. 734. OFFSET CREDITS FROM FOREST MANAGEMENT, GRAZING MANAGEMENT, AND WETLANDS MANAGEMENT.

''(a) FOREST MANAGEMENT OFFSETS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations providing for the issuance of offset credits for forest management projects that provide durable, long-term reductions in greenhouse gases as a result of sequestration.

''(2) FOREST MANAGEMENT OFFSETS.—Forest management offset projects under this section may include activities that reduce greenhouse gases as a result of forest management sequestration projects (including afforestation), other than avoided forest land conversion as described in section 735.

''(3) PROHIBITIONS.—

''(A) IN GENERAL.—In accordance with section 732(e), no afforestation project may involve the planting of invasive species or noxious weeds.

''(B) EXISTING NATIVE GRASSLAND AND ECOSYSTEMS.—No afforestation project may involve planting trees on existing native grassland or other existing native non-forested ecosystems that the Secretary of Agriculture determines should be protected in their existing native condition.

''(b) WETLANDS MANAGEMENT OFFSETS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Administrator, in consultation with the Chief of Engineers, shall promulgate regulations providing for the issuance of offset credits for wetlands management projects that provide durable, long-term reductions in greenhouse gases as a result of sequestration.

''(2) PROHIBITIONS.—

''(A) IN GENERAL.—In accordance with section 732(e), no wetlands restoration project may involve the planting of invasive species or noxious weeds.

''(B) NO NEW WETLANDS.—No wetlands offset project may be carried out in an area in which underlying local hydrologic processes will not support a wetland.

''(c) GRAZING MANAGEMENT OFFSETS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Secretary of Agriculture, in consultation with the Administrator, shall promulgate regulations providing for the issuance of offset credits for grazing management projects that provide durable, long-term reductions in greenhouse gases as a result of sequestration.

''(2) GRAZING MANAGEMENT OFFSETS.—Grazing management offset projects under this section may include activities that reduce greenhouse gases as a result of grazing management sequestration projects other than conversion of cropland to grassland or rangeland under section 733.

''(d) USE OF OFFSETS.—

''(1) IN GENERAL.—For each calendar year, an affected unit may satisfy not more than 5 percent of the total allowance submission requirements of the affected unit under section 722 by using forest management offset credits under this section.

''(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to grazing management, afforestation, or wetland offset projects.

''SEC. 735. OFFSET CREDITS FROM THE AVOIDED CONVERSION OF FORESTED LAND OR WETLAND.

''(a) IN GENERAL.—Offset credits for avoided conversion of forested land or wetland shall be awarded to any State that reduces the conversion below expected levels for all or a significant portion of the State.

''(b) REGULATIONS.—Not later than 3 years after the date of enactment of this title, the Administrator, in conjunction with the Secretary of Agriculture, shall promulgate regulations that address the eligibility of offset practices that avoid the conversion of forested land or wetland to nonforested land uses or drained or converted wetland to receive offset credits under this subtitle, including requirements that address—

''(1) the methodology for measuring the avoided conversion of forest land or wetland, including—

''(A) measurement of presently on-going rates of forest land conversion or wetland conversion;

''(B) calculation of business-as-usual rates of forest land conversion or wetland conversion by reference to the historical rate of conversion of forested land or wetland; and

''(C) comparison of the rates in subparagraph (A) and subparagraph (B); and

''(2) leakage, including—

''(A) adjustments for leakage using standardized regional leakage factors for afforestation and wetland restoration; and

''(B) the magnitude of the forested region or wetlands region in a State in which the rate of conversion of forest land or wetland must be reduced to ensure that leakage of forest land or wetlands conversion is minimized.

''(c) PRECONDITION.—For an offset to be creditable under this section, the State must certify that the State has reduced its rate of conversion of forest land or wetland over a period of 5 or more consecutive years for the entire State or a significant forested or wetland region in the State.

''(d) AWARD BY STATES OF OFFSET CREDITS.—States that participate in the program under this section shall establish transparent and equitable rules by which offset credits will be awarded to owners of forested land or wetland.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator, in consultation with the Secretary of Agriculture, for use in awarding grants to States to carry out this section $5,000,000 for each fiscal year.

''SEC. 736. OFFSET CREDITS FROM GREENHOUSE GAS EMISSIONS REDUCTION PROJECTS.

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Administrator shall promulgate regulations establishing the requirements regarding the issuance, certification, and use of offset credits for greenhouse gas emissions reduction offset projects, including requirements—

''(1) for performance standards for specific types of offset projects, which represent significant improvements compared to recent practices in the geographic area, to be reviewed, and updated if the Administrator determines updating is appropriate, every 5 years;

''(2) that ensure that the reductions are real, additional, verifiable, enforceable, and permanent;

''(3) that address leakage;

''(4) that the reductions are not otherwise required by any law (including a regulation) or other legally binding requirement;

''(5) for the quantification, monitoring, reporting, and verification of the reductions; and

''(6) that specify the duration of offset credits for greenhouse gas emissions reduction projects under this section.

''(b) ELIGIBILITY TO CREATE OFFSET CREDITS.—Greenhouse gas emissions reduction offset projects that commence operation on or after January 1, 2007, are eligible to create offset credits under this subtitle if the projects satisfy the other applicable requirements of this subtitle.

''(c) APPROVED CATEGORIES OF GREENHOUSE GAS EMISSIONS REDUCTION OFFSET PROJECTS.—Greenhouse gas emission reductions from the following types of operations shall be eligible to create offsets for use under this section:

''(1) Landfill operations.

''(2) Agricultural manure management projects.

''(3) Wastewater treatment facilities.

''(4) Coal mining operations.

''(5) Natural gas transmission and distribution systems.

''(6) Electrical transmission and distribution systems.

''(7) Elimination or reduction in use of chemicals that substitute for ozone-depleting substances.

''(8) Cement manufacturing.

''(9) Lime manufacturing.

''(10) Iron and steel production.

''(11) Aluminum production.

''(12) Adipic acid production.

''(13) Nitric acid production.

''(14) Semiconductor manufacturing.

''(15) Magnesium production and processing.

''(16) Fossil fuel combustion at commercial and residential buildings.

''(d) CREATION OF ADDITIONAL CATEGORIES OF GREENHOUSE GAS EMISSIONS REDUCTION OFFSET PROJECTS.—The Administrator may, by regulation, create additional categories of greenhouse gas emissions reduction offset projects for types of projects for which the Administrator determines that compliance with the regulations promulgated under subsection (a) is feasible.

''(e) PROHIBITION ON USE.—Notwithstanding the eligibility of greenhouse gas emission reduction projects to create offset credits in accordance with subsection (c) or (d), greenhouse gas emissions reduction offset projects shall not be eligible to create offset credits for use under this section beginning on the date on which the reductions are required by law (including regulations) or other legally binding requirement.

''SEC. 737. BORROWING AT PROGRAM START-UP BASED ON CONTRACTS TO PURCHASE OFFSET CREDITS.

''(a) IN GENERAL.—During calendar years 2011, 2012, and 2013, an affected unit may satisfy not more than 5 percent of the allowance submission requirements of section 722 by submitting to the Administrator contractual commitments to purchase offset credits that will implement an equivalent quantity of emission reductions or sequestration not later than December 31, 2015.

''(b) APPROVAL OF QUALIFYING OFFSET PROJECTS.—Offset projects that may be appropriately carried out under this section shall be approved by the Administrator in accordance with this subtitle.

''(c) REPAYMENT BY 2015.—

''(1) IN GENERAL.—If an affected unit uses subsection (a) to comply with section 722, not later than the deadline in that section for allowance submissions for calendar year 2015, the affected unit shall submit additional credits of a quantity equivalent to the sum obtained by adding—

''(A) the value of credits submitted to comply with credit submission requirements described in subsection (a); and

''(B) interest calculated in accordance with paragraph (2).

''(2) INTEREST.—Interest referred to in paragraph (1)(B) shall be equal to the product obtained by multiplying—

''(A) the number of years between—

''(i) the use by an affected unit of the method of compliance described in subsection (a); and

''(ii) the submission by the affected unit of additional credits under this subsection; and

''(B) the sum obtained by adding—

''(i) the Federal short-term rate, as defined pursuant to section 1274(d)(1)(C)(i) of the Internal Revenue Code of 1986; and

''(ii) 2 percent.

''SEC. 738. REVIEW AND CORRECTION OF ACCOUNTING FOR OFFSET CREDITS.

''(a) DUTY TO MONITOR.—The Secretary of Agriculture and the Administrator shall monitor regularly whether offset credits under the respective jurisdiction of each agency head under this subtitle are being awarded only for real and additional sequestration of greenhouse gases and reductions in greenhouse gas emissions, including—

''(1) the accuracy of default calculations of sequestration flow and greenhouse gas emission reductions achieved by the use of offset practices;

''(2) the calculation of region-specific discount factors; and

''(3) the accuracy of leakage calculations.

''(b) PERIODIC REVIEW.—Not later than December 31, 2013, and every 5 years thereafter, the Secretary of Agriculture and the Administrator shall review the issuance of offset credits under the respective jurisdiction of each agency head under this subtitle to determine—

''(1) whether offset credits are being awarded only for real and additional sequestration of greenhouse gases or reductions in greenhouse gas emissions, as described in subsection (a);

''(2) the amount of excessive award of any offset credits;

''(3) the volume of offset credits that have been or are expected to be approved;

''(4) the impact of the offset credits on market prices; and

''(5) the impact of the offset credits on the trajectory of emissions from affected units.

''(c) DUTY TO CORRECT.—If the Secretary of Agriculture or the Administrator determines that offset credits under the respective jurisdictions of the agency head have been awarded under this subtitle in excess of real and additional sequestration of greenhouse gases or reductions in emissions of greenhouse gases, the Secretary of Agriculture or the Administrator shall—

''(1) promptly correct on a prospective basis the sources of the errors, including correcting leakage factors, region-specific discount factors, default rates of sequestration flow, and other relevant information for the offset practices involved; and

''(2) quantify and publicly disclose the quantity of offset credits that have been awarded in excess of real and additional sequestration or emissions reductions.

''Subtitle C—National Registry for Credits

''SEC. 741. ESTABLISHMENT AND OPERATION OF NATIONAL REGISTRY.

''(a) IN GENERAL.—Except as provided in subsection (b), not later than July 1 of the year immediately prior to the first calendar year in which an annual tonnage limitation on the emission of greenhouse gases applies under section 711(b), the Administrator shall promulgate regulations to establish, operate, and maintain a national registry through which the Administrator shall—

''(1) record allocations of allowances, the issuance of offset credits or early reduction credits, and the recognition of international credits;

''(2) track transfers of credits;

''(3) retire all credits used for compliance;

''(4) subject to subsection (b), maintain transparent availability of registry information to the public, including the quarterly reports submitted under section 742(a);

''(5) prepare an annual assessment of the emission data in the quarterly reports submitted under section 742(a); and

''(6) take such action as is necessary to maintain the integrity of the registry, including adjustments to correct for—

''(A) errors or omissions in the reporting of data; and

''(B) the prevention of counterfeiting, double-counting, multiple registrations, multiple sales, and multiple retirements of credits.

''(b) EXCEPTION TO PUBLIC AVAILABILITY OF DATA.—

''(1) IN GENERAL.—Subsection (a)(4) shall not apply in any case in which the Administrator, in consultation with the Secretary of Defense, determines that publishing or otherwise making available information in accordance with that paragraph poses a risk to national security.

''(2) STATEMENT OF REASONS.—In a case described in paragraph (1), the Administrator shall publish a description of the determination and the reasons for the determination.

''SEC. 742. MONITORING AND REPORTING.

''(a) REQUIREMENTS.—Each owner or operator of an affected unit, or to the extent applicable, the greenhouse gas authorized account representative for the affected unit, shall—

''(1) comply with the monitoring, recordkeeping, and reporting requirements of part 75 of title 40, Code of Federal Regulations (or successor regulations); and

''(2) submit to the Administrator electronic quarterly reports that describe the greenhouse gas mass emission data, fuel input data, and electricity output data for the affected unit.

''(b) BIOMASS COFIRING.—Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate regulations that provide monitoring, recordkeeping, and reporting requirements for biomass cofiring at affected units.''.

(b) CONFORMING AMENDMENTS.—

(1) FEDERAL ENFORCEMENT.—Section 113 of the Clean Air Act (42 U.S.C. 7413) is amended—

(A) in subsection (a)(3), by striking ''or title VI,'' and inserting ''title VI, or title VII,'';

(B) in subsection (b)—

(i) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting the subparagraphs appropriately;

(ii) by striking ''The Administrator shall'' and inserting the following:

''(1) IN GENERAL.—The Administrator shall'';

(iii) in paragraph (1) (as designated by clause (ii)), in the matter preceding subparagraph (A) (as redesignated by clause (i)), by striking ''or a major stationary source'' and inserting ''a major stationary source, or an affected unit under title VII''; and

(iv) in subparagraph (B) (as redesignated by clause (i)), by striking ''or title VI'' and inserting ''title VI, or title VII'';

(v) in the matter following subparagraph (C) of paragraph (1) (as designated by clauses (i) and (ii))—

(I) by striking ''Any action'' and inserting the following:

''(2) JUDICIAL ENFORCEMENT.—

''(A) IN GENERAL.—Any action'';

(II) by striking ''Notice'' and inserting the following:

''(B) NOTICE.—Notice''; and

(III) by striking ''In the case'' and inserting the following:

''(C) ACTIONS BROUGHT BY ADMINISTRATOR.—In the case'';

(C) in subsection (c)—

(i) in the first sentence of paragraph (1), by striking ''or title VI (relating to stratospheric ozone control),'' and inserting ''title VI (relating to stratospheric ozone control), or title VII (relating to global warming pollution emission reductions),''; and

(ii) in the first sentence of paragraph (3), by striking ''or VI'' and inserting ''VI, or VII'';

(D) in subsection (d)(1)(B), by striking ''or VI'' and inserting ''VI, or VII''; and

(E) in subsection (f), in the first sentence, by striking ''or VI'' and inserting ''VI, or VII''.

(2) INSPECTIONS, MONITORING, AND ENTRY.—Section 114(a) of the Clean Air Act (42 U.S.C. 7414(a)) is amended by striking ''section 112,'' and all that follows through ''(ii)'' and inserting the following: ''section 112, any regulation of solid waste combustion under section 129, or any regulation of greenhouse gas emissions under title VII, (ii)''.

(3) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW.—Section 307 of the Clean Air Act (42 U.S.C. 7607) is amended—

(A) in subsection (a), by striking '', or section 306'' and inserting ''section 306, or title VII'';

(B) in subsection (b)(1)—

(i) by striking ''section 111,,'' and inserting ''section 111,'';

(ii) by striking ''section 120,'' each place it appears and inserting ''section 120, any action under title VII,''; and

(iii) by striking ''112,,'' and inserting ''112,''; and

(C) in subsection (d)(1)—

(i) by striking subparagraph (S);

(ii) by redesignating the second subparagraph (N) and subparagraphs (O) through (R) as subparagraphs (O), (P), (Q), (R), and (S), respectively;

(iii) by redesignating subparagraphs (T) and (U) as subparagraphs (U) and (V), respectively; and

(iv) by inserting after subparagraph (S) (as redesignated by clause (ii)) the following:

''(T) the promulgation or revision of any regulation under title VII,''.

(4) UNAVAILABILITY OF EMISSIONS DATA.—Section 412(d) of the Clean Air Act (42 U.S.C. 7651k(d)) is amended in the first sentence—

(A) by inserting ''or title VII'' after ''under subsection (a)''; and

(B) by inserting ''or title VII'' after ''this title''.

TITLE II—CLIMATE CHANGE RESEARCH INITIATIVES

SEC. 201. RESEARCH GRANTS THROUGH NATIONAL SCIENCE FOUNDATION.

Section 105 of the Global Change Research Act of 1990 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

''(c) RESEARCH GRANTS.—

''(1) LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being adequately addressed by Federal agencies.

''(2) TRANSMISSION OF LIST.—The Director of the Office of Science and Technology Policy shall submit the list developed under paragraph (1) to the National Science Foundation.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation such sums as are necessary to carry out this subsection, to be made available through the Science and Technology Policy Institute, for research in the priority areas.''.

SEC. 202. ABRUPT CLIMATE CHANGE RESEARCH.

(a) IN GENERAL.—The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on abrupt climate change designed to provide timely warnings of the potential likelihood, magnitude, and consequences of, and measures to avoid, abrupt human-induced climate change.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce such sums as are necessary to carry out this section.

SEC. 203. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall carry out a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies to calculate greenhouse gas emissions or reductions for which no accurate, reliable, low-cost measurement technology exists.

(b) ADMINISTRATION.—The program shall include technologies (including remote sensing technologies) to measure carbon changes and other greenhouse gas emissions and reductions from agriculture, forestry, wetlands, and other land use practices.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 204. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology, acting through the Manufacturing Extension Partnership program, may develop a program to promote the use, by small manufacturers, of technologies and techniques that result in reduced emissions of greenhouse gases or increased sequestration of greenhouse gases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology such sums as are necessary to carry out this section.

SEC. 205. PUBLIC LAND.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall prepare a joint assessment or separate assessments setting forth recommendations for increased sequestration of greenhouse gases and reduction of greenhouse gas emissions on public land that is—

(1) managed forestland;

(2) managed rangeland or grassland; or

(3) protected land, including national parks and designated wilderness areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Agriculture and the Secretary of the Interior such sums as are necessary to carry out this section.

SEC. 206. SEA LEVEL RISE FROM POLAR ICE SHEET MELTING.

(a) IN GENERAL.—The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration and in cooperation with the Administrator of the National Aeronautics and Space Administration, shall carry out a program of scientific research to support modeling and observations into the potential role of the Greenland, west Antarctic, and east Antarctic ice sheets in any future increase in sea levels.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration such sums as are necessary to carry out this section.

By Mr. AKAKA (for himself, Mr. WYDEN, Mr. BUNNING, Mr. INOUYE, and Mr. DURBIN):

S. 320. A bill to provide for the protection of paleontological resources on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today along with my distinguished colleagues, Senator WYDEN, Senator BUNNING, Senator INOUYE, and Senator DURBIN, to introduce the Paleontological Resources Preservation Act in order to protect and preserve the Nation's important fossil record for the benefit of our citizens. Vertebrate fossils are rare and important natural resources that have become increasingly endangered due to an increase in the illegal collection of fossil specimens for commercial sale. However, at this time there is no unified policy regarding the treatment of fossils by Federal land management agencies which would help protect and conserve fossil specimens. Consequently, we risk the deterioration or loss of these valuable scientific resources. This Act will correct that omission by providing uniformity to the patchwork of statutes and regulations that currently exist. By creating a comprehensive national policy for preserving and managing paleontological resources found on Federal land, this Act will also be instrumental in curtailing and preventing future illegal trade thereby ensuring that many generations to come will have access to these invaluable records of our past. I would like to emphasize that this bill covers only paleontological remains on Federal lands and in no way affects archaeological or cultural resources under the Archaeological Resources Protection Act of 1979 or the Native American Graves Protection and Rehabilitation Act.

I would also mention that this bill is exactly the same bill that I introduced

in the 109th Congress. This bill was heard and marked up by the Senate Energy and Natural Resources Committee, and was passed by the Senate.

As a senior member of the Senate Energy and Natural Resources Committee and Chair of the Subcommittee on National Parks, I am very concerned about the preservation of fossils as records of earth's past upheavals and struggles. While I recognize the value of amateur collecting—and casual collecting—of fossils is protected in this bill—fossil theft has become an increasing problem. New fossil fields and insights into the earth's past are discovered nearly every month. Paleontological resources can be sold on the market for a hefty price. For example, the complete skeleton of a T-Rex was sold for $8.6 million at auction to the Field Museum of Chicago. Consequently, they are being stolen from public lands without regard to science and education. The protections I offer in this Act are not new. Federal and management agencies have individual regulations prohibiting theft of government property. However, Congress has not provided a clear statute stating the value of paleontological resources to our Nation, as we have for archeological resources. We need to work together to make sure that we fulfill our responsibility as stewards of public lands, and as protectors of our Nation's natural resources.

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

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

S. 320

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 ''Paleontological Resources Preservation Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) CASUAL COLLECTING.—The term ''casual collecting'' means the collecting of a reasonable amount of common invertebrate and plant paleontological resources for non-commercial personal use, either by surface collection or the use of non-powered hand tools resulting in only negligible disturbance to the Earth's surface and other resources. As used in this paragraph, the terms ''reasonable amount'', ''common invertebrate and plant paleontological resources'' and ''negligible disturbance'' shall be determined by the Secretary.

(2) FEDERAL LANDS.—The term ''Federal lands'' means—

(A) lands controlled or administered by the Secretary of the Interior, except Indian lands; or

(B) National Forest System lands controlled or administered by the Secretary of Agriculture.

(3) INDIAN LANDS.—The term ''Indian Land'' means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(4) PALEONTOLOGICAL RESOURCE.—The term ''paleontological resource'' means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, except that the term does not include—

(A) any materials associated with an archaeological resource (as defined in section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)); or

(B) any cultural item (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior with respect to lands controlled or administered by the Secretary of the Interior or the Secretary of Agriculture with respect to National Forest System Lands controlled or administered by the Secretary of Agriculture.

(6) STATE.—The term ''State'' means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 3. MANAGEMENT.

(a) IN GENERAL.—The Secretary shall manage and protect paleontological resources on Federal lands using scientific principles and expertise. The Secretary shall develop appropriate plans for inventory, monitoring, and the scientific and educational use of paleontological resources, in accordance with applicable agency laws, regulations, and policies. These plans shall emphasize interagency coordination and collaborative efforts where possible with non-Federal partners, the scientific community, and the general public.

(b) COORDINATION.—To the extent possible, the Secretary of the Interior and the Secretary of Agriculture shall coordinate in the implementation of this Act.

SEC. 4. PUBLIC AWARENESS AND EDUCATION PROGRAM.

The Secretary shall establish a program to increase public awareness about the significance of paleontological resources.

SEC. 5. COLLECTION OF PALEONTOLOGICAL RESOURCES.

(a) PERMIT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in this Act, a paleontological resource may not be collected from Federal lands without a permit issued under this Act by the Secretary.

(2) CASUAL COLLECTING EXCEPTION.—The Secretary may allow casual collecting without a permit on Federal lands controlled or administered by the Bureau of Land Management, the Bureau of Reclamation, and the Forest Service, where such collection is consistent with the laws governing the management of those Federal lands and this Act.

(3) PREVIOUS PERMIT EXCEPTION.—Nothing in this section shall affect a valid permit issued prior to the date of enactment of this Act.

(b) CRITERIA FOR ISSUANCE OF A PERMIT.—The Secretary may issue a permit for the collection of a paleontological resource pursuant to an application if the Secretary determines that—

(1) the applicant is qualified to carry out the permitted activity;

(2) the permitted activity is undertaken for the purpose of furthering paleontological knowledge or for public education;

(3) the permitted activity is consistent with any management plan applicable to the Federal lands concerned; and

(4) the proposed methods of collecting will not threaten significant natural or cultural resources.

(c) PERMIT SPECIFICATIONS.—A permit for the collection of a paleontological resource issued under this section shall contain such terms and conditions as the Secretary deems necessary to carry out the purposes of this Act. Every permit shall include requirements that—

(1) the paleontological resource that is collected from Federal lands under the permit will remain the property of the United States;

(2) the paleontological resource and copies of associated records will be preserved for the public in an approved repository, to be made available for scientific research and public education; and

(3) specific locality data will not be released by the permittee or repository without the written permission of the Secretary.

(d) MODIFICATION, SUSPENSION, AND REVOCATION OF PERMITS.—

(1) The Secretary may modify, suspend, or revoke a permit issued under this section—

(A) for resource, safety, or other management considerations; or

(B) when there is a violation of term or condition of a permit issued pursuant to this section.

(2) The permit shall be revoked if any person working under the authority of the permit is convicted under section 7 or is assessed a civil penalty under section 8.

(e) AREA CLOSURES.—In order to protect paleontological or other resources and to provide for public safety, the Secretary may restrict access to or close areas under the Secretary's jurisdiction to the collection of paleontological resources.

SEC. 6. CURATION OF RESOURCES.

Any paleontological resource, and any data and records associated with the resource, collected under a permit, shall be deposited in an approved repository. The Secretary may enter into agreements with non-Federal repositories regarding the curation of these resources, data, and records.

SEC. 7. PROHIBITED ACTS; CRIMINAL PENALTIES.

(a) IN GENERAL.—A person may not—

(1) excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any paleontological resources located on Federal lands unless such activity is conducted in accordance with this Act;

(2) exchange, transport, export, receive, or offer to exchange, transport, export, or receive any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated or removed from Federal lands in violation of any provisions, rule, regulation, law, ordinance, or permit in effect under Federal law, including this Act; or

(3) sell or purchase or offer to sell or purchase any paleontological resource if, in the exercise of due care, the person knew or should have known such resource to have been excavated, removed, sold, purchased, exchanged, transported, or received from Federal lands.

(b) FALSE LABELING OFFENSES.—A person may not make or submit any false record, account, or label for, or any false identification of, any paleontological resource excavated or removed from Federal lands.

(c) PENALTIES.—A person who knowingly violates or counsels, procures, solicits, or employs another person to violate subsection (a) or (b) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both; but if the sum of the commercial and paleontological value of the paleontological resources involved and the cost of restoration and repair of such resources does not exceed $500, such person shall be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both.

(d) GENERAL EXCEPTION.—Nothing in subsection (a) shall apply to any person with respect to any paleontological resource which

was in the lawful possession of such person prior to the date of the enactment of this Act.

SEC. 8. CIVIL PENALTIES.

(a) IN GENERAL.—

(1) HEARING.—A person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a penalty by the Secretary after the person is given notice and opportunity for a hearing with respect to the violation. Each violation shall be considered a separate offense for purposes of this section.

(2) AMOUNT OF PENALTY.—The amount of such penalty assessed under paragraph (1) shall be determined under regulations promulgated pursuant to this Act, taking into account the following factors:

(A) The scientific or fair market value, whichever is greater, of the paleontological resource involved, as determined by the Secretary.

(B) The cost of response, restoration, and repair of the resource and the paleontological site involved.

(C) Any other factors considered relevant by the Secretary assessing the penalty.

(3) MULTIPLE OFFENSES.—In the case of a second or subsequent violation by the same person, the amount of a penalty assessed under paragraph (2) may be doubled.

(4) LIMITATION.—The amount of any penalty assessed under this subsection for any one violation shall not exceed an amount equal to double the cost of response, restoration, and repair of resources and paleontological site damage plus double the scientific or fair market value of resources destroyed or not recovered.

(b) PETITION FOR JUDICIAL REVIEW; COLLECTION OF UNPAID ASSESSMENTS.—

(1) JUDICIAL REVIEW.—Any person against whom an order is issued assessing a penalty under subsection (a) may file a petition for judicial review of the order in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred within the 30-day period beginning on the date the order making the assessment was issued. Upon notice of such filing, the Secretary shall promptly file such a certified copy of the record on which the order was issued. The court shall hear the action on the record made before the Secretary and shall sustain the action if it is supported by substantial evidence on the record considered as a whole.

(2) FAILURE TO PAY.—If any person fails to pay a penalty under this section within 30 days—

(A) after the order making assessment has become final and the person has not filed a petition for judicial review of the order in accordance with paragraph (1); or

(B) after a court in an action brought in paragraph (1) has entered a final judgment upholding the assessment of the penalty, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which the person if found, resides, or transacts business, to collect the penalty (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). The district court shall have jurisdiction to hear and decide any such action. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings.

(c) HEARINGS.—Hearings held during proceedings instituted under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code.

(d) USE OF RECOVERED AMOUNTS.—Penalties collected under this section shall be available to the Secretary and without further appropriation may be used only as follows:

(1) To protect, restore, or repair the paleontological resources and sites which were the subject of the action, or to acquire sites with equivalent resources, and to protect, monitor, and study the resources and sites. Any acquisition shall be subject to any limitations contained in the organic legislation for such Federal lands.

(2) To provide educational materials to the public about paleontological resources and sites.

(3) To provide for the payment of rewards as provided in section 9.

SEC. 9. REWARDS AND FORFEITURE.

(a) REWARDS.—The Secretary may pay from penalties collected under section 7 or 8—

(1) consistent with amounts established in regulations by the Secretary; or

(2) if no such regulation exists, an amount equal to the lesser of one-half of the penalty or $500, to any person who furnishes information which leads to the finding of a civil violation, or the conviction of criminal violation, with respect to which the penalty was paid. If several persons provided the information, the amount shall be divided among the persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) FORFEITURE.—All paleontological resources with respect to which a violation under section 7 or 8 occurred and which are in the possession of any person, and all vehicles and equipment of any person that were used in connection with the violation, shall be subject to civil forfeiture, or upon conviction, to criminal forfeiture. All provisions of law relating to the seizure, forfeiture, and condemnation of property for a violation of this Act, the disposition of such property or the proceeds from the sale thereof, and remission or mitigation of such forfeiture, as well as the procedural provisions of chapter 46 of title 18, United States Code, shall apply to the seizures and forfeitures incurred or alleged to have incurred under the provisions of this Act.

(c) TRANSFER OF SEIZED RESOURCES.—The Secretary may transfer administration of seized paleontological resources to Federal or non-Federal educational institutions to be used for scientific or educational purposes.

SEC. 10. CONFIDENTIALITY.

Information concerning the nature and specific location of a paleontological resource the collection of which requires a permit under this Act or under any other provision of Federal law shall be exempt from disclosure under section 552 of title 5, United States Code, and any other law unless the Secretary determines that disclosure would—

(1) further the purposes of this Act;

(2) not create risk of harm to or theft or destruction of the resource or the site containing the resource; and

(3) be in accordance with other applicable laws.

SEC. 11. REGULATIONS.

As soon as practical after the date of the enactment of this Act, the Secretary shall issue such regulations as are appropriate to carry out this Act, providing opportunities for public notice and comment.

SEC. 12. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under the general mining laws, the mineral or geothermal leasing laws, laws providing for minerals materials disposal, or laws providing for the management or regulation of the activities authorized by the aforementioned laws including but not limited to the Federal Land Policy Management Act (43 U.S.C. 1701–1784), Public Law 94–429 (commonly known as the ''Mining in the Parks Act'') (16 U.S.C. 1901 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1358), and the Organic Administration Act (16 U.S.C. 478, 482, 551);

(2) invalidate, modify, or impose any additional restrictions or permitting requirements on any activities permitted at any time under existing laws and authorities relating to reclamation and multiple uses of Federal lands;

(3) apply to, or require a permit for, casual collecting of a rock, mineral, or invertebrate or plant fossil that is not protected under this Act;

(4) affect any lands other than Federal lands or affect the lawful recovery, collection, or sale of paleontological resources from lands other than Federal lands;

(5) alter or diminish the authority of a Federal agency under any other law to provide protection for paleontological resources on Federal lands in addition to the protection provided under this Act; or

(6) create any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in that capacity. No person who is not an officer or employee of the United States acting in that capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. DORGAN (for himself, Ms. MURKOWSKI, Mr. MCCAIN, Mr. CONRAD, Mr. BINGAMAN, Mr. BAUCUS, Mr. SMITH, and Mr. INOUYE):

S. 322. A bill to establish an Indian youth telemental health demonstration project; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, I rise today to re-introduce legislation which would provide a first important step in dealing with the crisis of youth suicide in Indian Country.

The legislation I am introducing today is almost identical to legislation that the Senate passed in May, 2006, to establish an Indian youth telemental health demonstration project. The Indian Youth Telemental Health Demonstration Project Act of 2007 would authorize the Secretary of Health and Human Services to carry out a 4-year demonstration project under which five tribes and tribal organizations with telehealth capabilities could use telemental health services in youth suicide prevention, intervention, and treatment. Demonstration project grantees would provide services through telemental health for such purposes as counseling of Indian youth; providing medical advice and other assistance to frontline tribal health providers; training for community members, tribal

elected officials, tribal educators, and health workers and others who work with Indian youth; developing culturally sensitive materials on suicide prevention and intervention; and collecting and reporting of data.

The Committee on Indian Affairs held three hearings during the 109th Congress on the issue of Indian youth suicide, including one hearing that I convened in Bismarck, ND. Although on the Indian reservations of the northern Great Plains, the rate of Indian youth suicide is 10 times higher than it is anywhere else in the country, this tragic issue is not limited to these locations. The committee has heard testimony from people from tribal communities in Arizona, Oregon, Washington, Alaska, New Mexico, and Wyoming, as well.

According to 2004 statistics from the National Center for Injury Prevention and Control, suicide is the second leading cause of death, behind unintentional injury, for American Indian and Alaska Native young adults 15 to 24 years old, of both sexes—a statistic that has sadly been true for the past 20 years. For North Dakota Indian girls 15 to 24 years old in 2004, suicide was the number one leading cause of death.

I am grateful for the efforts of the Indian Health Service and the Substance Abuse and Mental Health Services Administration, in particular, both of which have, in a host of ways, sought to address the reservation youth suicide crisis. SAMHSA is providing a 4-year grant to the Standing Rock Sioux Tribe of North and South Dakota—a tribe that had 12 Indian youth die by suicide over a 6-month period—to provide mental health outreach workers. In addition, across the country, tribal leaders, tribal health professionals, and service providers and family members are working together to implement early intervention plans, improve access to prevention programs, promote community training and awareness, and reinstate traditional tribal practices and culture-based interventions to address Native youth suicides.

Many Indian reservations and Native villages in Alaska are remote and isolated, and everyone who lives in those communities experiences much more limited access to mental health services than in our Nation's metropolitan areas. The testimony received by the Indian Affairs Committee indicates that it is particularly in these remote Native communities that there is a crisis among the youth. I believe that the use of telemedicine—or, for purposes of this legislation, telemental health—will prove a useful resource for the several tribes or tribal organizations that will participate in this demonstration project in assisting their youth.

In addition to introducing this legislation, I will include authorization of this Indian Youth Telemental Health Demonstration Project in legislation to reauthorize and amend the Indian Health Care Improvement Act, which I intend to introduce soon.

I thank my colleagues who have joined me in sponsoring this legislation and in being willing to talk and think hard about an issue that many believe should be kept hidden. We must find ways to prevent the needless loss of young Native American boys and girls whose whole lives lie ahead of them, and from whom their tribal communities and all of this country stand to benefit as these youth blossom in to their potential as adults. I look forward to continuing our efforts to address this sensitive and very important issue. I urge my colleagues to support this legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 322

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 ''Indian Youth Telemental Health Demonstration Project Act of 2007''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) suicide for Indians and Alaska Natives is 2½ times higher than the national average and the highest for all ethnic groups in the United States, at a rate of more than 16 per 100,000 males of all age groups, and 27.9 per 100,000 for males aged 15 through 24, according to data for 2002;

(2) according to national data for 2004, suicide was the second-leading cause of death for Indians and Alaska Natives of both sexes aged 10 through 34;

(3) the suicide rates of Indian and Alaska Native males aged 15 through 24 are nearly 4 times greater than suicide rates of Indian and Alaska Native females of that age group;

(4)(A) 90 percent of all teens who die by suicide suffer from a diagnosable mental illness at the time of death; and

(B) more than ½ of the people who commit suicide in Indian Country have never been seen by a mental health provider;

(5) death rates for Indians and Alaska Natives are statistically underestimated;

(6) suicide clustering in Indian Country affects entire tribal communities; and

(7) since 2003, the Indian Health Service has carried out a National Suicide Prevention Initiative to work with Service, tribal, and urban Indian health programs.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to carry out a demonstration project to test the use of telemental health services in suicide prevention, intervention, and treatment of Indian youth, including through—

(1) the use of psychotherapy, psychiatric assessments, diagnostic interviews, therapies for mental health conditions predisposing to suicide, and alcohol and substance abuse treatment;

(2) the provision of clinical expertise to, consultation services with, and medical advice and training for frontline health care providers working with Indian youth;

(3) training and related support for community leaders, family members and health and education workers who work with Indian youth;

(4) the development of culturally-relevant educational materials on suicide; and

(5) data collection and reporting.

SEC. 3. DEFINITIONS.

In this Act:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the Indian youth telemental health demonstration project authorized under section 4(a).

(2) DEPARTMENT.—The term ''Department'' means the Department of Health and Human Services.

(3) INDIAN.—The term ''Indian'' means any individual who is a member of an Indian tribe or is eligible for health services under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(6) SERVICE.—The term ''Service'' means the Indian Health Service.

(7) TELEMENTAL HEALTH.—The term ''telemental health'' means the use of electronic information and telecommunications technologies to support long distance mental health care, patient and professional-related education, public health, and health administration.

(8) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 4. INDIAN YOUTH TELEMENTAL HEALTH DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary is authorized to carry out a demonstration project to award grants for the provision of telemental health services to Indian youth who—

(A) have expressed suicidal ideas;

(B) have attempted suicide; or

(C) have mental health conditions that increase or could increase the risk of suicide.

(2) ELIGIBILITY FOR GRANTS.—Grants described in paragraph (1) shall be awarded to Indian tribes and tribal organizations that operate 1 or more facilities—

(A) located in Alaska and part of the Alaska Federal Health Care Access Network;

(B) reporting active clinical telehealth capabilities; or

(C) offering school-based telemental health services relating to psychiatry to Indian youth.

(3) GRANT PERIOD.—The Secretary shall award grants under this section for a period of up to 4 years.

(4) MAXIMUM NUMBER OF GRANTS.—Not more than 5 grants shall be provided under paragraph (1), with priority consideration given to Indian tribes and tribal organizations that—

(A) serve a particular community or geographic area in which there is a demonstrated need to address Indian youth suicide;

(B) enter into collaborative partnerships with Service or other tribal health programs or facilities to provide services under this demonstration project;

(C) serve an isolated community or geographic area which has limited or no access to behavioral health services; or

(D) operate a detention facility at which Indian youth are detained.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An Indian tribe or tribal organization shall use a grant received under subsection (a) for the following purposes:

(A) To provide telemental health services to Indian youth, including the provision of—

(i) psychotherapy;

(ii) psychiatric assessments and diagnostic interviews, therapies for mental health conditions predisposing to suicide, and treatment; and

(iii) alcohol and substance abuse treatment.

(B) To provide clinician-interactive medical advice, guidance and training, assistance in diagnosis and interpretation, crisis counseling and intervention, and related assistance to Service or tribal clinicians and health services providers working with youth being served under the demonstration project.

(C) To assist, educate, and train community leaders, health education professionals and paraprofessionals, tribal outreach workers, and family members who work with the youth receiving telemental health services under the demonstration project, including with identification of suicidal tendencies, crisis intervention and suicide prevention, emergency skill development, and building and expanding networks among those individuals and with State and local health services providers.

(D) To develop and distribute culturally-appropriate community educational materials on—

(i) suicide prevention;

(ii) suicide education;

(iii) suicide screening;

(iv) suicide intervention; and

(v) ways to mobilize communities with respect to the identification of risk factors for suicide.

(E) To conduct data collection and reporting relating to Indian youth suicide prevention efforts.

(2) TRADITIONAL HEALTH CARE PRACTICES.—In carrying out the purposes described in paragraph (1), an Indian tribe or tribal organization may use and promote the traditional health care practices of the Indian tribes of the youth to be served.

(c) APPLICATIONS.—To be eligible to receive a grant under subsection (a), an Indian tribe or tribal organization shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the project that the Indian tribe or tribal organization will carry out using the funds provided under the grant;

(2) a description of the manner in which the project funded under the grant would—

(A) meet the telemental health care needs of the Indian youth population to be served by the project; or

(B) improve the access of the Indian youth population to be served to suicide prevention and treatment services;

(3) evidence of support for the project from the local community to be served by the project;

(4) a description of how the families and leadership of the communities or populations to be served by the project would be involved in the development and ongoing operations of the project;

(5) a plan to involve the tribal community of the youth who are provided services by the project in planning and evaluating the mental health care and suicide prevention efforts provided, in order to ensure the integration of community, clinical, environmental, and cultural components of the treatment; and

(6) a plan for sustaining the project after Federal assistance for the demonstration project has terminated.

(d) COLLABORATION.—The Secretary, acting through the Service, shall encourage Indian tribes and tribal organizations receiving grants under this section to collaborate to enable comparisons about best practices across projects.

(e) ANNUAL REPORT.—Each grant recipient shall submit to the Secretary an annual report that—

(1) describes the number of telemental health services provided; and

(2) includes any other information that the Secretary may require.

(f) REPORT TO CONGRESS.—Not later than 270 days after the date of termination of the demonstration project, the Secretary shall submit to the Committee on Indian Affairs of the Senate and the Committee on Resources and the Committee on Energy and Commerce of the House of Representatives a final report that—

(1) describes the results of the projects funded by grants awarded under this section, including any data available that indicate the number of attempted suicides;

(2) evaluates the impact of the telemental health services funded by the grants in reducing the number of completed suicides among Indian youth;

(3) evaluates whether the demonstration project should be—

(A) expanded to provide more than 5 grants; and

(B) designated a permanent program; and

(4) evaluates the benefits of expanding the demonstration project to include urban Indian organizations.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for each of fiscal years 2008 through 2011.

By Mrs. BOXER:

S. 323. A bill to require persons seeking approval for a liquefied natural gas facility to identify employees and agents engaged in activities to persuade communities of the benefits of the approval; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I rise to discuss liquified natural gas projects in California. As of August of last year, there are five potential liquified natural gas projects in California. The projects include the Cabrillo Deepwater Port LNG Facility, Clearwater Port LNG Project, Long Beach LNG Facility, Ocean Way LNG Terminal, and the Pacific Gateway LNG Facility.

LNG is natural gas in its liquid form. When natural gas is cooled to minus 259 degrees Fahrenheit, it becomes a clear, colorless, odorless liquid. Natural gas is transferred into LNG to transport it more easily.

Although there is a need for natural gas, there are potential safety concerns with the siting of new LNG facilities. According to the California Energy Commission, ''LNG hazards result from three of its properties: cryogenic temperatures, dispersion characteristics, and flammability characteristics. The extremely cold LNG can directly cause injury or damage. A vapor cloud, formed by an LNG spill, could drift downwind into populated areas. It can ignite if the concentration of natural gas is between five and 15 percent in air and it encounters an ignition source. An LNG fire gives off a tremendous amount of heat.''

This is why many people who live near a potential LNG facility have safety concerns. As a result, many companies try to ''sell'' the projects to communities.

That is why today I am introducing this common sense bill. This bill is identical to legislation that I introduced in the 109th Congress.

It would require any company seeking Federal Government approval to submit, as part or its application, the names of employees and business agents who are trying to persuade communities of the benefits of the LNG facility.

This bill does not stop anyone from reaching out to local communities. What this bill says is that if you are trying to get approval for an LNG facility, whether on- or off-shore, you have to be public about it. Today, if someone lobbies the federal government, he or she needs to register so their affiliation and interests before the government are publicly known. We should do the same for these projects. As I said, it is common sense.

I urge my colleagues to support this bill. I ask unanimous consent that the text of my 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. 323

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

SECTION 1. IDENTIFICATION OF PROPONENTS OF APPROVAL OF LIQUIFIED NATURAL GAS FACILITIES.

(a) LIQUEFIED NATURAL GAS FACILITIES REQUIRING FERC APPROVAL.—The Federal Energy Regulatory Commission shall—

(1) require an applicant for approval, by the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.), of the siting, construction, expansion, or operation of a liquefied natural gas facility to identify each of the employees and agents of the applicant that are engaged, directly or indirectly, in activities to persuade communities of the benefits of the approval; and

(2) maintain a publicly available database listing the names of the employees and agents.

(b) OFF-SHORE LIQUIFIED NATURAL GAS FACILITIES.—The Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating shall—

(1) require an applicant for approval, by the appropriate Secretary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), of the siting, construction, expansion, or operation of a liquefied natural gas facility to identify each of the employees and agents of the applicant that are engaged, directly or indirectly, in activities to persuade communities of the benefits of the approval; and

(2) maintain a publicly available database listing the names of the employees and agents.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 324. A bill to direct the Secretary of the Interior to conduct a study of water resources in the State of New Mexico; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, above-average rainfall in New Mexico last summer and recent snow fall have led many to turn a blind eye to the grim water situation faced by our State only months ago. New Mexico was fast approaching a disaster due to drought. Many of our municipalities' wells were running dry and reservoirs were at dangerously low levels. Providence intervened, narrowly averting a crisis resulting from water scarcity.

The development of the centrifugal pump was an event of great significance in the history of the West. Windmill driven pumps provided enough water for a family and several livestock. The centrifugal pump, on the other hand, was capable of pumping eight hundred gallons of water a minute, making possible the habitation of what was previously barren desert. To a large extent, this invention provided the water for growing towns and agricultural industry. However, it also resulted in a great dependence on groundwater. As such, we need to fully understand the nature and extent of our groundwater resources. This bill will provide us with the information necessary to ensure that the water on which we have come to rely is available for years to come.

During times of drought, when surface water is scarce, we must be able to reliably turn to groundwater reserves. Approximately 90 percent of New Mexicans depend on groundwater for drinking water and 77 percent of New Mexicans obtain water exclusively from groundwater sources. While groundwater supplies throughout the State are coming under increasing competition, not enough is known about these resources in order to make sound decisions regarding their use.

Nearly 40 percent of the State's population resides in the Middle Rio Grande Basin. Once thought to contain vast quantities of water, we are now faced with the reality the Middle Rio Grande Basin contains far less water than originally thought. Between 1995 and 2001, the United States Geological Survey undertook a study of the Basin which added greatly to our knowledge regarding the primary source of water for our largest population center. Had we proceeded with our water planning without the information provided by this study, I have little doubt that we would ultimately find ourselves in a dire situation. However, there is much more to be learned about this Basin.

Roughly 65 percent of the State's population lives along the Rio Grande. Also located along the river are the four largest cities in New Mexico: Santa Fe, Albuquerque, Rio Rancho and Las Cruces. While the completion of the San Juan-Chama Diversion by the Albuquerque Bernalillo County Water Utility Authority will allow the County of Bernalillo and City of Albuquerque to take advantage of their allocation of San JuanChama water, the remainder of the cities and counties located along the Rio Grande will continue to receive the majority of their water from aquifers beneath the Rio Grande. Aside from the Middle Rio Grande Basin, we have limited knowledge of the amount of water contained in the aquifers below the Rio Grande, the rate at which they recharge, aquifer contamination, and the interaction between surface flows and ground water.

Elsewhere in the State, even less is understood regarding groundwater resources. While there is limited unallocated surface water in the State, there are significant quantities of untapped underground water in the Tularosa and Salt Basins. The Tularosa Basin is approximately 60 miles wide and 200 miles long. Making the conservative estimate that 10 percent of the water contained in that aquifer is available for use through desalination, it would provide 100 years of water for a city the size of Albuquerque. With the development of desalination technology, I anticipate that even a greater amount of the brackish water contained in the Tularosa Basin will be available for human use.

Another untapped water supply is the Salt Basin located in southern New Mexico. The Basin lies in a geologically complex area and our understanding of the total resource is incomplete. However, initial estimates predict sustainable withdrawals on the order of 100,000 acre-feet per year of potable water from the New Mexico portion of the aquifer. This is enough water to support a city the size of our largest municipal area. Additional brackish resources in that Basin are highly likely. Because the Basin is located near expanding metropolitan areas near the U.S.-Mexico Border, it is a resource of critical importance.

The bill I introduce today would direct the United States Geological Survey, in collaboration with the State of New Mexico, to undertake a groundwater resources study in the State of New Mexico. A comprehensive study of the State's water resources is critical to effective water planning. Absent such a study, I fear that there is a significant likelihood that we may be depleting aquifers at an unsustainable rate.

I thank Senator BINGAMAN for being an original co-sponsor of this legislation. I look forward to working with him to ensure the bill's passage.

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. 324

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''New Mexico Aquifer Assessment Act of 2007''.

SEC. 2. NEW MEXICO WATER RESOURCES STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Geological Survey (referred to in this Act as the ''Secretary''), in coordination with the State of New Mexico (referred to in this Act as the ''State'') and any other entities that the Secretary determines to be appropriate (including other Federal agencies and institutions of higher education), shall, in accordance with this Act and any other applicable law, conduct a study of water resources in the State, including—

(1) a survey of groundwater resources, including an analysis of—

(A) aquifers in the State, including the quantity of water in the aquifers;

(B) the availability of groundwater resources for human use;

(C) the salinity of groundwater resources;

(D) the potential of the groundwater resources to recharge;

(E) the interaction between groundwater and surface water;

(F) the susceptibility of the aquifers to contamination; and

(G) any other relevant criteria; and

(2) a characterization of surface and bedrock geology, including the effect of the geology on groundwater yield and quality.

(b) STUDY AREAS.—The study carried out under subsection (a) shall include the Estancia Basin, Salt Basin, Tularosa Basin, Hueco Basin, and middle Rio Grande Basin in the State.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that describes the results of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. BINGAMAN (for himself and Mr. VOINOVICH):

S. 325. A bill to provide for innovation in heath care through State initiatives that expand coverage and access and improve quality and efficiency in the health care system; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce bipartisan legislation with Senator VOINOVICH entitled the ''Health Partnership Act of 2007,'' which along with a companion House bill introduced by Representatives TAMMY BALDWIN, JOHN TIERNEY, and TOM PRICE, intends to set us on a path toward affordable, quality health care for all Americans. The Health Partnership Act creates partnerships between the Federal Government, State and local governments, tribes and tribal organizations, private payers, and health care providers to seek innovation in health care systems.

Under this Act, States, local governments, and tribes and tribal governments would be invited to submit applications to the Federal Government for funding to implement expansion and improvements to current health programs for review by a bipartisan ''State Health Innovation Commission.'' Based on funding available through the Federal budget process, the Commission would approve a variety of reform options and innovative approaches.

This federalist approach to health reform would encourage a broad array of reform options subject to monitoring, to determine what is and is not successful. As Supreme Court Justice Louis D. Brandeis wrote in 1932, ''It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.''

Our bipartisan legislation, the ''Health Partnership Act,'' encourages

this type of State-based innovation and will help the Nation better address both the policy and the politics of health care reform. Currently, we do not have a ''one-size-fits-all'' model of reform, so encouraging States, local governments, and tribes to adopt a variety of approaches will help us better understand what may or may not work.

Inaction on the growing and related problems of the uninsured and increasing health care costs is unacceptable and unconscionable.

In fact, while spending on health care in our country has reached $2 trillion annually, the number of uninsured has increased to nearly 47 million people, seven million more than in 2000. The consequences are staggering, as uninsured citizens get about half the medical care they need compared to those with health insurance and, according to the Institute of Medicine, about 18,000 unnecessary deaths occur each year in the U.S. because of lack of health insurance.

While gridlock continues to permeate Washington, DC, in regards to this issue, a number of States and local governments are moving ahead with health reform. The ''Health Partnership Act'' would provide support, in the form of grants, to States, groups of States, local governments, and Indian tribes and tribal organizations to carry out any of a broad range of strategies intended to reduce the number of uninsured, reduce costs, and improve the quality of care.

Responding to urgent needs, State and local governments have not been able to wait for Federal action. We observed this in the early 1990s as States such as New Mexico, Massachusetts, Pennsylvania, Florida, Rhode Island, Hawaii, Maryland, Tennessee, Vermont, and Washington led the way to expanding coverage to children through the enactment of a variety of health reforms. Evaluation proved that some of these programs worked better than others, so the Federal Government took note and responded in 1997 with passage of the ''State Children's Health Insurance Program'' or SCHIP. This legislation, built upon experiences of the States, enjoyed broad bipartisan support. SCHIP is a popular and successful State-based model that covers millions of children and continues to have broad-based bipartisan support across this Nation.

So, why not use that successful model and build upon it? In fact, State and local governments are already taking up that challenge and the Federal Government should, through the enactment of the ''Health Partnership Act,'' do what it can to be helpful with those efforts. For example—

On November 15, 2005, Illinois Governor Rod Blagojevich signed into law the ''Covering All Kids Health Insurance Act'' which, beginning in July 2006, intended to make insurance coverage available to all uninsured children.

In April, Massachusetts Governor Mitt Romney signed into law legislation that requires all Bay State residents to have health insurance. Their State experiment involves partnerships between the State Medicaid, employer groups, and insurance companies.

Now California's Governor Schwarzenegger proposes health reform to include health promotion and wellness services for all, insurance coverage, and cost containment measures.

Other States, including New Mexico, Vermont, Tennessee, Maine, West Virginia, Oklahoma, and New York have enacted other health reforms that have had mixed success.

All of these efforts add importantly to our knowledge base, and can then lead to a national solution to our uninsured and affordability crisis. We can learn from each and every one of these efforts, including those which failed.

Commonwealth Fund President Karen Davis said it well by noting that State-based reforms, such as that passed in Massachusetts, are very good news. As she notes, ''First, any substantive effort to expand access to coverage is worthwhile, given the growing number of uninsured in this country and the large body of evidence showing the dangerous health implications of lacking coverage.''

She adds, ''But something more important is at work here. While we urgently need a national solution so that all Americans have insurance, it doesn't appear that we'll be getting one at the Federal level any time soon. So what Massachusetts has done potentially holds lessons for every State.'' I would add that it holds lessons for the Federal Government as well and not just for the mechanics of implementing health reform policy but also to the politics of health reform.

As she concludes, ''One particularly cogent lesson is the manner in which the measure was crafted—via a civil process that successfully brought together numerous players from across the political business, health care delivery, and policy sectors.''

Senator VOINOVICH and I have worked together and reached out to like minded colleagues in the House of Representatives via a process much like that described by Karen Davis. The legislation stems from past legislative efforts by Senators such as Bob Graham, Mark Hatfield, and Paul Wellstone, but also from work across ideological lines by Henry Aaron of the Brookings Institution and Stuart Butler of the Heritage Foundation.

The legislation also benefits from advice and support from health care providers. Dr. Tim Garson who, as Dean of the University of Virginia, brought a much needed provider perspective, ensuring support from the House of Medicine. Supporters include the American Medical Association, the American Academy of Pediatrics, the American College of Physicians, the American College of Cardiology, American Gastroenterological Association, the Visiting Nurses Association, the National Association of Community Health Centers, and from state-based health providers such as the New Mexico Medical Society and Ohio Association of Community Health Centers.

The Health Partnership Act supports providers.

The Health Partnership Act received much comment and support from consumer-based groups advocating for national health reform, including that by Dr. Ken Frisof of the Universal Health Care Action Network, Bill Vaughan at Consumers Union, and from numerous health care advocates in New Mexico, including Community Action New Mexico, Health Action New Mexico, Health Care for All Campaign of New Mexico, New Mexico Center on Law and Poverty, New Mexico Health Choices Initiative, New Mexico POZ Coalition, New Mexico Public Health Association, New Mexico Religious Coalition for Reproductive Choice, New Mexico Progressive Alliance for Community Empowerment, and the Health Security for New Mexicans Campaign, which includes 115 State-based organizations.

The Health Partnership Act supports consumers.

Support from stakeholders throughout our Nation's health care system has been sought and I would like to thank the many organizations from New Mexico for their support and input to this legislation. There is great urgency in New Mexico because our State, like all of those along the U.S.-Mexico border, faces a severe health care crisis. Over one in five New Mexicans does not have insurance coverage. In fact, only one State, Texas, has more uninsured. New Mexico is also the only State in the country with greater than half of its population covered by State or federally funded health programs.

A rather shocking statistic, which also continues to worsen, is that one out of every three Hispanic citizens are uninsured. In fact, less than 41 percent of the Hispanic population now has employer-based coverage nationwide, which is in sharp comparison to the 66 percent of non-Hispanic whites who have employer-based coverage.

Because so few New Mexicans have employer-based health insurance, the State of New Mexico has enacted its own health reform plan called the State Coverage Initiative, or SCI, in July 2005. SCI is a public/private partnership intended to expand employer-sponsored insurance, developed in part with grant funding from the Robert Wood Johnson Foundation. As of December 2006, there were 4,256 people covered by this initiative and there are efforts to expand this effort to cover over 20,000 individuals. With Federal support for my State, the hope would be to further expand coverage to as many New Mexicans as possible.

The Health Partnership Act encourages reforms at both the state and local levels of government. Senator VOINOVICH, as former mayor of Cleveland, suggested language that would capture community-based efforts as well. Illinois, Georgia, Michigan, and

Oregon have all initiated efforts at the local level for reform, including so-called ''three-share'' programs in Illinois and Michigan. Under these initiatives, employers, employees, and the community each pick up about one-third of the cost of programs.

Jeaneane Smith, deputy administrator in the Office of Oregon Health Policy and Research was recently quoted by an Academy Health publication stating, ''In recent years it has become apparent that there is a need to consider both state- and community-level approaches to improved access. We want to learn how best to support communities as they play an integral part in addressing the gaps in coverage.''

The Health Partnership Act supports communities.

Our hope is to spawn innovation. Brookings Institution senior health fellow Henry Aaron and Heritage Foundation vice president Stuart Butler wrote a Health Affairs article in March 2004 that lays out the foundation for this legislative effort. They argue that while we remain unable to reconcile how best to expand coverage at the Federal level, we can agree to support states in their efforts to try widely differing solutions to health coverage, cost containment, and quality improvement. As they write, ''this approach offers both a way to improve knowledge about how to reform health care and a practical way to initiate a process of reform. Such a pluralist approach respects the real, abiding differences in politics, preferences, traditions, and institutions across the nation. It also implies a willingness to accept differences over an extended period in order to make progress. And it recognizes that permitting wide diversity can foster consensus by revealing the strengths and exposing the weaknesses of rival approaches.''

In addition to Dr. Garson, Mr. Aaron, Mr. Butler, and Dr. Frisof, I would like to express my appreciation to Dan Hawkins at the National Association of Community Health Centers, Bill Vaughan at Consumers Union, and both Jack Meyer and Stan Dorn at ESRI for their counsel and guidance on health reform and this legislation.

I would also like to commend the American College of Physicians, or ACP, for their outstanding leadership on the issue of the uninsured and for their willingness to support a variety of efforts to expand health coverage. ACP has been a longstanding advocate for expanding health coverage and has authored landmark reports on the important role that health insurance has in reducing people's morbidity and mortality. In fact, to cite the conclusion of one of those studies, ''Lack of insurance contributes to the endangerment of the health of each uninsured American as well as the collective health of the Nation.''

And finally, I would also thank the many people at the Robert Wood Johnson Foundation on their forethought and knowledge on all the issues confronting the uninsured. Their efforts to continue the dialogue on the uninsured has successfully kept the issue alive for many years.

I urge my colleagues to break the gridlock and support this legislation, which offers financial support to states, communities, providers, and consumers, as they adopt important innovations in healthcare coverage and expansion.

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

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

S. 325

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 ''Health Partnership Act''.

SEC. 2. STATE HEALTH REFORM PROJECTS.

(a) PURPOSE; ESTABLISHMENT OF STATE HEALTH CARE EXPANSION AND IMPROVEMENT PROGRAM.—The purposes of the programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) ensuring that patients receive high-quality, appropriate health care;

(3) improving the efficiency of health care spending; and

(4) testing alternative reforms, such as building on the public or private health systems, or creating new systems, to achieve the objectives of this Act.

(b) APPLICATIONS BY STATES, LOCAL GOVERNMENTS, AND TRIBES.—

(1) ENTITIES THAT MAY APPLY.—

(A) IN GENERAL.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care, may apply for a State health care expansion and improvement program for the entire State (or for regions of the State) under paragraph (2).

(B) REGIONAL GROUPS.—A regional entity consisting of more than one State may apply for a multi-State health care expansion and improvement program for the entire region involved under paragraph (2).

(C) DEFINITION.—In this Act, the term ''State'' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Such term shall include a regional entity described in subparagraph (B).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care expansion and improvement program may submit an application to the State Health Innovation Commission under subsection (c) (referred to in this section as the ''Commission'') for approval.

(3) LOCAL GOVERNMENT APPLICATIONS.—

(A) IN GENERAL.—Where a State declines to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Commission for programs or projects under this subsection. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(c) STATE HEALTH INNOVATION COMMISSION.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish a State Health Innovation Commission that shall—

(A) be comprised of—

(i) the Secretary;

(ii) four State governors to be appointed by the National Governors Association on a bipartisan basis;

(iii) two members of a State legislature to be appointed by the National Conference of State Legislators on a bipartisan basis;

(iv) two county officials to be appointed by the National Association of Counties on a bipartisan basis;

(v) two mayors to be appointed by the United States Conference of Mayors and the National League of Cities on a joint and bipartisan basis;

(vi) two individuals to be appointed by the Speaker of the House of Representatives;

(vii) two individuals to be appointed by the Minority Leader of the House of Representatives;

(viii) two individuals to be appointed by the Majority Leader of the Senate;

(ix) two individuals to be appointed by the Minority Leader of the Senate; and

(x) two individuals who are members of federally-recognized Indian tribes to be appointed on a bipartisan basis by the National Congress of American Indians;

(B) upon approval of ⅔ of the members of the Commission, provide the States with a variety of reform options for their applications, such as tax credit approaches, expansions of public programs such as medicaid and the State Children's Health Insurance Program, the creation of purchasing pooling arrangements similar to the Federal Employees Health Benefits Program, individual market purchasing options, single risk pool or single payer systems, health savings accounts, a combination of the options described in this clause, or other alternatives determined appropriate by the Commission, including options suggested by States, Indian tribes, or the public;

(C) establish, in collaboration with a qualified and independent organization such as the Institute of Medicine, minimum performance measures and goals with respect to coverage, quality, and cost of State programs, as described under subsection (d)(1);

(D) conduct a thorough review of the grant application from a State and carry on a dialogue with all State applicants concerning possible modifications and adjustments;

(E) submit the recommendations and legislative proposal described in subsection (d)(4)(B);

(F) be responsible for monitoring the status and progress achieved under program or projects granted under this section;

(G) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction;

(H) promote information exchange between States and the Federal Government; and

(I) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State program on national employer groups, provider organizations, and insurers because of

differing State requirements under the programs.

(2) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for a term of 5 years. In appointing such members under paragraph (1)(A), the designated appointing individuals shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(3) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(4) POWERS OF THE COMMISSION.—

(A) NEGOTIATIONS WITH STATES.—The Commission may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (d)(4)(B). Such negotiations shall include consultations with Indian tribes, and be conducted in a public forum.

(B) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(C) MEETINGS.—In addition to other meetings the Commission may hold, the Commission shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in subsection (a)(1) and for an exchange of information.

(D) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission if the head of the department or agency involved determines it appropriate.

(E) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government or of a State or local government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(C) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $3,000,000 for fiscal year 2007 and each fiscal year thereafter.

(d) REQUIREMENTS FOR PROGRAMS.—

(1) STATE PLAN.—A State that seeks to receive a grant under subsection (f) to operate a program under this section shall prepare and submit to the Commission, as part of the application under subsection (b), a State health care plan that shall have as its goal improvements in coverage, quality and costs. To achieve such goal, the State plan shall comply with the following:

(A) COVERAGE.—With respect to coverage, the State plan shall—

(i) provide and describe the manner in which the State will ensure that an increased number of individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, in accordance with the options established by the Commission;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the State health program;

(iii) describe the minimum benefits package that will be provided to all classes of beneficiaries under the State health program;

(iv) identify Federal, State, or local and private programs that currently provide health care services in the State and describe how such programs could be coordinated with the State health program, to the extent practicable; and

(v) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers.

(B) QUALITY.—With respect to quality, the State plan shall—

(i) provide a plan to improve health care quality in the State, including increasing effectiveness, efficiency, timeliness, patient focused, equity while reducing health disparities, and medical errors; and

(ii) contain appropriate results-based quality indicators established by the Commission that will be addressed by the State as well as State-specific quality indicators.

(C) COSTS.—With respect to costs, the State plan shall—

(i) provide that the State will develop and implement systems to improve the efficiency of health care, including a specific 5-year target for reducing administrative costs (including paperwork burdens);

(ii) describe the public and private sector financing to be provided for the State health program;

(iii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the State health program;

(iv) describe how the State plan will ensure the financial solvency of the State health program; and

(v) provide that the State will prepare and submit to the Secretary and the Commission such reports as the Secretary or Commission may require to carry out program evaluations.

(D) HEALTH INFORMATION TECHNOLOGY.—With respect to health information technology, the State plan shall provide methodology for the appropriate use of health information technology to improve infrastructure, such as improving the availability of evidence-based medical and outcomes data to providers and patients, as well as other health information (such as electronic health records, electronic billing, and electronic prescribing).

(2) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing applications and plans under this section, including technical assistance by private sector entities if determined appropriate by the Commission.

(3) INITIAL REVIEW.—With respect to a State application for a grant under subsection (b), the Secretary and the Commission shall complete an initial review of such State application within 60 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall advise the State within such period of the need to submit additional information.

(4) FINAL DETERMINATION.—

(A) IN GENERAL.—Not later than 90 days after completion of the initial review under paragraph (3), the Commission shall determine whether to submit a State proposal to Congress for approval.

(B) VOTING.—

(i) IN GENERAL.—The determination to submit a State proposal to Congress under subparagraph (A) shall be approved by ⅔ of the members of the Commission who are eligible to participate in such determination subject to clause (ii).

(ii) ELIGIBILITY.—A member of the Commission shall not participate in a determination under subparagraph (A) if—

(I) in the case of a member who is a Governor, such determination relates to the State of which the member is the Governor; or

(II) in the case of member not described in subclause (I), such determination relates to the geographic area of a State of which such member serves as a State or local official.

(C) SUBMISSION.—Not later than 90 days prior to October 1 of each fiscal year, the Commission shall submit to Congress a list, in the form of a legislative proposal, of the State applications that the Commission recommends for approval under this section.

(D) APPROVAL.—With respect to a fiscal year, a State proposal that has been recommended under subparagraph (B) shall be deemed to be approved, and subject to the availability of appropriations, Federal funds shall be provided to such program, unless a joint resolution has been enacted disapproving such proposal as provided for in

subsection (e). Nothing in the preceding sentence shall be construed to include the approval of State proposals that involve waivers or modifications in applicable Federal law.

(5) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Commission and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

(1) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(A) INTRODUCTION.—The legislative proposal submitted pursuant to subsection (d)(4)(B) shall be in the form of a joint resolution (in this subsection referred to as the ''resolution''). Such resolution shall be introduced in the House of Representatives by the Speaker, and in the Senate, by the Majority Leader, immediately upon receipt of the language and shall be referred to the appropriate committee of Congress. If the resolution is not introduced in accordance with the preceding sentence, the resolution may be introduced in either House of Congress by any member thereof.

(B) COMMITTEE CONSIDERATION.—A resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A resolution introduced in the Senate shall be referred to the Committee on Finance of the Senate. Not later than 15 calendar days after the introduction of the resolution, the committee of Congress to which the resolution was referred shall report the resolution or a committee amendment thereto. If the committee has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a resolution, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such reform bill and such reform bill shall be placed on the appropriate calendar of the House involved.

(2) EXPEDITED PROCEDURE.—

(A) CONSIDERATION.—Not later than 5 days after the date on which a committee has been discharged from consideration of a resolution, the Speaker of the House of Representatives, or the Speaker's designee, or the Majority Leader of the Senate, or the Leader's designee, shall move to proceed to the consideration of the committee amendment to the resolution, and if there is no such amendment, to the resolution. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution at any time after the conclusion of such 5-day period. All points of order against the resolution (and against consideration of the resolution) are waived. A motion to proceed to the consideration of the resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the resolution that was introduced in such House, such House receives from the other House a resolution as passed by such other House—

(i) the resolution of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the resolution of the other House, with respect to the resolution that was introduced in the House in receipt of the resolution of the other House, shall be the same as if no resolution had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the reform bill of the other House.

Upon disposition of a resolution that is received by one House from the other House, it shall no longer be in order to consider the resolution bill that was introduced in the receiving House.

(C) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the resolution that results in a disagreement between the two Houses of Congress with respect to the resolution, conferees shall be appointed and a conference convened. Not later than 10 days after the date on which conferees are appointed, the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the resolution. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the resolution filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives or their designees and the Majority and Minority Leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report.

(3) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(4) LIMITATION.—The amount of Federal funds provided with respect to any State proposal that is deemed approved under subsection (d)(3) shall not exceed the cost provided for such proposals within the concurrent resolution on the budget as enacted by Congress for the fiscal year involved.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (b) to enable such State to carry out an innovative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Commission, subject to the amount appropriated under subsection (k).

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) fund a diversity of approaches as provided for by the Commission in subsection (c)(1)(B);

(B) give priority to those State programs that the Commission determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and other vulnerable populations with improved access to health care items and services; and

(C) link allocations to the State to the meeting of the goals and performance measures relating to health care coverage, quality, and health care costs established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Innovation Advisory Commission established under subsection (c) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Commission concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(g) MONITORING AND EVALUATION.—

(1) ANNUAL REPORTS AND PARTICIPATION BY STATES.—Each State that has received a program approval shall—

(A) submit to the Commission an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Commission and the Secretary in the approval and in this section; and

(B) participate in the annual meeting under subsection (c)(4)(B).

(2) EVALUATIONS BY COMMISSION.—The Commission, in consultation with a qualified and independent organization such as the Institute of Medicine, shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce, the Committee on Education and Labor, and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving approvals under this section;

(B) a description of the recommendations of the Commission and actions taken based on these recommendations;

(C) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(D) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(E) as required by the Commission or the Secretary under subsection (f)(5), a periodic, independent evaluation of the program.

(h) NONCOMPLIANCE.—

(1) CORRECTIVE ACTION PLANS.—If a State is not in compliance with a requirements of this section, the Secretary shall develop a corrective action plan for such State.

(2) TERMINATION.—For good cause and in consultation with the Commission, the Secretary may revoke any program granted under this section. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to regulations established by the Secretary.

(i) RELATIONSHIP TO FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Commission, a State, or any other person or entity to alter or affect in any way the provisions of title XIX of such Act (42 U.S.C. 1396 et seq.) or the regulations implementing such title.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(j) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE xix PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE xi PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary in each fiscal year. Amounts appropriated for a fiscal year under this subsection and not expended may be used in subsequent fiscal years to carry out this section.

Mr. VOINOVICH. Mr. President, I rise to speak about a bill my colleague Senator BINGAMAN and I introduced today, the Health Care Partnership Act. For too many years, I have listened to my colleagues on both sides of the aisle talk about the rising cost of health care and the growing number of uninsured Americans. Yet, at the Federal level we have made little progress toward a solution for improving access to quality, affordable health care. I believe it is the greatest domestic challenge facing our Nation. In fact, the rising cost of health care is a major part of what is hurting our competitiveness in the global marketplace.

While surveys have indicated that health insurance premiums have stabilized—a 9.2 percent increase in 2006 the same increase as in 2005 and compared with; 12.3 percent in 2004; 14.7 percent in 2003 and 15.2 percent in 2002—health insurance costs continue to be a significant factor impacting American competitiveness. In addition, the share of costs that individuals have paid for employer sponsored insurance has risen roughly 2 percent each year, from 31.4 percent of health care costs in 2001 to 38.4 percent this year.

In fact, spending on health care in the United States reached $2 trillion in 2005—16 percent of our GDP—the largest share ever.

Yet, despite all the spending some 45 million Americans—15 percent of the population—had no health insurance at some point last year. This number has increased steadily. In 2000, that number was 39.8 million. In 2002 it was 43.6 million.

These statistics are startling, and it is beyond time that we do something about them.

The bill Senator BINGAMAN and I are introducing today aims to break the log-jam here in Washington and allows States to experiment the way we did with welfare reform when I was Governor of Ohio. This bill would support State-based efforts to reduce the uninsured, reduce costs, improve quality, improve access to care, and expand information technology.

I have been in this situation before. As Governor of Ohio, I had to work creatively to expand coverage and deal with increasing health care costs for a growing number of uninsured Ohioans. I am happy to report that we were able to make some progress toward reducing the number of uninsured during my time as the head of the State by negotiating with the State unions to move to managed care; by controlling Medicaid costs to the point where from 1995 to 1998, due to good stewardship and management, Ohio ended up underspending on Medicaid without harming families; and implementing the S–CHIP program to provide coverage for uninsured children. In fact, I recently learned from the Cuyahoga Commissioners that in our county, 98 percent of eligible children are currently enrolled in this program.

Like we did in Ohio, a number of States are already actively pursuing efforts to reduce the number of their residents who lack adequate health care coverage. This bill will build on the goals of States like Massachusetts, California and others, while providing a mechanism to analyze results and make recommendations for future action on the Federal level.

Under the Health Partnership Act, Congress would authorize grants to individual States, groups of States, and Indian tribes and organizations to carry out any of a broad range of strategies to improve our Nation's health

care delivery. The bill creates a mechanism for States to apply for grants to a bipartisan ''State Health Innovation Commission'' housed at the Department of Health and Human Services, HHS. After reviewing the State proposals, the Commission would submit to Congress a list of recommended State applications. The Commission would also recommend the amount of Federal grant money each State should receive to carry out the actions described in their plan.

Most importantly, at the end of the 5-year period, the Commission would be required to report to Congress whether the States are meeting the goals of the act and recommend future action Congress should take concerning overall reform, including whether or not to extend the program.

I believe it is important that we pass this legislation and provide a platform from which we can have a thoughtful conversation about health care reform at the Federal level.

Since I have been in the Senate, Congress has made some progress toward improving health care, most notably for our 43 million seniors with the passage of the Medicare Modernization Act.

Yet, we have been at this too long here in Washington without comprehensive, meaningful results. It is my hope that we will have bipartisan support for this very bipartisan comprehensive bill that I hope will move us closer toward a solution to the uninsured.

By Mrs. LINCOLN (for herself, Mr. THOMAS, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. AKAKA, Mr. PRYOR, Ms. KLOBUCHAR, Mr. ENZI, Mr. HARKIN, Mr. ROCKEFELLER, and Mr. KERRY):

S. 326. A bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I rise today with my colleague, Senator CRAIG THOMAS, to introduce the Disabled Veterans Tax Fairness Act of 2007. This much-needed legislation would protect disabled veterans from being unfairly taxed on the benefits to which they are entitled, simply because their disability claims were not processed in a timely manner. This legislation is supported by the Military Coalition, a group representing more than 5.5 million members of the uniformed services and their families.

While the Department of Veterans Affairs, VA, resolves most of its filed disability claims in less than a year, there are also instances of lost paperwork, administrative errors, and appeals of rejected claims that often delay thousands of disability awards for years on end. When this occurs, disability compensation is awarded retroactively and for tax purposes, a disabled veteran's previously received taxable military retiree pay is re-designated as nontaxable disability compensation. Thereby, the disabled veteran is entitled to a refund of taxes paid and must file an amended tax return for each applicable year.

However, under current law the IRS Code bars the filing of amended returns beyond the last 3 tax years. As a result, many of our disabled veterans are denied the opportunity to file a claim for repayment of additional years of back taxes already paid—through no fault of their own—even though the IRS owes them a refund for the taxes that were originally paid on their retiree pay.

The Disabled Veterans Tax Fairness Act of 2007 would add an exception to the IRS statute of limitations for amending returns. This exception would allow disabled veterans whose disability claims have been pending for more than 3 years to receive refunds on previous taxes paid for up to 5 years—the length of time the IRS keeps these records. Affected veterans would have 1 year from the date the VA determination is issued to go back and amend previous years' tax returns.

My father and grandfather both served our Nation in uniform and they taught me from an early age about the sacrifices our troops and their families have made to keep our Nation free. This is particularly true for our disabled veterans. During a time when a grateful nation should be doing everything it can to honor those who have sacrificed so greatly on our behalf, the very least it can do is ensure they and their families are not unjustly penalized simply because of bureaucratic inefficiencies or administrative delays which are beyond their control. This situation is unacceptable and our veterans deserve better.

That is why I am proud to reintroduce this legislation today to provide relief to our Nation's veterans. It is the least we can do for those whom we owe so much, and it is the least we can do to reassure future generations that a grateful nation will not forget them when their military service is complete.

By Mr. MCCAIN (for himself and Mr. SALAZAR):

S. 327. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator SALAZAR in reintroducing the Cesar Estrada Chavez Study Act. A similar version of this bill was introduced by Congresswoman HILDA SOLIS last week. This legislation, which is identical to the bill we introduced in the 109th Congress and passed the Senate by unanimous consent during the 108th Congress, would authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Chavez. The bill would direct the Secretary of the Interior to determine whether any of the sites significant to Chavez's life meet the criteria for being listed on the National Register of Historic Landmarks. The goal of this legislation is to establish a foundation for future legislation that would then designate land for the appropriate sites to become historic landmarks.

Mr. Chavez's legacy is an inspiration to us all and he will be remembered for helping Americans to transcend distinctions of experience and share equally in the rights and responsibilities of freedom. It is important that we honor his struggle and do what we can to preserve appropriate landmarks that are significant to his life. This legislation has received an overwhelming positive response, not only from my fellow Arizonans, but from Americans all across the Nation. It has also received an endorsement from the Congressional Hispanic Caucus.

Cesar Chavez, an Arizonan born in Yuma, was the son of migrant farm workers. While his formal education ended in the eighth grade, his insatiable intellectual curiosity and determination helped make him known as one of the great American leaders for his successes in ensuring migrant farm workers were treated fairly and honestly. His efforts on behalf of some of the most oppressed individuals in our society is an inspiration, and through his work he made America a bigger and better nation.

While Chavez and his family migrated across the southwest looking for farm work, he evolved into a advocate of migrant farm workers. He founded the National Farm Workers Association in 1962, which later became the United Farm Workers of America. He gave a voice to those who had no voice. In his words, ''We cannot seek achievement for ourselves and forget about progress and prosperity for our community . . . our ambitions must be broad enough to include the aspirations and needs of others, for their sakes and for our own.''

Cesar Chavez was a humble man of deep conviction who understood what it meant to serve and sacrifice for others. His motto in life ''It Can Be Done,'' epitomizes his life's work and continues to be a positive influence on so many of us. Honoring the places of his life will enable his legacy to inspire and serve as an example for our future leaders.