AMENDMENT NO. 1179

At the request of Mr. LAUTENBERG, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 1179 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1236

At the request of Mr. TESTER, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Vermont (Mr. LEAHY) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 1236 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1259

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 1259 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1260

At the request of Mr. DOMENICI, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 1260 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1279

At the request of Mr. SCHUMER, his name was added as a cosponsor of amendment No. 1279 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1311

At the request of Mr. COBURN, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Alabama (Mr. SESSIONS), the Senator from Louisiana (Mr. VITTER), the Senator from Iowa (Mr. GRASSLEY) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 1311 proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1318

At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Georgia (Mr. ISAKSON), the Senator from Wyoming (Mr. ENZI) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of amendment No. 1318 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1335

At the request of Mr. DOMENICI, the names of the Senator from Arizona (Mr. KYL) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 1335 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1392

At the request of Mr. MENENDEZ, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of amendment No. 1392 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

AMENDMENT NO. 1455

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1455 intended to be proposed to S. 1348, a bill to provide for comprehensive immigration reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 1561. A bill to amend title 11, United States Code, with respect to exceptions to discharge in bankruptcy for certain qualified educational loans; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I would like to tell you about Connie Martin from Sycamore, IL. Connie's son decided to go to culinary school in Chicago 5 years ago at the age of 25. To pay for tuition, he borrowed $58,000 in private loans from Sallie Mae at 18 percent interest. His first payment was $1,100 a month—his entire monthly salary at a downtown eatery where he worked after graduation. His loan balance, including government-backed loans, is now $100,000. Connie's son has been working hard, and she and her husband have been trying to help him make the payments. I worry for borrowers like Connie's son who can't start over and will have debt that will likely haunt him for the rest of his life.

The Chicago Sun-Times recently ran a story that described the devastating effect large student loan debt has on the lives of borrowers. Mr. President, I ask unanimous consent that the following article from the Chicago Sun-Times be inserted for the RECORD.

Private student loans are the fastest growing and most profitable sector of the student loan industry. As college tuition continues to rise, the private loan market flourishes. According to the College Board, tuition, fees, room and board at public 4-year schools have risen by 42 percent over the past 5 years from $9,032 to $12,796. Add books, supplies, transportation and other living expenses, and the total increases to $16,357 for those paying instate tuition and $26,304 for those paying out-of-state tuition. Students rely on private loans to pay for any unmet need that Federal loans and grants fail to cover. According to the College Board, since 2001 the market for private student loans has grown at an annual rate of 27 percent to $17.3 billion in 2006—roughly 20 percent of total student borrowing. Ten years ago, only 5 percent of total education loan volume was in private loans.

Private student loans are more profitable than Federal student loans because lenders can charge whatever interest rate students will pay, barring State usury laws. The interest rates and fees on private loans can be as onerous as credit cards. There are reports of private loans with interest rates of at least 15 percent and often much higher. Unlike Federal student loans, there is no government-imposed loan limit on private loans and no regulation over the terms and cost of these loans.

Today, I am pleased to introduce a bill that will give students, who find themselves in dire financial straits, a chance at a new beginning. My bill takes the bankruptcy law, as it pertains to private student loans, back to where it was before the law was amended in 2005. Under this legislation, privately issued student loans will once again be dischargeable in bankruptcy. My bill also clarifies that existing protections are specific to loans that were issued by or are guaranteed by State and Federal Government.

Federally issued or guaranteed student loans have been protected during personal bankruptcy since 1978. This provision protects Federal investments in higher education. In 2005, a provision was added to law to protect the investments of private lenders participating in the student loan industry. This change in the law creates a couple of problems. First, extending protections to private lenders of student loans but not to other potential creditors who are at risk in a bankruptcy disposition is inherently unfair. Second, such protections are unfair to the debtor. Repayment schedules—with accumulating interest—can extend for decades.

With the 2005 protections in place, there is essentially no risk to lenders making high-cost private loans to people who may not be able to afford them. There is no risk to private lenders extending credit to students at schools with low graduation rates and even lower job placement rates.

Giving private loans such high status in bankruptcy also puts other creditors at a significant disadvantage. No one seems to know how or why private student loans gained this status in 2005. There is nothing in the CONGRESSIONAL RECORD explaining the reasons behind the change. Why should a private student loan lender be able to jump to the front of the creditor line—in front of the local furniture store or the neighborhood plumber? This bill seeks to restore treatment of privately issued student loans in bankruptcy to the same treatment as any other debt.

There is justification for making Federal loans hard to discharge: they are backed by taxpayer dollars, and they come with some borrower protections in cases of economic hardship, unemployment, death and disability. However, private loans involve only private profit and do not have the protections that government borrowers enjoy, including caps on interest rates, flexible repayment options, and limited

cancellation rights. Why should student borrowers, who are trying to better themselves and our country, be treated in the same manner as people trying to escape child support payments, alimony, overdue taxes, and criminal fines?

The 1950s and 1960s saw the democratization of higher education. The GI Bill provided money for returning WWII veterans to attend college. The National Defense Education Act made college a possibility by making low-interest education loans available for countless students all across the country. Talented kids from working families began realizing the possibility of college, and enrollment at colleges swelled. But since then, college costs have gone through the roof. And students—heeding the call to obtain a good education—are also earning themselves years of debt. The average student is graduating with nearly $20,000 in debt and in many cases—much, much more—just look at Connie Martin's son. Our country has made great strides in making college a reality for countless students. Let's not reverse the positive trend we started over 50 years ago. That is why I am introducing this bill—to give students a chance at a fresh start.

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

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1561

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

SECTION 1. DISCHARGE IN BANKRUPTCY FOR CERTAIN EDUCATIONAL LOANS.

Section 523(a)(8) of title 11, United States Code, is amended by striking ''dependents, for'' and all that follows through subparagraph (B) and inserting ''dependents, for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or an obligation to repay funds received from a governmental unit as an educational benefit, scholarship, or stipend.''.

[From the Sun Times, May 6, 2007]

STUDENTS AND LOANS: 'TIL DEATH DO US PART

(By Dave Newbart)

They liken it to a financial death sentence.

They can't get a car loan, a home mortgage or any other type of loan. They've lost jobs and even spouses over it.

They are so humiliated they don't want any of their friends or family to know.

And for most, there is no way out.

They are former students trapped under the weight of student loans. The same vehicle that allowed them to get a college education has left many graduates buried in debt with no reasonable way to climb out.

Some students who never graduate are stuck paying off loans without the earning power of a degree—an estimated additional $1 million in lifetime earnings.

And some students who finish can't afford the monthly payments. Others lose jobs and can't catch back up. Then they get turned down by employers who increasingly check credit records before hiring.

Some say they would make small monthly payments to show good faith—only to see their balances continue to grow and to receive harassing phone calls from collectors.

To be sure, most borrowers pay on time; default rates are at an all-time low.

But for those who run into trouble, changes in federal laws—including many in the last decade—have made student loans among the hardest debts to discharge. They've also made the loans among the most lucrative for private lenders, who face little risk—because the government backs the loans—but reap the benefits when balances balloon.

Some borrowers say they accept reasonable interest, but they believe the fees and penalties—which over time can double or triple the loan balances—are unfair.

INTEREST RATE OVER 18 PERCENT

Many of the students awash in debt say that they were blinded by the promise a college degree holds and unprepared to take on high levels of debt at such a young age.

Connie Martin's son signed up for cooking school in Chicago in 2002 at age 25. To pay for it, he borrowed $73,000, mostly in private loans from Sallie Mae, the largest student lender, at 18 percent interest.

''He didn't know what the interest rate was. . . . He just wanted to go to school,'' said Martin, of Sycamore.

His first payment was $1,100 a month, his entire monthly salary at a downtown eatery where he went to work after graduation.

''I don't understand how they can lend a kid that kind of money with no credit history, who never owned anything, with no cosigners,'' said his mother, who only learned of the situation after the bills started to pile up.

Sallie Mae officials said they no longer offer such high-interest loans, and have offered students a chance to refinance at a lower rate if certain conditions are met. ''We recognize it's high,'' spokeswoman Martha Holler said.

Martin's son declined to comment. His balance has since grown to $98,000.

IT'S LIKE INDENTURED SERVITUDE

Greg Treece, of Downstate Mattoon, now wishes he never enrolled in Washington University's Occupational Therapy program. ''Choosing an expensive private school and borrowing the money to go there is the single greatest mistake I have ever made,'' he said.

Treece took out $84,000 in loans. Six months after he got out of the St. Louis school, his monthly payment was more than half his take-home pay for his first job in Chicago. He later lost his job. With compounding interest, his loan quickly skyrocketed. At times he seriously wished he could go to jail in exchange for wiping out the debt.

With a new job, he's managed to pay $60,000, but his balance remains at $111,000 because of fees, penalties and interest. ''It's like indentured servitude,'' he said.

For those who default, lenders can truly play hardball, often employing no-scruples private collection firms that call borrowers as often as 10 times a day.

Shirley, an Ivy League-educated lawyer, lost her job in Chicago in the late 1980s. She pleaded for reduced payments from a collector working for the Illinois Student Assistance Commission—but was denied.

''I said you are driving me to bankruptcy,'' she recalled. ''They wouldn't budge.''

In bankruptcy court ISAC claimed she owed $78,000, which included $13,000 for collection costs, 20 percent of the total debt. Nearly all of the debt was eventually erased, according to court records.

Because that was before the recent law changes, she should have been clear.

LOAN CHIEF ADMITS ''MISTAKES''

But several years later, the collectors began calling again—first from ISAC and then from the U.S. Education Department. They claimed the bill was now over $100,000.

''It was as though they were above the law,'' she said. She eventually went to court again and proved she no longer owed the money, but her husband left her in the process. She asked that her real name not be used out of fear of retaliation.

ISAC and the Education Department say they have several programs that allow students to delay payments in hard times or make lower ones based on income. Officials say they try to help borrowers in default get back into good standing, a process known as rehabilitation. Last year, ISAC rehabbed $30 million in defaulted loans, up from $4.4 million in 2002.

Agency director Andy Davis says the agency has to strike a balance between helping borrowers repay and making sure taxpayers aren't left in the lurch.

But he acknowledges his workers ''make mistakes'' and said he is looking to make changes in some of the outsourcing of collections.

Then there are those with hard luck, who make bad decisions or just simply can't get a break.

Richard and Sheila Friese both have degrees from Southern Illinois University, financed in part on student loans. They were also both discharged from the Navy after suffering injuries while serving stateside. Richard is learning disabled.

They have never been able to find high-paying jobs; now they both use wheelchairs to get around and suffer from ailments including arthritis, constant abdominal pain and chronic fatigue. They're currently fighting with the Veterans Administration over benefits; they also are wrangling with the Social Security Administration.

COLLECTOR: ''WE WILL NEVER GO AWAY''

They currently have no income to pay off their combined $141,000 loan balance. ISAC has seized $3,200 in tax refunds from Sheila, 37. Richard, 49, avoids the phone after constantly being called by collectors for Sallie Mae—one of whom he claims called him a ''low-life, S.O.B.'' Holler said Sallie Mae's collectors are trained in fair debt collection practices. ''That should not happen,'' she said.

If this were virtually any other debt, experts say, the couple would be able to discharge some or all of it through bankruptcy. But the Frieses, of Mundelein, are stuck. ''Our life has hit a brick wall,'' Richard said.

Davis said it might make sense for the federal government to ''write off'' debt if borrowers—particularly vets—have no hope of paying.

Pam, 58, of Dolton, graduated from Downstate SIU-Edwardsville in 1984, but spent time on welfare. She eventually defaulted on her loan after a dispute over the amount of the balance and monthly payments. Her $12,500 in loans has grown to $28,000. Experts say borrowers should continue to make payments during a dispute so the loan doesn't get out of control.

She has gone underground, blocking collectors' calls and running her own business so her wages can't be garnisheed. But when collectors do get through, they have a harsh message. ''When they call they say, 'We will never go away until you are dead.'''

UP, UP AND AWAY

Percent of students with loans
1993: less than 50 percent
2004: 66 percent
Average debt for graduating seniors
1993: $9,250
2004: $19,200
Number of graduating seniors with debt over $40,000
1993: 7,000

2004: 78,000

By Mr. BIDEN:

S. 1562. A bill to direct the Secretary of Energy to provide grants to States for the distribution of compact fluorescent lights; to the Committee on Energy and Natural Resources.

Mr. BIDEN. Mr. President, I rise today to introduce the Fluorescent Light Implementation Program to Save Americans Value and Energy, or FLIP-to-SAVE. This bill does something very simple to save Americans money and make us more energy efficient. It distributes compact fluorescent light-bulbs. We can save green two ways by changing our light-bulbs.

Compact fluorescent light-bulbs, or CFLs, are highly efficient light-bulbs that use less than a quarter of the energy of traditional incandescent bulbs. The FLIP-to-SAVE program will spend $50 million to increase public awareness of how CFLs save money and the environment and to distribute them to households across the Nation. It is modeled after a successful program in my home State of Delaware, which distributed 140,000 CFLs through public libraries. The FLIP-to-SAVE program will give States grants, to allow each State to develop a program that suits it best, though I expect many will be modeled after Delaware's system.

Through this program, we can expect to replace 16 million inefficient incandescent bulbs with CFLs, reducing total residential energy bills by over $60 million each year. That means the program ought to pay for itself in terms of savings to families in just one year. And that's without considering the environmental benefits.

By reducing our energy consumption in the equivalent of 127,000 homes, about the size of Buffalo, NY, we can help alleviate our energy dependence and reduce our greenhouse gas emissions. In fact, one equivalent CFL replacing a 60 watt incandescent will prevent 1000 pounds of carbon dioxide through reductions in coal-powered electricity. That is 1.1 million tons of carbon dioxide each year.

Energy efficiency is a key to our efforts to address climate change. There are many simple steps we can take to use less energy, and this is one. The FLIP-to-SAVE program will not just reduce carbon emissions, but also reduce electric bills for American families by more than its price tag. I ask 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. 1562

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 ''Fluorescent Lightbulb Implementation Program to Save Americans Value and Energy''.

SEC. 2. DEFINITIONS.

In this Act:

(1) LOW-INCOME HOUSEHOLD.—The term ''low-income household'' means a household with a total annual household income that does not exceed the greater of—

(A) an amount equal to 150 percent of the poverty level of a State; or

(B) an amount equal to 60 percent of the State median income.

(2) MEDIUM BASE COMPACT FLUORESCENT LAMP.—The term ''medium base compact fluorescent lamp'' has the meaning given the term in section 321(30)(S) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(S)).

(3) POVERTY LEVEL.—The term ''poverty level'' has the meaning given the term in section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) STATE.—The term ''State'' means—

(A) a State; and

(B) the District of Columbia.

(6) STATE MEDIAN INCOME.—The term ''State median income'' has the meaning given the term in section 2603 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8622).

SEC. 3. COMPACT FLUORESCENT LIGHTING GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program under which the Secretary shall provide grants to States for the distribution of medium base compact fluorescent lamps to households in the State.

(b) APPLICATION REQUIREMENTS.—To be eligible to receive a grant under this section a State shall—

(1) submit to the Secretary an application, in such form and by such date as the Secretary may specify, that contains—

(A) a plan describing the means by which the State will use the grant funds; and

(B) such other information as the Secretary may require; and

(2) agree—

(A) to conduct public education activities to provide information on—

(i) the efficiency of using medium base compact fluorescent lamps; and

(ii) the cost savings associated with using medium base compact fluorescent lamps;

(B) to conduct outreach activities to ensure, to the maximum extent practicable, that households in the State are informed of the distribution of the medium base compact fluorescent lamps in the State;

(C) to coordinate activities under this section with similar and related Federal and State programs; and

(D) to comply with such other requirements as the Secretary may establish.

(c) PRIORITY.—A State that receives a grant under this section shall give priority to distributing medium base compact fluorescent lamps to low-income households in the State.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated $50,000,000 to carry out this Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the amounts made available under this section shall supplement, not supplant, amounts provided under sections 361 through 364 of the Energy Policy and Conservation Act (42 U.S.C. 6321 through 6324).

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. DODD, Mr. OBAMA, Mr. LIEBERMAN, Ms. KLOBUCHAR, Ms. MIKULSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. WYDEN, and Mrs. CLINTON):

S. 1563. A bill to require the disclosure of certain activities relating to the petroleum industry of Sudan, to increase the penalties for violations of sanctions provisions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DURBIN. Mr. President, the suffering in Darfur and Sudan on the continent of Africa continues today as it has every day for too many years. I rise again to urge my colleagues that we must do more to end this crisis in Sudan. Two weeks ago, before the Memorial Day recess, I came to the floor to highlight some of the positive steps taken thus far by Congress, the Bush administration, the business community, and nonprofits to pressure the Sudanese regime to end this genocide. I said then and I will repeat today: We must do more.

In that speech I urged the President to follow through on what he promised to do in April at the Holocaust museum just down the street in Washington. To the President's credit, last week he took steps forward. He tightened United States economic sanctions on Sudan. He targeted sanctions against more individuals responsible for the violence, and he vowed to push for a strong new United Nations Security Council resolution that would further pressure the Sudanese regime. I applaud the President for his leadership. But I repeat, we must do more.

On March 28, as Treasury Secretary Paulson testified in front of the Appropriations subcommittee I chair, I asked the Secretary: What resources does the Treasury Department need to put more pressure on the Sudanese Government to end the genocide? His answer:

. . . We'd like the flexibility to charge a larger fine, because $50,000 may not be enough.

He was talking about civil and criminal penalties that violators of American sanctions on Sudan should face and the fact that the current penalties are not much of a deterrent. It was a concrete suggestion from the administration, and I agreed to accept his challenge. Based on that testimony, more discussions with the Treasury Department, the Securities and Exchange Commission, the State Department, and other agencies, we created the Sudan Disclosure and Enforcement Act which I introduce today. This act provides the administration and all Americans with more resources and tools and information so we can each do our part to end the genocide and bring peace to Darfur. It creates real consequences for those who support the Sudanese regime and, perhaps most importantly, it requires the administration and Congress to meet in 90 days to reassess the steps that need to be taken to help to end the crisis.

For my colleagues who are considering supporting this legislation, here is what the bill will do in specifics: first, express the sense of Congress that the international community should continue to bring pressure against the Government of Sudan to convince that regime that the world would not allow this crisis to continue; second, authorize greater resources for the Office of

Foreign Assets Control within the Department of the Treasury to strengthen its capabilities in tracking Sudanese economic activity and pursuing sanctions violators; third, require more detailed SEC disclosures by United States listed companies that operate in the Sudanese petroleum sector so investors can make informed decisions regarding divestment from these companies; fourth, dramatically increase civil and criminal penalties for violating American economic sanctions to create a true deterrent against transacting with barred Sudanese companies; fifth, require the administration to report on the effectiveness of the current sanctions regime and recommend other steps Congress could take to help end the crisis.

I am proud to introduce this legislation with bipartisan support. I particularly thank the ranking member of the Financial Services and General Government Appropriations Subcommittee, my friend and colleague Senator SAM BROWNBACK of Kansas, for all of his great work on this issue. I am pleased to be joined by all of the other original cosponsors as well: Senators DODD, who also chairs the Banking Committee and is a great ally; Senators KLOBUCHAR, MIKULSKI, BILL NELSON, OBAMA, and WYDEN.

I urge all my colleagues on both sides of the aisle to join this effort. As we move around our States and visit parts of the country, occasionally a person will come up after a meeting and say to me: Senator, what are you doing about Darfur? Didn't your country, America, declare a genocide? What are you doing?

Frankly, aside from speeches on the floor and an occasional resolution, bills of very little consequence, there hasn't been much to point to. I hope my colleagues who face that same question and worry that the response is so inadequate will take a good look at this legislation. I hope they will join me in cosponsoring this effort. We should pass this measure, work with our House colleagues and do the same, send this bill to the President. The President said in April:

> You who have survived evil know that the only way to defeat it is to look it in the face and not back down. It is evil that we are now seeing in Sudan, and we're not going to back down.

The President went on to say:

> No one who sees these pictures can doubt that genocide is the only word for what is happening in Darfur and that we have a moral obligation to stop it.

I completely agree with the President. It has been more than 2½ years since the President called what is taking place in Darfur, Sudan by its rightful name—genocide. Yet even as an estimated 200,000 to 400,000 people have been killed, even as over 2 million men, women, and tiny children have been forced from their homes by violence and killing, even as the violence continues as we meet in the safety and comfort of this great Nation, America and the entire international community have not done enough to help. We must do more. This bill moves in the right direction. It gives our Government the tools and the encouragement to act and act quickly.

I urge my colleagues to support it.

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

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

S. 1563

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 ''Sudan Disclosure and Enforcement Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) On July 22, 2004, the Senate passed Senate Concurrent Resolution 133, 108th Congress, and the House of Representatives passed House Concurrent Resolution 467, 108th Congress, both resolutions declaring that ''the atrocities unfolding in Darfur, Sudan, are genocide''.

(2) On September 9, 2004, President Bush declared that ''we have concluded that genocide has taken place in Darfur''.

(3) On June 30, 2005, President Bush affirmed that ''the violence in Darfur region is clearly genocide [and t]he human cost is beyond calculation''.

(4) On May 8, 2006, President Bush reaffirmed, ''We will call genocide by its rightful name, and we will stand up for the innocent until the peace of Darfur is secured.''.

(5) On November 20, 2006, the Presidential Special Envoy to Sudan, Andrew S. Natsios, stated in a briefing to members of the press, ''And there's a point—January 1st is either we see a change or we go to Plan B.''.

(6) On February 20, 2007, Special Envoy Natsios stated in an interview with the Council on Foreign Relations, ''We needed to send a message to the Sudanese government that we were no longer simply going to continue with the situation the way it's been the last four years, that there was a change. We are considering more aggressive measures should we make no progress in the humanitarian area, in the political negotiations, and in the implementation of Kofi Annan and Ban Ki-moon's plan to introduce . . . additional forces.''.

(7) On April 18, 2007, President Bush stated, ''It is evil we are now seeing in Sudan—and we're not going to back down.''.

(8) The Government of Sudan, as of the date of the introduction of this Act, has announced its willingness to accept 3,000 United Nations peacekeepers and their equipment, but has continued to obstruct the full-scale joint United Nations–African Union peacekeeping mission authorized under United Nations Security Council Resolution 1706 (2006) and to prevent sufficient humanitarian access to meet the urgent needs of the people of Darfur.

(9) Congress supports the objectives of a ''Plan B'' as outlined in the press and elsewhere to increase pressure on the Government of Sudan to accept a greatly expanded peacekeeping mission with a mandate to protect the people of Darfur.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that the President should—

(1) continue to work with other members of the international community, including the Permanent Members of the United Nations Security Council, the African Union, the European Union, the Arab League, and the Government of Sudan to facilitate the urgent deployment of a peacekeeping force as called for by United Nations Security Council Resolution 1706 (2006); and

(2) bring before the United Nations Security Council, and call for a vote on, a resolution requiring meaningful multilateral sanctions against the Government of Sudan in response to its acts of genocide against the people of Darfur and its continued refusal to allow the implementation of a peacekeeping force as called for by Resolution 1706.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Appropriations, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Financial Services of the House of Representatives.

(2) PERSON.—The term ''person'' means an individual, partnership, corporation, or other entity, including a government or an agency of a government.

(3) SUDAN.—

(A) SUDAN.—The term ''Sudan'' means the Republic of Sudan and any territory under the administration or control of the Government of Sudan.

(B) SOUTHERN SUDAN AND DESIGNATED AREAS.—The term ''Southern Sudan and designated areas'' means Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, or Darfur.

SEC. 5. DISCLOSURE TO THE SEC OF ACTIVITIES RELATING TO THE PETROLEUM INDUSTRY IN SUDAN.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

''(m) DISCLOSURE OF ACTIVITIES RELATING TO THE PETROLEUM INDUSTRY IN SUDAN.—

''(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this subsection, the Securities and Exchange Commission shall promulgate rules requiring any person described in paragraph (2) to disclose to the Securities and Exchange Commission—

''(A) activities described in paragraph (3) if such activities result in gross receipts to or total investments from such person of $1,000,000 or more a year; and

''(B) the geographic area within Sudan where such activities occurred, and specifically if such activities took place solely within Southern Sudan and designated areas.

''(2) PERSON DESCRIBED.—A person, as defined in paragraph (6)(C), is described in this paragraph if the person—

''(A) is an issuer of securities registered under section 12; and

''(B) either—

''(i) engages in or facilitates activities described in paragraph (3); or

''(ii) controls or is controlled by a person that engages in or facilitates activities described in paragraph (3).

''(3) ACTIVITIES DESCRIBED.—An activity described in this paragraph is the exploration, development, extraction, processing, exportation, or sale of petroleum products produced in Sudan.

''(4) WAIVER.—The President may waive the disclosure requirements described in paragraph (1) for periods not to exceed 1 year if the President—

''(A) determines that such a waiver is in the national interest of the United States; and

''(B) not later than 7 days before granting the waiver, reports to the appropriate congressional committees regarding the intention of the President to waive the disclosure requirements described in paragraph (1) and the reasons the waiver is in the national interest of the United States.

''(5) TERMINATION OF DISCLOSURE REQUIREMENTS.—The disclosure requirements described in paragraph (1) shall terminate if the Secretary of State—

''(A) determines that the Government of Sudan no longer provides support for acts of international terrorism for purposes of—

''(i) section 40 of the Arms Export Control Act (22 U.S.C. 2780);

''(ii) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); and

''(iii) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); and

''(B) certifies to the appropriate congressional committees that the Government of Sudan has demonstrated significant improvement in protecting the civilian population of Darfur, such as by allowing a substantial United Nations–African Union peacekeeping mission with the mandate and means to protect civilians and allow for the safe return of persons displaced by the violence in Darfur.

''(6) DEFINITIONS.—In this subsection:

''(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(i) the Committee on Appropriations, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(ii) the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Financial Services of the House of Representatives.

''(B) CONTROL.—The term 'control' means—

''(i) in the case of a corporation, to hold at least 50 percent (by vote or value) of the capital structure of the corporation; and

''(ii) in the case of any other entity, to hold interests representing at least 50 percent of the capital structure of the entity.

''(C) IS CONTROLLED BY.—The term 'is controlled by' means—

''(i) in the case of a corporation, to have at least 50 percent (by vote or value) of the capital structure of the corporation held by another person; and

''(ii) in the case of any other entity, to have interests representing at least 50 percent of the capital structure of the entity held by another person.

''(D) FOREIGN PERSON.—The term 'foreign person' means a person—

''(i) in the case of an individual, who is an alien; or

''(ii) in the case of a partnership, corporation, or other entity, that is organized under the laws of a foreign country or that has its principal place of business in a foreign country.

''(E) PERSON.—

''(i) IN GENERAL.—The term 'person' means an individual, partnership, corporation, or other entity, including a government or an agency of a government.

''(ii) EXCEPTION.—The term 'person' does not include—

''(I) any person engaging solely in transactions or activities in Sudan that are authorized or exempted pursuant to the Sudanese Sanctions Regulations (part 538 of title 31, Code of Federal Regulations);

''(II) foreign nongovernmental organizations (except agencies of the Government of Sudan) that—

''(aa) have consultative status with the United Nations Economic and Social Council; or

''(bb) have been accredited by a department or specialized agency of the United Nations; or

''(III) a foreign person whose business activities in Sudan are strictly limited to providing goods and services that are—

''(aa) intended to relieve human suffering;

''(bb) intended to promote welfare, health, religious, or spiritual activities;

''(cc) used for educational or humanitarian purposes;

''(dd) used for journalistic activities; or

''(ee) used for such other purposes as the Secretary of State may determine serve the foreign policy interests of the United States.

''(F) SUDAN.—

''(i) SUDAN.—The term 'Sudan' means the Republic of Sudan and any territory under the administration or control of the Government of Sudan.

''(ii) SOUTHERN SUDAN AND DESIGNATED AREAS.—The term 'Southern Sudan and designated areas' means Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, or Darfur.''.

SEC. 6. INCREASED PENALTIES FOR VIOLATIONS OF IEEPA.

(a) IN GENERAL.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended to read as follows:

''SEC. 206. PENALTIES.

''(a) UNLAWFUL ACTS.—It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this title.

''(b) CIVIL PENALTY.—A civil penalty may be imposed on any person who commits an unlawful act described in subsection (a) in an amount not to exceed the greater of—

''(1) $250,000; or

''(2) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

''(c) CRIMINAL PENALTY.—A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to violations described in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) with respect to which enforcement action is pending or commenced on or after the date of the enactment of this Act.

SEC. 7. REPORT ON AND PUBLIC DISCLOSURE OF ACTIVITIES IN THE PETROLEUM INDUSTRY OF SUDAN.

(a) REPORT ON ACTIVITIES RELATING TO THE PETROLEUM INDUSTRY OF SUDAN.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Energy, and the Director of National Intelligence, shall prepare and submit to the appropriate congressional committees a written report on the overall impact of economic sanctions on the Government of Sudan and the crisis in Darfur.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall include—

(A) the name of persons identified by the Office of Foreign Assets Control as specially designated nationals; and

(B) the economic and political impact of sanctions on the Government of Sudan.

(3) FORM OF REPORT.—The report shall be submitted in unclassified form, but may contain a classified annex relating to the assessment under paragraph (2)(B).

(b) BRIEFING ON REPORT.—Not later than 14 days after submitting the report required by subsection (a), the Secretary of the Treasury, the Secretary of State, the Secretary of Energy, the Director of National Intelligence, and representatives of the Securities and Exchange Commission shall brief the appropriate congressional committees on the contents of the report.

(c) DISCLOSURE ON SEC WEBSITE.—

(1) IN GENERAL.—Not later than 14 days after promulgating the rules required by section 13(m) of the Securities Exchange Act of 1934, as added by section 5, the Securities and Exchange Commission shall make available on its website, in an easily accessible and searchable format, the information collected pursuant to the disclosure requirements of such section 13(m), including—

(A) the names of persons that made disclosures under such section 13(m);

(B) the specific activities related to the petroleum industry of Sudan in which such persons engaged; and

(C) the geographic area within Sudan where such activities occurred, and specifically if such activities took place solely within Southern Sudan and designated areas.

(2) MAINTENANCE.—The Securities and Exchange Commission shall maintain and update regularly the information on the website of the Commission under paragraph (1).

(d) GOVERNMENT PROCUREMENT CONTRACTS.—

(1) IN GENERAL.—Not later than 45 days after the submission of the report required by subsection (a), the Administrator of General Services shall determine whether the United States Government has in effect a contract for the procurement of goods or services with any person identified in the report required by subsection (a).

(2) REPORT.—If the Administrator determines that the United States Government has in effect a contract for the procurement of goods or services with a person identified in the report required by subsection (a), the Administrator shall submit to the appropriate congressional committees a report—

(A) naming each person identified in the report required by subsection (a);

(B) the nature of the contract; and

(C) the dollar amount of the contract.

SEC. 8. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OFAC.

(a) IN GENERAL.—There are authorized to be appropriated $2,000,000 to the Office of Foreign Assets Control for fiscal year 2008, to support intelligence gathering, licensing, compliance, and administrative activities associated with the enforcement of sanctions against Sudan and persons operating in Sudan.

(b) SUPPLEMENT NOT SUPPLANT.—Funds appropriated pursuant to the authority of subsection (a) shall be used to supplement and not supplant other amounts authorized to be appropriated for the Office of Foreign Assets Control.

SEC. 9. NOTIFICATION OF TERMINATION OF SANCTIONS.

(a) IN GENERAL.—Not later than 15 days after the date on which any sanction described in subsection (b) is terminated, the President shall publish in the Federal Register notice that such sanction has been terminated.

(b) SANCTIONS DESCRIBED.—A sanction described in this subsection is a sanction imposed pursuant to—

(1) the Darfur Peace and Accountability Act of 2006 (Public Law 109–344; 50 U.S.C. 1701 note);

(2) the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note);

(3) the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note);

(4) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.);

(5) chapter 5 of title 31, Code of Federal Regulations; or

(6) any other provision of law, regulation, or executive order relating to Sudan.

SEC. 10. REPEAL.

Section 6305 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is repealed.

By Mr. BIDEN (for himself and Mr. LUGAR):

S. 1565. A bill to provide for the transfer of naval vessels to certain foreign recipients; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today, Senator LUGAR and I are introducing the Naval Vessel Transfer Act of 2007, a bill to permit the transfer of certain U.S. Navy vessels to particular foreign countries. All of the proposed ship transfer authorizations have been requested by the U.S. Navy, with the approval of the Office of Management and Budget.

Pursuant to section 824(b) of the National Defense Authorization Act for Fiscal Year 1994, as amended, 10 U.S.C. 7307(a), a naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation unless the disposition of that vessel is approved by law enacted after August 5, 1974. The bill we are introducing today would provide that required approval for eight transfers: two guided missile frigates and two minehunter coastal ships for Turkey; two minehunter coastal ships for Lithuania; and two minehunter coastal ships for Taiwan.

The bill also contains provisions that are traditionally included in ship transfer bills, relating to transfer costs and repair and refurbishment of the ships, and exempting the value of a vessel transferred on a grant basis from the aggregate value of excess defense articles in a given fiscal year.

The authority provided by this bill would expire 2 years after the date of enactment of the bill.

Similar legislation was passed by the Senate last year, but was objected to in the House of Representatives because of concern regarding the proposal to transfer minehunter coastal ships. That issue was also raised by Members of the Senate Armed Services Committee, but members of that committee were persuaded by the Executive branch that the transfers would not degrade U.S. Navy capabilities. We invite interested colleagues to let us know if there is any residual concern among Members of the Senate, so that we can arrange for the Executive branch to brief members and determine if there is any objection to expeditious passage of this bill.

Finally, the Department of Defense has provided the following information on this bill:

This bill would authorize the President to grant transfer five excess naval vessels to Turkey and Lithuania and to sell three excess naval vessels to Taiwan and Turkey.

These proposed transfers would improve the United States' political and military relationships with close allies. They would support strategic engagement goals and regional security cooperation objectives. Active use of former naval vessels by coalition forces in support of regional priorities is more advantageous than retaining vessels in the Navy's inactive fleet and disposing of them by scrapping or another method.

The United States would incur no costs in transferring these naval vessels. The recipients would be responsible for all costs associated with the transfers, including maintenance, repairs, training, and fleet turnover costs.

This bill does not alter the effect of the Toxic Substances Control Act, or any other law, with regard to their applicability to the transfer of ships by the United States to foreign countries for military or humanitarian use. The laws and regulations that apply today would apply in the same manner if this bill were enacted.

The Department of Defense estimates that the sale of these vessels may net the United States $52.7 million in fiscal year 2008.

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

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

S. 1565

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 ''Naval Vessel Transfer Act of 2007''.

SEC. 2. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) TURKEY.—To the Government of Turkey—

(A) the OLIVER HAZARD PERRY class guided missile frigates GEORGE PHILIP (FFG–12) and SIDES (FFG–14); and

(B) the OSPREY class minehunter coastal ship BLACKHAWK (MHC–58).

(2) LITHUANIA.—To the Government of Lithuania, the OSPREY class minehunter coastal ships CORMORANT (MHC–57) and KINGFISHER (MHC–56).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) TAIWAN.—To the Taipei Economic and Cultural Representative Office of the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a))), the OSPREY class minehunter coastal ships ORIOLE (MHC–55) and FALCON (MHC–59).

(2) TURKEY.—To the Government of Turkey, the OSPREY class minehunter coastal ship SHRIKE (MHC–62).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to a recipient on a grant basis pursuant to authority provided by subsection (a) or (c) shall not be counted against the aggregate value of excess defense articles transferred in any fiscal year under section 516 of the Foreign Assistance Act of 1961.

(d) COSTS OF TRANSFERS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient.

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the recipient to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of the recipient performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

By Mr. FEINGOLD:

S. 1569. A bill to establish a pilot program on the provision of legal services to assist veterans and members of the Armed Forces receive health care, benefits and services, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing the Veterans Advocacy Act of 2007. This bill would create a grant program for organizations providing pro bono legal representation to servicemembers and veterans to ensure that they receive the health care and benefits to which they are entitled.

The men and women of the Armed Services have served this Nation honorably and deserve the best health care and benefits available. However, as recent revelations about the extent of bureaucratic delays at the Walter Reed Army Medical Center demonstrate, these brave individuals face a series of hurdles as they navigate the health care and disability compensation processes. Many of them are forced to turn to their representatives in Congress for help cutting through the red tape. I have heard from many military personnel and veterans who are frustrated with the system or unaware of Federal health care and other benefits for which they may be eligible. I regret that the system too often makes the burden of proving that a condition is related to military service nearly insurmountable. Our men and women in uniform deserve the benefit of the doubt, and should not have to fight the Department of Defense or the Department of Veterans Affairs for benefits that they have earned through their service to our Nation.

Numerous reports have detailed the range of administrative and legal hurdles injured servicemembers will face when they return home. Service members returning with unprecedented rates of post traumatic stress disorder, PTSD, and traumatic brain injury, TBI, will struggle to get the medical records they need to file benefits claims. Those with severe TBI that does not show up on brain scans will have an even harder time establishing that they need compensation. Those with profound TBI may be prematurely relegated to care in a nursing home when, with proper assistance, they may be fully capable of living independent lives in the community. The Government Accountability Office reported

that over 75 percent of servicemembers who screen positive for PTSD will not be referred to a mental health professional. Members of the Guard and Reserves face additional hurdles to gain access to military doctors. This is unacceptable.

I commend my colleagues for their support of increased funding for the military and veterans' health care systems in the 2007 emergency supplemental. However, I am concerned that unless veterans have independent advocates to ensure that they are receiving top notch care and that they are aware of the benefits to which they are entitled, these additional funds may be mismanaged. Last November, the Government Accountability Office reported that for the last two years the Department of Veterans Affairs has not expended all the funds allocated for mental health initiatives. My bill would ensure that service members and veterans who have trouble accessing the care to which they are entitled will have an advocate outside the chain of command who can negotiate with the Departments to ensure proper care.

In addition to helping ensure that service members and veterans receive top notch care, my bill would help service members and veterans overcome legal barriers to obtaining benefits. During the Veterans' Affairs Committee's hearing on benefits legislation, Meredith Beck of the Wounded Warrior Project summarized the problem as follows: ''In many of the cases we have seen, the creation of new benefits wasn't needed to aid the service member, rather, the wounded warrior just needed to have the existing benefits systems better explained and untangled in order to understand what was available to them.''

Fortunately, service members and veterans benefit from the services of a nationwide system of veterans and military service organizations. However, the system is simply overwhelmed. It will be further inundated when the over 170,000 servicemembers deployed in Iraq and Afghanistan return home. I want to be clear that the purpose of this legislation is to supplement the existing network of advocates to ease the caseload of overburdened service officers and allow them to spend more time per case helping veterans and service members.

Congress has a responsibility to simplify the system and ensure that it gives service members and veterans the benefit of the doubt when they seek assistance for service-connected disabilities. It is my hope that the majority of veterans will not need legal representation. But the reality is that many veterans face unnecessary delays and appeals of legitimate compensation claims that could be avoided if there were enough advocates to ensure that every veteran's case is carefully developed from the beginning. Several judges of the Court of Appeals for Veterans Claims have described the importance of ensuring that veterans have legal representation throughout the claim process. Judge Holdaway summarized the need as follows:

If you get lawyers involved at the beginning, you can focus in on what is this case about. I think you would get better records, you would narrow the issue, there would be screening . . . I think if we had lawyers involved at the beginning of these cases, it would be the single most fundamental change for the better that this system could have.

While the need for legal representation in complicated cases is clear, I do not believe that veterans should have to pay for legal representation just to get the benefits they earned through their service. I have been troubled when I have heard that service members are seeking expensive legal assistance to help them overcome daunting administrative and legal hurdles. Fortunately, there are legal service organizations and attorneys who are willing to provide assistance to these service members and veterans free of charge. The purpose of this bill is to help these organizations get the training they need to help veterans and service members.

The bill would establish a pilot program of one-year grants to organizations that have experience serving veterans or persons with disabilities. The Veterans Administration will be charged with appointing a committee to disburse the grants. The committee shall be composed of veterans and military service officers, veterans and disability legal service attorneys, and representatives of the Department of Veterans Affairs employees and the Department of Defense. The Secretary of Veterans Affairs will be required to submit a report to Congress on the number of individuals served and the kinds of assistance they received as a result of the pilot program.

In order to avoid adding to our country's sizable debt, the $1 million cost of this program is taken from the $3 billion appropriated to the defense health program by the 2008 supplemental spending bill. The grant program will help ensure that these funds are spent wisely.

Veterans and military service organizations that currently employ attorneys will be eligible to receive the grants either to provide legal services at no charge or to provide training to other pro bono attorneys. The bill will also help servicemembers and veterans access the services of the federally funded and mandated protection and advocacy system for persons with disabilities. This system has lawyers in every state who are trained to help people with disabilities obtain the benefits, health care and services they need to live independent lives. These attorneys are uniquely qualified to, for example, ensure that veterans with PTSD are properly diagnosed and treated and to prevent those with TBI from being placed in nursing homes when they are capable of living in the community. Many veterans have been seeking out their assistance but the system is currently overwhelmed. I have included a description of the assistance that the protection and advocacy systems have been providing veterans. This bill would help foster collaboration between lawyers with expertise in veterans' law and those with expertise in disability law.

I commend my colleagues who have offered bills to increase funding for the care of service members and veterans, to expand necessary benefits and to ensure that our military and veterans health care systems offer the best care available. In order to ensure that service members and veterans are able to capitalize on these important reforms, they need independent advocates who can help them cut through the red tape. My bill would help expand the cadre of experienced advocates who will do just that. The bill has been endorsed by the National Organization of Veterans Advocates, the Vietnam Veterans of America and the Protection and Advocacy System's National Disability Rights Network.

I ask unanimous consent that the text of the bill and supporting material be printed in the RECORD.

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

S. 1569

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Advocacy Act of 2007''.

SEC. 2. PILOT PROGRAM ON PROVISION OF LEGAL ASSISTANCE TO ASSIST VETERANS AND MEMBERS OF THE ARMED FORCES RECEIVE HEALTH CARE, BENEFITS, AND SERVICES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out a pilot program to assess the feasibility and advisability of utilizing eligible entities to provide legal services to assist veterans and members of the Armed Forces in applying for and receiving health care, benefits, and services.

(2) CONSULTATION.—The Secretary of Veterans Affairs shall carry out the pilot program in consultation with the Secretary of Defense.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out the pilot program through the award of grants to eligible entities selected by the panel established in accordance with subsection (d)(1) for—

(A) the provision of legal services at no cost to members of the Armed Forces and veterans as described in subsection (a)(1); or

(B) the provision of legal training to attorneys of eligible entities on the health and benefits programs of the Department of Defense and the Department of Veterans Affairs to facilitate the provision of legal services described in subsection (a)(1).

(2) AWARDING GRANTS.—Grants under this subsection shall be awarded to eligible entities selected pursuant to subsection (d) not later than 180 days after the date of the enactment of this Act.

(3) NUMBER OF GRANTS.—

(A) IN GENERAL.—The Secretary shall award 10 grants under the pilot program.

(B) STATE-DESIGNATED PROTECTION AND ADVOCACY SYSTEMS.—Not less than five of the grants awarded under the pilot program

shall be awarded to State-designated protection and advocacy systems.

(4) GRANT AMOUNT.—The amount of each grant awarded under the pilot program shall be determined by the selection panel described in subsection (d)(1), except that each such grant may not be awarded in an amount that—

(A) exceeds $100,000; or

(B) is less than $25,000.

(5) DURATION.—The duration of any grant awarded under the pilot program may not exceed one year.

(6) AVOIDANCE OF FRIVOLOUS BENEFIT CLAIMS.—An eligible entity that receives a grant under this subsection shall make reasonable efforts to avoid representing veterans and members of the Armed Forces with respect to frivolous benefits claims.

(c) ELIGIBLE ENTITIES.—For purposes of this subsection, an eligible entity is any entity or organization, including a State-designated protection and advocacy systems, that—

(1) is not part of the Department of Veterans Affairs or the Department of Defense; and

(2) provides legal services by licensed attorneys with experience assisting veterans, members of the Armed Forces, or persons with disabilities.

(d) SELECTION OF GRANT RECIPIENTS.—

(1) SELECTION BY PANEL.—

(A) IN GENERAL.—Each application submitted under paragraph (2) shall be evaluated by a panel appointed by the Secretary for purposes of the pilot program. The panel shall select eligible entities for receipt of grants under subsection (b) from among the applications so evaluated.

(B) MEMBERSHIP OF PANEL.—Members of the panel shall be appointed in equal numbers from among individuals as follows:

(i) Officers and employees of the Department of Veterans Affairs.

(ii) With the approval of the Secretary of Defense, officers and employees of the Department of Defense.

(iii) Representatives of veterans service organizations.

(iv) Representatives of organizations that provide services to members of the Armed Forces.

(v) Attorneys that represent veterans.

(vi) Attorneys employed by a State-designated protection and advocacy system.

(2) APPLICATION.—An eligible entity seeking a grant under the pilot program shall submit to the Secretary of Veterans Affairs an application therefor in such form and in such manner as the Secretary considers appropriate.

(3) ELEMENTS.—Each application submitted under paragraph (2) shall include the following:

(A) In the case of an eligible entity applying for a grant under subsection (b)(1)(A), the following:

(i) A description of the population of members of the Armed Forces and veterans to be provided assistance.

(ii) A description of the outreach to be conducted by the eligible entity concerned to notify members of the Armed Forces and veterans of the availability of such assistance.

(B) In the case of an eligible entity applying for a grant under subsection (b)(1)(B), the following:

(i) A description of the population of attorneys to be provided training.

(ii) A description of the outreach to be conducted by the eligible entity concerned to notify attorneys of the availability of such training.

(C) In the case of an eligible entity applying for a grant under subparagraphs (A) and (B) of subsection (b)(1), the elements described in subparagraphs (A) and (B) of this paragraph.

(e) REPORT.—Not later than one year after the date described in subsection (b)(2), the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the pilot program required by subsection (a), including the following:

(1) The number of veterans and members of the Armed Forces that received assistance or services from such pilot program.

(2) A description of the assistance and services provided as part of such pilot program.

(f) DEFINITIONS.—In this section:

(1) STATE-DESIGNATED PROTECTION AND ADVOCACY SYSTEM.—The term ''State-designated protection and advocacy system'' means a system established in a State to protect the legal and human rights of individuals with developmental disabilities in accordance with subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(2) VETERANS SERVICE ORGANIZATION.—The term ''veterans service organization'' means any organization organized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

(g) FUNDING.—Of amounts appropriated for ''Defense Health Program'' in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), $1,000,000 shall be available for fiscal year 2008 to carry out the provisions of this section and not for the purposes for which appropriated by such Act. Any amount made available by this subsection shall remain available without fiscal year limitation.

EXAMPLES OF THE PROTECTION AND ADVOCACY (P&A) SYSTEM'S INTERACTION WITH VETERANS

ALASKA

The Alaska P&A has been visiting the VA Domiciliary, a 50-bed domiciliary residential rehabilitation treatment program for homeless veterans, to provide information on their services and has begun to provide advocacy and services to a number of veterans with disabilities. They have been averaging 15–20 appointments at the facility a month. The advocacy assistance the Alaska P&A provided has encompassed activities directed at obtaining and/or maintaining housing, securing government benefits, SSI, Medicaid, and working with individuals seeking employment accommodations.

The Alaska P&A has also developed and disseminated a resource guide about educational supports for people with Traumatic Brain Injury, TBI.

ARIZONA

The Arizona P&A has partnered with a case manager in a veterans group to work with returning veterans with disabilities and help them obtain the services and benefits they deserve. The Arizona P&A has worked to ensure voting access for veterans with disabilities in Arizona.

The Arizona P&A also cosponsored a day-long conference in collaboration with the Governor's Council on Spinal Cord and Head Injuries on TBI to provide information on benefits and services individuals, including veterans, who have suffered a TBI are eligible to receive.

CALIFORNIA

A peer/self advocacy coordinator in the San Diego P&A office holds weekly training and information sessions with veterans. One of the sessions occurs at the P&A's office while the other takes place at the VA facility.

The California P&A represented residents of a veteran's hospital who had been denied access to voter registration services. The issue arose after it was learned that a VA Medical Center was refusing to allow advocates for people with disabilities to conduct voter registration on the campus. In addition, some residents were not being permitted to register, regardless of their competence. Ultimately, the VA reversed its position and allowed voter registration on the medical campus.

COLORADO

The Colorado P&A is coordinating with an Army caseworker to help veterans with disabilities make the transition back into the community. They also offered voter registration at the Denver Veterans Affairs Medical Center to help ensure returning veterans maintain their right to vote.

GEORGIA

The Georgia P&A has been working with veterans with disabilities who are encountering problems returning to work. They have also reached out to the people running a program demonstrating how veterans with poly-trauma, TBI, Post Traumatic Stress Disorder, PTSD, and other mental health issues can return to work and how the P&A system could be a great resource for these veterans.

HAWAII

The Hawaii P&A has been a featured speaker at the military families Children's Community Council on Oahu and continues to assist an ever growing number of military families who have children with special education needs. The Hawaii P&A has also done outreach to a wide group of military service programs on the island regarding benefits and services they can provide to veterans who have suffered a TBI. They have also formed a collaboration with the Christopher Reeves Foundation to help with the Foundation's work with returning veterans from Iraq that have been diagnosed with a TBI.

ILLINOIS

The Illinois P&A has provided training and information to VA staff and also met with VA hospital social workers and administrative staff to provide training and information to help veterans with disabilities make the transition from VA care to the community.

The Illinois P&A has also helped a veteran who was in a Veteran's Home integrate into the community following a stroke. The Illinois P&A worked in conjunction with the local center for independent living to assist the client in finding his own apartment and getting a personal care attendant to address his support needs.

IOWA

The Iowa P&A has received a number of individual contacts from veterans in Iowa's VA Hospitals seeking help accessing veterans' benefits and services as well as community programs. Their staff has encountered a variety of challenges while attempting to meet directly with a client in a VA hospital.

The Iowa P&A also worked with an individual who had concerns that if he returned to work that he would lose his Social Security benefits. The Protection and Advocacy for Beneficiaries of Social Security, PABSS, advocate explained that he had options available without immeadiately losing his benefits and he was eventually able to reenter the workforce in a situation he was comfortable with.

KANSAS

The Kansas P&A has been providing information and training to the staff and veterans at the Kansas VA facilities and is working on outreach to the Kansas veterans

groups to provide information and assistance to help veterans with disabilities make the transition back to the community.

The Kansas P&A also worked to help a veteran successfully move from a VA nursing facility back into the community. Additionally, they are helping a veteran who was authorized by the VA to have a surgery at a university medical center. He suffered complications from the surgery which required additional hospitalization and the P&A is working to get the VA to pay for the follow†up treatments related to the complications.

KENTUCKY

The Kentucky P&A has done outreach to the Kentucky Veterans Affairs Office, the Joint Executive Council of Veterans, as well as to all the state's Veterans Centers, and all the state chapters of the Disabled American Veterans.

LOUISIANA

The Louisiana P&A helped a client successfully appeal a denial from the VA to pay a private hospital for in-patient mental health treatment. They then had to represent the same client when the hospital tried to collect the remaining balance. The Louisiana P&A was able to show that the hospital is barred from collecting additional funds from a patient whose care was paid for under a VA contract. With the help of the Louisiana P&A, the veteran was able to receive appropriate mental health services and afforded protection from the hospital's illegal collection efforts.

MAINE

The Maine P&A has had meetings with the Director of the State VA Services in order to identify benefits and services available to veterans with disabilities and their families after the veteran is discharged from the VA. They have also provided trainings and information to National Guard units in the State about the resources that are available for veterans with disabilities.

MASSACHUSETTS

The Massachusetts P&A had a case of a former marine sergeant who had suffered partial hemiparesis and a TBI. This affected his ability to speak and forced him to communicate with gestures and a special set of picture cards. This type of communication created problems and misunderstanding at his job, and his eventual termination. The Massachusetts P&A was able to work with his employer to find him another job within the company.

MICHIGAN

The Michigan P&A has been working on a variety of issues involving veterans, including access to polling facilities and voting booths, public transportation systems, and community projects. They also worked to address community reintegration issues faced by a veteran in a VA facility far from his home when he became eligible for discharge. The P&A's work allowed the veteran to return to his home community.

MINNESOTA

The Minnesota P&A has held trainings with the National Alliance on Mental Illness, NAMI, at VA hospitals in the State concerning benefits and services for veterans with disabilities. They have also been contacted by some veterans with disabilities to help get the benefits and services they require. For example, the Minnesota P&A assisted a veteran with a TBI move from a State hospital back to her home with needed community supports.

MISSOURI

The Missouri P&A worked with a man who had spent much of his adult life in the military, but was discharged after suffering a TBI. This veteran needed help obtaining services in order to build a new career. The Missouri P&A helped him identify affordable, accessible housing and arranged accommodations from the school, VA and vocational rehabilitation as he embarks on training for his new career.

MONTANA

The Montana P&A had a veteran with a TBI who needed assistance getting the schools he was attending for his degree to better coordinate the Montana Vocational Rehabilitation and VA benefits he was receiving in order to afford his education. The Montana P&A was able to work out an agreement so that the institutions accepted payments from both sources so the veteran did not have any out-of-pocket cost for his tuition.

NEBRASKA

The Nebraska P&A has initiated contact with the County Veteran Service Officers group in Nebraska and the local VFW and American Legion representatives. They recently made a presentation at the County Veteran Service Officers group's annual meeting about the P&A system. Their goal is to not supplant their work assisting veterans within the VA system but to be a resource for veterans with disabilities who are returning to their communities and their families.

NEVADA

The Nevada P&A has been providing information and training to veterans family support groups and an organization working with homeless veterans on the services and benefits available for veterans with disabilities.

NEW HAMPSHIRE

The New Hampshire P&A has attempted to carry out the external advocacy activities as set forth in the VA handbook, but so far has been unable to do so because of resistance of the VA staff.

NEW JERSEY

The New Jersey P&A has been working with two veterans on employment related issues. One is an employment discrimination complaint, and the other one is a complaint against the Division of Vocational Rehabilitative Services within the New Jersey Department of Labor for services needed. The New Jersey P&A has also been holding trainings and providing information to VA hospitals in the State as well as family support groups and the National Guard.

NEW YORK

The New York P&A has been working with the New York State Department of Health to identify and address the needs of veterans returning from Iraq and Afghanistan who have brain injuries and their families. They have also been working to create a primary advisory board comprised of veterans groups and health groups to help address the needs of veterans with disabilities. Finally, the New York P&A has taken calls and emails from veterans and their families to provide them assistance through every P&A program.

For example, the New York P&A represented a veteran in a disability claim on referral from the Clinton County Veteran Services office. Among other things, this veteran had cognitive problems caused by a buildup of fluid on his brain. Through the New York P&A's work, his claim was allowed after a hearing.

NORTH DAKOTA

The North Dakota P&A has worked with the North Dakota Legislature on state legislation to help veterans with disabilities, and has held a Statewide training session to learn more about the VA system as well as provide information on community services available to returning veterans with disabilities.

NORTHERN MARIANAS

The Northern Marianas P&A has been working closely with the Office of Military Liaison on training and technical assistance to help address the needs of returning veterans with disabilities.

OHIO

The Ohio P&A represented a 44-year-old veteran who, while in treatment for mental illness, was threatened with eviction by his HUD-subsidized landlord. Compounding the problem, the VA withdrew the client's community services funding for a home health aide, which the client required. The Ohio P&A worked with the client's HUD landlord, multiple provider agencies, the VA community services nurse, VA case workers, the VA ombudsman, the VA psychologist, and the VA attorney regarding client's service needs and his legal rights related to his disability. Ultimately, the client's landlord agreed to withdraw eviction threat and the VA restored funding for a home health aide.

PENNSYLVANIA

The Pennsylvania Protection and Advocacy system organized a Brain Injury Awareness Day at the Lebanon and Coatesville Veterans Administration Medical Centers for staff and veterans. Following the success of this event, the Pennsylvania P&A was invited back for a day of in-service staff training and technical assistance at the Lebanon facility.

At that time, the Pennsylvania P&A hopes to meet the veterans and see who would like advocacy assistance. They feel this is especially needed because VA staff and the veterans need to be connected with and aware of the community-based services they can access and use.

The Pennsylvania P&A has also successfully worked for a veteran who had suffered a service-connected brain injury which left him unable to walk or perform activities of daily living on his own. The VA ratings board contested that he is 100 percent disabled, and refused to offer special compensation. The Pennsylvania P&A helped the veteran obtain the necessary documentation to connect the brain injury to his physical disabilities so that special compensation could be provided.

RHODE ISLAND

The Rhode Island P&A has formed an internal veterans' outreach work group which has met with individual veterans organizations in the State and has participated in the State's ''Veterans Task Force of Rhode Island'', providing information and training on the benefits and services available to veterans with disabilities.

SOUTH CAROLINA

The South Carolina P&A has provided training and technical assistance to administrative staff at the Richard M. Campbell Veterans Nursing Home in Anderson, SC. The training focused on the legal rights of people with disabilities, including veterans.

SOUTH DAKOTA

The South Dakota P&A has been establishing contact with VA medical centers, outpatient clinics, and a VA sponsored support group for veterans to provide information about available resources. They also participate in the Veterans' Services Officers' Congressional Forum. The South Dakota P&A shares the same concern that the Pennsylvania P&A has that beyond its health care services the VA does not provide a lot of community-based services other than vocational. As a result, they have been working with the patient advocate at the VA hospital to help veterans with disabilities make

the transition into long-term care and housing following discharge from the VA hospital.

TEXAS

The Texas P&A has been working on several cases for veterans with disabilities to access VA services. One of the cases was a veteran living in a State hospital that had her lump-sum VA benefits unlawfully taken by the hospital without her knowledge or consent and applied retroactively to pay for her support, maintenance, and treatment while she was at the state hospital. The Texas P&A was able to recover these funds and arrange for a new representative payee for the client.

UTAH

The Utah P&A has been providing training and information at the VA facilities in Utah on the resources, services, and benefits that exist for veterans that have suffered a TBI.

VERMONT

The Vermont P&A has held trainings at the White River Junction VA facility for staff and veterans. They are also in the midst of presenting veterans, National Guard, and family groups information about TBI resources at four sites around the State. They have also collaborated with personnel at the VA to support a project to identify veterans who are inmates who might qualify for benefits upon release.

They have also recently been contacted about three issues they are pursuing on behalf of veterans with disabilities. One is a veteran in the psychiatric unit at Rutland Regional Medical Center who had been turned down for VA care. Another case is a veteran at the VA who had concerns about his medications. The third case is a woman veteran from the Northeast Kingdom who has a mental health issue, referred from the Mental Health unit at the VA.

VIRGINIA

The Virginia P&A, to the extent they are being allowed to, are providing education and advocacy services at Virginia's VA facilities.

WASHINGTON

The Washington Protection & Advocacy System has investigated allegations of abuse and neglect at a veterans' inpatient mental health facility, advocated for veterans with Post-Traumatic Stress Disorder to maintain vital mental health services, and assisted veterans seeking access to outpatient VA mental health services. They have also advocated for veterans regarding assistive technology and Tricare coverage. In addition, they have provided information and referrals to veterans on issues of housing, access to medical care, employment, guardianship, and the VA appeal and grievance procedures.

One of those cases was a veteran who received physical and mental health services from the VA but wanted to be able to choose who his mental health provider would be. He was initially told that if he changed mental health providers, he would lose his other healthcare services. The Washington P&A provided the veteran with self-advocacy strategies about how to request his preferred service, how to go through the chain of command, and how to utilize his supporters. Ultimately, the veteran was allowed to change his mental health provider without threatening his other healthcare services.

In 2005, the Washington P&A system created a project to conduct outreach to underserved veterans with disabilities. This project focused on issues of access to benefits and assistance, housing, employment, and assistive technology issues. They have also attended a variety of assistance fairs conducted by the Washington State Department of Veterans Affairs and worked with a number of veterans' service organizations and the VA on staff training sessions and outreach to veterans with disabilities.

WISCONSIN

The Wisconsin P&A has provided training and information to the State Veterans Administration, as well as veterans with disabilities. These trainings address the barriers veterans with disabilities, who also receive Social Security benefits, face, as well as suggest possible solutions.

WYOMING

The Wyoming P&A has been working with the National Guard State Family Assistance Center to address the needs of returning National Guard members with disabilities. They also attend the Inter-Service Family Assistance Committee meeting where they gave presentation on P&A services and distributed information packets. The Wyoming P&A has also been helping military families at bases located in Wyoming with matters related to special education.

By Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. HAGEL, and Mr. NELSON of Nebraska):

S. 1571. A bill to reform the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to join my colleagues, Senators BINGAMAN, HAGEL, and NELSON of Nebraska to introduce the bipartisan Rural Aviation Improvement Act. I am proud to join my colleagues, each one a steadfast and resolute guardian of commercial aviation service to all communities, particularly rural areas that would otherwise be deprived of any air service.

I have always believed that reliable air service in our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. All of us who come from rural States know how critical aviation is to economic development, vital to move people and goods to and from areas that may otherwise have dramatically limited transportation options. Quite frankly, I have long held serious concerns about the impact deregulation of the airline industry has had on small and medium size cities in rural areas, like Maine. That fact is, since deregulation, many small and medium-size communities, in Maine and elsewhere, have experienced a decrease in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

This legislation will serve to improve the Essential Air Service program. Additional resources will augment the resources available to the program, reducing the impact on the general fund while providing small communities with a greater degree of certainty when planning future improvements to their airports. The bill also gives those same communities a greater role in retaining and determining the sort of air service which they receive.

Increasingly, the Essential Air Service program has been plagued with a decline in the number of airlines willing to provide this critical link to the national transportation network. A few ''bad actors'' have jeopardized commercial aviation for entire regions by submitting low-ball contracts to the Department of Transportation and then reneging on their commitment to the extent and quality of their service. Our bill will not only establish a system of minimum requirements for contracts to protect these small cities that rely on EAS, but it will also extend those contracts to 4 years from the current 2. This gives a heightened degree of stability in terms of air service, rather than having communities negotiating new contracts or receiving service from entirely new carriers every 18 months.

In closing, the truth is, everyone benefits when our Nation is at its strongest economically. Most importantly in this case, greater prosperity everywhere, including in rural America, will, in the long run, mean more passengers for the airlines. Therefore, it is very much in our national interests to ensure that every region has reasonable access to air service. That is why I strongly believe the Federal Government has an obligation to fulfill the commitment it made to these communities in 1978; to safeguard their ability to continue commercial air service.

Mr. BINGAMAN. Mr. President, I wish today to join with my colleague, Senator SNOWE to introduce the bipartisan Rural Aviation Improvement Act. Senator SNOWE has been a longtime champion of commercial air service in rural areas, and I applaud her continued leadership on this important legislation.

One of the goals of our bill is to preserve and improve the Essential Air Service Program. Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation would continue to receive scheduled service. The Essential Air Service Program currently ensures commercial air service to over 100 communities in 35 States. EAS supports an additional 39 communities in Alaska. Without EAS, many rural communities would have no commercial air service at all. I believe our bill makes a number of important improvements to EAS to ensure rural communities continue to have the commercial air service that is so vital to their futures.

Our bill also extends through 2011 the Department of Transportation's authority to provide grants to cities under the Small Community Air Service Development Program, which was first established in 2000. The program helps rural communities establish new air service or to promote and improve their existing air service. Since it was first enacted, a number of New Mexico communities have won grants, including most recently Gallup in 2006.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads, or broadband

telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system. I do believe Congress must help ensure that affordable, reliable, and safe air service remains available in rural America.

The Senate Commerce Committee and its Aviation Subcommittee are well along in developing a reauthorization of aviation programs this year. I look forward to working with my colleagues Chairmen INOUYE and ROCKEFELLER and Ranking Members STEVENS and LOTT to improve commercial air service programs for rural areas. I believe our bill is one important step in that process.

By Mr. BINGAMAN (for himself, Ms. COLLINS, Mr. LEAHY, Mr. DURBIN, Mr. REED, Mr. HARKIN, Ms. STABENOW, Mr. DODD, and Mr. SANDERS):

S. 1572. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the landmark 1999 Surgeon General's report on mental health brought a hidden mental health crisis to the attention of the U.S. public. According to that report, 13.7 million children in our country—about one in five—suffer from a diagnosable emotional or behavioral disorder. Such disorders as Anxiety Disorders, Attention-Deficit/Hyperactivity Disorder, and Depression are among the most common in this age group. Yet more than two-thirds of these children do not receive any treatment. Long waiting lists for children seeking services, including those in crisis, are not uncommon. The primary reason is that severe shortages exist in qualified mental health professionals, including child psychiatrists, psychologists, social workers, and counselors. The President's New Freedom Commission on Mental Health also found that ''the supply of well-trained mental health professionals is inadequate in most areas of the country . . . particular shortages exist for mental health providers who serve children, adolescents, and older Americans.'' The situation is no better in our public schools, where children's mental health needs are often first identified. According to the National Center for Education Statistics within the Department of Education, there are approximately 479 students for each school counselor in U.S. schools, nearly twice the recommended ratio of 250 students for each counselor.

The situation in my home State of New Mexico is a case in point. Estimates suggest that 56,000 children and adolescents in New Mexico have an emotional or behavioral disorder. Of these, roughly 20,000 have serious disturbances that impair their ability to fulfill the demands of everyday life. In 2001, there were a total of 44 child and adolescent psychiatrists in the entire State of New Mexico. The impact of this shortage on the affected children and their communities is disconcerting. Research shows that children with untreated emotional and behavioral disorders are at higher risk for school failure and dropping out of school, violence, drug abuse, suicide, and criminal activity. For New Mexico youth, the suicide rate is twice the national average, the fourth highest in the nation, and the third leading cause of death. By one estimate, roughly one in seven youth in New Mexico detention centers are in need of mental health treatment that is just not available.

New Mexico is not alone in its struggle to address the needs of these children. Nationwide, over 1600 urban, suburban, and rural communities have been designated Mental Health Professional Shortage Areas by the Federal Government due to their severe lack of psychiatrists, psychologists, social workers, and other professionals to serve children and adults. Rural areas are especially hard hit. For example, in New Mexico there is one psychiatrist per 20,000 residents in rural areas, whereas in urban areas there is one per 3000 residents. In rural and frontier counties, it is not unusual for the parents of a child in need of services to travel 60 to 90 miles to reach the nearest psychiatrist, psychologist, or other mental health provider. In States like Alaska and Wyoming, the distance may be even farther.

Finally, graduate programs providing the vital pipeline for the child mental health workforce have not sufficiently increased their funding, class sizes, and training programs to meet the ever growing need for these specialists. In the U.S., only 300 new child and adolescent psychiatrists are trained each year, despite projections by the Bureau of Health Professions that the shortage of child and adolescent psychiatrist will grow to 4,000 by the year 2020. Federal grant funding for graduate psychology education has also been significantly reduced in the past two years, which could reduce the numbers of child and adolescent psychologists entering the profession.

Clearly something needs to be done to address this serious shortage in mental health professionals to meet the growing needs of our Nation's youth. It is for this reason that I rise today with my colleagues Senator COLLINS of Maine, Senator LEAHY of Vermont, Senator DURBIN of Illinois, Senator REED of Rhode Island, Senator HARKIN of Iowa, Senator STABENOW of Michigan, Senator DODD of Connecticut, and Senator SANDERS of Vermont to offer The Child Health Care Crisis Relief Act of 2007. This bill creates incentives to help recruit and retain mental health professionals providing direct clinical care, and to help create, expand, and improve programs to train child mental health professionals. It provides loan repayments and scholarships for child mental health and school-based service professionals as well as internships and field placements in child mental health services and training for paraprofessionals who work in children's mental health clinical settings. The bill also provides grants to graduate schools to help develop and expand child and adolescent mental health programs. It restores the Medicare Graduate Medical Education Program for child and adolescent psychiatrists and extends the board eligibility period for residents and fellows from 4 years to 6 years. Across all mental health professions, priority for loan repayments, scholarships, and grants is given to individuals and programs serving children and adolescents in high-need areas.

Finally, The Child Health Care Crisis Relief Act of 2007 requires the Secretary to prepare a report on the distribution and need for child mental health and school-based professionals, including disparities in the availability of services, on a State-by-State basis. This report will help Congress more clearly ascertain the mental health workforce needs that are facing our Nation.

I ask unanimous consent that the text of the bill and my statement be printed in the RECORD. I also ask unanimous consent that the appended letter from the Mental Health Liaison Group, representing 40 national professional and mental health advocacy organizations in support of The Child Health Care Crisis Relief Act of 2007, be printed in the RECORD.

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

S. 1572

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 ''Child Health Care Crisis Relief Act of 2007''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Center for Mental Health Services estimates that 20 percent or 13,700,000 of the Nation's children and adolescents have a diagnosable mental disorder, and about ⅔ of these children and adolescents do not receive mental health care.

(2) According to ''Mental Health: A Report of the Surgeon General'' in 1999, there are approximately 6,000,000 to 9,000,000 children and adolescents in the United States (accounting for 9 to 13 percent of all children and adolescents in the United States) who meet the definition for having a serious emotional disturbance.

(3) According to the Center for Mental Health Services, approximately 5 to 9 percent of United States children and adolescents meet the definition for extreme functional impairment.

(4) According to the Surgeon General's Report, there are particularly acute shortages in the numbers of mental health service professionals serving children and adolescents with serious emotional disorders.

(5) According to the National Center for Education Statistics in the Department of Education, there are approximately 479 students for each school counselor in United States schools, which ratio is almost double the recommended ratio of 250 students for each school counselor.

(6) According to the Bureau of Health Professions in 2000, the demand for the services of child and adolescent psychiatry is projected to increase by 100 percent by 2020.

(7) The development and application of knowledge about the impact of disasters on children, adolescents, and their families has been impeded by critical shortages of qualified researchers and practitioners specializing in this work.

(8) According to the Bureau of the Census, the population of children and adolescents in the United States under the age of 18 is projected to grow by more than 40 percent in the next 50 years from 70 million to more than 100 million by 2050.

(9) There are approximately 7,000 child and adolescent psychiatrists in the United States. Only 300 child and adolescent psychiatrists complete training each year.

(10) According to the Department of Health and Human Services, minority representation is lacking in the mental health workforce. Although 12 percent of the United States population is African-American, only 2 percent of psychologists, 2 percent of psychiatrists, and 4 percent of social workers are African-American providers. Moreover, there are only 29 Hispanic mental health professionals for every 100,000 Hispanics in the United States, compared with 173 non-Hispanic white providers per 100,000.

(11) According to a 2006 study in the Journal of the American Academy of Child and Adolescent Psychiatry, the national shortage of child and adolescent psychiatrists affects poor children and adolescents living in rural areas the hardest.

(12) According to the National Center for Mental Health and Juvenile Justice, 70 percent of youth involved in State and local juvenile justice systems throughout the country suffer from mental disorders, with at least 20 percent experiencing symptoms so severe that their ability to function is significantly impaired.

SEC. 3. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

"Subpart 3—Child and Adolescent Mental Health Care

"SEC. 771. LOAN REPAYMENTS, SCHOLARSHIPS, AND GRANTS TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

''(a) LOAN REPAYMENTS FOR CHILD AND ADOLESCENT MENTAL HEALTH SERVICE PROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program of entering into contracts on a competitive basis with eligible individuals under which—

''(A) the eligible individual agrees to be employed full-time for a specified period (which shall be at least 2 years) in providing mental health services to children and adolescents; and

''(B) the Secretary agrees to make, during not more than 3 years of the period of employment described in subparagraph (A), partial or total payments on behalf of the individual on the principal and interest due on the undergraduate and graduate educational loans of the eligible individual.

''(2) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means an individual who—

''(A) is receiving specialized training or clinical experience in child and adolescent mental health in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling and has less than 1 year remaining before completion of such training or clinical experience; or

''(B)(i) has a license or certification in a State to practice allopathic medicine, osteopathic medicine, psychology, school psychology, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling; and

''(ii)(I) is a mental health service professional who completed (but not before the end of the calendar year in which this section is enacted) specialized training or clinical experience in child and adolescent mental health described in subparagraph (A); or

''(II) is a physician who graduated from (but not before the end of the calendar year in which this section is enacted) an accredited child and adolescent psychiatry residency or fellowship program in the United States.

''(3) ADDITIONAL ELIGIBILITY REQUIREMENTS.—The Secretary may not enter into a contract under this subsection with an eligible individual unless—

''(A) the individual is a United States citizen or a permanent legal United States resident; and

''(B) if the individual is enrolled in a graduate program (including a medical residency or fellowship), the program is accredited, and the individual has an acceptable level of academic standing (as determined by the Secretary).

''(4) PRIORITY.—In entering into contracts under this subsection, the Secretary shall give priority to applicants who—

''(A) are or will be working with high-priority populations;

''(B) have familiarity with evidence-based methods and cultural competence in child and adolescent mental health services;

''(C) demonstrate financial need; and

''(D) are or will be working in the publicly funded sector, particularly in community mental health programs described in section 1913(b)(1).

''(5) MEANINGFUL LOAN REPAYMENT.—If the Secretary determines that funds appropriated for a fiscal year to carry out this subsection are not sufficient to allow a meaningful loan repayment to all expected applicants, the Secretary shall limit the number of contracts entered into under paragraph (1) to ensure that each such contract provides for a meaningful loan repayment.

''(6) AMOUNT.—

''(A) MAXIMUM.—For each year that the Secretary agrees to make payments on behalf of an individual under a contract entered into under paragraph (1), the Secretary may agree to pay not more than $35,000 on behalf of the individual.

''(B) CONSIDERATION.—In determining the amount of payments to be made on behalf of an eligible individual under a contract to be entered into under paragraph (1), the Secretary shall consider the eligible individual's income and debt load.

''(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2008 through 2012.

''(b) SCHOLARSHIPS FOR STUDENTS STUDYING TO BECOME CHILD AND ADOLESCENT MENTAL HEALTH SERVICE PROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to award scholarships on a competitive basis to eligible students who agree to enter into full-time employment (as described in paragraph (4)(C)) as a child and adolescent mental health service professional after graduation or completion of a residency or fellowship.

''(2) ELIGIBLE STUDENT.—For purposes of this subsection, the term 'eligible student' means a United States citizen or a permanent legal United States resident who—

''(A) is enrolled or accepted to be enrolled in an accredited graduate program that includes specialized training or clinical experience in child and adolescent mental health in psychology, school psychology, psychiatric nursing, behavioral pediatrics, social work, school social work, marriage and family therapy, school counseling, or professional counseling and, if enrolled, has an acceptable level of academic standing (as determined by the Secretary); or

''(B)(i) is enrolled or accepted to be enrolled in an accredited graduate training program of allopathic or osteopathic medicine in the United States and, if enrolled, has an acceptable level of academic standing (as determined by the Secretary); and

''(ii) intends to complete an accredited residency or fellowship in child and adolescent psychiatry or behavioral pediatrics.

''(3) PRIORITY.—In awarding scholarships under this subsection, the Secretary shall give—

''(A) highest priority to applicants who previously received a scholarship under this subsection and satisfy the criteria described in subparagraph (B); and

''(B) second highest priority to applicants who—

''(i) demonstrate a commitment to working with high-priority populations;

''(ii) have familiarity with evidence-based methods in child and adolescent mental health services;

''(iii) demonstrate financial need; and

''(iv) are or will be working in the publicly funded sector, particularly in community mental health programs described in section 1913(b)(1).

''(4) REQUIREMENTS.—The Secretary may award a scholarship to an eligible student under this subsection only if the eligible student agrees—

''(A) to complete any graduate training program, internship, residency, or fellowship applicable to that eligible student under paragraph (2);

''(B) to maintain an acceptable level of academic standing (as determined by the Secretary) during the completion of such graduate training program, internship, residency, or fellowship; and

''(C) to be employed full-time after graduation or completion of a residency or fellowship, for at least the number of years for which a scholarship is received by the eligible student under this subsection, in providing mental health services to children and adolescents.

''(5) USE OF SCHOLARSHIP FUNDS.—A scholarship awarded to an eligible student for a school year under this subsection may be used only to pay for tuition expenses of the school year, other reasonable educational expenses (including fees, books, and laboratory expenses incurred by the eligible student in

the school year), and reasonable living expenses, as such tuition expenses, reasonable educational expenses, and reasonable living expenses are determined by the Secretary.

''(6) AMOUNT.—The amount of a scholarship under this subsection shall not exceed the total amount of the tuition expenses, reasonable educational expenses, and reasonable living expenses described in paragraph (5).

''(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338E and 338F shall apply to the program established under paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Scholarship Program established in subpart III of part D of title III.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.

''(c) CLINICAL TRAINING GRANTS FOR PROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to accredited institutions of higher education to establish or expand internships or other field placement programs for students receiving specialized training or clinical experience in child and adolescent mental health in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, marriage and family therapy, school counseling, or professional counseling.

''(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

''(A) have demonstrated the ability to collect data on the number of students trained in child and adolescent mental health and the populations served by such students after graduation;

''(B) have demonstrated familiarity with evidence-based methods in child and adolescent mental health services; and

''(C) have programs designed to increase the number of professionals serving high-priority populations.

''(3) REQUIREMENTS.—The Secretary may award a grant to an applicant under this subsection only if the applicant agrees that—

''(A) any internship or other field placement program assisted under the grant will prioritize cultural competency;

''(B) students benefitting from any assistance under this subsection will be United States citizens or permanent legal United States residents;

''(C) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

''(D) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

''(4) APPLICATION.—The Secretary shall require that any application for a grant under this subsection include a description of the applicant's experience working with child and adolescent mental health issues.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2008 through 2012.

''(d) PROGRESSIVE EDUCATION GRANTS FOR PARAPROFESSIONALS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, in cooperation with the Administrator of the Substance Abuse and Mental Health Services Administration, may establish a program to award grants on a competitive basis to State-licensed mental health nonprofit and for-profit organizations (including accredited institutions of higher education) to enable such organizations to pay for programs for preservice or in-service training of paraprofessional child and adolescent mental health workers.

''(2) DEFINITION.—For purposes of this subsection, the term 'paraprofessional child and adolescent mental health worker' means an individual who is not a mental health service professional, but who works at the first stage of contact with children and families who are seeking mental health services.

''(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

''(A) have demonstrated the ability to collect data on the number of paraprofessional child and adolescent mental health workers trained by the applicant and the populations served by these workers after the completion of the training;

''(B) have familiarity with evidence-based methods in child and adolescent mental health services;

''(C) have programs designed to increase the number of paraprofessional child and adolescent mental health workers serving high-priority populations; and

''(D) provide services through a community mental health program described in section 1913(b)(1).

''(4) REQUIREMENTS.—The Secretary may award a grant to an organization under this subsection only if the organization agrees that—

''(A) any training program assisted under the grant will prioritize cultural competency;

''(B) the organization will provide to the Secretary such data, assurances, and information as the Secretary may require; and

''(C) with respect to any violation of the agreement between the Secretary and the organization, the organization will pay such liquidated damages as prescribed by the Secretary by regulation.

''(5) APPLICATION.—The Secretary shall require that any application for a grant under this subsection include a description of the applicant's experience working with paraprofessional child and adolescent mental health workers.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.

''(e) CHILD AND ADOLESCENT MENTAL HEALTH PROGRAM DEVELOPMENT GRANTS.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may establish a program to increase the number of well-trained child and adolescent mental health service professionals in the United States by awarding grants on a competitive basis to accredited institutions of higher education to enable the institutions to establish or expand accredited graduate child and adolescent mental health programs.

''(2) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that—

''(A) demonstrate familiarity with the use of evidence-based methods in child and adolescent mental health services;

''(B) provide experience in and collaboration with community-based child and adolescent mental health services;

''(C) have included normal child development curricula; and

''(D) demonstrate commitment to working with high-priority populations.

''(3) USE OF FUNDS.—Funds received as a grant under this subsection may be used to establish or expand any accredited graduate child and adolescent mental health program in any manner deemed appropriate by the Secretary, including by improving the course work, related field placements, or faculty of such program.

''(4) REQUIREMENTS.—The Secretary may award a grant to an accredited institution of higher education under this subsection only if the institution agrees that—

''(A) any child and adolescent mental health program assisted under the grant will prioritize cultural competency;

''(B) the institution will provide to the Secretary such data, assurances, and information as the Secretary may require; and

''(C) with respect to any violation of the agreement between the Secretary and the institution, the institution will pay such liquidated damages as prescribed by the Secretary by regulation.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $15,000,000 for each of fiscal years 2008 through 2012.

''(f) DEFINITIONS.—In this section:

''(1) SPECIALIZED TRAINING OR CLINICAL EXPERIENCE IN CHILD AND ADOLESCENT MENTAL HEALTH.—The term 'specialized training or clinical experience in child and adolescent mental health' means training and clinical experience that—

''(A) is part of or occurs after completion of an accredited graduate program in the United States for training mental health service professionals;

''(B) consists of at least 500 hours of training or clinical experience in treating children and adolescents; and

''(C) is comprehensive, coordinated, developmentally appropriate, and of high quality to address the unique ethnic and cultural diversity of the United States population.

''(2) HIGH-PRIORITY POPULATION.—The term 'high-priority population' means—

''(A) a population in which there is a significantly greater incidence than the national average of—

''(i) children who have serious emotional disturbances; or

''(ii) children who are racial, ethnic, or linguistic minorities; or

''(B) a population consisting of individuals living in a high-poverty urban or rural area.

''(3) MENTAL HEALTH SERVICE PROFESSIONAL.—The term 'mental health service professional' means an individual with a graduate or postgraduate degree from an accredited institution of higher education in psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, marriage and family counseling, school counseling, or professional counseling.''.

SEC. 4. AMENDMENTS TO SOCIAL SECURITY ACT TO IMPROVE CHILD AND ADOLESCENT MENTAL HEALTH CARE.

(a) INCREASING NUMBER OF CHILD AND ADOLESCENT PSYCHIATRY RESIDENTS PERMITTED TO BE PAID UNDER THE MEDICARE GRADUATE MEDICAL EDUCATION PROGRAM.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended by adding at the end the following new clause:

''(iii) INCREASE ALLOWED FOR TRAINING IN CHILD AND ADOLESCENT PSYCHIATRY.—In applying clause (i), there shall not be taken into account such additional number of full-time equivalent residents in the field of allopathic or osteopathic medicine who are residents or fellows in child and adolescent psychiatry as the Secretary determines reasonable to meet the need for such physicians as demonstrated by the 1999 report of the Department of Health and Human Services entitled 'Mental Health: A Report of the Surgeon General'.''.

(b) EXTENSION OF MEDICARE BOARD ELIGIBILITY PERIOD FOR RESIDENTS AND FELLOWS IN CHILD AND ADOLESCENT PSYCHIATRY.—Section 1886(h)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(G)) is amended—

(1) in clause (i), by striking ''and (v)'' and inserting ''(v), and (vi)''; and

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

''(vi) CHILD AND ADOLESCENT PSYCHIATRY TRAINING PROGRAMS.—In the case of an individual enrolled in a child and adolescent psychiatry residency or fellowship program approved by the Secretary, the period of board eligibility and the initial residency period shall be the period of board eligibility for the specialty of general psychiatry, plus 2 years for the subspecialty of child and adolescent psychiatry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residency training years beginning on or after July 1, 2008.

SEC. 5. CHILD MENTAL HEALTH PROFESSIONAL REPORT.

(a) STUDY.—The Administrator of the Health Resources and Services Administration (in this section referred to as the ''Administrator'') shall study and make findings and recommendations on—

(1) the distribution and need for child mental health service professionals, including with respect to specialty certifications, practice characteristics, professional licensure, practice types, locations, education, and training; and

(2) a comparison of such distribution and need, including identification of disparities, on a State-by-State basis.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to the Congress and make publicly available a report on the results of the study required by subsection (a), including with respect to findings and recommendations on disparities among the States.

SEC. 6. REPORTS.

(a) TRANSMISSION.—The Secretary of Health and Human Services shall transmit a report described in subsection (b) to the Congress—

(1) not later than 3 years after the date of the enactment of this Act; and

(2) not later than 5 years after the date of the enactment of this Act.

(b) CONTENTS.—The reports transmitted to the Congress under subsection (a) shall address each of the following:

(1) The effectiveness of the amendments made by, and the programs carried out under, this Act in increasing the number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

(2) The demographics of the individuals served by such increased number of child and adolescent mental health service professionals and paraprofessional child and adolescent mental health workers.

MENTAL HEALTH LIAISON GROUP,
June 7, 2007.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.
Hon. PATRICK J. KENNEDY,
House of Representatives,
Washington, DC.

DEAR SENATOR BINGAMAN AND REPRESENTATIVE KENNEDY: The undersigned national organizations are writing to express our support for legislation you are sponsoring, the Child Health Care Crisis Relief Act. This important legislation will address the national shortage of children's mental health professionals, including school-based professionals, by encouraging more individuals to enter these critical fields.

The Surgeon General estimates that over 13.7 million children and adolescents are in need of treatment for emotional and behavioral disorders but less than 20% ever receive it. After the option of early intervention is lost, the possibilities for a lifetime cycle of difficulties from unresolved mental health issues looms ahead: school failure, substance abuse, job and relationship instability, and even the possibility of entering the criminal justice system.

One of the key barriers to treatment is the shortage of available specialists trained in the identification, diagnosis and treatment of children and adolescents with emotional and behavioral disorders. Primary care providers report seeing a large number of children and youth with mental health problems, but have difficulty finding available clinicians to take referrals. The Surgeon General reported in 1999 that ''there is a dearth of child psychiatrists, appropriately trained clinical child psychologists, or social workers.'' The shortage of children's mental health professionals has also been recognized by the President's New Freedom Commission on Mental Health, the Council on Graduate Medical Education and the state mental health commissioners.

Enactment of the Child Health Care Crisis Relief Act will spur the creation of educational incentives and federal support for children's mental health training programs. It will authorize scholarships, loan repayment programs, training grants, and specialty training program support. Children's mental health professionals covered under the bill include child and adolescent psychiatrists, behavioral pediatricians, psychologists, school psychologists, school social workers, school counselors, psychiatric nurses, social workers, marriage and family therapists and professional counselors.

National organizations representing consumers, family members, advocates, professionals and providers thank you for your continued leadership on mental health issues. We look forward to working with you on this important bill.

Sincerely,

Alliance for Children and Families, American Academy of Child and Adolescent Psychiatry, American Academy of Pediatrics, American Association for Geriatric Psychiatry, American Association for Marriage and Family Therapy, American Counseling Association, American Group Psychotherapy Association, American Mental Health Counselors Association, American Nurses Association, American Psychiatric Association, American Psychoanalytic Association, American Psychological Association, American Psychotherapy Association, Anxiety Disorders Association of America, Association for the Advancement of Psychology, Bazelon Center for Mental Health Law, Center for Clinical Social Work,

Child & Adolescent Bipolar Foundation, Child Welfare League of America, Children and Adults with Attention-Deficit/Hyperactivity Disorder, Children's Healthcare Is a Legal Duty, Clinical Social Work Guild, Coalition for the Health and Advocacy of Rural Minorities, Depression and Bipolar Support Alliance, Eating Disorders Coalition for Research, Policy & Action, Federation of Families Children's Mental Health, Mental Health America, National Alliance on Mental Illness, National Association for Children's Behavioral Health, National Association for Rural Mental Health,

National Association of Anorexia Nervosa and Associated Disorders, National Association of County Behavioral Health and Developmental Disability Directors, National Association of Mental Health Planning & Advisory Councils, National Association of School Psychologists, National Association of Social Workers, National Association of State Mental Health Program Directors, National Coalition of Mental Health Professionals and Consumers, National Council for Community Behavioral Healthcare, Suicide Prevention Action Network USA, Therapeutic Communities of America.

By Mr. DODD:

S. 1573. A bill to promote public-private partnerships to strengthen investment in early childhood development for children from birth to entry into kindergarten in order to ensure healthy development and school readiness for all children; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today, to introduce The Early Childhood Investment Act of 2007 to create and enhance public-private partnerships to strengthen investment in early childhood development programs, considering the needs of all children from birth to their entry in kindergarten. Investing in our youngest children is essential to promote their healthy development and school readiness. I pleased that two of my colleagues from Connecticut in the House of Representatives—Congresswoman ROSA DELAURO and Congressman JOE COURTNEY—will introduce companion legislation today.

We have a body of knowledge on early childhood development that must be put into practice through policies that aid the crucial emotional, social and intellectual development that occurs in the first 3 years of life. Research indicates that investments in the early years of a child's life pay dividends later through improved health, readiness for school, and economic well-being. The return on investment also includes more successful transition to kindergarten; reduced special education and remedial education placements; better employment opportunities and higher earnings; and lower incidence of crime and dependence on public welfare. Our Nation's economy benefits from early childhood investments through a better prepared workforce, stronger growth, and a rising standard of living. Additionally, society will benefit from less crime, enhanced schools, and children who are better prepared to participate as citizens in a democratic society, as a result of increased investments in early childhood development.

Many States have an Early Learning Council or an advisory council that coordinates and aligns various programs serving children from birth to kindergarten entry. These entities facilitate collaboration among early childhood development activities in each State, but do not necessarily provide additional funding. Resources from Federal and State governments alone are not adequate to provide access to quality

early childhood development programs for all children.

Currently the Federal Government provides funding for a variety of early childhood development programs including the Child Care and Development Block Grant, and Head Start, which have been essentially flat funded in recent years. States supplement this funding and also provide funding for State and local prekindergarten programs and parent development and support programs, such as home visiting. However, the Federal and State resources alone are not enough to reach all of our Nation's young children. In order to get closer to the goal of providing access to quality programs for all children before they enter kindergarten, the private sector also plays an important role. In addition, the Federal Government should provide resources to reward innovation at the state and community level and to leverage additional resources for continued innovation.

In States such as Washington, Georgia, Michigan, Minnesota, Oklahoma, North Carolina, Arizona, Nebraska, Illinois, Vermont, and Virginia, public-private partnerships leverage resources to provide for the varied health and learning needs of children from birth to kindergarten entry and their families. Public-private partnerships have the ability to leverage the assets of public and private entities in terms of financial resources, expertise, and infrastructure in order to maximize and align investments in early childhood development. Federal funding authorized by this legislation will create incentives for more States to develop such partnerships and leverage further investment in young children and enhance existing partnerships in states.

The purpose of the Early Childhood Investment Act of 2007 is to establish or enhance existing public-private partnerships that will strengthen investment in early childhood development by awarding grants to local community initiatives and programs that serve young children and their families.

The bill is fairly straightforward. It requires the Secretary of Health and Human Services to establish a competitive grant program to award grants to a public-private partnership, in each State that applies, which will leverage resources to supplement existing State and Federal funds. The partnership will then award subgrants to State and local community initiatives to improve access to and quality of early childhood development for children from birth through age five and their families. The partnerships will leverage funding from nonprofit or for-profit organizations, private entities and State government to invest in high quality early childhood development programs.

The Early Childhood Investment Act of 2007 authorizes $8 billion for fiscal year 2008, $10 billion for fiscal year 2009 and such sums as necessary in the following years. The Federal share represents 50 percent of total expenditures by a partnership in the first year, 40 percent in the second year and 30 percent in the outyears. I know I will hear that this cost is too large for the government to bear, but I would argue that the cost of not investing would be even greater. Children represent only a quarter of our population, but they are 100 percent of our future and each of our children deserves an opportunity to reach his or her potential.

The bill has been endorsed by America's Promise Alliance, First Focus, National Association for the Education of Young Children, National Association of Child Care Resource and Referral Agencies, and the National Women's Law Center. I hope that my colleagues will join me in supporting this important legislation.

By Mr. OBAMA:

S. 1574. A bill to establish Teaching Residency Programs for preparation and induction of teachers; to the Committee on Health, Education, Labor, and Pensions.

Mr. OBAMA. Mr. President, we will soon begin consideration of legislation to educate America's students, with Head Start, the Elementary and Secondary Education Act, and the Higher Education Act all slated for reauthorization. One of the most important aspects of No Child Left Behind is its provision for a highly qualified teacher for every child, in every classroom in America.

Expert teachers are the most important educational resource in our schools, and also the most inequitably distributed. In the United States, too many students in high-need schools are taught by inadequately prepared teachers, who are often not ready for the challenges they face, and thus leave the classroom too soon. High-poverty schools lose one-fifth of their teaching staff each year. This constant turnover of inexperienced, inadequately prepared teachers undermines efforts to create stable learning cultures and to sustain school improvement, especially in schools with greatest need.

Many schools are being identified as in need of improvement, and many students are asked to be successful in schools where success is a rare commodity. Rather than being a leader in a competitive world where educational attainment is precious, America has one of the lowest high school graduation rates in the industrialized world. Three out of every 10 ninth-grade students will not graduate on time, and about half of all African American and Hispanic ninth graders will not earn a diploma in four years. Less than 2 out of every 10 students who begin high school will receive a postsecondary degree within a reasonable time. Students of color, new immigrants, and children living in poverty are all being left behind. A good education is granted to some, but denied to others, denied not only to children of color in our cities, but also to children living in poverty in our rural areas. We must end this.

We must recruit the best and the brightest Americans to become teachers and we must transform teaching, restoring its luster as a profession, so that when new teachers join it, they are successful, and want to stay. As teachers and principals are increasingly being held individually responsible for student success, it is increasingly important that we adequately prepare teachers to become successful.

Research shows that inexperienced teachers are less effective than teachers with several years of experience, but good preparation programs can make novice teachers effective more rapidly. We must help novice teachers get the training and coaching they need. Teacher preparation seldom provides the opportunity to learn under the supervision of expert teachers working in schools that effectively serve high-need students. Most new teachers lack such support, and so leave the profession before achieving success.

Today I am proud to introduce the Teaching Residency Act, which builds on a successful model of teacher preparation similar to medical residencies. Teaching Residency Programs are school-based teacher preparation programs in which prospective teachers teach alongside a mentor teacher for one academic year, receive master's level coursework in teaching the content area in which they will become certified, and attain certification prior to completion of the program. Once certified, graduates of the program are placed in high-needs schools, and continue to receive strong mentoring and coaching for their first years of teaching. This bill proposes establishing Teaching Residency Programs as a provision of Title II of the Higher Education Act.

I am particularly proud to introduce this legislation today, because it is a model of effective teacher preparation that I have supported since before I was elected to the Senate in 2004. I have seen the power of teacher residencies through the very successful Academy for Urban School Leadership in my home State of Illinois. And I am pleased to be supported in this effort by the introduction of legislation in the House by my good friend, Congressman RAHM EMANUEL.

It is critical to develop programs that increase the probability that recruits will succeed and stay in those classrooms where they are most needed. Teaching Residency Programs are based on what we know works best to improve teacher preparation. We know that mentoring is critical to help young teachers develop in the early years of their career and to retain many of new teachers who would otherwise leave the profession in their first years. We cannot afford to lose any more high quality teachers because they do not feel supported or do not feel that they are progressing professionally.

I hope my colleagues will support this important legislation.

By Mr. KENNEDY (for himself, Mr. COCHRAN, Mr. OBAMA, Mr. BINGAMAN, Mrs. CLINTON, Mr. BROWN, and Mr. DURBIN):

S. 1576. A bill to amend the Public Health Service Act to improve the health and healthcare of racial and ethnic minority groups; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, serious and unjustified health disparities continue to exist in our Nation today. Forty five million Americans have no health insurance and often don't get the health care they need or get it too late. We know that the uninsured are more likely to delay doctor visits and needed screenings like mammograms and other early detection tests which can help prevent serious illness and death. The Institute of Medicine estimates that at least 18,000 Americans die prematurely each year because they lack health coverage.

Some of the most shameful health disparities involve racial and ethnic minorities. African Americans have a lower life expectancy than Whites. They are much more likely to die from stroke, and their uninsurance rates are much higher than those of their White counterparts.

Many Americans want to believe such disparities don't exist, but ignoring them only contributes more to the widening gap between the haves and have-nots.

It is a scandal that people of color have greater difficulty obtaining good health care than other Americans. Your health should not depend on the color of your skin, the size of your bank account, or where you live. In a nation as advanced as ours, with its state-of-the-art medical technology for preventing illness and caring for the sick, it is appalling that so many health disparities continue to exist.

That is the reason why I am introducing the Minority Health and Health Disparity Elimination Act, as part of our effort to reduce or eliminate these unacceptable differences in the health and health care of racial and ethnic minorities.

The bill includes grants and demonstration projects that will help communities promote positive health behaviors and improve outreach, participation, and enrollment of racial and ethnic minorities in available health care programs. The bill will also establish collaborative partnerships led by community health centers. In particular it will support the Delta Health Initiative Rural Health, Education, and Workforce Infrastructure Demonstration Program to address longstanding, unmet health and health care needs in the Mississippi Delta

In addition, the bill codifies the Centers for Disease Control and Prevention's Racial and Ethnic Approaches to Community Health Program, so that this successful program can continue to assist communities to mobilize and organize resources to support effective and sustainable programs to help close the health and health care gap. It also establishes Health Action Zones to support State, tribal or local initiatives to improve minority health in communities that have been historically burdened by health disparities.

Greater diversity in the health care workforce is essential to creating a healthy America. Studies demonstrate that minority health professionals are more likely to care for minority patients, including those who are low-income and uninsured. African Americans, Hispanic Americans, and Native Americans account for only 6 percent of the Nation's doctors and 5 percent of nurses and dentists, even though they are almost one-quarter of the U.S. population. The disparity in the health workforce must be closed, not just to fulfill our commitment to equality and opportunity, but also because of the impact it has on the health of America.

The act reauthorizes the title VII health care workforce diversity programs, including the Centers of Excellence at Historically Black Colleges and Universities and institutions that educate Hispanic and Native American students.

A diverse health care workforce is essential for a healthy country. Emphasizing workforce diversity does not mean that health care workers should not be prepared to work with diverse patients. We must also make a more serious effort to train culturally competent health care professionals, and to create a health care system that is accessible for the more than 48 million Americans who speak a language other than English at home. The bill creates an Internet clearinghouse to increase cultural competency and improve communication between health care providers and patients. It also supports the development of curricula on cultural competence in health professions schools.

Language barriers in health care obviously contribute to reduced access and poorer care for those who have limited English proficiency or low health literacy. The legislation recognizes the importance of this issue for the quality of our health care system and provides funds for activities to improve and encourage services for such patients.

The bill reauthorizes the National Center for Minority Health and Health Disparities that was created as part of the Minority Health and Health Disparities Research and Education Act of 2000. It strengthens the center's role in coordinating and planning research that focuses on minority health and health disparities at the National Institutes of Health. The bill also requires the Agency for Health care Research and Quality to establish a grant program to support private research initiatives and a public-private partnership to evaluate and identify the best practices in disease management strategies and interventions.

In addition, the bill ensures that research on genetic variation within and between populations includes a focus on racial and ethnic minorities. It also promotes the participation of racial and ethnic minorities in clinical trials and intensifies efforts throughout the Department of Health and Human Services to increase and apply knowledge about the interaction of racial, genetic, and environmental factors that affect people's health.

Finally, the bill reinforces and clarifies the duties of the Office of Minority Health and instructs the office to develop and implement a comprehensive department-wide plan to improve minority health and eliminate health disparities. It also encourages greater cooperation among federal agencies and departments in meeting these serious challenges.

We have worked diligently with a wide variety of organizations on this bill that are eager for strong legislation to eliminate health disparities. The following groups have expressed their support: Aetna, American Association of Colleges of Pharmacy, American Heart Association/American Stroke Association, American Public Health Association, Asian American and Pacific Islander Health Forum, Association for Community Affiliated Plans, Association of Minority Health Professions Schools, California Pan-Ethnic Network, Charles R. Drew University of Medicine and Science, Families USA, Harvard Medical School, Massachusetts General Hospital, Meharry Medical College, Morehouse School of Medicine, National Association of Community Health Centers, National Association of Public Hospitals and Health Systems, National Coalition for Hispanic Health—Campaign for Tobacco Free Kids, Hispanic Association of Colleges and Universities, League of United Latin American Citizens, National Council of La Raza, National Hispanic Caucus of State Legislators, National Hispanic Medical Association, National Puerto Rican Coalition—National Council of La Raza, National Health Law Program, National Hispanic Medical Association, National Medical Association, Network Health, Racial and Ethnic Health Disparities, REHDC, and Summit Health Institute for Research and Education.

I look forward to working with these dedicated groups as we work towards final passage of this bill.

I greatly appreciate the cooperation of Senator COCHRAN, Senator OBAMA, Senator BINGAMAN, Senator CLINTON, Senator BROWN, and Senator DURBIN on this legislation, and I look forward to working with my colleagues to enact this much needed legislation.

Mr. OBAMA. Mr. President, this Nation has witnessed dramatic improvements in public health and health care technology and practice over the last century. Diseases that were once life-threatening are now curable; conditions that once devastated are now treatable. Our Federal investment in

medical research has paid off handsomely, with new and more effective tests and treatments and near daily reports of new scientific breakthroughs. Yet still today too many Americans have not and will not derive full benefit from these advances.

We know that minority Americans and other vulnerable populations needlessly continue to experience higher rates of disease and lower rates of survival, and this is simply unacceptable. As we in the Congress work to combat the serious health issues that threaten the well-being of all Americans, we must also remain vigilant and committed in our fight to address the persistent and pervasive health disparities that affect millions of minorities, low-income individuals and other at-risk populations.

Congress has passed legislation before to address the health of minority populations and eliminate health disparities—the Minority Health and Health Disparities Research and Education Act of 2000. That bill created the National Center for Minority Health and Health Disparities, supported the landmark IOM report Unequal Treatment, required annual reporting on health care disparities by AHRQ, and strengthened the research base for many HBCU's, among many other provisions.

Since that bill passed, our knowledge and understanding about the root causes of these disparities has dramatically increased. Efforts to strengthen the research infrastructure needed to investigate health concerns among people of color have been quite effective. Momentum has also accelerated in the medical and public health communities as advocates' voices are heard more and more, with new interventions being implemented and evaluated. All of these positive steps and advances have helped to raise minority health as a national priority. However, despite this activity, much work remains to be done in order to close the gap and eliminate health and health care disparities.

Study after study reveals the stark line of health disparity drawn between minorities and whites. In cancer alone, the numbers are hard to overlook. In 2004, African American men were 2.4 times as likely to die from prostate cancer, as compared to white men. For heart disease, the statistics are equally compelling: 2004 data show that when compared to white men, African American men were 30 percent more likely to die from heart disease, and American Indian adults were 30 percent more likely to have high blood pressure.

The underlying factors for health disparities are multi-factorial. Our individual genetic makeup certainly contributes to differences in rates of disease and mortality in diverse populations. However, other factors play an equal if not greater role. We know that minority and low-income Americans are disproportionately less likely to live in communities that promote healthy behaviors and choices through access to wholesome foods and opportunities for physical activity, and that protect from exposure to environmental toxins and violence. In addition, minority Americans are less likely to have health coverage and thus more likely to experience difficulties accessing the health care system, which leads to delayed diagnoses and foregone care. And last but not least, we know that minority Americans are less likely to receive medical care that meets recommended or accepted standards of practice, when compared to White Americans. As an example, the American Journal of Public Health has reported that more than 886,000 deaths could have been prevented from 1991 to 2000 if African Americans had received the same level of health care as Whites.

For all of these reasons, I am joining my colleagues Senator KENNEDY and Senator COCHRAN in introducing the Minority Health Improvement and Health Disparity Elimination Act of 2007. This critical legislation has a number of important provisions to help us achieve our goal to improve the health status of minority and other underserved populations. First, this bill strengthens education and training in cultural competence and communication, which is the cornerstone of quality health care for all patients. It also reauthorizes the pipeline programs in title VII of the Public Health Service Act, which seek to increase diversity in the health professions. We all know that the door to opportunity is only half open for minority students in the health professions. The percentage of minority health professionals is shockingly low—African Americans, Hispanics and American Indians account for one-third of the Nation's population but less than 10 percent of the Nation's doctors, less than 5 percent of dentists and only 12 percent of nurses. We can—and must—do better.

Lack of workforce diversity has serious implications for both access and quality of health care. Minority physicians are significantly more likely to treat low-income patients, and their patients are disproportionately minority. Studies have also shown that minority physicians provide higher quality of care to minority patients, who are more satisfied with their care and more likely to follow the doctor's recommendations.

Second, this bill expands and supports a number of initiatives to increase access to quality care. Specifically, the legislation authorizes demonstration grants to improve access to healthcare, patient navigators, and health literacy education services. Additionally, partnerships modeled after the Health Disparity Collaboratives at the Bureau of Primary Health Care are supported through established grants. The REACH program at Centers for Disease Control and Prevention—designed to assist communities in mobilizing and organizing resources to support effective and sustainable programs to reduce health disparities—is established under this bill. And I am pleased that the Health Action Zone Initiative has also been authorized. This new environmental public health program was introduced as part of the Healthy Communities Act of 2007 that I introduced earlier this year, and guides and strengthens community efforts to improve health in comprehensive and sustained fashion.

A third area of focus is expansion and acceleration of data collection and research across the agencies, including the Agency for Healthcare Research and Quality and the National Institute of Health, with special emphasis on translational research. The tremendous advances in medical science and health technology, which have benefited millions of Americans, have remained out of reach for too many minorities, and translational research will help to remedy this problem. The National Center on Minority Health and Health Disparities, which has a leadership role in establishing the disparities research strategic plan at the National Institutes of Health, is reauthorized. And a new advisory committee has been established at the Food and Drug Administration to focus on pharmacogenomics and its safe and appropriate use in minority populations, another issue area that I championed as part of my Genomics and Personalized Medicine Act of 2006.

Last but not least, I want to highlight that the bill strengthens and clarifies the duties of the Office of Minority Health. This office has been critical in providing the leadership, expertise and guidance for health improvement activities across the agencies of the Department of Health and Human Services, and has helped to ensure coordination, collaboration and integration of such efforts as well.

In conclusion, I want emphasize that it is past time to expand and accelerate our work in a of minority health beyond the initial bipartisan effort Congress achieved in 2000. We have got to translate the knowledge we have gained into practical and effective interventions that will improve minority health and eliminate disparities, and this bill will help us do just that.

I urge my colleagues to join me in cosponsoring and passing this critical legislation. Regardless of how you measure it, whether by needless suffering, lost productivity, financial costs, or lives lost, disparities in health and health care are a tremendous problem and a moral imperative for our Nation, and one that is within our power to address right now.

Mrs. CLINTON. Mr. President, I am pleased to join Senators KENNEDY, COCHRAN, BINGAMAN, OBAMA, DURBIN and BROWN in introducing the Minority Health Improvement and Health Disparity Elimination Act 2007.

As we debate health care issues, we often discuss what is wrong with our health care system: Costs are spiraling upward, the ranks of uninsured have

increased, and the strains on our system and its ability to provide quality care have worsened. And while the impact of these situations are felt by all Americans, the problems with our health care system often disproportionately impact our racial and ethnic minority populations.

We continue to have disparities in health care for our minority populations—disparities in access, disparities in quality, and disparities in outcomes. The Agency for Healthcare Research and Quality (AHRQ) tracks these in its annual National Healthcare Disparities Report, aggregating data from a variety of Federal health surveys and databases. And the findings from the report are staggering, including the following: Minorities had worse access to care than whites; Blacks and Hispanics received poorer quality care than Whites on more than 70 percent of the measures used by AHRQ; and While gains were made on approximately one-quarter of the quality indicators, disparities actually got worse for all minority populations on one-third of the quality indicators.

These system wide disparities have translated into increased burden of disease for our racial and ethnic minority populations.

HIV/AIDS is devastating our African-American communities. Blacks account for about half of all new HIV/AIDS diagnoses. In New York City, the rate of new HIV diagnoses is six times higher among Blacks than Whites. In addition, the AIDS case rate among Hispanic populations is about 3.5 times higher than that of Whites.

The incidence of asthma is highest among Puerto Rican populations, with 22 percent of these individuals receiving a diagnosis of asthma, a rate roughly double that of White populations. Although African-Americans have slightly higher rates of asthma than White populations, they experience disparities in asthma management and access to care. The emergency department visit rate for Blacks seeking asthma treatment was 350 percent higher than that of the rates for Whites, while the hospitalization rate for Blacks with asthma was 240 percent higher than that for Whites with asthma.

One out of every 10 Asian Americans will be diagnosed with diabetes. Among all Americans with diabetes, Blacks are about two times more likely to require amputations, two to five times more likely to have kidney disease, and twice as likely to suffer from diabetes-related blindness.

The impact of health disparities are experienced not only by racial and ethnic minority communities but by all of us. They are symptomatic of the underuse and misuse of health care. And the costs associated with these disparities—such as delayed diagnoses and complications that result from lack of access to primary care—add unnecessary costs to our health care system.

The Minority Health Improvement and Health Disparity Elimination Act of 2007 would allow us to address healthcare disparities through a variety of mechanisms.

The bill will create a cultural competency clearinghouse, helping providers to understand, first of all, the concept of cultural competence, and second, how to better tailor care to their patients of diverse backgrounds. We cannot, for example, ask a person with diabetes to make changes to their diet if we do not understand what foods are part of their diet. Having a culturally competent health care system is especially important in my home State of New York, where our residents come from all over the world. With the information that will be available in this clearinghouse, we will make it easier for both patients and providers to communicate and understand essential concepts of care.

The Minority Health Improvement and Health Disparity Elimination Act will improve health professions programs that increase recruitment and retention of underrepresented minorities in the health professions. New York's population is 15 percent Black and 15.6 percent Hispanic, yet the percentage of Black physicians practicing in our State is 3.2 percent, and the percentage of Hispanic physicians practicing in our State is 2.3 percent. This bill will reauthorize the Centers of Excellence established by the Health Resources and Services Administration, HRSA—a program that has benefited the Mt. Sinai School of Medicine—and establish new programs to train mid-career individuals in the health professions.

It will codify currently existing health promotion and disease prevention activities targeted toward racial and ethnic minorities, including the Centers for Disease Control and Prevention's Racial and Ethnic Approaches to Community Health, REACH. REACH grantees working in northern Manhattan have managed to increase childhood immunization rates by 10 to 15 percent. It will also codify the Health Disparities Collaboratives program operated by HRSA, through which health centers across the country focus on improving their treatments for specific diseases, or implementing models to improve patient care. These centers include Whitney Young Health Center in Albany, NY, which, through this collaborative, successfully helped more than 200 patients learn how to manage their asthma.

The legislation will establish new programs to increase community health workers, address environmental health concerns, and improve outreach and enrollment, thus reducing barriers to accessing care. It will increase support for the Agency for Healthcare Research and Quality's research into healthcare disparities and help to improve overall data collection.

The Minority Health Improvement and Health Disparity Elimination Act will reauthorize the National Center for Minority Health and Health Disparities at the National Institutes of Health, which is designed to conduct and support health disparities research; disseminate information about disparities, and reach out to racial and ethnic minority disparity communities. Through the Center, New York University received support for its Center for the Study of Asian American Health, a collaboration between researchers, health providers, and community organizations that is designed to reduce the disparities faced by Asian Americans in New York City.

Finally, the legislation would reauthorize and strengthen the Office of Minority Health, OMH, at HHS, requiring it to develop a National Action Plan to address disparities in collaboration with other Federal health agencies. The OMH has provided support to New York's Office of Minority Health, as well as community-based organizations in Syracuse, Buffalo, and Lower Manhattan, and this reauthorization of the office will allow them to support and sustain more programs at the State and local level.

I am excited about this legislation because I have seen what happens in communities when we come together—providers, researchers, and neighborhood leaders—to address these concerns. Last month, the University of Rochester and the Monroe County Health Department announced that an initiative to increase pneumococcal immunization rates in African-American seniors resulted in a more than 30-percent gain in immunization rates—protecting more New Yorkers against pneumonia and reducing the vaccination disparity between Blacks and Whites.

I believe that the Minority Health Improvement and Health Disparity Elimination Act will allow us to create, maintain, and support this type of collaboration across the Nation. It will make a real change in the health care for our minority communities and improve the quality of care received by all Americans. I look forward to working with my colleagues in Congress to pass this legislation as quickly as possible.

Mr. DURBIN. Mr. President, Abraham Lincoln once said, ''The declaration that 'all men are created equal' is the great fundamental principle upon which our free institutions rest.''

As a Senator representing the distinguished land of Lincoln, I take seriously our Nation's promise for equality, particularly when it comes to health care.

I rise today as a strong and proud cosponsor of the Minority Health Improvement and Health Disparity Elimination Act of 2007—an important piece of legislation, long in the making, and long overdue.

Not since 2000 has our Congress made a concerted effort to address the health of some of our most at-risk populations—people of color.

In these 7 years, we have not seen a substantial improvement in the health status of people of color.

Cervical cancer, a disease that can be greatly reduced by effective health care, is five times more common among Vietnamese women in the United States than it is among Caucasian women.

African Americans with diabetes are seven times more likely to have amputations and develop kidney failure than are Caucasians with diabetes.

In Chicago's Latino community, you will likely find one in two Latino children who are obese, a condition that often leads to the onset of diabetes.

In the hospitals of East St. Louis, it's likely that African-American babies die at more than double the rate of White infants.

In the small town of Cairo, families have to travel hours to other parts of the State and sometimes even to other States to obtain the right care.

In general, we are making progress in prolonging life. Death rates for Whites, African Americans, and Latinos from many of our most debilitating diseases have declined during the last decade. But what progress are we making on quality of life during those extra years? Is the answer different depending on the racial or ethnic minority groups? Simply speaking, yes.

Even when controlling for insurance coverage and economic status, racial and ethnic minorities tend to have less access to health care and a lower quality of health care than their Caucasian counterparts.

The Centers for Disease Control and Prevention has reported that, among a wide range of health indicators, ''relatively little progress has been made toward the goal of eliminating racial/ethnic disparities.''

In general, yes, Americans are healthier, but the shameful gaps between minority groups and Caucasians remain nearly the same as a decade ago.

When will we as a nation demand more and work harder to reach that ideal of equality that is a pillar of our Nation's moral strength?

This legislation is a critical step toward achieving that notion of equality: the belief that we are all created equal and as such should have equal access to quality care.

Why is it that this country spends so much more than any other industrialized country on its health care, but has consistently lagged behind other countries in delivering better health outcomes? Why is it that one in six Americans, almost one in three African Americans, almost one in two Latino Americans, are uninsured? Why do our health outcomes not reflect the $2 trillion investment we make in health care each year? There is a disconnect between the rhetoric around our Nation's health crisis and where our resources are placed. It is a shame, and we can do better.

Our health workforce should reflect, understand, and respect the backgrounds, experiences, and perspectives of the people it serves. We need to recruit, train and retain health care professionals from underrepresented groups and underserved areas.

In areas like downstate Illinois, small communities rely heavily on Federal incentives, such as loan repayment, the Health Careers Opportunity Program, and Centers of Excellence to create a critical pipeline of professionals.

Graduates of title VII programs are more likely to serve in underserved areas. That is the outcome we want, so we need to support successful programs like these.

In addition to improving the diversity of our workforce, we need to redouble efforts to fight diseases that disproportionately affect racial and ethnic minorities—diseases like diabetes, heart disease, breast cancer and so many others.

To accurately respond to the presence of health care disparities and try to address them, we need better data on health care access and utilization that includes race, ethnicity, primary language, and socio-economic status. To develop accurate solutions, we need accurate information on prevalence, contributing factors, and effects of health care disparities.

The Minority Health Improvement and Health Disparity Elimination Act of 2007 is a critically important step toward improving the access, workforce, research and information that will close the color gap that exists in health care today. I look forward to working with my colleagues to improve the health of all Americans and, specifically, to eliminate health disparities that hurt our communities of color, and all of us.

I did not always agree with the former majority leader, Senator William H. Frist, but I couldn't agree more with his statement that, ''Inequity is a cancer that can no longer be allowed to fester in health care.''

I urge my colleagues to support the health disparity legislation introduced today.

By Mr. KOHL (for himself, Mr. DOMENICI, Mrs. MCCASKILL, Ms. STABENOW, Mrs. LINCOLN, Mr. LEVIN, and Mrs. CLINTON):

S. 1577. A bill to amend titles XVIII and XIX of the Social Security Act to require screening, including national criminal history background checks, of direct patient access employees of skilled nursing facilities, nursing facilities, and other long-term facilities and providers, and to provide for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Patient Safety and Abuse Prevention Act with Senators DOMENICI, MCCASKILL, STABENOW, LINCOLN, LEVIN and CLINTON.

This bill is supported by the Elder Justice Coalition, the National Citizens' Coalition for Nursing Home Reform, the American Association of Homes and Services for the Aging, AARP and many other organizations dedicated to protecting our Nation's vulnerable citizens. If enacted, this legislation could help to prevent many of the tragic tales of physical and financial elder abuse that we hear about from our constituents and read about in our local newspapers. I strongly urge this Congress to do what the States cannot: create a nationwide system of background checks for workers who care for our Nation's frail elders and those who are living with disabilities.

The vast majority of long-term care workers are selfless and dedicated. Yet there are a few with violent criminal histories who pose a clear threat to the defenseless individuals needing long-term care services. Under the disorganized, patchwork system of background checks that exists today, employers trying to hire caregivers do not always know which applicants have records of abuse or a history of committing violent crimes. As a result, predators are sometimes hired to take care of our most vulnerable citizens, allowing them to work in situations where they can cause enormous harm. For example, in just the last 6 weeks, three stories of such elder abuse created headlines across the country:

Last year, Pat Torano, at the age of 89, was partially paralyzed by a stroke. He realized he no longer could care for his 95-year-old wife, who by then was blind and suffering from dementia. Intent on staying at home, the Toranos contracted with Visiting Angels, a network of private home-care agencies that matches clients with caretakers. They expected to find an honest professional to help them with household chores and other non-medical needs. Instead they got convicted felon Gina Treveno, who stole their house just five months later by tricking the couple into placing the deed in her name.

Attorney General Andrew M. Cuomo today announced the sentencing of William Morrison, a former aide at the Rome Memorial Hospital Residential Health Care Facility, who was convicted last month of raping and sexually assaulting a 90-year-old resident of the nursing home. . . . The background check would have revealed that Morrison was previously convicted for one felony drug offense in 1992 and several misdemeanors in the 1990s.

An 84-year-old man allegedly assaulted at a nursing home last month is suing the facility, claiming it failed to protect him from the employee accused of punching him in his bed. Earl Gates of Bozeman claims Evergreen Bozeman Health and Rehabilitation center didn't do a background check on his accused attacker, Joshua Fowler, 23, who has a prior assault conviction.

The bill that I am introducing today with Senators DOMENICI, STABENOW, MCCASKILL, LINCOLN, LEVIN, and CLINTON proposes to take action to stop predators from working in all long-term care settings. It would close gaping loopholes in our current system of background checks through a nationwide expansion of a pilot program that Congress enacted as part of the Medicare Modernization Act of 2003.

Under the MMA, the Centers for Medicare and Medicaid Services has been conducting a pilot program in seven states to implement efficient, equitable systems that cost-effectively screen out certain applicants for employment in long-term care facilities. Applicants excluded are those whose backgrounds include findings of substantiated abuse and/or a serious criminal history.

The seven pilot States are Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico and Wisconsin. These States have significant flexibility in several key areas under the grant. For example, each State establishes parameters for the definition of a ''direct patient access employee'' for workers who must be checked, and defines specific criteria for ''disqualifying'' crimes that prohibit a long-term care employer from hiring workers with such histories.

In other areas, the pilot States must meet Federal standards. They must cover a broad range of long-term care providers, including nursing homes, home health agencies and intermediate care facilities for the mentally retarded. States must require each applicant to submit a written statement disclosing any disqualifying information, and to authorize a State and national criminal record check.

As is currently required under Federal law, providers must search any available registry that is likely to contain disqualifying information about an applicant. Forty-one States already require a criminal background check of some variety, mostly at the State level. The pilot States have integrated their systems to coordinate these checks in a single streamlined process and added a Federal background check through the FBI's Integrated Automated Fingerprint Identification System. Applicants who are subsequently found to have a record of substantiated abuse or a serious criminal history cannot be hired. But individuals who are denied employment can appeal the background check results. Finally, facilities can use the results of the background checks only for the purpose of determining suitability of employment.

That is the basic structure of the pilot program that Congress enacted 4 years ago. Since then, we have learned important lessons from the pilot States' experiences. For example, federal funds have been used for a variety of purposes. States have used pilot funds to hire new staff to administer background checks; to purchase mobile digital scanners; to pay for the cost of fingerprint checks; to provide technical assistance to facilities; and to build online systems that applicants and providers can readily access, and which serve to integrate information from various registries and entities, and as storage and retrieval systems.

States have passed legislation under the pilot program that treat disqualifying crimes somewhat differently. For example, Michigan has created a tiered system, under which certain disqualifying crimes carry time-limited prohibitions on working in long-term care facilities. By comparison, Wisconsin has chosen to enact legislation defining disqualifying crimes as those that carry a lifetime ban only. Alaska has established a ''variance'' process to permit certain individuals to work who have committed crimes but who have subsequently shown evidence of recovery. Similarly, in Idaho, some disqualifying crimes result in an ''unconditional'' denial that carries a lifetime ban on working in long-term care settings, while others result in ''conditional'' denials that apply to less serious crimes that may be waived under certain circumstances, following an ''exemption review'' by the Department of Health and Welfare.

The data on results from the pilot programs are impressive. Among the seven States, Michigan's information is the most complete. In the first year of operation, Michigan excluded more than 3,000 people with records of abuse or a disqualifying criminal history. As of April 30, 2007, 625 of these were excluded through a fingerprint check. Twenty-five percent of these exclusions were identified through an FBI check only, a fact that State officials believe indicates that these individuals committed crimes in other States, or have been avoiding prosecution within the State. Information for Nevada, while less complete, suggests similar results. As of last December, Nevada was identifying an even higher percentage of individuals with criminal histories on the basis of an FBI check only.

The director of Michigan's workforce background check program, Orlene Christie, recently testified before the Special Committee on Aging about the State's program. ''The applicants that have been excluded from employment are not the types of people Michigan could ever allow to work with our most vulnerable citizens,'' she said. ''We have prevented hardened criminals that otherwise would have access to our vulnerable population from employment.''

Ms. Christie also noted that ''of the criminal history reports examined, fraudulent activity and controlled substance violations account for 25 percent of all disqualifying crimes. Fraudulent activity includes such things as embezzlement, identity theft, and credit card fraud. This is particularly alarming giving the projected increase in financial abuse of the elderly.''

Importantly, Michigan has implemented a ''rap back'' system where the Michigan State Police notifies the health agency of any subsequent arrest, which in turn notifies the employer. This is a key component of the bill we are introducing today. It will allow the States, as well as the FBI, to ensure that an employer will be automatically notified as soon as a worker's criminal history record is updated.

To find out what providers think of the pilot program, Idaho conducted a survey of participating facilities, which found 87 percent believed the background checks were successfully screening out workers who shouldn't be hired. Additionally, 63 percent said that the quality of employees hired has improved since the pilot began.

The pilot program demonstrates that participating States are successfully excluding individuals who have a history of abuse or a disqualifying criminal background. If this model is expanded, the resulting nationwide system would greatly enhance the probability of identifying individuals with criminal backgrounds who can now easily escape detection. If all States had parallel, multi-level, comprehensive systems in place, very few potentially abusive workers would be hired into positions of caring for the extremely vulnerable residents of our Nation's long-term care facilities.

The MMA pilot program is scheduled to end this September. I urge the Senate not to let this initiative simply expire. Rather, I hope that we will take the logical step of expanding on the success of this program, and provide limited federal funding for all other States to create similar programs. The Patient Safety and Abuse Prevention Act also lays out sensible standards for creating a nationwide system that will prevent predators, who now go undetected, from being hired into positions where they can harm society's most vulnerable people. I sincerely hope that all of my colleagues will join me in this effort.

I ask unanimous consent that the bill and supporting material be printed in the RECORD.

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

S. 1577

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 ''Patient Safety and Abuse Prevention Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Frail elders are a highly vulnerable population who often lack the ability to give consent or defend themselves. Since the best predictor of future behavior is past behavior, individuals with histories of abuse pose a definite risk to patients and residents of long-term care facilities.

(2) Every month, there are stories in the media of health care employees who commit criminal misconduct on the job and are later found, through a background check conducted after the fact, to have a history of convictions for similar crimes.

(3) A 2006 study conducted by the Department of Health and Human Services determined that—

(A) criminal background checks are a valuable tool for employers during the hiring process;

(B) the use of criminal background checks during the hiring process does not limit the pool of potential job applicants;

(C) ''a correlation exists between criminal history and incidences of abuse''; and

(D) the long-term care industry supports the practice of conducting background

checks on potential employees in order to reduce the likelihood of hiring someone who has potential to harm residents.

(4) In 2005, the Michigan Attorney General found that 10 percent of employees who were then providing services to frail elders had criminal backgrounds.

(5) In 2004, the staffs of State Adult Protective Services agencies received more than 500,000 reports of elder and vulnerable adult abuse, and an ombudsman report concluded that more than 15,000 nursing home complaints involved abuse, including nearly 4,000 complaints of physical abuse, more than 800 complaints of sexual abuse, and nearly 1,000 complaints of financial exploitation;

(6) The Department of Health and Human Services has determined that while 41 States now require criminal background checks on certified nurse aides prior to employment, only half of those (22) require criminal background checks at the Federal level.

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

(1) create a coordinated, nationwide system of State criminal background checks that would greatly enhance the chances of identifying individuals with problematic backgrounds who move across State lines;

(2) stop individuals who have a record of substantiated abuse, or a serious criminal record, from preying on helpless elders and individuals with disabilities; and

(3) provide assurance to long-term care employers and the residents they care for that potentially abusive workers will not be hired into positions of providing services to the extremely vulnerable residents of our Nation's long-term care facilities.

SEC. 3. NATIONWIDE EXPANSION OF PILOT PROGRAM FOR NATIONAL AND STATE BACKGROUND CHECKS ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-TERM CARE FACILITIES OR PROVIDERS.

Section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395aa note) is amended by adding at the end the following new subsection:

''(h) NATIONWIDE EXPANSION PROGRAM.—

''(1) IN GENERAL.—Beginning on the date of enactment of the Patient Safety and Abuse Prevention Act of 2007, the Secretary shall expand the pilot program under this section to be conducted on a nationwide basis (in this subsection, such expanded pilot program shall be referred to as the 'nationwide expansion program'). Except for the following modifications, the provisions of this section shall apply to the nationwide expansion program:

''(A) AGREEMENTS.—

''(i) NEWLY PARTICIPATING STATES.—The Secretary shall enter into agreements with each State—

''(I) that the Secretary has not entered into an agreement with under subsection (c)(1);

''(II) that agrees to conduct background checks under the nationwide expansion program on a Statewide basis; and

''(III) that submits an application to the Secretary containing such information and at such time as the Secretary may specify.

''(ii) CERTAIN PREVIOUSLY PARTICIPATING STATES.—The Secretary shall enter into agreements with each State—

''(I) that the Secretary has entered into an agreement with under subsection (c)(1) in the case where such agreement did not require the State to conduct background checks under the pilot program established under subsection (a) on a Statewide basis;

''(II) that agrees to conduct background checks under the nationwide expansion program on a Statewide basis; and

''(III) that submits an application to the Secretary containing such information and at such time as the Secretary may specify.

''(B) NONAPPLICATION OF SELECTION CRITERIA.—The selection criteria required under subsection (c)(3)(B) shall not apply.

''(C) REQUIRED FINGERPRINT CHECK AS PART OF CRIMINAL HISTORY BACKGROUND CHECK.—The procedures established under subsection (b)(1) shall require that the facility or provider obtain State and national criminal history background checks on the prospective employee utilizing a search of State and Federal criminal history records and including a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

''(D) PAYMENTS.—

''(i) NEWLY PARTICIPATING STATES.—

''(I) IN GENERAL.—As part of the application submitted by a State under subparagraph (A)(i)(III), the State shall guarantee, with respect to the costs to be incurred by the State in carrying out the nationwide expansion program, that the State will make available (directly or through donations from public or private entities) a particular amount of non-Federal contributions.

''(II) FEDERAL MATCH.—The payment amount to each State that the Secretary enters into an agreement with under subparagraph (A)(i) shall be 3 times the amount that the State guarantees to make available under subclause (I), except that in no case may the payment amount exceed $3,000,000.

''(ii) PREVIOUSLY PARTICIPATING STATES.—

''(I) IN GENERAL.—As part of the application submitted by a State under subparagraph (A)(ii)(III), the State shall guarantee, with respect to the costs to be incurred by the State in carrying out the nationwide expansion program, that the State will make available (directly or through donations from public or private entities) a particular amount of non-Federal contributions.

''(II) FEDERAL MATCH.—The payment amount to each State that the Secretary enters into an agreement with under subparagraph (A)(ii) shall be 3 times the amount that the State guarantees to make available under subclause (I), except that in no case may the payment amount exceed $1,500,000.

''(iii) NO RESERVATION FOR EVALUATION.—There shall be no reservation of any portion of the payment amount provided under clauses (i) or (ii) for conducting an evaluation.

''(E) EVALUATIONS AND REPORT.—

''(i) EVALUATIONS.—The Inspector General of the Department of Health and Human Services shall conduct an annual evaluation of the nationwide expansion program in each of calendar years 2008 and 2009.

''(ii) REPORTS.—Not later than 6 months after completion of the second year of the nationwide expansion program, the Inspector General of the Department of Health and Human Services shall submit a report to Congress containing the results of the annual evaluations conducted under clause (i), together with recommendations for the implementation of the requirements of sections 1819(b)(9) and 1919(b)(9) of the Social Security Act, as added by section (3)(a) of the Patient Safety and Abuse Prevention Act of 2007.

''(2) FUNDING.—

''(A) NOTIFICATION.—The Secretary shall notify the Secretary of the Treasury of the amount necessary to carry out the nationwide expansion program under this subsection for the period of fiscal years 2008 through 2010, except that in no case shall such amount exceed $156,000,000.

''(B) TRANSFER OF FUNDS.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide for the transfer to the Secretary of the amount specified as necessary to carry out the nationwide expansion program under subparagraph (A).''.

SEC. 4. BACKGROUND CHECKS ON DIRECT PATIENT ACCESS EMPLOYEES OF LONG-TERM CARE FACILITIES AND PROVIDERS.

(a) SCREENING OF SKILLED NURSING FACILITY AND NURSING FACILITY EMPLOYEE APPLICANTS.—

(1) MEDICARE PROGRAM.—

(A) IN GENERAL.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following new paragraph:

''(9) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—

''(A) SCREENING AND CRIMINAL HISTORY BACKGROUND CHECKS ON APPLICANTS.—

''(i) SCREENING.—Beginning on January 1, 2011, before hiring a direct patient access employee, a skilled nursing facility shall screen the employee for any disqualifying information in accordance with such procedures as the State shall establish through a search of—

''(I) State-based abuse and neglect registries and databases, including the abuse and neglect registries and databases of another State in the case where a prospective employee previously resided in that State; and

''(II) criminal records and the records of any proceedings that may contain disqualifying information about applicants, such as proceedings conducted by State professional licensing and disciplinary boards and State medicaid fraud control units.

''(ii) CRIMINAL HISTORY BACKGROUND CHECKS.—As part of such screening, the skilled nursing facility shall request that the State agency designated under subsection (e)(6)(E) oversee the coordination of a State and national criminal history background check that utilizes a search of State and Federal criminal history records and includes a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

''(iii) USE OF PROCEDURES PREVIOUSLY ESTABLISHED.—Nothing in this paragraph shall be construed as preventing a State from using procedures established for purposes of the pilot program for National and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or the nationwide expansion program under subsection (h) of such section, to satisfy the requirements of paragraph (6).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—Subject to clause (ii), a skilled nursing facility may not knowingly employ any direct patient access employee who has any disqualifying information (as defined in subparagraph (F)(ii)).

''(ii) PROVISIONAL EMPLOYMENT.—Subject to clause (iii), the State may permit a skilled nursing facility to provide for a provisional period of employment (not to exceed 30 days) for a direct patient access employee—

''(I) pending completion of the screening and background check required under subparagraph (A); and

''(II) in the case where the employee has appealed the results of such screening and background check, pending completion of the appeals process.

''(iii) SUPERVISION.—The facility shall maintain direct on-site supervision of the employee during such provisional period of employment.

''(C) PROCEDURES.—

''(i) IN GENERAL.—The procedures established by the State under subparagraph (A) shall be designed to accomplish the following:

''(I) Give a prospective direct patient access employee notice that the skilled nursing facility is required to perform background checks with respect to new employees, including a fingerprint check as part of the national criminal history background check conducted under subparagraph (A)(ii) in the case of any new employee who does not have a certificate indicating that a fingerprint check has been completed and has not found any disqualifying information (as described in subclause (V)).

''(II) Require, as a condition of employment, that the employee—

''(aa) provide a written statement disclosing any disqualifying information;

''(bb) provide a statement signed by the employee authorizing the facility to request a background check that includes a search of the registries and databases described in clause (i)(I) of subparagraph (A) and the records described in clause (i)(II) of such subparagraph and a criminal history background check conducted in accordance with clause (ii) of such subparagraph that includes a fingerprint check using the Integrated Automated Fingerprint System of the Federal Bureau of Investigation;

''(cc) provide the facility with a rolled set of the employee's fingerprints or submit to being fingerprinted; and

''(dd) provide any other identification information the State may require.

''(III) Require the skilled nursing facility to check any available registries that would be likely to contain disqualifying information about a prospective employee, including the registries and databases described in subclause (I) of subparagraph (A)(i) and the records described in clause (II) of such subparagraph.

''(IV) Provide a prospective direct patient access employee the opportunity to request a copy of the results of the background check conducted with respect to such employee and to correct any errors by providing appropriate documentation to the State and the facility.

''(V) Upon completion of a fingerprint check as part of the national criminal history background check conducted with respect to a direct patient access employee under subparagraph (A)(ii), provide the skilled nursing facility and the direct patient access employee with a certificate indicating that such fingerprint check has been completed and no disqualifying information was found. Such certificate shall—

''(aa) be valid for 2 years; and

''(bb) in the case where such direct patient access employee is hired by any other skilled nursing facility located in the State during such 2-year period, satisfy the requirement that such facility have a fingerprint check conducted as part of such national criminal history background check.

''(ii) ELIMINATION OF UNNECESSARY CHECKS.—The procedures established by the State under subparagraph (A) shall permit a skilled nursing facility to terminate the background check at any stage at which the facility obtains disqualifying information regarding a prospective direct patient access employee.

''(iii) DEVELOPMENT OF MODEL FORM OF CERTIFICATE.—The Secretary shall develop a model form of the certificate described in clause (i)(V) that States may use to satisfy the requirements of such clause.

''(D) USE OF INFORMATION; IMMUNITY FROM LIABILITY.—

''(i) USE OF INFORMATION.—A skilled nursing facility that obtains information about a direct patient access employee pursuant to screening or a criminal history background check shall use such information only for the purpose of determining the suitability of the employee for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant, reasonably and in good faith relies upon credible information about such applicant provided by a criminal history background check shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) PROHIBITION ON CHARGING EMPLOYEES FEES FOR CONDUCTING BACKGROUND CHECKS.—A skilled nursing facility shall not charge a prospective direct patient access employee a fee for the screening or criminal history background check conducted under this paragraph.

''(E) PENALTIES.—

''(i) IN GENERAL.—

''(I) STATE PENALTIES.—Subject to subclause (II), a skilled nursing facility that violates the provisions of this paragraph shall be subject to such penalties as the State determines appropriate to enforce the requirements of this paragraph. A skilled nursing facility shall report to the Secretary on a quarterly basis any penalties imposed by the State under the preceding sentence.

''(II) EXCLUSION FROM PARTICIPATION.—In any case where the Secretary determines that a State is not sufficiently enforcing the requirements of this paragraph, the Secretary may exclude a skilled nursing facility located within the State that violates the provisions of this paragraph from participating in the programs under this title and title XIX (in accordance with the procedures of section 1128).

''(ii) KNOWING RETENTION OF WORKER.—In addition to any penalty under clause (i), a skilled nursing facility that knowingly continues to employ a direct patient access employee in violation of subparagraph (A) or (B) shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in section 1128(a); and

''(II) such other types of offenses, including violent crimes, as the State may specify.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of substantiated patient or resident abuse.

''(iii) DIRECT PATIENT ACCESS EMPLOYEE.—The term 'direct patient access employee' means any individual who has access to a patient or resident of a skilled nursing facility through employment or through a contract with such facility and has duties that involve (or may involve) one-on-one contact with a patient or resident of the facility, as determined by the State for purposes of this paragraph. Such term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve (or may involve) one-on-one contact with a patient or resident of the facility.''.

(B) CONFORMING AMENDMENT.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following new paragraph:

''(6) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—Beginning on January 1, 2011, the State must—

''(A) have procedures in place for the conduct of screening and criminal history background checks under subparagraph (A) of subsection (b)(9), in accordance with the requirements of subparagraph (C) of such subsection;

''(B) be responsible for monitoring compliance with the procedures and requirements of such subsection;

''(C) as appropriate, provide for a provisional period of employment of a direct patient access employee under clause (ii) of subparagraph (B) of such subsection, including procedures to ensure that a skilled nursing facility provides direct on-site supervision of the employee in accordance with clause (iii) of such subparagraph;

''(D) provide an independent process by which a provisional employee or an employee may appeal or dispute the accuracy of the information obtained in a background check performed under such subsection; and

''(E) designate a single State agency as responsible for—

''(i) overseeing the coordination of any State and national criminal history background checks requested by a skilled nursing facility utilizing a search of State and Federal criminal history records, including a fingerprint check of such records;

''(ii) reviewing, using appropriate privacy and security safeguards, the results of any State or national criminal history background checks conducted regarding a prospective direct patient access employee to determine whether the employee has any conviction for a relevant crime;

''(iii) immediately reporting to the skilled nursing facility that requested the criminal history background checks the results of such review; and

''(iv) in the case of an employee with a conviction for a relevant crime that is subject to reporting under section 1128E of the Social Security Act (42 U.S.C. 1320a–7e), reporting the existence of such conviction to the database established under that section;

''(F) have a system in place for determining and levying appropriate penalties for violations of the provisions of such subsection;

''(G) have a system in place for determining which individuals are direct patient access employees for purposes of subparagraph (F)(iii) of such subsection;

''(H) as appropriate, specify offenses, including violent crimes, for purposes of subparagraph (F)(i)(II) of such subsection; and

''(I) develop 'rap back' capability such that, if a direct patient access employee of a skilled nursing facility is convicted of a crime following the initial criminal history background check conducted with respect to such employee, and the employee's fingerprints match the prints on file with the State law enforcement department, the department will immediately inform the State agency designated under subparagraph (E).''.

(2) MEDICAID PROGRAM.—

(A) IN GENERAL.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(9) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—

''(A) SCREENING AND CRIMINAL HISTORY BACKGROUND CHECKS ON APPLICANTS.—

''(i) SCREENING.—Beginning on January 1, 2011, before hiring a direct patient access employee, a nursing facility shall screen the employee for any disqualifying information in accordance with such procedures as the State shall establish through a search of—

''(I) State-based abuse and neglect registries and databases, including the abuse and neglect registries and databases of another State in the case where a prospective

employee previously resided in that State; and

''(II) criminal records and the records of any proceedings that may contain disqualifying information about applicants, such as proceedings conducted by State professional licensing and disciplinary boards and State medicaid fraud control units.

''(ii) CRIMINAL HISTORY BACKGROUND CHECKS.—As part of such screening, the nursing facility shall request that the State agency designated under subsection (e)(6)(E) oversee the coordination of a State and national criminal history background check that utilizes a search of State and Federal criminal history records and includes a fingerprint check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation.

''(iii) USE OF PROCEDURES PREVIOUSLY ESTABLISHED.—Nothing in this paragraph shall be construed as preventing a State from using procedures established for purposes of the pilot program for National and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or the nationwide expansion program under subsection (h) of such section, to satisfy the requirements of paragraph (6).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—Subject to clause (ii), a nursing facility may not knowingly employ any direct patient access employee who has any disqualifying information (as defined in subparagraph (F)(ii)).

''(ii) PROVISIONAL EMPLOYMENT.—Subject to clause (iii), the State may permit a nursing facility to provide for a provisional period of employment (not to exceed 30 days) for a direct patient access employee—

''(I) pending completion of the screening and background check required under subparagraph (A); and

''(II) in the case where the employee has appealed the results of such screening and background check, pending completion of the appeals process.

''(iii) SUPERVISION.—The facility shall maintain direct on-site supervision of the employee during such provisional period of employment.

''(C) PROCEDURES.—

''(i) IN GENERAL.—The procedures established by the State under subparagraph (A) shall be designed to accomplish the following:

''(I) Give a prospective direct patient access employee notice that the nursing facility is required to perform background checks with respect to new employees, including a fingerprint check as part of the national criminal history background check conducted under subparagraph (A)(ii) in the case of any new employee who does not have a certificate indicating that a fingerprint check has been completed and has not found any disqualifying information (as described in subclause (V))

''(II) Require, as a condition of employment, that the employee—

''(aa) provide a written statement disclosing any disqualifying information;

''(bb) provide a statement signed by the employee authorizing the facility to request a background check that includes a search of the registries and databases described in clause (i)(I) of subparagraph (A) and the records described in clause (i)(II) of such subparagraph and a criminal history background check conducted in accordance with clause (ii) of such subparagraph that includes a fingerprint check using the Integrated Automated Fingerprint System of the Federal Bureau of Investigation;

''(cc) provide the facility with a rolled set of the employee's fingerprints or submit to being fingerprinted; and

''(dd) provide any other identification information the State may require.

''(III) Require the nursing facility to check any available registries that would be likely to contain disqualifying information about a prospective employee, including the registries and databases described in subclause (I) of subparagraph (A)(i) and the records described in clause (II) of such subparagraph.

''(IV) Provide a prospective direct patient access employee the opportunity to request a copy of the results of the background check conducted with respect to such employee and to correct any errors by providing appropriate documentation to the State and the nursing facility.

''(V) Upon completion of a fingerprint check as part of the national criminal history background check conducted with respect to a direct patient access employee under subparagraph (A)(ii), provide the nursing facility and the direct patient access employee with a certificate indicating that such fingerprint check has been completed and no disqualifying information was found. Such certificate shall—

''(aa) be valid for 2 years; and

''(bb) in the case where such direct patient access employee is hired by any other nursing facility located in the State during such 2-year period, satisfy the requirement that such facility have a fingerprint check conducted as part of such national criminal history background check.

''(ii) ELIMINATION OF UNNECESSARY CHECKS.—The procedures established by the State under subparagraph (A) shall permit a nursing facility to terminate the background check at any stage at which the facility obtains disqualifying information regarding a prospective direct patient access employee.

''(iii) DEVELOPMENT OF MODEL FORM OF CERTIFICATE.—The Secretary shall develop a model form of the certificate described in clause (i)(V) that States may use to satisfy the requirements of such clause.

''(D) USE OF INFORMATION; IMMUNITY FROM LIABILITY.—

''(i) USE OF INFORMATION.—A nursing facility that obtains information about a direct patient access employee pursuant to screening or a criminal history background check shall use such information only for the purpose of determining the suitability of the employee for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant, reasonably and in good faith relies upon credible information about such applicant provided by a criminal history background check shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) PROHIBITION ON CHARGING EMPLOYEES FEES FOR CONDUCTING BACKGROUND CHECKS.—A nursing facility shall not charge a prospective direct patient access employee a fee for the screening or criminal history background check conducted under this paragraph.

''(E) PENALTIES.—

''(i) IN GENERAL.—

''(I) STATE PENALTIES.—Subject to subclause (II), a nursing facility that violates the provisions of this paragraph shall be subject to such penalties as the State determines appropriate to enforce the requirements of this paragraph. A nursing facility shall report to the Secretary on a quarterly basis any penalties imposed by the State under the preceding sentence.

''(II) EXCLUSION FROM PARTICIPATION.—In any case where the Secretary determines that a State is not sufficiently enforcing the requirements of this paragraph, the Secretary may exclude a nursing facility located within the State that violates the provisions of this paragraph from participating in the programs under this title and title XVIII (in accordance with the procedures of section 1128).

''(ii) KNOWING RETENTION OF WORKER.—In addition to any penalty under clause (i), a nursing facility that knowingly continues to employ a direct patient access employee in violation of subparagraph (A) or (B) shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in section 1128(a); and

''(II) such other types of offenses, including violent crimes, as the State may specify.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of substantiated patient or resident abuse.

''(iii) DIRECT PATIENT ACCESS EMPLOYEE.—The term 'direct patient access employee' means any individual who has access to a patient or resident of a nursing facility through employment or through a contract with such facility and has duties that involve (or may involve) one-on-one contact with a patient or resident of the facility, as determined by the State for purposes of this paragraph. Such term does not include a volunteer unless the volunteer has duties that are equivalent to the duties of a direct patient access employee and those duties involve (or may involve) one-on-one contact with a patient or resident of the facility.''.

(B) CONFORMING AMENDMENT.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF DIRECT PATIENT ACCESS EMPLOYEES.—Beginning on January 1, 2011, the State must—

''(A) have procedures in place for the conduct of screening and criminal history background checks under subparagraph (A) of subsection (b)(9), in accordance with the requirements of subparagraph (C) of such subsection;

''(B) be responsible for monitoring compliance with the procedures and requirements of such subsection;

''(C) as appropriate, provide for a provisional period of employment of a direct patient access employee under clause (ii) of subparagraph (B) of such subsection, including procedures to ensure that a nursing facility provides direct on-site supervision of the employee in accordance with clause (iii) of such subparagraph;

''(D) provide an independent process by which a provisional employee or an employee may appeal or dispute the accuracy of the information obtained in a background check performed under such subsection; and

''(E) designate a single State agency as responsible for—

''(i) overseeing the coordination of any State and national criminal history background checks requested by a nursing facility utilizing a search of State and Federal criminal history records, including a fingerprint check of such records;

''(ii) reviewing, using appropriate privacy and security safeguards, the results of any State or national criminal history background checks conducted regarding a prospective direct patient access employee to

determine whether the employee has any conviction for a relevant crime;

''(iii) immediately reporting to the nursing facility that requested the criminal history background checks the results of such review; and

''(iv) in the case of an employee with a conviction for a relevant crime that is subject to reporting under section 1128E of the Social Security Act (42 U.S.C. 1320a–7e), reporting the existence of such conviction to the database established under that section;

''(F) have a system in place for determining and levying appropriate penalties for violations of the provisions of such subsection;

''(G) have a system in place for determining which individuals are direct patient access employees for purposes of subparagraph (F)(iii) of such subsection;

''(H) as appropriate, specify offenses, including violent crimes, for purposes of subparagraph (F)(i)(II) of such subsection; and

''(I) develop 'rap back' capability such that, if a direct patient access employee of a nursing facility is convicted of a crime following the initial criminal history background check conducted with respect to such employee, and the employee's fingerprints match the prints on file with the State law enforcement department, the department will immediately inform the State agency designated under subparagraph (E).''.

(b) APPLICATION TO OTHER LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) MEDICARE.—Part E of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO LONG-TERM CARE FACILITIES AND PROVIDERS

''SEC. 1898. (a) The provisions of section 1819(b)(9) shall apply to a long-term care facility or provider (as defined in subsection (b)) in the same manner as such provisions apply to a skilled nursing facility.

''(b) LONG-TERM CARE FACILITY OR PROVIDER.—In this section, the term 'long-term care facility or provider' means the following facilities or providers which receive payment for services under this title or title XIX:

''(1) A home health agency.

''(2) A provider of hospice care.

''(3) A long-term care hospital.

''(4) A provider of personal care services.

''(5) A provider of adult day care.

''(6) A residential care provider that arranges for, or directly provides, long-term care services, including an assisted living facility that provides a level of care established by the Secretary.

''(7) An intermediate care facility for the mentally retarded (as defined in section 1905(d)).''.

(2) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (69), by striking ''and'' at the end;

(B) in paragraph (70)(B)(iv), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (70)(B)(iv) the following:

''(71) provide that the provisions of section 1919(b)(9) apply to a long-term care facility or provider (as defined in section 1898(b)) in the same manner as such provisions apply to a nursing facility.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2011.

(c) PAYMENTS.—

(1) PROCEDURES TO REIMBURSE COSTS OF NATIONAL BACKGROUND CHECK.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall establish procedures to reimburse the costs of conducting national criminal history background checks under sections 1819(b)(9), 1919(b)(9), 1898, and 1902(a)(71) of the Social Security Act, as added by subsections (a)(1), (a)(2), (b)(1), and (b)(2), respectively, through the following mechanisms, in such proportion as the Secretary determines appropriate:

(i) By providing payments to skilled nursing facilities and long-term care facilities or providers for costs incurred as are attributable to the conduct of such national criminal history background checks under such section 1819(b)(9).

(ii) By making a payment, from sums appropriated therefore, under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) to each State which has a plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), for each quarter, beginning with the quarter commencing on January 1, 2011, in an amount equal to 90 percent of the sums expended with respect to costs incurred during such quarter as are attributable to the conduct of such national criminal history background checks under such section 1919(b)(9).

(B) FUNDING FOR PAYMENTS FOR COSTS INCURRED UNDER MEDICARE PROGRAM.—The Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of such funds as are necessary to make payments under subparagraph (A)(i) for fiscal year 2011 and each fiscal year thereafter.

(C) DETERMINATION OF APPROPRIATE PROPORTION.—In establishing the procedures under subparagraph (A), the Secretary of Health and Human Services shall determine what proportion of payments using the mechanisms described in such subparagraph would result in an equitable allocation of the costs of such reimbursement between the Medicare program under title XVIII of the Social Security Act and the Medicaid program under title XIX of such Act.

(2) ENSURING NO DUPLICATIVE PAYMENTS.—The procedures established under paragraph (1)(A) shall ensure that no duplicative payments are made for the costs of conducting such national criminal history background checks, including any duplication of payments made under the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers under section 307 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2007, including the nationwide expansion program under subsection (h) of such section, as added by section 3.

(3) SUBMISSION OF COSTS INCURRED BY FACILITIES IN PERFORMING CHECKS.—

(A) IN GENERAL.—The procedures established under paragraph (1)(A) shall provide a process, such as through submission of a bill, by which a skilled nursing facility, a nursing facility, and a long-term care facility or provider may submit information regarding the costs incurred by such facility in conducting national criminal history background checks under sections 1819(b)(9), 1919(b)(9), 1898, and 1902(a)(71) of the Social Security Act, as added by subsections (a)(1), (a)(2), (b)(1), and (b)(2), respectively.

(B) MODEL FORMS.—The Secretary of Health and Human Services shall develop model forms that may be used by a skilled nursing facility, a nursing facility, and a long-term care facility or provider to submit a claim for reimbursement of the costs described in paragraph (1)(A) that contains the information described in subparagraph (A).

(4) REGULATIONS.—Not later than 3 years after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to carry out this subsection.

SEC. 5. BACKGROUND CHECKS PROVIDED BY THE FEDERAL BUREAU OF INVESTIGATION.

(a) DEVELOPMENT OF RAP BACK CAPABILITIES.—

(1) IN GENERAL.—Not later than January 1, 2011, the Director of the Federal Bureau of Investigation (in this section referred to as the ''Director'') shall ensure that the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation has the capacity to store and retrieve fingerprints from its database.

(2) NOTIFICATION OF CONVICTION OF DIRECT PATIENT ACCESS EMPLOYEE.—In the case where a direct patient access employee (as defined in subparagraph (F)(iii) of sections 1819(b)(9) and 1919(b)(9) of the Social Security Act, as added by section 4(a)) is convicted of a crime following the initial national criminal history background check conducted with respect to such employee under such sections 1819(b)(9) and 1919(b)(9), and the employee's fingerprint matches the prints on file with the Federal Bureau of Investigation, the Bureau shall inform the State law enforcement department, in order for the State to inform the skilled nursing facility, nursing facility, or long-term care facility or provider of such conviction in accordance with the requirements of sections 1819(e)(6)(I) and 1919(e)(8)(I) of the Social Security Act, as added by section 4(a).

(b) REASONABLE FEE FOR NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS CONDUCTED ON EMPLOYEES OF LONG-TERM CARE FACILITIES.—The Director may charge a reasonable fee, in consultation with the Secretary of Health and Human Services, for a national criminal history background check using the Integrated Automated Fingerprint Identification System of the Federal Bureau of Investigation that is conducted under section 1819(b)(9), 1919(b)(9), 1898, or 1902(a)(71) of the Social Security Act, as added by subsections (a)(1), (a)(2), (b)(1), and (b)(2) of section 4, respectively, that represents the actual cost of conducting such national criminal history background check.

THE NURSING HOME REFORM ACT TURNS TWENTY: WHAT HAS BEEN ACCOMPLISHED, AND WHAT CHALLENGES REMAIN?

(By Orlene Christie)

Thank you, Senators Kohl and Smith and the Senate Special Committee on Aging for this opportunity to testify before you today on Michigan's Workforce Background Check Program.

My name is Orlene Christie, and I am the Director of the Legislative and Statutory Compliance Office in the Michigan Department of Community Health. I oversee the Workforce Background Check Program.

In 2004, Governor Jennifer Granholm and the Michigan Department of Community Health (MDCH) Director Janet Olszewski proposed strong requirements to assure the health and safety of Michigan citizens in long-term care facilities. This project is a priority for the Governor and the Department Director. Working cooperatively with the Michigan Legislature, the Office of Attorney General, and the Centers for Medicaid and Medicare Services (CMS), Michigan successfully implemented the Workforce Background Check Program. Through a competitive process, Michigan secured from CMS a $3.5 million grant to create an effective statewide background check system.

Through the passage of Public Acts 27 and 28 of 2006, Michigan laws were enhanced and

improved to require all applicants for employment that would have direct access to our most vulnerable populations—the elderly and disabled—to undergo a background check. Additionally, all employees who were hired before the effective date of April 1, 2006, would need to be fingerprinted within 24 months of the enactment of the laws.

Before the new laws were passed, only some employees in nursing homes, county medical care facilities, homes for the aged, and adult foster care facilities required some type of background check. Prior to 2006, the background checks were less comprehensive and primarily included a ''name-based'' check of the Internet Criminal History Tool (ICHAT). The FBI fingerprint check was only required for employees residing in Michigan for less than three (3) years. The previous law also did not require all employees with direct access to residents in long-term care facilities to undergo a background check. Further, for those persons who were subject to a background check, there was no systematic process across the multiple health and human service agencies to conduct the checks, to disseminate findings, or to follow through on results.

With Michigan's expansion of the laws, all individuals with direct access to residents' personal information, financial information, medical records, treatment information or any other identifying information are now also required to be part of Michigan's Workforce Background Check Program in addition to individuals providing direct services to patients. The scope of the checks was also enhanced to include hospice, psychiatric hospitals, and hospitals with swing beds, home health, and intermediate care facility/mental retardation (ICFs/MR).

HOW OUR PROGRAM/SYSTEM WORKS

Michigan created a Web based application that integrates the databases for the available registries and provides a convenient and effective mechanism for conducting criminal history checks on prospective employees, current employees, independent contractors and those granted clinical privileges in facilities and agencies covered under the new laws.

Further, the online workforce background check system is designed to eliminate unnecessary fingerprinting through a screening process.

As of April 1, 2006, 98,625 applicants had been screened through Michigan's Workforce Background Check Program. Of the 61,474 applicants that prompted the full background check, 3,262 were deemed unemployable and excluded from potential hiring pools due to information found on state lists such as ICHAT, (U.S. HHS Exclusion List) OIG exclusion list, the nurse aid registry, the sex offender registry, the offender tracking information system, and the FBI list.

The applicants that have been excluded from employment are not the types of people Michigan could ever allow to work with our most vulnerable citizens. We have prevented hardened criminals that otherwise would have access to our vulnerable population from employment.

As Michigan's demographic profile mirrors that of the nation, the offenses that disqualify individuals from employment in long-term care under the new laws are expected to also be similar across the United States.

Of the criminal history reports examined, fraudulent activity and controlled substance violations account for 25 percent of all disqualifying crimes. Fraudulent activity includes such things as embezzlement, identity theft, and credit card fraud. This is particularly alarming giving the projected increase in financial abuse of the elderly.

Accessible to long-term care providers through a secure ID and password, a provider is easily able to log onto the workforce background check online system to conduct a check of a potential employee. If no matches are found on the registries, the applicant goes to an independent vendor for a digital live scan of their fingerprints. The prints are then submitted to the Michigan State Police and then to the FBI. If there is a ''hit'' on the state or national database search, a notice is sent to either the Michigan Department of Community Health or the Michigan Department of Human Services for staff analysts to examine the applicant's criminal history.

Michigan has also implemented a ''rap back'' system where the Michigan State Police notifies one of the two state agencies of a subsequent arrest and in turn the agency notifies the employer. This way we can ensure that in real time, as soon as the criminal history record is updated (arrest, charge or conviction), the department and employer are also notified.

CONCLUSION

As a result of Michigan's Workforce Background Check Program, the health and safety of Michigan's vulnerable population is protected by ensuring that adequate safeguards are in place for background screenings of direct care service workers.

While the vast majority of health care workers are outstanding individuals who do a wonderful job caring for people in need, we are extremely pleased that Michigan's Workforce Background Check Program has stopped more than 3,000 people with criminal histories from possibly preying on our most vulnerable citizens. By building an appeals process, we have also developed a fair system for reviewing inaccurate criminal records or convictions.

As you can see, Michigan has been leading the way in the area of employee background checks. As I indicated, this project has been a priority of Governor Jennifer Granholm and Michigan Department of Community Health Director Janet Olszewski. We appreciate this opportunity to share this information with you today and look forward to our continued cooperation on this vital topic.

Thank you.

NCCNHR,
Washington, DC, May 16, 2007.

Hon. HERB KOHL,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: NCCNHR, The National Consumer Voice for Quality Long-Term Care, strongly endorses and supports the Patient Safety and Abuse Prevention Act of 2007.

The Patient Safety and Abuse Prevention Act would close critical loopholes in the protection of nursing home residents and other long-term care recipients by requiring national criminal background checks on all workers who have direct access to residents. Today, in most states, long-term care providers are not required to conduct interstate criminal background checks on any workers, and where background checks are carried out, they are usually confined to nursing assistants. Enactment of your legislation will ensure that both licensed and unlicensed workers with histories of criminal abuse do not move from job to job and state to state while continuing to injure and exploit their vulnerable charges.

NCCNHR and its members across the United States wish to thank you for pursuing this important legislation, and we look forward to working with you to ensure its passage.

Sincerely,

ALICE H. HEDT,
Executive Director.
JANET C. WELLS,
Director of Public Policy.

AARP,
Washington, DC, June 6, 2007.

Hon. HERBERT H. KOHL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KOHL: AARP is very pleased to support the bipartisan Patient Safety and Abuse Prevention Act of 2007 that you are sponsoring with Senator Domenici. We truly appreciate your leadership and applaud your advocacy for national criminal background checks for long-term care employees.

Individuals with criminal convictions or histories of abuse can pose a significant risk to persons receiving long-term care. A system of national criminal background checks is especially critical, given the mobility of today's workers, the turnover in the long-term care workforce, and the fact that it is not unusual for individuals to work in multiple states.

Your bill takes important steps to protect individuals in both home-and community-based and institutional settings by establishing a system of screening and national criminal history background checks, including an FBI fingerprint check. These background checks would apply to employees of long-term care providers receiving Medicare or Medicaid funds whose duties involve or may involve one-on-one contact with individuals receiving long-term care. Penalties would apply if providers knowingly hire or continue to employ an individual with a conviction for a relevant crime or a finding of substantiated abuse of an individual receiving long-term care.

This legislation builds on the framework of the criminal background check pilot program included in the Medicare Modernization Act and gives states resources to put in place the infrastructure for criminal background checks. This bill includes many important provisions, and we want to continue working with you to ensure that long-term care employers provide adequate direct supervision of employees during provisional employment or an appeal. In addition, we want to improve the balance in accountability between states and providers in the legislation. We appreciate your willingness to work with AARP on this bill.

This bill would make significant strides in protecting individuals across the country receiving long-term care services and we look forward to working with you and your colleagues on both sides of the aisle to advance this important initiative. If there are any further questions, please feel free to call me or have your staff contact Rhonda Richards of our Federal Affairs staff.

Sincerely,

DAVID P. SLOANE,
Senior Managing Director, Government Relations and Advocacy.

STATE OF WISCONSIN,
BOARD ON AGING AND LONG TERM CARE,
Madison, WI, May 16, 2007.

Hon. HERB KOHL,
Chairman, Special Committee on Aging,
Washington, DC.

DEAR SENATOR KOHL: On behalf of the Wisconsin Board on Aging and Long Term Care, I am pleased to express our support for the Patient Safety and Abuse Prevention Act of 2007.

The Patient Safety and Abuse Prevention Act would offer substantially increased protection for consumers of long-term care by requiring a national criminal background check on all caregivers who come into direct contact with residents. Today, long-term

care providers often are not required to do interstate criminal background checks on workers. Where background checks are done, they are often limited to nursing assistants. This overlooks the possibility that licensed professional staff and ancillary workers such as dietary or housekeeping staff who may have criminal histories could be employed to deliver resident care. It is imperative that Congress ensure that workers with histories of criminal abuse cannot move from state to state with impunity while continuing to work in a ''target-rich environment.''

As well, the bill's provisions addressing the need for assistance by CMS in funding the costs of obtaining the interstate background checks and the requirement that states notify employers of subsequent offenses by previously cleared workers are welcome additions to the system. These provisions will tighten the net and make it even more difficult for workers with backgrounds of criminal misappropriation of property, abuse, and neglect to find a place providing care to our vulnerable elders.

As the Executive Director of the Wisconsin Board on Aging and Long Term Care, I thank you for pursuing this important legislation, and I look forward to working with you to ensure its passage.

Sincerely,

GEORGE F. POTARACKE,
Executive Director.

THE ELDER JUSTICE COALITION,
Washington, DC, June 7, 2007.

Hon. HERBERT H. KOHL,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN KOHL: On behalf of the 542-member Elder Justice Coalition (EJC), I applaud you on the planned introduction of the Patient Safety and Abuse Prevention Act of 2007. The Elder Justice Coalition has long supported your efforts to secure passage of legislation to ensure that employees of long-term care facilities or providers do not have criminal records or other histories of abusive conduct that could lead to endangering facility residents and others receiving long-term care.

Since the Elder Justice Act, as introduced in the 110th Congress (S. 1070), does not include background check provisions, we are pleased that you will be introducing this important bill. We commend your leadership and steadfast commitment to protecting individuals who need long-term care from abuse, neglect, and exploitation, and for your leadership on other issues concerning the nation's older population.

Thank you also for being an original cosponsor of the Elder Justice Act. Please let us know how we can be supportive of your continued work for elder justice.

Sincerely,

ROBERT B. BLANCATO,
National Coordinator.

By Mr. INOUYE (for himself and Mr. STEVENS):

S. 1578. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and or other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. INOUYE. Mr. President, the United States has more than 95,000 miles of coastline, and its ocean territory is larger than the combined land area of all 50 States. We rely on our oceans for such diverse benefits as recreation, food, transportation, and energy. All Americans, regardless of whether they reside in the Nation's heartland or along the coast, are impacted by the ocean.

That is why I rise today, joined by Vice Chairman TED STEVENS and several other Commerce Committee colleagues, in introducing a group of bills to provide for sustainable use and protection of our ocean and coastal areas.

Our oceans and coasts provide us with tremendous economic and recreational opportunities. It is critical that use of ocean resources and coasts is sustainable and that we address the many existing and emerging risks to their well-being. As the U.S. Commission on Ocean Policy has thoroughly documented, our oceans and coasts are faced with many threats, including those posed by pollution, increasing population growth and coastal development, overfishing, climate change, and ocean acidification. All of the bills my colleagues and I are introducing today implement recommendations of the Ocean Commission.

First, the Coral Reef Conservation Amendments Act of 2007 would reauthorize the Coral Reef Conservation Act of 2000 and provide critical authorities for preserving, restoring, and managing in a sustainable manner our coral reef ecosystems. Coral reefs are one of the oldest and most diverse ecosystems on the planet, and they provide environmental and economic benefits such as shoreline protection as well as critical habitat for approximately half of all federally-managed fisheries.

Second, the Hydrographic Services Improvement Act Amendments of 2007 would reauthorize and strengthen authorities to survey and analyze the physical condition of our Nation's coasts and waterways, along with elements that impact safe navigation. Conducting surveys of our Nation's coasts and waterways is a core mission for the National Oceanic and Atmospheric Administration and provides valuable services to the maritime industry and to Federal agencies responsible for maritime transportation, homeland security, and emergency response.

Third, the Ballast Water Management Act of 2007 would amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 and establish ballast water management requirements to mitigate the introduction and spread of invasive species from ships. The bill would also seek to prevent the introduction of invasive species from ship equipment or hulls. Invasive species brought into the United States from other countries have caused billions of dollars in damage to the U.S. economy.

In addition to the initiatives I have highlighted, a number of other ocean-related bills are being introduced today by colleagues on the Commerce Committee. These include a bill by Senator LAUTENBERG to establish a much-needed Federal program to conduct research, monitoring, and education to examine the processes and consequences of ocean acidification, and a bill by Senator SNOWE to reauthorize the Coastal Zone Management Act.

This week we celebrate Capitol Hill Ocean Week. Many organizations and agencies are using this opportunity to educate and raise public awareness about the impact of our oceans on our society and economy. The bills that my colleagues and I are introducing today address many of those needs being highlighted. I urge my Senate colleagues to support the Commerce Committee's bipartisan efforts to improve the health and management of our oceans and coasts.

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

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

S. 1578

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 ''Ballast Water Management Act of 2007''.

SEC. 2. FINDINGS.

Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701(a)) is amended—

(1) by redesignating paragraphs (14) and (15) as paragraphs (15) and (16);

(2) by inserting after paragraph (13) the following:

''(14) aquatic nuisance species may be introduced by other vessel conduits, including the hulls of ships;

(3) by striking ''inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and'' in paragraph (15), as redesignated, and inserting ''other areas of the United States, including coastal areas, inland lakes, and rivers by recreational boaters, commercial traffic, and a variety of other pathways;'';

(4) by inserting ''nongovernmental entities, institutions of higher education, and the private sector,'' after ''governments,'' in paragraph (16), as redesignated;

(5) by striking ''technologies.'' in paragraph (16), as redesignated, and inserting ''technologies;''; and

(6) adding at the end the following:

''(17) in 2004, the International Maritime Organization agreed to a Convention, which the United States played an active role in negotiating, to prevent, minimize, and ultimately eliminate the transfer of aquatic nuisance species through the control and management of ballast water and sediments;

''(18) the International Maritime Organization agreement specifically recognizes that countries can take more stringent measures than those of the Convention with respect to the control and management of ships' ballast water and sediment; and

''(19) due to the interstate nature of maritime transportation and the ways by which aquatic nuisance species may be transferred by vessels, a comprehensive and uniform national approach for addressing vessel-borne aquatic nuisance species is needed to address this issue effectively.''.

SEC. 3. MANAGEMENT OF VESSEL-BORNE AQUATIC NUISANCE SPECIES.

(a) IN GENERAL.—Section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711) is amended to read as follows:

"SEC. 1101. MANAGEMENT OF VESSEL-BORNE AQUATIC NUISANCE SPECIES.

''(a) STATEMENT OF PURPOSE; VESSELS TO WHICH THIS SECTION APPLIES.—

''(1) PURPOSES.—The purposes of this section are—

''(A) to provide an effective, comprehensive, and uniform national approach for addressing the introduction and spread of aquatic nuisance species from ballast water and other ship-borne vectors;

''(B) to require, as part of that approach, mandatory treatment technology, with the ultimate goal of achieving zero discharge of aquatic nuisance species;

''(C) to create incentives for the development of ballast water treatment technologies;

''(D) to implement the International Convention for the Control and Management of Ships' Ballast Water and Sediments, adopted by the International Maritime Organization in 2004; and

''(E) to establish a management approach for other ship-borne vectors of aquatic nuisance species.

''(2) IN GENERAL.—Except as provided in paragraphs (3), (4), (5), and (6) this section applies to a vessel that is designed, constructed, or adapted to carry ballast water; and

''(A) is a vessel of United States registry or nationality, or operated under the authority of the United States, wherever located; or

''(B) is a foreign vessel that—

''(i) is en route to a United States port or place; or

''(ii) has departed from a United States port or place and is within waters subject to the jurisdiction of the United States.

''(3) PERMANENT BALLAST WATER VESSELS.—Except as provided in paragraph (6), this section does not apply to a vessel that carries all of its permanent ballast water in sealed tanks and is not subject to discharge.

''(4) ARMED FORCES VESSELS.—

''(A) EXEMPTION.—Except as provided in subparagraph (B) and paragraph (6), this section does not apply to a vessel of the Armed Forces.

''(B) BALLAST WATER MANAGEMENT PROGRAM.—The Secretary and the Secretary of Defense, after consultation with each other and with the Under Secretary of Commerce for Oceans and Atmosphere, the Administrator of the Environmental Protection Agency, and other appropriate Federal agencies as determined by the Secretary, shall implement a ballast water management program, including the promulgation of standards for ballast water exchange and treatment and for sediment management, for vessels of the Armed Forces under their respective jurisdictions designed, constructed, or adapted to carry ballast water that is—

''(i) consistent with the requirements of this section, including the deadlines; and

''(ii) at least as stringent as the requirements promulgated for such vessels under section 312 of the Clean Water Act (33 U.S.C. 1322).

''(5) SPECIAL RULE FOR SMALL VESSELS.—In applying this section to vessels less than 50 meters in length that have a maximum ballast water capacity of 8 cubic meters, the Secretary may promulgate alternative measures for managing ballast water in a manner that is consistent with the purposes of this Act.

''(6) OTHER SOURCES OF VESSEL-BORNE AQUATIC NUISANCE SPECIES.—Measures undertaken by the Secretary under subsection (s) shall apply to all vessels (as defined in section 3 of title 1, United States Code).

''(b) UPTAKE AND DISCHARGE OF BALLAST WATER OR SEDIMENT.—

''(1) PROHIBITION.—The operator of a vessel to which this section applies may not conduct the uptake or discharge of ballast water or sediment except as provided in this section.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to the uptake or discharge of ballast water or sediment in the following circumstances:

''(A) The uptake or discharge is solely for the purpose of—

''(i) ensuring the safety of the vessel in an emergency situation; or

''(ii) saving a life at sea.

''(B) The uptake or discharge is accidental and the result of damage to the vessel or its equipment and—

''(i) all reasonable precautions to prevent or minimize ballast water and sediment discharge have been taken before and after the damage occurs, the discovery of the damage, and the discharge; and

''(ii) the owner or officer in charge of the vessel did not willfully or recklessly cause the damage.

''(C) The uptake or discharge is solely for the purpose of avoiding or minimizing the discharge from the vessel of pollution that would otherwise violate applicable Federal or State law.

''(D) The uptake or discharge of ballast water and sediment occurs at the same location where the whole of that ballast water and that sediment originated and there is no mixing with ballast water and sediment from another area that has not been managed in accordance with the requirements of this section.

''(c) VESSEL BALLAST WATER MANAGEMENT PLAN.—

''(1) IN GENERAL.—The operator of a vessel to which this section applies shall conduct all ballast water management operations of that vessel in accordance with a ballast water management plan designed to minimize the discharge of aquatic nuisance species that—

''(A) meets the requirements prescribed by the Secretary by regulation; and

''(B) is approved by the Secretary.

''(2) APPROVAL CRITERIA.—

''(A) IN GENERAL.—The Secretary may not approve a ballast water management plan unless the Secretary determines that the plan—

''(i) describes in detail the actions to be taken to implement the ballast water management requirements established under this section;

''(ii) describes in detail the procedures to be used for disposal of sediment at sea and on shore in accordance with the requirements of this section;

''(iii) describes in detail safety procedures for the vessel and crew associated with ballast water management;

''(iv) designates the officer on board the vessel in charge of ensuring that the plan is properly implemented;

''(v) contains the reporting requirements for vessels established under this section and a copy of each form necessary to meet those requirements;

''(vi) incorporates regulatory requirements, guidance, and best practices developed under subsection (s) for other vessel pathways by which aquatic nuisance species are transported; and

''(vii) meets all other requirements prescribed by the Secretary.

''(B) FOREIGN VESSELS.—The Secretary may approve a ballast water management plan for a foreign vessel (as defined in section 2101(12) of title 46, United States Code) on the basis of a certificate of compliance with the criteria described in subparagraph (A) issued by the vessel's country of registration in accordance with regulations promulgated by the Secretary.

''(3) COPY OF PLAN ON BOARD VESSEL.—The owner or operator of a vessel to which this section applies shall—

''(A) maintain a copy of the vessel's ballast water management plan on board at all times; and

''(B) keep the plan readily available for examination by the Secretary at all reasonable times.

''(d) VESSEL BALLAST WATER RECORD BOOK.—

''(1) IN GENERAL.—The owner or operator of a vessel to which this section applies shall maintain a ballast water record book in English on board the vessel in which—

''(A) each operation involving ballast water or sediment discharge is fully recorded without delay, in accordance with regulations promulgated by the Secretary;

''(B) each such operation is described in detail, including the location and circumstances of, and the reason for, the operation; and

''(C) the exact nature and circumstances of any situation under which any operation was conducted under an exception set forth in subsection (b)(2) or (e)(3) is described.

''(2) AVAILABILITY.—The ballast water record book—

''(A) shall be kept readily available for examination by the Secretary at all reasonable times; and

''(B) notwithstanding paragraph (1), may be kept on the towing vessel in the case of an unmanned vessel under tow.

''(3) RETENTION PERIOD.—The ballast water record book shall be retained—

''(A) on board the vessel for a period of 3 years after the date on which the last entry in the book is made; and

''(B) under the control of the vessel's owner for an additional period of 3 years.

''(4) REGULATIONS.—In the regulations prescribed under this section, the Secretary shall require, at a minimum, that—

''(A) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded;

''(B) each completed page in the ballast water record book be signed and dated by the master of the vessel; and

''(C) the owner or operator of the vessel transmit such information to the Secretary regarding the ballast operations of the vessel as the Secretary may require.

''(5) ALTERNATIVE MEANS OF RECORDKEEPING.—The Secretary shall provide by regulation for alternative methods of recordkeeping, including electronic recordkeeping, to comply with the requirements of this subsection. Any electronic recordkeeping method authorized by the Secretary shall support the inspection and enforcement provisions of this Act and shall comply with applicable standards of the National Institute of Standards and Technology and the Office of Management and Budget governing reliability, integrity, identity authentication, and nonrepudiation of stored electronic data.

''(e) BALLAST WATER EXCHANGE REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) REQUIREMENT.—Until a vessel is required to conduct ballast water treatment in accordance with subsection (f) of this section, the operator of a vessel to which this section applies may not discharge ballast water in waters subject to the jurisdiction of the United States except after—

''(i) conducting ballast water exchange as required by this subsection, in accordance with regulations prescribed by the Secretary, in a manner that results in an efficiency of at least 95 percent volumetric exchange of the ballast water for each ballast water tank;

''(ii) using ballast water treatment technology that meets the performance standards of subsection (f); or

''(iii) using environmentally-sound alternative ballast water treatment technology, if the Secretary determines that such treatment technology is at least as effective as the ballast water exchange required by clause (i) in preventing and controlling the introduction of aquatic nuisance species.

''(B) TECHNOLOGY EFFICACY.—For purposes of this paragraph, a ballast water treatment technology shall be considered to be at least as effective as the ballast water exchange required by clause (i) in preventing and controlling the introduction of aquatic nuisance species if preliminary experiments prior to installation of the technology aboard the vessel demonstrate that the technology removed at least 98 percent of organisms larger than 50 microns.

''(2) GUIDANCE; 5-YEAR USAGE.—

''(A) GUIDANCE.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, after public notice and opportunity for comment, the Secretary shall develop guidance on technology that may be used under paragraph (1)(A)(iii).

''(B) 5-YEAR USAGE.—The Secretary shall allow a vessel using environmentally-sound alternative ballast water treatment technology under paragraph (1)(A)(iii) to continue to use that technology for 5 years after the date on which the environmentally-sound alternative ballast water treatment technology was first placed in service on the vessel, or the date on which treatment requirements under subsection (f) become applicable, whichever is later.

''(3) EXCHANGE AREAS.—

''(A) VESSELS OUTSIDE THE UNITED STATES EEZ.—The operator of a vessel en route to a United States port or place from a port or place outside the United States exclusive economic zone shall conduct ballast water exchange—

''(i) before arriving at a United States port or place;

''(ii) at least 200 nautical miles from the nearest point of land; and

''(iii) in water at least 200 meters in depth.

''(B) COASTAL VOYAGES.—In lieu of using an exchange zone described in subparagraph (A)(ii) or (iii), the operator of a vessel originating from a port or place within waters subject to the jurisdiction of the United States, or from a port within 200 nautical miles of the United States in Canada, Mexico, or other ports designated by the Secretary for purposes of this section, and which does not voyage into waters described in subparagraph (A)(ii) or (iii), shall conduct ballast water exchange—

''(i) at least 50 nautical miles from the nearest point of land; and

''(ii) in water at least 200 meters in depth.

''(4) SAFETY OR STABILITY EXCEPTION.—

''(A) SECRETARIAL DETERMINATION.—Paragraph (3) does not apply to the discharge of ballast water if the Secretary determines that compliance with that paragraph would threaten the safety or stability of the vessel, its crew, or its passengers because of the design or operating characteristics of the vessel.

''(B) MASTER OF THE VESSEL DETERMINATION.—Paragraph (3) does not apply to the discharge of ballast water if the master of a vessel determines that compliance with that paragraph would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, equipment failure, or any other relevant condition.

''(C) NOTIFICATION REQUIRED.—Whenever the master of a vessel is unable to comply with the requirements of paragraph (3) because of a determination made under subparagraph (B), the master of the vessel shall—

''(i) notify the Secretary as soon as practicable thereafter but no later than 24 hours after making that determination and shall ensure that the determination, the reasons for the determination, and the notice are recorded in the vessel's ballast water record book; and

''(ii) undertake ballast water exchange—

''(I) in an alternative area that may be designated by the Secretary, after consultation with the Undersecretary, and other appropriate Federal agencies as determined by the Secretary, and representatives of States the waters of which may be affected by the discharge of ballast water; or

''(II) undertake discharge of ballast water in accordance with paragraph (6) if safety or stability concerns prevent undertaking ballast water exchange in the alternative area.

''(D) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge under the provisions of this paragraph, the Secretary shall review the circumstances to determine whether the discharge met the requirements of this paragraph. The review under this clause shall be in addition to any other enforcement authority of the Secretary.

''(5) DISCHARGE UNDER WAIVER.—

''(A) SUBSTANTIAL BUSINESS HARDSHIP WAIVER.—If, because of the short length of a voyage, the operator of a vessel is unable to discharge ballast water in accordance with the requirements of paragraph (3)(B) without substantial business hardship, as determined under regulations prescribed by the Secretary, the operator shall request a waiver from the Secretary and discharge the ballast water in accordance with paragraph (6). A request for a waiver under this subparagraph shall be submitted to the Secretary at such time and in such form and manner as the Secretary may require.

''(B) SUBSTANTIAL BUSINESS HARDSHIP.—For purposes of subparagraph (A), the factors taken into account in determining substantial business hardship shall include whether—

''(i) compliance with the requirements of paragraph (3)(B) would require a sufficiently great change in routing or scheduling of service as to compromise the economic or commercial viability of the trade or business in which the vessel is operated; or

''(ii) it is reasonable to expect that the trade or business or service provided will be continued only if a waiver is granted under subparagraph (A).

''(6) PERMISSABLE DISCHARGE.—

''(A) IN GENERAL.—The discharge of unexchanged ballast water shall be considered to be carried out in accordance with this paragraph if it is—

''(i) in an area designated for that purpose by the Secretary, after consultation with the Undersecretary and other appropriate Federal agencies as determined by the Secretary and representatives of any State that may be affected by discharge of ballast water in that area; or

''(ii) into a reception facility described in subsection (f)(2).

''(B) LIMITATION ON VOLUME.—The volume of any ballast water discharged under the provisions of this paragraph may not exceed the volume necessary to ensure the safe operation of the vessel.

''(7) PARTIAL COMPLIANCE.—The operator of a vessel that is unable to comply fully with the requirements of paragraph (3)—

''(A) shall nonetheless conduct ballast water exchange to the maximum extent feasible in compliance with those paragraphs; and

''(B) may conduct a partial ballast water exchange under this paragraph only to the extent that the ballast water in an individual ballast tank can be completely exchanged in accordance with the provisions of paragraph (1)(A).

''(8) CERTAIN GEOGRAPHICALLY LIMITED ROUTES.—Notwithstanding paragraph (3)(B) of this subsection, the operator of a vessel is not required to comply with the requirements of this subsection—

''(A) if the vessel operates exclusively—

''(i) within Lake Superior, Lake Michigan, Lake Huron, and Lake Erie and the connecting channels; or

''(ii) between or among the main group of the Hawaiian Islands; or

''(B) if the vessel operates exclusively within any area with respect to which the Secretary has determined, after consultation with the Undersecretary, the Administrator, and representatives of States the waters of which would be affected by the discharge of ballast water, that the risk of introducing aquatic nuisance species through ballast water discharge in the areas in which the vessel operates is insignificant.

''(9) MARINE SANCTUARIES AND OTHER PROHIBITED AREAS.—A vessel may not conduct ballast water exchange or discharge unexchanged ballast water under this subsection within a marine sanctuary designated under title III of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or in any other waters designated by the Secretary after consultation with the Undersecretary and the Administrator.

''(10) REGULATIONS DEADLINE.—The Secretary shall issue a final rule for regulations required by this subsection within 1 year after the date of enactment of the Ballast Water Management Act of 2007.

''(11) VESSELS OPERATING IN THE GREAT LAKES.—

''(A) REGULATIONS.—Until such time as regulations are promulgated to implement the amendments made by the Ballast Water Management Act of 2007, regulations promulgated to carry out this Act shall remain in effect until revised or replaced pursuant to the Ballast Water Management Act of 2007.

''(B) RELATIONSHIP TO OTHER PROGRAMS.—On promulgation of regulations required under this Act to implement a national mandatory ballast management program that is at least as comprehensive as the Great Lakes program (as determined by the Secretary, in consultation with the Governors of Great Lakes States)—

''(i) the program regulating vessels and ballast water in Great Lakes under this section shall terminate; and

''(ii) the national program shall apply to such vessels and ballast water.

''(12) VESSELS WITH NO BALLAST ON BOARD.—Not later than 180 days after the date of enactment of the Ballast Water Management Act of 2007, the Secretary shall promulgate regulations to minimize the discharge of invasive species from ships entering a United States port or place from outside the United States exclusive economic zone that claim no ballast on board, or that claim to be carrying only unpumpable quantities of ballast, including, at a minimum, a requirement that—

''(i) such a ship shall conduct saltwater flushing of ballast water tanks—

''(I) outside the exclusive economic zone; or

''(II) at a designated alternative exchange site; and

''(ii) before being allowed entry into the Great Lakes beyond the St. Lawrence Seaway, the master of such a ship shall certify that the ship has complied with each applicable requirement under this subsection.

''(f) BALLAST WATER TREATMENT REQUIREMENTS.—

''(1) PERFORMANCE STANDARDS.—A vessel to which this section applies shall conduct ballast water treatment in accordance with the requirements of this subsection before discharging ballast water so that the ballast water discharged will contain—

''(A) less than 1 living organism per 10 cubic meters that is 50 or more micrometers in minimum dimension;

''(B) less than 1 living organism per 10 milliliters that is less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension;

''(C) concentrations of indicator microbes that are less than—

''(i) 1 colony-forming unit of toxicogenic *Vibrio cholera* (serotypes O1 and O139) per 100 milliliters, or less than 1 colony-forming unit of that microbe per gram of wet weight of zoological samples;

''(ii) 126 colony-forming units of *escherichia coli* per 100 milliliters; and

''(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters; and

''(D) concentrations of such additional indicator microbes as may be specified in regulations promulgated by the Administrator, after consultation with the Secretary and other appropriate Federal agencies as determined by the Secretary, that are less than the amount specified in those regulations.

''(2) RECEPTION FACILITY EXCEPTION.—

''(A) IN GENERAL.—Paragraph (1) does not apply to a vessel that discharges ballast water into a facility for the reception of ballast water that meets standards prescribed by the Administrator.

''(B) PROMULGATION OF STANDARDS.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, the Administrator, in consultation with the Secretary other appropriate Federal agencies as determined by the Administrator, shall promulgate standards for—

''(i) the reception of ballast water from vessels into reception facilities; and

''(ii) the disposal or treatment of such ballast water in a way that does not impair or damage the environment, human health, property, or resources.

''(3) IMPLEMENTATION SCHEDULE.—Paragraph (1) applies to vessels in accordance with the following schedule:

''(A) FIRST PHASE.—Beginning January 1, 2011, for vessels constructed on or after that date with a ballast water capacity of less than 5,000 cubic meters.

''(B) SECOND PHASE.—Beginning January 1, 2013, for vessels constructed on or after that date with a ballast water capacity of 5,000 cubic meters or more.

''(C) THIRD PHASE.—Beginning January 1, 2013, for vessels constructed before January 1, 2011, with a ballast water capacity of 1,500 cubic meters or more but not more than 5,000 cubic meters.

''(D) FOURTH PHASE.—Beginning January 1, 2015, for vessels constructed—

''(i) before January 1, 2011, with a ballast water capacity of less than 1,500 cubic meters or 5,000 cubic meters or more; or

''(ii) on or after January 1, 2011, and before January 1, 2013, with a ballast water capacity of 5,000 cubic meters or more.

''(4) TREATMENT SYSTEM APPROVAL REQUIRED.—The operator of a vessel may not use a ballast water treatment system to comply with the requirements of this subsection unless the system is approved by the Secretary, in consultation with the Administrator. The Secretary shall promulgate regulations establishing a process for such approval, after consultation with the Administrator and other appropriate Federal agencies as determined by the Secretary, within 1 year after the date of enactment of the Ballast Water Management Act of 2007.

''(5) FEASIBILITY REVIEW.—

''(A) IN GENERAL.—Not less than 2 years before the date on which paragraph (1) applies to vessels under each subparagraph of paragraph (3), or as that date may be extended under this paragraph, the Secretary, in consultation with the Administrator, shall complete a review to determine whether appropriate technologies are available to achieve the standards set forth in paragraph (1) for the vessels to which they apply under the schedule set forth in paragraph (3). In reviewing the technologies the Secretary, after consultation with the Administrator and other appropriate Federal agencies as determined by the Secretary, shall consider—

''(i) the effectiveness of a technology in achieving the standards;

''(ii) feasibility in terms of compatibility with ship design and operations;

''(iii) safety considerations;

''(iv) whether a technology has an adverse impact on the environment; and

''(v) cost effectiveness.

''(B) DELAY IN SCHEDULED APPLICATION.—If the Secretary determines, on the basis of the review conducted under subparagraph (A), that compliance with the standards set forth in paragraph (1) in accordance with the schedule set forth in any subparagraph of paragraph (3) is not feasible for any class of vessels, the Secretary shall require use of the best performing technology available that meets, at a minimum, the applicable ballast water discharge standard of the International Maritime Organization. If the Secretary finds that no technology exists that will achieve either the standards set forth in paragraph (1) or the standards of the International Maritime Organization, then, the Secretary shall—

''(i) extend the date on which that subparagraph first applies to vessels for a period of not more than 24 months; and

''(ii) recommend action to ensure that compliance with the extended date schedule for that subparagraph is achieved.

''(C) HIGHER STANDARDS; EARLIER IMPLEMENTATION.—

''(i) STANDARDS.—If the Secretary determines that ballast water treatment technology exists that exceeds the performance standards required under this subsection, the Secretary shall, for any class of vessels, revise the performance standards to incorporate the higher performance standards.

''(ii) IMPLEMENTATION.—If the Secretary determines that technology that achieves the applicable performance standards required under this subsection can be implemented earlier than required by this subsection, the Secretary shall, for any class of vessels, accelerate the implementation schedule under paragraph (3). If the Secretary accelerates the implementation schedule pursuant to this clause, the Secretary shall provide at least 24 months notice before such accelerated implementation goes into effect.

''(iii) DETERMINATIONS NOT MUTUALLY EXCLUSIVE.—The Secretary shall take action under both clause (i) and clause (ii) if the Secretary makes determinations under both clauses.

''(6) DELAY OF APPLICATION FOR VESSEL PARTICIPATING IN PROMISING TECHNOLOGY EVALUATIONS.—

''(A) IN GENERAL.—If a vessel participates in a program approved by the Secretary to test and evaluate promising ballast water treatment technologies that are likely to result in treatment technologies achieving a standard that is the same as or more stringent than the standard that applies under paragraph (1) before the first date on which paragraph (1) applies to that vessel, the Secretary shall allow the vessel to use that technology for a 10 year period and such vessel shall be deemed to be in compliance with the requirements of paragraph (1) during that 10-year period.

''(B) VESSEL DIVERSITY.—The Secretary—

''(i) shall seek to ensure that a wide variety of vessel types and voyages are included in the program; but

''(ii) may not grant a delay under this paragraph to more than 5 percent of the vessels to which subparagraph (A), (B), (C), or (D) of paragraph (3) applies.

''(C) TERMINATION OF GRACE PERIOD.—The Secretary may terminate the 10-year grace period of a vessel under subparagraph (A) if participation of the vessel in the program is terminated without the consent of the Secretary.

''(D) ANNUAL RE-EVALUATION; TERMINATION.—The Secretary shall establish an annual evaluation process to determine whether the performance of an approved technology is sufficiently effective and whether it is causing harm to the environment. If the Secretary determines that an approved technology is insufficiently effective or is causing harm to the environment, the Secretary shall revoke the approval granted under subparagraph (A).

''(7) REVIEW OF STANDARDS.—

''(A) IN GENERAL.—In December, 2014, and in every third year thereafter, the Administrator, in consultation with the Secretary, shall review ballast water treatment standards to determine, after consultation with the Undersecretary and other appropriate Federal agencies as determined by the Secretary, if the standards under this subsection should be revised to reduce the amount of organisms or microbes allowed to be discharged, taking into account improvements in the scientific understanding of biological processes leading to the spread of aquatic nuisance species and improvements in ballast water treatment technology. The Administrator shall revise by regulation the performance standard required under this subsection as necessary.

''(B) APPLICATION OF ADJUSTED STANDARDS.—In the regulations, the Secretary shall provide for the prospective application of the adjusted standards prescribed under this paragraph to vessels constructed after the date on which the adjusted standards apply and for an orderly phase-in of the adjusted standards to existing vessels.

''(8) INSTALLED EQUIPMENT.—If ballast water treatment technology used for purposes of complying with the regulations under this subsection is installed on a vessel, maintained in good working order, and used by the vessel, the vessel may use that technology for the shorter of—

''(A) the 10-year period beginning on the date of initial use of the technology; or

''(B) the life of the ship on which the technology is used.

''(9) HIGH-RISK VESSELS.—

''(A) VESSEL LIST.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, the Secretary shall publish and regularly update a list of vessels identified by States that, due to factors such as the origin of their voyages, the frequency of their voyages, the volume of ballast water they carry, the biological makeup of the ballast water, and the fact that they frequently discharge unexchanged ballast water pursuant to an exception under subsection (e), pose a relatively high risk of introducing aquatic nuisance species into the waters of those States.

''(B) INCENTIVE PROGRAMS.—The Secretary shall give priority to vessels on the list for participation in pilot programs described in paragraph (6). Any Federal agency, and any State agency with respect to vessels identified by such State to the Secretary for inclusion on the list pursuant to subparagraph (A), may develop technology development

programs or other incentives (whether positive or negative) to such vessels in order to encourage the adoption of ballast water treatment technology by those vessels consistent with the requirements of this section on an expedited basis.

''(9) EXCEPTION FOR VESSELS OPERATING EXCLUSIVELY IN DETERMINED AREA.—

''(A) IN GENERAL.—Paragraph (1) does not apply to a vessel that operates exclusively within an area if the Secretary has determined through a rulemaking proceeding, after consultation with the Undersecretary and other appropriate Federal agencies as determined by the Secretary, and representatives of States the waters of which could be affected by the discharge of ballast water, that the risk of introducing aquatic nuisance species through ballast water discharge from the vessel is insignificant.

''(B) CERTAIN VESSELS.—A vessel constructed before January 1, 2001, that operates exclusively within Lake Superior, Lake Michigan, Lake Huron, and Lake Erie and the connecting channels shall be presumed not to pose a significant risk of introducing aquatic nuisance species unless the Secretary finds otherwise in a rulemaking proceeding under subparagraph (A).

''(C) BEST PRACTICES.—The Secretary shall develop, and require vessels exempted from complying with the requirements of paragraph (1) under this paragraph to follow, best practices, developed in consultation with the Governors or States that may be affected, to minimize the spreading of aquatic nuisance species in its operating area.

''(10) LABORATORIES.—The Secretary may use any Federal or non-Federal laboratory that meets standards established by the Secretary for the purpose of evaluating and certifying ballast water treatment technologies and equipment under this subsection.

''(g) WARNINGS CONCERNING BALLAST WATER UPTAKE.—

''(1) IN GENERAL.—The Secretary shall notify vessel owners and operators of any area in waters subject to the jurisdiction of the United States in which vessels may not uptake ballast water due to known conditions.

''(2) CONTENTS.—The notice shall include—

''(A) the coordinates of the area; and

''(B) if possible, the location of alternative areas for the uptake of ballast water.

''(h) SEDIMENT MANAGEMENT.—

''(1) IN GENERAL.—The operator of a vessel to which this section applies may not remove or dispose of sediment from spaces designed to carry ballast water except—

''(A) in accordance with this subsection and the ballast water management plan required under subsection (c); and

''(B) more than 200 nautical miles from the nearest point of land or into a reception facility that meets the requirements of paragraph (3).

''(2) DESIGN REQUIREMENTS.—

''(A) NEW VESSELS.—After December 31, 2008, it shall be unlawful to construct a vessel in the United States to which this section applies unless that vessel is designed and constructed, in accordance with regulations prescribed under subparagraph (C), in a manner that—

''(i) minimizes the uptake and entrapment of sediment;

''(ii) facilitates removal of sediment; and

''(iii) provides for safe access for sediment removal and sampling.

''(B) EXISTING VESSELS.—Every vessel to which this section applies that was constructed before January 1, 2009, shall be modified before January 1, 2009, to the extent practicable, to achieve the objectives described in clauses (i), (ii), and (iii) of subparagraph (A).

''(C) REGULATIONS.—The Secretary shall promulgate regulations establishing design and construction standards to achieve the objectives of subparagraph (A) and providing guidance for modifications and practices under subparagraph (B). The Secretary shall incorporate the standards and guidance in the regulations governing the ballast water management plan.

''(3) SEDIMENT RECEPTION FACILITIES.—

''(A) STANDARDS.—The Secretary, in consultation with other appropriate Federal agencies as determined by the Secretary, shall promulgate regulations governing facilities for the reception of vessel sediment from spaces designed to carry ballast water that provide for the disposal of such sediment in a way that does not impair or damage the environment, human health, or property or resources of the disposal area.

''(B) DESIGNATION.—The Administrator, in consultation with the Secretary and other appropriate Federal agencies as determined by the Administrator, shall designate facilities for the reception of vessel sediment that meet the requirements of the regulations promulgated under subparagraph (A) at ports and terminals where ballast tanks are cleaned or repaired.

''(i) EXAMINATIONS AND CERTIFICATIONS.—

''(1) INITIAL EXAMINATION.—

''(A) IN GENERAL.—The Secretary shall examine vessels to which this section applies to determine whether—

''(i) there is a ballast water management plan for the vessel that meets the requirements of this section; and

''(ii) the equipment used for ballast water and sediment management in accordance with the requirements of this section and the regulations promulgated hereunder is installed and functioning properly.

''(B) NEW VESSELS.—For vessels constructed in the United States on or after January 1, 2011, the Secretary shall conduct the examination required by subparagraph (A) before the vessel is placed in service.

''(C) EXISTING VESSELS.—For vessels constructed before January 1, 2011, the Secretary shall—

''(i) conduct the examination required by subparagraph (A) before the date on which subsection (f)(1) applies to the vessel according to the schedule in subsection (f)(3); and

''(ii) inspect the vessel's ballast water record book required by subsection (d).

''(D) FOREIGN VESSELS.—In the case of a foreign vessel (as defined in section 2101(12) of title 46, United States Code), the Secretary shall perform the examination required by this paragraph the first time the vessel enters a United States port.

''(2) SUBSEQUENT EXAMINATIONS.—The Secretary shall examine vessels no less frequently than once each year to ensure vessel compliance with the requirements of this section.

''(3) INSPECTION AUTHORITY.—

''(A) IN GENERAL.—The Secretary may carry out inspections of any vessel to which this section applies at any time, including the taking of ballast water samples, to ensure the vessel's compliance with this Act. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

''(B) INVESTIGATIONS.—Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpoenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

''(4) REQUIRED CERTIFICATE.—If, on the basis of an initial examination under paragraph (1) the Secretary finds that a vessel complies with the requirements of this section and the regulations promulgated hereunder, the Secretary shall issue a certificate under this paragraph as evidence of such compliance. The certificate shall be valid for a period of not more than 5 years, as specified by the Secretary. The certificate or a true copy shall be maintained on board the vessel.

''(5) NOTIFICATION OF VIOLATIONS.—If the Secretary finds, on the basis of an examination under paragraph (1) or (2), sampling under paragraph (3), or any other information, that a vessel is being operated in violation of the requirements of this section or the regulations promulgated hereunder, the Secretary shall—

''(A) notify in writing—

''(i) the master of the vessel; and

''(ii) the captain of the port at the vessel's next port of call; and

''(B) take such other action as may be appropriate.

''(6) COMPLIANCE AND MONITORING.—

''(A) IN GENERAL.—The Secretary shall by regulation establish sampling and other procedures to monitor compliance with the requirements of this section and any regulations promulgated under this section.

''(B) USE OF MARKERS.—The Secretary may verify compliance with treatment standards under this section and the regulations through identification of markers associated with a treatment technology's effectiveness, such as the presence of indicators associated with a certified treatment technology.

''(7) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the requirements issued under this section.

''(j) DETENTION OF VESSELS.—

''(1) IN GENERAL.—The Secretary, by notice to the owner, charterer, managing operator, agent, master, or other individual in charge of a vessel, may detain that vessel if the Secretary has reasonable cause to believe that—

''(A) the vessel is a vessel to which this section applies; and

''(B) the vessel does not comply with the requirements of this section or of the regulations issued hereunder or is being operated in violation of such requirements.

''(2) CLEARANCE.—

''(A) IN GENERAL.—A vessel detained under paragraph (1) may obtain clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) only if the violation for which it was detained has been corrected.

''(B) WITHDRAWAL.—If the Secretary finds that a vessel detained under paragraph (1) has received a clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) before it was detained under paragraph (1), the Secretary shall withdraw, withhold, or revoke the clearance.

''(k) SANCTIONS.—

''(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under this section shall be liable for a civil penalty in an amount not to exceed $32,500. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of this section or the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

''(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under this section is guilty of a class C felony.

''(3) REVOCATION OF CLEARANCE.—Except as provided in subsection (j)(2), upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a

vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of this section or the regulations issued under this section.

''(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a discharge pursuant to subsection (b)(3), (e)(5), or (e)(7).

''(l) ENFORCEMENT.—

''(1) ADMINISTRATIVE ACTIONS.—If the Secretary finds, after notice and an opportunity for a hearing, that a person has violated any provision of this section or any regulation promulgated hereunder, the Secretary may assess a civil penalty for that violation. In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require.

''(2) CIVIL ACTIONS.—At the request of the Secretary, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section, or any regulation promulgated hereunder. Any court before which such an action is brought may award appropriate relief, including temporary or permanent injunctions and civil penalties.

''(m) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, after consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic nuisance species through ballast water.

''(n) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the Undersecretary, the Secretary of State, the Administrator, the heads of other relevant Federal agencies, the International Maritime Organization of the United Nations, and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic nuisance species through ballast water. The Secretary is particularly encouraged to seek bilateral or multilateral agreements with Canada, Mexico, and other nations in the Wider Caribbean (as defined in the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean (Cartagena Convention) under this section.

''(o) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.

''(p) SUPPORT FOR FEDERAL BALLAST WATER DEMONSTRATION PROJECT.—In addition to amounts otherwise available to the Maritime Administration, the National Oceanographic and Atmospheric Administration, and the United States Fish and Wildlife Service for the Federal Ballast Water Demonstration Project, the Secretary shall provide support for the conduct and expansion of the project, including grants for research and development of innovative technologies for the management, treatment, and disposal of ballast water and sediment, for ballast water exchange, and for other vessel vectors of aquatic nuisance species such as hull-fouling. There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2007 through 2011 to carry out this subsection.

''(q) CONSULTATION WITH TASK FORCE.—The Secretary shall consult with the Task Force in carrying out this section.

''(r) RISK ASSESSMENT.—

''(1) IN GENERAL.—Within 2 years after the date of enactment of the Ballast Water Management Act of 2007, the Administrator, in consultation with the Secretary and other appropriate Federal agencies, shall conduct a risk assessment of vessel discharges other than aquatic nuisance species that are not required by the Clean Water Act (33 U.S.C. 1251 et seq.) to have National Pollution Effluent Discharge Standards permits under section 122.3(a) of title 40, Code of Federal Regulations. The risk assessment shall include—

''(A) a characterization of the various types of discharges by different classes of vessels;

''(B) the average volume of such discharges for individual vessels and by class of vessel in the aggregate;

''(C) conclusions as to whether such discharges pose a risk to human health or the environment; and

''(D) recommendations as to steps, including regulations, that are necessary to address such risks.

''(2) PUBLIC COMMENT.—The Administrator shall cause a draft of the risk assessment to be published in the Federal Register for public comment, and shall develop a final risk assessment report after taking into accounts any comments received during the public comment period.

''(3) FINAL REPORT.—The Administrator shall transmit a copy of the final report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

''(s) OTHER SOURCES OF VESSEL-BORNE NUISANCE SPECIES.—

''(1) HULL-FOULING AND OTHER VESSEL SOURCES.—

''(A) REPORT.—Within 180 days after the date of enactment of the Ballast Water Management Act of 2007, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on vessel-borne vectors of aquatic nuisance species and pathogens other than ballast water and sediment, including vessel hulls, anchors, and equipment.

''(B) MANAGEMENT.—Within 1 year after the date of enactment of the Ballast Water Management Act of 2007, the Secretary shall develop a strategy to address such other vessel sources of aquatic nuisance species and to reduce the introduction of invasive species into and within the United States from vessels. The strategy shall include—

''(i) designation of geographical locations for update and discharge of untreated ballast water, as well as measures to address non-ballast vessel vectors of aquatic invasive species;

''(ii) necessary modifications of existing regulations;

''(iii) best practices standards and procedures; and

''(iv) a timeframe for implementation of those standards and procedures by vessels, in addition to the mandatory requirements set forth in this section for ballast water.

''(C) REPORT.—The Secretary shall transmit a report to the Committees describing the strategy, proposed regulations, best practices, and the implementation timeframe, together with any recommendations, including legislative recommendations if appropriate, the Secretary deems appropriate.

''(D) STANDARDS FOR VESSELS OF THE UNITED STATES.—The strategy shall include requirements to ensure the consistent application of best practices to all vessels owned or operated by a Federal agency.

''(2) TRANSITING VESSELS.—Within 180 days after the date of enactment of the Ballast Water Management Act of 2007, the Commandant of the Coast Guard shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

''(A) an assessment of the magnitude and potential adverse impacts of ballast water operations from foreign vessels designed, adapted, or constructed to carry ballast water that are transiting waters subject to the jurisdiction of the United States; and

''(B) recommendations, including legislative recommendations if appropriate, of options for addressing ballast water operations of those vessels.

''(t) REGULATIONS.—

''(1) IN GENERAL.—The Secretary, after consultation with other appropriate Federal agencies, shall issue such regulations as may be necessary initially to carry out this section within 1 year after the date of enactment of the Ballast Water Management Act of 2007.

''(2) JUDICIAL REVIEW.—

''(A) 120-DAY RULE.—An interested person may bring an action for review of a final regulation promulgated under this section by the Secretary of the department in which the Coast Guard is operating in the United States Court of Appeals for the District of Columbia Circuit. Any such petition shall be filed within 120 days after the date on which notice of the promulgation appears in the Federal Register, except that if the petition is based solely on grounds arising after the 120th day, then any petition for review under this subsection shall be filed within 120 days after those grounds arise.

''(B) REVIEW IN ENFORCEMENT PROCEEDINGS.—A regulation for which review could have been obtained under subparagraph (A) of this paragraph is not subject to judicial review in any civil or criminal proceeding for enforcement.

''(u) SAVINGS CLAUSE.—

''(1) IN GENERAL.—Nothing in this section shall be construed to preempt the authority of any State or local government to impose penalties or fees for acts or omissions that are violations of this Act, or to provide incentives under subsection (f)(9)(B).

''(2) RECEPTION FACILITIES.—The standards prescribed by the Secretary or other appropriate Federal agencies under subsection (f)(2) do not supersede any more stringent standard under any otherwise applicable Federal, State, or local law.

''(3) APPLICATION WITH OTHER STATUTES.—This section provides the sole Federal authority for preventing the introduction of species through the control and management of vessel ballast water or sediment or other vessel-related vectors.''.

(b) DEFINITIONS.—

(1) IN GENERAL.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(A) by redesignating paragraph (1) as paragraph (1A);

(B) by inserting before paragraph (1A), as redesignated, the following:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency;'';

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

''(3) BALLAST WATER.—The term 'ballast water'—

''(A) means water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; and

''(B) any water placed into a ballast tank during cleaning, maintenance, or other operations; but

''(C) does not include water taken on board a vessel and used for a purpose described in subparagraph (A) that, at the time of discharge, does not contain aquatic nuisance species;'';

(D) by inserting after paragraph (3) the following:

''(3A) BALLAST WATER CAPACITY.—The term 'ballast water capacity' means the total volumetric capacity of any tanks, spaces, or compartments on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

''(3B) BALLAST WATER MANAGEMENT.—The term 'ballast water management' means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of aquatic nuisance species and pathogens within ballast water and sediment;

''(3C) CONSTRUCTED.—The term 'constructed' means a state of construction of a vessel at which—

''(A) the keel is laid;

''(B) construction identifiable with the specific vessel begins;

''(C) assembly of the vessel has begun comprising at least 50 tons or 1 percent of the estimated mass of all structural material of the vessel, whichever is less; or

''(D) the vessel undergoes a major conversion;'';

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

''(10A) MAJOR CONVERSION.—The term 'major conversion' means a conversion of a vessel, that—

''(A) changes its ballast water carrying capacity by at least 15 percent;

''(B) changes the vessel class;

''(C) is projected to prolong the vessel's life by at least 10 years (as determined by the Secretary); or

''(D) results in modifications to the vessel's ballast water system, except—

''(i) component replacement-in-kind; or

''(ii) conversion of a vessel to meet the requirements of section 1101(e);'';

(F) by inserting after paragraph (12), as redesignated, the following:

''(12A) SALTWATER FLUSHING.—The term 'saltwater flushing' means the process of—

''(A) adding midocean water to a ballast water tank that contains residual quantities of ballast waters;

''(B) mixing the midocean water with the residual ballast water and sediment in the tank through the motion of a vessel; and

''(C) discharging the mixed water so that the salinity of the resulting residual ballast water in the tank exceeds 30 parts per thousand;

''(12B) SEDIMENT.—The term 'sediment' means matter that has settled out of ballast water within a vessel;'';

(G) by redesignating paragraph (15) as paragraph (16A) and moving it to follow paragraph (16);

(H) by inserting after paragraph (17) the following:

''(17A) UNITED STATES PORT.—The term 'United States port' means a port, river, harbor, or offshore terminal under the jurisdiction of the United States, including ports located in Puerto Rico, Guam, the Northern Marianas, and the United States Virgin Islands;

''(17B) VESSEL OF THE ARMED FORCES.—The term 'vessel of the Armed Forces' means—

''(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

''(B) any vessel owned or operated by the Department of Homeland Security that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A); and

''(17C) WATERS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term 'waters subject to the jurisdiction of the United States' means navigable waters and the territorial sea of the United States, the exclusive economic zone, and the Great Lakes.''.

(2) STYLISTIC CONSISTENCY.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702), as amended by paragraph (1), is further amended—

(A) by striking ''As used in this Act, the term—'' and inserting ''In this Act:'';

(B) by redesignating paragraphs (1) through (17C) as paragraphs (1) through (27), respectively; and

(C) by inserting a heading after the designation of each existing paragraph , in a form consistent with the form of the paragraphs added by paragraph (1) of this subsection, consisting of the term defined in such paragraph and ''The term''.

(c) REPEAL OF SECTION 1103.—Section 1103 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4713) is repealed.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 1301(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(a)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (4)(B);

(2) by striking ''1102(f).'' in paragraph (5)(B) and inserting ''1102(f); and''; and

(3) by adding at the end the following:

''(6) $20,000,000 for each of fiscal years 2008 through 2012 to the Secretary to carry out section 1101.''.

By Ms. SNOWE (for herself, Ms. CANTWELL, and Mr. LEVIN):

S. 1579. A bill to amend the Coastal Zone Management Act; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Coastal Zone Enhancement Reauthorization Act of 2007. I am pleased to have my colleague, Senator CANTWELL, join me in cosponsoring this bill, which will enable our Nation to improve the management of our valuable, yet vulnerable, coastal resources.

More than half of all Americans reside in coastal zones, and each year their number grows by more than 3,600. Yet, coastal regions comprise just 17 percent of the land area in the contiguous United States. People are drawn to our oceans and Great Lakes to experience the economic opportunities, natural beauty, and recreational bounty that these regions have to offer. Part of that value, both the tangible and intangible, comes from the habitat these ecosystems provide for a variety of plants and animals, ranging from rare microscopic organisms to commercially valuable fish stocks. As population pressures increase, we must work diligently to maintain a balance between human use of these delicate regions and their natural, ecological functions.

When Congress passed the CZMA in 1972, it established a unique State-Federal framework for facilitating sound coastal planning. The law gives States the opportunity to create a coastal zone management plan which, once approved, makes States eligible for matching Federal funds to carry out the goals of its plan. This system allows States to tailor plans to their individual needs, but permits the Federal Government to ensure that marine resources, which often overlap political boundaries, are managed responsibly nationwide. As a result of this program's success, more than 99.9 percent of the United States' 95,376 shoreline miles are managed under this system, including, 34 of the 35 coastal and Great Lakes states and territories. The 35th, Illinois, has submitted a plan for Federal approval.

The CZMA has not been reauthorized in over a decade, and the program has been operating with authorization levels and mandates that expired in 1999. Much has changed in the interim, and persistent threats to coastal areas, such as increasing rates of nonpoint source water pollution and constriction of working waterfront areas, have outpaced states' abilities to maintain an appropriate balance between development and conservation. The Coastal Zone Enhancement Reauthorization Act of 2007 would encourage states to take additional voluntary steps to combat these problems through the Coastal Community Program.

Each year, we also learn more about threats to our coasts from impacts of global climate change, yet the CZMA currently provides no foundation to manage these problems. Mounting evidence indicates that increasing concentrations of atmospheric carbon dioxide, approximately a third of which is absorbed in our oceans, is affecting marine chemistry and acidifying sea water. As global temperatures rise, we are also experiencing an increase in ocean temperatures which can affect the migratory patterns and range of marine species distribution. The problems of potential sea level rise have also been well-documented in academic journals and the mainstream media. The bill I introduce today contains a provision giving states the authority to adapt their coastal zone management plans to address these potential impacts and develop potential mitigation and adaptation measures.

The Coastal Zone Enhancement Reauthorization of 2007 also significantly increases the authorization levels for the Coastal Zone Management Program, enabling States to better achieve their coastal management goals. The bill authorizes $170 million for fiscal year 2008 and increases the authorization levels to $193.5 million for fiscal year 2012. This adjustment in funding

would enable the States' coastal programs to achieve their full potential.

The Coastal Zone Management Program has a long record of helping states achieve their coastal area management goals by enhancing their ability to maintain clean, safe, and productive coastlines that ultimately serve the best interest of our Nation. This program enjoys widespread support among coastal States, as demonstrated by the near unanimous participation by eligible States, and the many Commerce Committee members who have worked with me to strengthen this program over the past several years.

I am pleased to introduce this legislation that would provide our coastal states with the funding and management frameworks necessary to meet the ever-increasing conservation and development challenges facing our coastal communities, and I urge my colleagues to support it.

Additionally, as Ranking Member of the Committee on Commerce, Science, and Transportation's subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, I would like to commend my colleagues for their hard work that has resulted in today's introduction of six ocean-related bills. As you are aware, we are in the midst of Capitol Hill Oceans Week, and I am pleased that we can commemorate that occasion by bringing these critical marine issues to the fore. I look forward to working with my fellow Committee members and the rest of the Senate as we improve management of our Nation's invaluable coastal and ocean resources for the benefit of all Americans.

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. 1579

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 ''Coastal Zone Enhancement Reauthorization Act of 2007''.

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

SEC. 2. AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

SEC. 3. FINDINGS.

Section 302 (16 U.S.C. 1451) is amended—

(1) by redesignating paragraphs (a) through (m) as paragraphs (1) through (13);

(2) by inserting ''ports,'' in paragraph (3) (as so redesignated) after ''fossil fuels,'';

(3) by inserting ''including coastal waters and wetlands,'' in paragraph (4) (as so redesignated) after ''zone,'';

(4) by striking ''therein,'' in paragraph (4) (as so redesignated) and inserting ''dependent on that habitat,'';

(5) by striking ''well-being'' in paragraph (5) (as so redesignated) and inserting ''quality of life'';

(6) by inserting ''integrated plans and strategies,'' after ''including'' in paragraph (9) (as so redesignated);

(7) by striking paragraph (11) (as so redesignated) and inserting the following:

''(11) Land and water uses in the coastal zone and coastal watersheds may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from activities in these areas must be improved.''; and

(8) by adding at the end thereof the following:

''(14) There is a need to enhance cooperation and coordination among states and local communities, to encourage local community-based solutions that address the impacts and pressures on coastal resources and on public facilities and public service caused by continued coastal demands, and to increase state and local capacity to identify public infrastructure and open space needs and develop and implement plans which provide for sustainable growth, resource protection and community revitalization.

''(15) The establishment of a national system of estuarine research reserves will provide for protection of essential estuarine resources, as well as for a network of State-based reserves that will serve as sites for coastal stewardship best-practices, monitoring, research, education, and training to improve coastal management and to help translate science and inform coastal decisionmakers and the public.''.

SEC. 4. POLICY.

Section 303 (16 U.S.C. 1452) is amended—

(1) by striking ''the states'' in paragraph (2) and inserting ''state and local governments'';

(2) by striking ''programs'' the first place it appears in paragraph (2) and inserting ''programs, plans, and strategies'';

(3) by striking ''waters,'' each place it appears in paragraph (2)(C) and inserting ''waters and habitats,'';

(4) by striking ''agencies and state and wildlife agencies; and'' in paragraph (2)(J) and inserting ''and wildlife management, and'';

(5) by striking ''specificity'' in paragraph (3) and inserting ''specificity, cooperation, coordination, and effectiveness'';

(6) by inserting ''other countries,'' after ''agencies,'' in paragraph (5);

(7) by striking ''and'' at the end of paragraph (5);

(8) by striking ''zone.'' in paragraph (6) and inserting ''zone;''; and

(9) by adding at the end thereof the following:

''(7) to create and use a National Estuarine Research Reserve System as a Federal, state, and community partnership to support and enhance coastal management and stewardship through State-based conservation, monitoring, research, education, outreach, and training; and

''(8) to encourage the development, application, training, technical assistance, and transfer of innovative coastal management practices and coastal and estuarine environmental technologies and techniques to improve understanding and management decisionmaking for the long-term conservation of coastal ecosystems.''.

SEC. 5. CHANGES IN DEFINITIONS.

Section 304 (16 U.S.C. 1453) is amended—

(1) by striking ''and the Trust Territories of the Pacific Islands,'' in paragraph (4);

(2) in paragraph (6)(B)—

(A) by inserting ''(ix) use or reuse of facilities authorized under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) for energy-related purposes or other authorized marine related purposes;'' after ''transmission facilities;''; and

(B) by striking ''and (ix)'' and inserting ''and (x);

(3) by striking paragraph (8) and inserting the following:

''(8) The terms 'estuarine reserve' and 'estuarine research reserve' mean a coastal protected area that—

''(A) may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to the estuary;

''(B) constitutes to the extent feasible a natural unit; and

''(C) is established to provide long-term opportunities for conducting scientific studies and monitoring and educational and training programs that improve the understanding, stewardship, and management of estuaries and improve coastal decisionmaking.'';

(4) by inserting ''plans, strategies,'' after ''policies,'' in paragraph (12);

(5) in paragraph (13)—

(A) by inserting ''or alternative energy sources on or'' after ''natural gas'';

(B) by striking ''new or expanded'' and inserting ''new, reused, or expanded''; and

(C) by striking ''or production.'' and inserting ''production, or other energy related purposes.'';

(6) by striking ''policies; standards'' in paragraph (17) and inserting ''policies, standards, incentives, guidelines,''; and

(7) by adding at the end the following:

''(19) The term 'coastal nonpoint pollution control strategies and measures' means strategies and measures included as part of the coastal nonpoint pollution control program under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b).

''(20) The term 'qualified local entity' means—

''(A) any local government;

''(B) any areawide agency referred to in section 204(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334 (a)(1));

''(C) any regional agency;

''(D) any interstate agency;

''(E) any nonprofit organization; or

''(F) any reserve established under section 315.''.

SEC. 6. REAUTHORIZATION OF MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 (16 U.S.C. 1454) is amended to read as follows:

"SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

''(a) STATES WITHOUT PROGRAMS.—In fiscal years 2008 and 2009, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state under this subsection, no subsequent grant may be made to that coastal state under this subsection unless the Secretary finds that the coastal state is satisfactorily developing its management program. No coastal state is eligible to receive more than 4 grants under this subsection.

''(b) SUBMITTAL OF PROGRAM FOR APPROVAL.—A coastal state that has completed the development of its management program shall submit the program to the Secretary for review and approval under section 306.''.

SEC. 7. ADMINISTRATIVE GRANTS.

(a) PURPOSES.—Section 306(a) (16 U.S.C. 1455(a)) is amended by striking ''administering that State's management program,'' and inserting ''administering and implementing that State's management program and any plans, projects, or activities developed pursuant to such program, including developing and implementing applicable coastal nonpoint pollution control program components,''.

(b) EQUITABLE ALLOCATION OF FUNDING.—Section 306(c) (16 U.S.C. 1455(c)) is amended by adding at the end thereof ''In promoting equity, the Secretary shall consider the overall change in grant funding under this section from the preceding fiscal year and minimize the relative increases or decreases among all the eligible States. To the extent practicable, the Secretary shall ensure that each eligible State receives increased funding under this section in any fiscal year for which the total amount appropriated to carry out this section is greater than the total amount appropriated to carry out this section for the preceding fiscal year.

(c) ACQUISITION CRITERIA.—Section 306(d)(10)(B) (16 U.S.C. 1455(d)(10)(B)) is amended by striking ''less than fee simple'' and inserting ''other''.

(d) CONFORMING AMENDMENT.—Section 306(d)(13)(B) (16 U.S.C. 1455(d)(13)(B)) is amended by inserting ''policies, plans, strategies,'' after ''specific''.

SEC. 8. COASTAL RESOURCE IMPROVEMENT PROGRAM.

Section 306A (16 U.S.C. 1455a) is amended—

(1) by inserting ''or other important coastal habitats'' in subsection (b)(1)(A) after ''306(d)(9)'';

(2) by inserting ''or historic'' in subsection (b)(2) after ''urban'';

(3) by adding at the end of subsection (b) the following:

''(5) The coordination and implementation of approved coastal nonpoint pollution control plans, strategies, and measures.

''(6) The preservation, restoration, enhancement or creation of coastal habitats.'';

(4) by inserting ''planning,'' before ''engineering'' in subsection (c)(2)(D);

(5) by striking ''and'' after the semicolon in subsection (c)(2)(D);

(6) by striking ''section.'' in subsection (c)(2)(E) and inserting ''section;'';

(7) by adding at the end of subsection (c)(2) the following:

''(F) work, resources, or technical support necessary to preserve, restore, enhance, or create coastal habitats; and

''(G) the coordination and implementation of approved coastal nonpoint pollution control plans, strategies, measures.''; and

(8) by striking subsections (d), (e), and (f) and inserting after subsection (c) the following:

''(d) SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

''(1) IN GENERAL.—If a coastal state chooses to fund a project under this section, then—

''(A) it shall submit to the Secretary a combined application for grants under this section and section 306;

''(B) it shall match the combined amount of such grants in the ratio required by section 306(a) for grants under that section; and

''(C) the Federal funding for the project shall be a portion of that state's annual allocation under section 306(a).

''(2) USE OF FUNDS.—Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

''(e) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program and consistent with the policies of this Act.

''(f) ASSISTANCE.—The Secretary shall assist eligible coastal states in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (b).''.

SEC. 9. CERTAIN FEDERAL AGENCY ACTIVITIES.

Section 307(c)(1) (16 U.S.C. 1456(c)(1)) is amended by adding at the end the following:

''(D) The provisions of paragraph (1)(A), and implementing regulations thereunder, with respect to a Federal agency activity inland of the coastal zone of the State of Alaska, apply only if the activity directly and significantly affects a land or water use or a natural resource of the Alaskan coastal zone.''.

SEC. 10. COASTAL ZONE MANAGEMENT FUND.

(a) TREATMENT OF LOAN REPAYMENTS.—Section 308(a)(2) (16 U.S.C. 1456a(a)(2)) is amended to read as follows:

''(2) Loan repayments made under this subsection shall be retained by the Secretary and deposited into the Coastal Zone Management Fund established under subsection (b) and shall be made available to the States for grants as under subsection (b)(2).''.

(b) USE OF AMOUNTS IN FUND.—Section 308(b) (16 U.S.C. 1456a(b)) is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) Subject to appropriation Acts, amounts in the Fund shall be available to the Secretary to make grants to the States for—

''(A) projects to address coastal and ocean management issues which are regional in scope, including intrastate and interstate projects; and

''(B) projects that have high potential for improving coastal zone and watershed management.

''(3) Projects funded under this subsection shall apply an integrated, watershed-based management approach and advance the purpose of this Act to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations.''.

SEC. 11. COASTAL ZONE ENHANCEMENT GRANTS.

Section 309 (16 U.S.C. 1456b) is amended—

(1) by striking subsection (a)(1) and inserting the following:

''(1) Protection, restoration, enhancement, or creation of coastal habitats, including wetlands, coral reefs, marshes, and barrier islands.'';

(2) by inserting ''and removal'' after ''entry'' in subsection (a)(4);

(3) by striking ''on various individual uses or activities on resources, such as coastal wetlands and fishery resources.'' in subsection (a)(5) and inserting ''of various individual uses or activities on coastal waters, habitats, and resources, including sources of polluted runoff.'';

(4) by adding at the end of subsection (a) the following:

''(10) Development and enhancement of coastal nonpoint pollution control program components, strategies, and measures, including the satisfaction of conditions placed on such programs as part of the Secretary's approval of the programs.

''(11) Significant emerging coastal issues as identified by coastal states, in consultation with the Secretary and qualified local entities.'';

(5) by striking ''changes'' in subsection (b)(2)(A) and inserting ''changes, or for projects that demonstrate significant potential for improving ocean resource management or integrated coastal and watershed management at the local, state, or regional level,'';

(6) by striking ''proposals, taking into account the criteria established by the Secretary under subsection (d).'' in subsection (c) and inserting ''proposals.'';

(7) by striking subsection (d) and redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively; and

(8) by striking ''in implementing this section, up to a maximum of $10,000,000 annually.'' in subsection (e), as redesignated, and inserting ''for grants to the States.''.

SEC. 12. COASTAL COMMUNITY PROGRAM.

The Act is amended by inserting after section 309 the following:

"SEC. 309A. COASTAL COMMUNITY PROGRAM.

''(a) COASTAL COMMUNITY GRANTS.—The Secretary may make grants to any coastal state that is eligible under subsection (b)—

''(1) to assist coastal communities in assessing and managing growth, public infrastructure, and open space needs in order to provide for sustainable growth, resource protection and community revitalization;

''(2) to provide management-oriented research and technical assistance in developing and implementing community-based growth management and resource protection strategies in qualified local entities as long as such strategies are consistent with the policies of this Act;

''(3) to fund demonstration projects which have high potential for improving coastal zone management at the local level;

''(4) to assist in the adoption of plans, strategies, policies, or procedures to support local community-based environmentally-protective solutions to the impacts and pressures on coastal uses and resources caused by development and sprawl that will—

''(A) revitalize previously developed areas;

''(B) undertake conservation activities and projects in undeveloped and environmentally sensitive areas;

''(C) emphasize water-dependent uses; and

''(D) protect coastal waters and habitats; and

''(5) to assist coastal communities to coordinate and implement approved coastal nonpoint pollution control strategies and measures that reduce the causes and impacts of polluted runoff on coastal waters and habitats.''.

''(b) ELIGIBILITY.—To be eligible for a grant under this section for a fiscal year, a coastal state shall—

''(1) have a management program approved under section 306; and

''(2) in the judgment of the Secretary, be making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in subparagraphs (A) through (K) of section 303(2).

''(c) ALLOCATIONS; SOURCE OF FEDERAL GRANTS; STATE MATCHING CONTRIBUTIONS.—

''(1) ALLOCATION.—Grants under this section shall be allocated to coastal states as provided in section 306(c).

''(2) APPLICATION; MATCHING.—If a coastal state chooses to fund a project under this section, then—

''(A) it shall submit to the Secretary a combined application for grants under this section and section 306; and

''(B) it shall match the amount of the grant under this section on the basis of a total contribution of section 306, 306A, and this section so that, in aggregate, the match is 1:1.

''(d) ALLOCATION OF GRANTS TO QUALIFIED LOCAL ENTITY.—

''(1) IN GENERAL.—With the approval of the Secretary, the eligible coastal state may allocate to a qualified local entity amounts received by the state under this section.

''(2) ASSURANCES.—A coastal state shall ensure that amounts allocated by the state under paragraph (1) are used by the qualified local entity in furtherance of the state's approved management program, specifically furtherance of the coastal management objectives specified in section 303(2) and the policies of this Act.

''(e) ASSISTANCE.—The Secretary shall assist eligible coastal states and qualified local entities in identifying and obtaining from other Federal agencies technical and financial assistance in achieving the objectives set forth in subsection (a).''.

SEC. 13. TECHNICAL ASSISTANCE; RESOURCES ASSESSMENTS; INFORMATION SYSTEMS.

(a) IN GENERAL.—Section 310 (16 U.S.C. 1456c) is amended—

(1) by inserting ''(1)'' before ''The Secretary'' in subsection (a);

(2) by striking ''assistance'' in the first sentence in subsection (a) and inserting ''assistance, technology and methodology development, training and information transfer, resources assessment,'';

(3) by resetting the second and third sentences in subsection (a) as a new paragraph and inserting ''(2)'' before ''Each'';

(4) by striking ''and research activities'' in subsection (b)(1) and inserting ''research activities, and other support services and activities'';

(5) by adding at the end of subsection (b)(1) the following: ''The Secretary may conduct a program to develop and apply innovative coastal and estuarine environmental technology and methodology through a cooperative program, and to support the development, application, training and technical assistance, and transfer of effective coastal management practices. The Secretary may make extramural grants in carrying out the purpose of this subsection.'';

(6) by adding at the end of subsection (b)(3) the following: ''The Secretary shall establish regional advisory committees including representatives of the Governors of each state within the region, universities, colleges, coastal and marine laboratories, Sea Grant College programs within the region and representatives from the private and public sector with relevant expertise. The Secretary will report to the regional advisory committees on activities undertaken by the Secretary and other agencies pursuant to this section, and the regional advisory committees shall identify research, technical assistance and information needs and priorities. The regional advisory committees are not subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).''; and

(7) by adding at the end the following:

''(c)(1) The Secretary shall consult with the regional advisory committees concerning the development of a coastal resources assessment and information program to support development and maintenance of integrated coastal resource assessments of state natural, cultural and economic attributes, and coastal information programs for the collection and dissemination of data and information, product development, and outreach based on the needs and priorities of coastal and ocean managers and user groups.

''(2) The Secretary shall assist coastal states in identifying and obtaining financial and technical assistance from other Federal agencies and may make grants to states in carrying out the purpose of this section and to provide ongoing support for state resource assessment and information programs.''.

(b) CONFORMING AMENDMENT.—The section heading for section 310 (16 U.S.C. 1456c) is amended to read as follows:

''SEC. 310. TECHNICAL ASSISTANCE, RESOURCES ASSESSMENTS, AND INFORMATION SYSTEMS.

SEC. 14. PERFORMANCE REVIEW.

Section 312(a) (16 U.S.C. 1458(a)) is amended—

(1) by striking ''continuing review of the performance'' and inserting ''periodic review, no less frequently than every 5 years, of the administration, implementation, and performance'';

(2) by striking ''management.'' and inserting ''management programs.'';

(3) by striking ''has implemented and enforced'' and inserting ''has effectively administered, implemented, and enforced'';

(4) by striking ''addressed the coastal management needs identified'' and inserting ''furthered the national coastal policies and objectives set forth''; and

(5) by inserting ''coordinated with National Estuarine Research Reserves in the state,'' after ''303(2)(A) through (K),''.

SEC. 15. WALTER B. JONES AWARDS.

Section 314 (16 U.S.C. 1460) is amended—

(1) by striking ''shall, using sums in the Coastal Zone Management Fund established under section 308'' in subsection (a) and inserting ''may, using sums available under this Act'';

(2) by striking ''field.'' in subsection (a) and inserting the following: ''field of coastal zone management. These awards, to be known as the 'Walter B. Jones Awards', may include—

''(1) cash awards in an amount not to exceed $5,000 each;

''(2) research grants; and

''(3) public ceremonies to acknowledge such awards.'';

(3) by striking ''shall elect annually—'' in subsection (b) and inserting ''may select annually if funds are available under subsection (a)—''; and

(4) by striking subsection (e).

SEC. 16. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

(a) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking ''consists of—'' and inserting ''is a network of areas protected by Federal, state, and community partnerships which promotes informed management of the Nation's estuarine and coastal areas through interconnected programs in resource stewardship, education and training, monitoring, research, and scientific understanding consisting of—''.

(b) Section 315(b)(2) ((16 U.S.C. 1461(b)(2)) is amended—

(1) by inserting ''for each coastal state or territory'' after ''research'' in subparagraph (A);

(2) by striking ''public awareness and'' in subparagraph (C) and inserting ''state coastal management, public awareness, and''; and

(3) by striking ''public education and interpretation; and''; in subparagraph (C) and inserting ''education, interpretation, training, and demonstration projects; and''.

(c) Section 315(c) (16 U.S.C. 1461(c)) is amended—

(1) by striking ''RESEARCH'' in the subsection caption and inserting ''RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP'';

(2) by striking ''conduct of research'' and inserting ''conduct of research, education, and resource stewardship'';

(3) by striking ''coordinated research'' in paragraph (1)) and inserting ''coordinated research, education, and resource stewardship'';

(4) by striking ''research'' after ''common'' in paragraph (2);

(5) by striking ''research programs'' in paragraph (2) and inserting ''research, education, and resource stewardship programs'';

(6) by striking ''research'' after ''uniform'' in paragraph (3);

(7) by striking ''data,'' in paragraph (3) and inserting ''information,'';

(8) by striking ''research'' after ''application of'' in paragraph (3);

(9) by striking ''research purposes;'' in paragraph (3) and inserting ''research, education, and resource stewardship purposes;'';

(10) by striking ''research efforts'' in paragraph (4) and inserting ''research, education, and resource stewardship efforts'';

(11) by striking ''research'' in paragraph (5) and inserting ''research, education, and resource stewardship''; and

(12) by striking ''research'' in the last sentence.

(d) Section 315(d) (16 U.S.C. 1461(d)) is amended—

(1) by striking ''ESTUARINE RESEARCH.—'' in the subsection caption and inserting ''ESTUARINE RESEARCH, EDUCATION, AND RESOURCE STEWARDSHIP.—'';

(2) by striking ''research purposes'' and inserting ''research, education, and resource stewardship purposes'';

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

''(1) giving reasonable priority to research, education, and stewardship activities that use the System in conducting or supporting activities relating to estuaries;'';

(4) by striking ''research.'' in paragraph (2) and inserting ''research, education, and resource stewardship activities; and''; and

(5) by adding at the end thereof the following:

''(3) establishing partnerships with other Federal and state estuarine management programs to coordinate and collaborate on estuarine research.''.

(e) Section 315(e) (16 U.S.C. 1461(e)) is amended—

(1) by striking ''reserve,'' in paragraph (1)(A)(i) and inserting ''reserve; and'';

(2) by striking ''and constructing appropriate reserve facilities, or'' in paragraph (1)(A)(ii) and inserting ''including resource stewardship activities and constructing reserve facilities; and'';

(3) by striking paragraph (1)(A)(iii);

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

''(B) to any coastal state or public or private person for purposes of—

''(i) supporting research and monitoring associated with a national estuarine reserve that are consistent with the research guidelines developed under subsection (c); or

''(ii) conducting educational, interpretive, or training activities for a national estuarine reserve that are consistent with the education guidelines developed under subsection (c).'';

(5) by striking ''therein or $5,000,000, whichever amount is less.'' in paragraph (3)(A) and inserting ''therein. Non-Federal costs associated with the purchase of any lands and waters, or interests therein, which are incorporated into the boundaries of a reserve up to 5 years after the costs are incurred, may be used to match the Federal share.'';

(6) by striking ''and (iii)'' in paragraph (3)(B);

(7) by striking ''paragraph (1)(A)(iii)'' in paragraph (3)(B) and inserting ''paragraph (1)(B)'';

(8) by striking ''entire System.'' in paragraph (3)(B) and inserting ''System as a whole.''; and

(9) by adding at the end thereof the following:

''(4) The Secretary may—

''(A) enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with any nonprofit organization, authorizing the organization to solicit donations to carry out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section; and

''(B) accept donations of funds and services for use in carrying out the purposes and policies of this section, other than general administration of reserves or the System and which are consistent with the purposes and policies of this section.

Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States for the purpose of carrying out this section.''.

(f) Section 315(f)(1) (16 U.S.C. 1461(f)(1)) is amended by inserting ''coordination with other state programs established under sections 306 and 309A,'' after ''including''.

SEC. 17. COASTAL ZONE MANAGEMENT REPORTS.

Section 316 (16 U.S.C. 1462) is amended—

(1) by striking ''to the President for transmittal'' in subsection (a);

(2) by striking ''zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences;'' and inserting ''zone;'' in subsection (a)(10);

(3) by inserting ''education,'' after ''studies,'' in subsection (a)(12);

(4) by striking ''Secretary'' in the first sentence of subsection (c)(1) and inserting ''Secretary, in consultation with coastal states, and with the participation of affected Federal agencies,'';

(5) by striking the second sentence of subsection (c)(1) and inserting the following: ''The Secretary, in conducting such a review, shall coordinate with, and obtain the views of, appropriate Federal agencies.'';

(6) by striking ''shall promptly'' in subsection (c)(2) and inserting ''shall, within 4 years after the date of enactment of the Coastal Zone Enhancement Reauthorization Act of 2007,''; and

(7) by adding at the end of subsection (c)(2) the following: ''If sufficient funds and resources are not available to conduct such a review, the Secretary shall so notify the Congress.''.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) for grants under sections 306, 306A, and 309—

''(A) $90,500,000 for fiscal year 2008,

''(B) $94,000,000 for fiscal year 2009,

''(C) $98,000,000 for fiscal year 2010,

''(D) $102,000,000 for fiscal year 2011, and

''(E) $106,000,000 for fiscal year 2012;

''(2) for grants under section 309A—

''(A) $29,000,000 for fiscal year 2008,

''(B) $30,000,000 for fiscal year 2009,

''(C) $31,000,000 for fiscal year 2010,

''(D) $32,000,000 for fiscal year 2011, and

''(E) $32,000,000 for fiscal year 2012,

of which $10,000,000, or 35 percent, whichever is less, shall be for purposes set forth in section 309A(a)(5);

''(3) for grants under section 315—

''(A) $37,000,000 for fiscal year 2008,

''(B) $38,000,000 for fiscal year 2009,

''(C) $39,000,000 for fiscal year 2010,

''(D) $40,000,000 for fiscal year 2011, and

''(E) $41,000,000 for fiscal year 2012,

of which up to $15,000,000 may be used by the Secretary in each of fiscal years 2008 through 2012 for grants to fund construction and acquisition projects at estuarine reserves designated under section 315;

''(4) for costs associated with administering this title, $7,500,000 for fiscal year 2008, $7,750,000 for fiscal year 2009, $8,000,000 for fiscal year 2010, $8,250,000, for fiscal year 2011, and $8,500,000 for fiscal year 2012; and

''(5) for grants under section 310 to support State pilot projects to implement resource assessment and information programs, $6,000,000 for each of fiscal years 2008 and 20010.'';

(2) by striking ''306 or 309.'' in subsection (b) and inserting ''306.'';

(3) by striking ''during the fiscal year, or during the second fiscal year after the fiscal year, for which'' in subsection (c) and inserting ''within 3 years from when'';

(4) by striking ''under the section for such reverted amount was originally made available.'' in subsection (c) and inserting ''to states under this Act.''; and

(5) by adding at the end thereof the following:

''(d) PURCHASE OF OTHERWISE UNAVAILABLE FEDERAL PRODUCTS AND SERVICES.—Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

''(e) RESTRICTIONS ON USE OF AMOUNTS.—Except for funds appropriated under subsection (a)(4), amounts appropriated under this section shall not be available for administrative or overhead costs of the National Oceanic and Atmospheric Administration or the Department of Commerce. Amounts appropriated under subsection (a)(1) or (2) shall be available only for grants to States.''.

SEC. 19. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION.

(a) IN GENERAL.—Section 319 (16 U.S.C. 1465) is amended to read as follows:

''SEC. 319. APPEALS TO THE SECRETARY.

''(a) NOTICE.—Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

''(b) CLOSURE OF RECORD.—

''(1) IN GENERAL.—Not later than the end of the 270-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

''(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

''(3) EXCEPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), during the 270-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

''(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

''(ii) as the Secretary determines necessary to receive, on an expedited basis—

''(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

''(II) any clarifying information submitted by a party to the proceeding related to information already existing in the sole record.

''(B) APPLICABILITY.—The Secretary may only stay the 270-day period described in paragraph (1) once and for a period not to exceed 60 days.

''(c) DEADLINE FOR DECISION.—

''(1) IN GENERAL.—Not later than 90 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

''(2) SUBSEQUENT DECISION.—Not later than 45 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 90-day period, the Secretary shall issue a decision.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to appeals under subsection (c) or (d) of section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) filed after the date of enactment of this Act.

(c) SPECIAL RULE FOR APPEALS FILED ON OR BEFORE DATE OF ENACTMENT.—The Secretary of Commerce—

(1) shall close the administrative record for any appeal under subsection (c) or (d) of section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) that was filed on or before the date of enactment of this Act within 180 days after such date of enactment but not earlier than December 31, 2008;

(2) may not receive any additional filing with respect to such an appeal; and

(3) shall issue a decision on the appeal within 90 days after closing the administrative record.

SEC. 20. EFFECTS OF CLIMATE CHANGE ON COASTAL ZONE MANAGEMENT.

The Act (16 U.S.C. 1451 et seq.) is amended by adding at the end the following:

''SEC. 320. EFFECTS OF CLIMATE CHANGE ON COASTAL ZONE MANAGEMENT.

''In preparing and carrying out its management program, a coastal state may—

''(1) conduct assessments, mapping, modeling, and forecasting to understand the physical, environmental, and socio-economic impacts of sea level rise, changes in freshwater quality and quantity, ocean acidification, ocean warming, or other effects of global climate change on the coastal zone;

''(2) develop prevention, adaptation or response strategies to reduce vulnerability of coastal communities and resources to such impacts, changes, and effects; and

''(3) establish mechanisms to increase local awareness of such impacts, changes, and effects.''.

SEC. 21. COORDINATION WITH FEDERAL ENERGY REGULATORY COMMISSION.

Within 180 days after the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Congress on the development of a memorandum of understanding with the Commissioner of the Federal Energy Regulatory Commission for a coordinated process for review of coastal energy activities that provides for—

(1) improved coordination among Federal, regional, State, and local agencies concerned with conducting reviews under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); and

(2) coordinated schedules for such reviews that ensures that, where appropriate, the reviews are performed concurrently.

By Mr. INOUYE (for himself, Mr. STEVENS, and Ms. CANTWELL):

S. 1580. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

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

S. 1580

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 ''Coral Reef Conservation Amendments Act of 2007''.

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

SEC. 2. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 3. FINDINGS AND PURPOSES.

Section 202 (16 U.S.C. 6401) is amended to read as follows:

''SEC. 202. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds that—

''(1) coral reefs contain high biological diversity and serve important ecosystem functions;

''(2) coral reef ecosystems provide economic and environmental benefits in the form of food, jobs, natural products, and pharmaceuticals;

''(3) coral reef ecosystems are the basis of thriving commercial and recreational fishing and tourism industries;

''(4) a combination of stressors, including climate change, has caused a rapid decline in the health of many coral reef ecosystems globally;

''(5) natural stressors on coral reef ecosystems are compounded by human impacts including pollution, overfishing, and physical damage; and

''(6) healthy coral reefs provide shoreline protection for coastal communities and resources.

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

''(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

''(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

''(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

''(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

''(5) to provide financial resources for those programs and projects;

''(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

''(7) to provide mechanisms to prevent and minimize damage to coral reefs.''.

SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203(a) (16 U.S.C. 6402(a)) is amended to read as follows:

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2007, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Natural Resources and publish in the Federal Register a national coral reef action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).''.

SEC. 5. CORAL REEF CONSERVATION PROGRAM.

Section 204 (16 U.S.C. 6403) is amended—

(1) by striking ''Administrator'' each place it appears and inserting ''Secretary'';

(2) by striking subsection (a) and inserting the following:

''(a) GRANTS.—The Secretary, subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reef ecosystems (hereafter in this title referred to as 'coral conservation projects'), for proposals approved by the Secretary in accordance with this section.'';

(3) by striking subsection (c) and inserting the following:

''(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral conservation proposal to the Secretary under subsection (e).'';

(4) by striking ''GEOGRAPHIC AND BIOLOGICAL'' in the heading for subsection (d) and inserting ''PROJECT'';

(5) by striking paragraph (3) of subsection (d) and inserting the following:

''(3) Remaining funds shall be awarded for—

''(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

''(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support.'';

(6) by striking subsection (g) and inserting the following:

''(g) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

''(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;

''(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

''(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems or regulate the use and management of coral reef ecosystems;

''(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems and their biodiversity, including factors that cause coral disease and bleaching;

''(5) promoting and assisting the implementation of cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

''(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;

''(7) mapping the location, distribution, and biodiversity of coral reef ecosystems;

''(8) developing and implementing techniques to monitor and assess the status and condition of coral reef ecosystems and biodiversity;

''(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity;

''(10) responding to coral disease and bleaching events;

''(11) promoting activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorages; or

''(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.''; and

(7) by striking ''coral reefs'' in subsection (j) and inserting ''coral reef ecosystems''.

SEC. 6. CORAL REEF CONSERVATION FUND.

Section 205 (16 U.S.C. 6404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest-bearing account (referred to in section 218(a) as the 'Fund') established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this title and are consistent with the national coral reef action strategy under section 203.'';

(2) by striking ''Administrator'' in subsection (c) and inserting ''Secretary'';

(3) by striking ''the grant program'' in subsection (c) and inserting ''any grant program''; and

(4) by striking ''Administrator'' in subsection (d) and inserting ''Secretary''.

SEC. 7. AGREEMENTS.

The Act (16 U.S.C. 6401 et seq.) is amended by redesignating sections 206 through 210 as sections 207 through 211, respectively, and inserting after section 205 the following:

''SEC. 206. AGREEMENTS.

''(a) IN GENERAL.—The Secretary may execute and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this title.

''(b) USE OF OTHER AGENCIES' RESOURCES.—For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

''(c) AUTHORITY TO UTILIZE GRANT FUNDS.—

''(1) Except as provided in paragraph (2), the Secretary may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs where such funding furthers the purpose of this title.

''(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to grant funds to Federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

''(3) Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of appropriations.

''(4) Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account for the purpose for which the grant was awarded.''.

SEC. 8. EMERGENCY ASSISTANCE.

Section 207 (formerly 16 U.S.C. 6405), as redesignated, is amended to read as follows:

''SEC. 207. EMERGENCY ASSISTANCE.

''The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.''.

SEC. 9. NATIONAL PROGRAM.

Section 208 (formerly 16 U.S.C. 6406), as redesignated, is amended to read as follows:

''SEC. 208. NATIONAL PROGRAM.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including with local, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972.

''(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

''(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

''(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

''(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reef ecosystems to conserve living marine resources;

''(4) responding to incidents and events that threaten and damage coral reef ecosystems, including disease and bleaching;

''(5) conservation and management of coral reef ecosystems;

''(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public. with local, regional, or international programs and partners; and

''(7) activities designed to prevent or minimize damage to coral reef ecosystems, including those activities described in section 211 of this title.

''(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies shall provide for the long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities pursuant to this title. The Secretary may—

''(1) archive environmental data collected by Federal, State, local agencies and tribal organizations and federally funded research;

''(2) promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

''(3) develop standards, protocols and procedures for sharing Federal data with State and local government programs and the private sector or academia; and

''(4) develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

''(d) EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.—The Secretary shall establish an account (to be called the Emergency Response, Stabilization, and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. Amounts appropriated for the Account under section 218, and funds authorized by sections 212(d)(3)(B) and 213(f)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 212 and 213.''.

SEC. 10. COMMUNITY-BASED PLANNING GRANTS.

The Act (16 U.S.C. 6401 et seq.) is amended by further redesignating sections 209 through 211, as redesignated, as sections 210 through 212, respectively, and inserting after section 208 the following:

''SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

''(a) IN GENERAL.—The Secretary may make grants to entities who have received grants under section 204 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and scientific experts as high priorities for focused attention. The plans shall—

''(1) support attainment of 1 or more of the criteria described in section 204(g);

''(2) be developed at the community level;

''(3) utilize watershed-based approaches;

''(4) provide for coordination with Federal and State experts and managers; and

''(5) build upon local approaches or models, including traditional or island-based resource management concepts.

''(b) TERMS AND CONDITIONS.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, '75 percent' shall be substituted for '50 percent'.''.

SEC. 11. VESSEL GROUNDING INVENTORY.

The Act (16 U.S.C. 6401 et seq.) is further amended by redesignating sections 210 through 212, as redesignated, as sections 211 through 213, and inserting after section 209, as added by section 10, the following:

''SEC. 210. VESSEL GROUNDING INVENTORY.

''(a) IN GENERAL.—The Secretary may maintain an inventory of all vessel grounding incidents involving coral reefs, including a description of—

''(1) the impacts to affected coral reef ecosystems;

''(2) vessel and ownership information, if available;

''(3) the estimated cost of removal, mitigation, or restoration;

''(4) the response action taken by the owner, the Secretary, the Commandant of the Coast Guard, or other Federal or State agency representatives;

''(5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and

''(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

''(b) IDENTIFICATION OF AT-RISK REEFS.—The Secretary may—

''(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage;

''(2) identify appropriate measures, including the acquisition and placement of aids to navigation, moorings, fixed anchors and other devices, to reduce the likelihood of such impacts; and

''(3) develop a strategy and timetable to implement such measures, including cooperative actions with other government agencies and non-governmental partners.''.

SEC. 12. PROHIBITED ACTIVITIES.

The Act (16 U.S.C. 6401 et seq.) is amended by further redesignating sections 211 through 213, as redesignated, as sections 217 through 220, and inserting after section 210 the following:

''SEC. 211. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

''(a) PROVISIONS AS COMPLEMENTARY.—The provisions of this section are in addition to, and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

''(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

''(2) EXCEPTIONS.—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

''(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

''(B) was caused by an activity that is authorized by Federal or State law (including lawful discharges from vessels of graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel

groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

''(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

''(D) was caused by a Federal Government agency—

''(i) during—

''(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

''(II) an emergency that posed a threat to national security; or

''(III) an activity necessary for law enforcement or search and rescue; and

could not reasonably be avoided; or

''(E) was caused by an action taken to ensure the safety of the vessel or the lives of passengers or crew.

''(c) INTERFERENCE WITH ENFORCEMENT.—It is unlawful for any person to interfere with the enforcement of this title by—

''(1) refusing to permit any officer authorized to enforce this title to board a vessel (other than a vessel operated by the Department of Defense or United States Coast Guard) subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

''(2) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

''(3) submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title.

''(d) VIOLATIONS OF TITLE, PERMIT, OR REGULATION.—It is unlawful for any person to violate any provision of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

''(e) POSSESSION AND DISTRIBUTION.—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.''.

SEC. 13. DESTRUCTION OF CORAL REEFS.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 211, as added by section 12, the following:

''SEC. 212. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

''(a) LIABILITY.—

''(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsections (a) or (c) of section 211, or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

''(A) response costs and damages resulting from the destruction, loss, taking, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(C) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(2) LIABILITY IN REM.—

''(A) Any vessel used in an activity that is prohibited under subsection (a) or (c) of section 211, or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

''(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(iii) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

''(B) The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

''(3) DEFENSES.—A person or vessel is not liable under this subsection if that person or vessel establishes that the destruction, loss, taking, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person or master of the vessel acted with due care.

''(4) NO LIMIT TO LIABILITY.—Nothing in sections 30501 through 30512 or section 30706 of title 46, United States Code, shall limit liability to any person under this title.

''(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

''(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

''(2) DAMAGE ASSESSMENT.—

''(A) The Secretary shall assess damages (as defined in section 220(8)) to coral reefs and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

''(B) There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

''(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

''(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

''(2) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

''(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(B) the vessel is located, in the case of an action against a vessel;

''(C) the destruction, loss, or taking of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(D) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

''(d) USE OF RECOVERED AMOUNTS.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

''(1) be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;

''(2) be available for use by the Secretary without further appropriation and remain available until expended; and

''(3) be for use, as the Secretary considers appropriate—

''(A) to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) of this section for costs incurred in conducting the activity;

''(B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized emergency actions; and

''(C) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

''(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates. If the Secretary fails to complete such damage assessment and restoration plan within one year after discovery of the damage, then for the purposes of this subsection such assessment and plan shall be deemed to have been completed by the Secretary on the 366th day following discovery of the damage.

''(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.''.

SEC. 14. ENFORCEMENT.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 212, as added by section 13, the following:

''SEC. 213. ENFORCEMENT.

''(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this title.

''(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

''(1) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and cargo of such vessel;

''(2) seize wherever found any component of coral reef taken or retained in violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(3) seize any evidence of a violation of this title, any regulation promulgated under this title, or any permit issued under this title;

''(4) execute any warrant or other process issued by any court of competent jurisdiction;

''(5) exercise any other lawful authority; and

''(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 211.

''(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

''(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued hereunder, shall be liable to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

''(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this title, and who violates this title or any regulation or permit issued under this title, the Secretary may deny, suspend, amend, or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this title.

''(3) IMPOSITION OF CIVIL JUDICIAL PENALTIES.—Any person who violates any provision of this title, any regulation promulgated or permit issued thereunder, shall be subject to a civil judicial penalty not to exceed $250,000 for each such violation. Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

''(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

''(5) IN REM JURISDICTION.—A vessel used in violating this title, any regulation promulgated under this title, or any permit issued under this title, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

''(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of the final order imposing the civil 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 shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

''(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to the Attorney General for further enforcement action.

''(8) JURISIDICTION.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law.

''(d) FORFEITURE.—

''(1) CRIMINAL FORFEITURE.—A person who is convicted of an offense in violation of this title shall forfeit to the United States—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

Pursuant to section 2461(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) other than subsection (d) thereof shall apply to criminal forfeitures under this section.

''(2) CIVIL FORFEITURE.—The property set forth below shall be forfeited to the United States in accordance with the provisions of chapter 46 of title 18, United States Code, and no property right shall exist in it:

''(A) Any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof).

''(B) Any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(3) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

''(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all coral reefs, or components thereof, found on board a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this title were taken, obtained, or retained in violation of this title or of a regulation promulgated under this title.

''(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation promulgated under this title and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

''(f) EXPENDITURES.—

''(1) Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—

''(A) be placed into an account;

''(B) be available for use by the Secretary without further appropriation; and

''(C) remain available until expended.

''(2) Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

''(3) Amounts received under this section as civil penalties under subsection (c) of this section and any amounts remaining after the operation of paragraph (2) of this subsection shall—

''(A) be used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

''(B) be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) or an account described in section 212(d)(1) of this title, to reimburse such account for amounts used for authorized emergency actions;

''(C) be used to conduct monitoring and enforcement activities;

''(D) be used to conduct research on techniques to stabilize and restore coral reefs;

''(E) be used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

''(F) be used to stabilize, restore or otherwise manage any other coral reef; or

''(G) be used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation promulgated under this title.

''(g) CRIMINAL ENFORCEMENT.—

''(1) Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 211(b) of this title shall be imprisoned for not more than 5 years and shall be fined not more than $500,000 for individuals or $1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than 10 years.

''(2) Any person (other than a foreign government or any entity of such government) who knowingly violates subsection (a) or (c) of section 211 shall be fined under title 18, United States Code, or imprisoned not more than 5 years or both.

''(3) The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. For the purpose of this subsection, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

''(h) SUBPENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

''(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

''(j) INJUNCTIVE RELIEF.—

''(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 212 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the Unites States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(2) Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this title, or any regulation or permit issued under this title, and the district courts shall have jurisdiction to grant such relief.

''(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

''(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with rule 4 of the Federal Rules of Civil Procedure.

''(m) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

''(1) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(2) the vessel is located, in the case of an action against a vessel;

''(3) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(4) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.''.

SEC. 15. PERMITS.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 213, as added by section 14, the following:

''SEC. 214. PERMITS.

''(a) IN GENERAL.—The Secretary may allow for the conduct of—

''(1) bona fide research, and

''(2) activities that would otherwise be prohibited by this title or regulations issued thereunder,

through issuance of coral reef conservation permits in accordance with regulations issued under this title.

''(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—The Secretary may not issue a permit for activities other than for bona fide research unless the Secretary finds—

''(1) the activity proposed to be conducted is compatible with one or more of the purposes in section 202(b) of this title;

''(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

''(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component thereof.

''(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary deems reasonable.

''(d) FEES.—

''(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Secretary may assess and collect fees as specified in this subsection.

''(2) AMOUNT.—Any fee assessed shall be equal to the sum of—

''(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

''(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

''(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section shall be collected and available for use only to the extent provided in advance in appropriations Acts and may be used by the Secretary for issuing and administering permits under this section.

''(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

''(A) accept in-kind contributions in lieu of a fee; or

''(B) waive or reduce the fee.

''(e) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities not prohibited by this title or regulations issued thereunder.''.

SEC. 16. REGIONAL, STATE, AND TERRITORIAL COORDINATION..

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 214, as added by section 15, the following:

''SEC. 215. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

''(a) REGIONAL COORDINATION.—The Secretary shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting.

''(b) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall, when appropriate, enter into a written agreement with any affected State regarding the manner in which response and restoration activities will be conducted within the affected State's waters.

''(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.''.

SEC. 17. REGULATIONS.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 215, as added by section 16, the following:

''SEC. 216. REGULATIONS.

''The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title. This title and any regulations promulgated under this title shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.''.

SEC. 18. EFFECTIVENESS REPORT.

Section 217 (formerly 16 U.S.C. 6407), as redesignated, is amended to read as follows:

''SEC. 217. EFFECTIVENESS REPORT.

''Not later than March 1, 2009, and every 3 years thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, including—

''(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

''(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

''(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels;''

''(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems; and

''(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs.''.

SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

Section 218 (formerly 16 U.S.C. 6408), as redesignated, is amended—

(1) by striking ''$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004,'' in subsection (a) and inserting ''$34,000,000 for fiscal year 2008, $36,000,000 for fiscal year 2009, $38,000,000 for fiscal year 2010, and $40,000,000 for each of fiscal years 2011 through 2014, of which no less than 30 percent per year (for each of fiscal years 2008 through 2014) shall be used for the grant program under section 204 and up to 10 percent per year shall be used for the Fund established under section 205(a),'';

(2) by striking ''$1,000,000'' in subsection (b) and inserting ''$2,000,000'';

(3) by striking subsection (c) and inserting the following:

''(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Secretary to carry out section 209 the sum of $8,000,000 for fiscal years 2007 through 2012, such sum to remain available until expended.''; and

(4) by striking subsection (d).

SEC. 20. JUDICIAL REVIEW.

The Act (16 U.S.C. 6401 et seq.) is further amended by inserting after section 218, as amended by section 19, the following:

''SEC. 219. JUDICIAL REVIEW.

''(a) IN GENERAL.—Judicial review of any action taken by the Secretary under this title shall be in accordance with sections 701 through 706 of title 5, United States Code, except that—

''(1) review of any final agency action of the Secretary taken pursuant to sections 211(c)(1) and 211(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district within 30 days after the date such final agency action is taken; and

''(2) review of all other final agency actions of the Secretary under this title may be had only by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts business which is directly affected by the action taken within 120 days after the date such final agency action is taken.

''(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

''(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.''.

SEC. 21. DEFINITIONS.

Section 220 (formerly 16 U.S.C. 6409), as redesignated, is amended to read as follows:

''SEC. 220. DEFINITIONS.

''In this title:

''(1) BIODIVERSITY.—The term 'biodiversity' means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species, and of ecosystems.

''(2) CONSERVATION.—The term 'conservation' means the use of methods and procedures necessary to preserve or sustain corals and associated species and habitat as resilient, diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management (such as assessment, conservation, protection, restoration, sustainable use, and management of habitat, mapping, habitat monitoring, assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), law enforcement, conflict resolution initiatives, and community outreach and education) that promote safe and ecologically sound navigation.

''(3) CORAL.—The term 'coral' means species of the phylum *Cnidaria*, including—

''(A) all species of the orders *Antipatharia* (black corals), *Scleractinia* (stony corals), *Gorgonacea* (horny corals), *Stolonifera* (organpipe corals and others), *Alcyonacea* (soft corals), and *Helioporacea* (blue coral) of the class *Anthozoa;* and

''(B) all species of the families *Milleporidea* (fire corals) and *Stylasteridae* (stylasterid hydrocorals) of the class *Hydrozoa*.

''(4) CORAL REEF.—The term 'coral reef' means limestone structures composed in whole or in part of living corals, as described in paragraph (3), their skeletal remains, or both, and including other corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(5) CORAL REEF COMPONENT.—The term 'coral reef component' means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(6) CORAL REEF ECOSYSTEM.—The term 'coral reef ecosystem' means the system of coral reefs and geographically associated species, habitats, and environment, including mangroves and seagrass habitats, and the processes that control its dynamics.

''(7) CORAL PRODUCTS.—The term 'coral products' means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

''(8) DAMAGES.—The term 'damages' includes—

''(A) compensation for—

''(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or component thereof; and

''(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or component thereof;

''(B) the reasonable cost of damage assessments under section 212;

''(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

''(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

''(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, and cultural resource;

''(F) the cost of legal actions under section 212, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

''(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

''(9) EMERGENCY ACTIONS.—The term 'emergency actions' means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the risk of such additional destruction, loss, or injury.

''(10) EXCLUSIVE ECONOMIC ZONE.—The term 'Exclusive Economic Zone' means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

''(11) PERSON.—The term 'person' means any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

''(12) RESPONSE COSTS.—The term 'response costs' means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 212.

''(13) SECRETARY.—The term 'Secretary' means—

''(A) for purposes of sections 201 through 210, sections 217 through 219, and the other paragraphs of this section, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration; and

''(B) for purposes of sections 211 through 219—

''(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (September 4, 1962)); or

''(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not described in clause (i).

''(14) SERVICE.—The term 'service' means functions, ecological or otherwise, performed by a coral reef or component thereof.

''(15) STATE.—The term 'State' means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

''(16) TERRITORIAL SEA.—The term 'Territorial Sea' means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.''.

By Mr. LAUTENBERG (for himself and Ms. CANTWELL):

S. 1581. A bill to establish an interagency committee to develop an ocean acidification research and monitoring plan and to establish an ocean acidification program within the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation that would establish a comprehensive Federal research plan and program to address ocean acidification, which poses a growing threat to the health of our oceans.

Our oceans help reduce global warming by absorbing carbon dioxide from the atmosphere. To date, about one-third of all human-generated carbon emissions have dissolved into the ocean. However, the increase in carbon dioxide lowers ocean pH, and causes the oceans to become more acidic. This increase in acidity is corrosive to marine shells and organisms that form the base of the food chain for many fish and marine mammals. These changes in ocean chemistry also threaten coral reef ecosystems, habitats so rich in biodiversity they are called he rain forests of the sea. Even a mild increase in ocean acidity could make these organisms more vulnerable to disease, pollution and other environmental stresses. If the acidic conditions increase significantly, marine shells could actually begin to dissolve.

Ocean acidification demands our immediate attention. Current projections of carbon dioxide emissions suggest that the acidity of our oceans is likely to accelerate significantly in the coming years. NOAA scientists have said that ocean acidity has increased 30 percent since the industrial revolution and they estimate by the end of this century the acidity of the oceans may increase 150 percent. They also project that current trends could result in a decrease in ocean pH to the lowest levels in 20 million years.

Ocean acidification threatens our marine ecosystems and could result in significant social and economic costs. The rich biodiversity of marine organisms is an important contribution to the national economy providing food, tourism, and aesthetic benefits, but they are vulnerable to human activity. Ocean acidification threatens fish and all calcifying organisms including corals, scallops, clams, crabs, lobsters, and plankton.

It is important to note the potential economic impacts of ocean acidification. Coastal and marine commercial fishing generates upwards of $30 billion per year and employs nearly 70,000 people. Many of these fisheries also rely upon healthy coral habitats. Increased ocean acidification reduces the ability of corals and shellfish to produce their skeletons. Globally, coral reefs are home to more than 4,000 kinds of fish, and generate $30 billion per year in fishing, tourism, and protection to coasts from storms. Scientists have estimated that, due to excess carbon dioxide in the oceans, corals may be unable to form their skeletons by mid-century, and could begin to dissolve by the end of this century. Destroying these ecosystems will have staggering environmental, social and economic consequences.

In addition, ocean acidification directly threatens numerous commercially and recreationally important fish and shellfish species from coast to coast. Carbon dioxide-rich waters have been shown to decrease the body weight of Pacific salmon and increase the mortality rate of Alaskan blue king crab. Over 50 percent of our commercial catch in the United States is shellfish. In New Jersey, sea scallops and clams are some of the State's most valuable fisheries, valued at $121 million. These and other important shellfish species are threatened by growing acidification.

Research on the processes and consequences of ocean acidification is still in its infancy. The urgency of developing interagency collaboration to address this far-reaching environmental problem is widely recognized in the scientific community. In January, the Administration Ocean Research Priorities Plan, ORPP, identified ocean acidification as a research priority. Consistent with the ORPP, my legislation will establish a comprehensive research and monitoring program within the National Oceanic and Atmospheric Administration, NOAA. This is critical for ocean management in the long-term because many questions on the effect of increasing atmospheric carbon dioxide on ocean chemistry and marine life remain unanswered.

My legislation also establishes an interagency committee to develop a comprehensive ocean acidification research and monitoring plan designed to improve the understanding of the environmental and economic impacts of increased ocean acidification. The plan will identify priority research areas and strengthen relevant programs within our federal agencies. The plan will also address commercially and recreationally important species, as well as vulnerable ecosystems including coral reefs and coastal and polar oceans threatened by acidification.

The rise of carbon dioxide in our atmosphere has been measured continuously since 1958. Known as the ''Keeling Curve'', these measurements are a cornerstone of our understanding of man-made increases in carbon dioxide causing global warming and ocean acidification. It is vital that we establish a program for long-term global measurements of ocean pH to understand the processes and consequences of ocean acidification. A key component in our bill directs federal agencies to establish a long-term monitoring program of pH levels in the ocean utilizing existing global ocean observing assets.

Congress has been hearing from our Nation experts on ocean acidification since 2004. Now is the time for national investment in a coordinated program of research and monitoring to improve understanding of ocean acidification, and strengthen the ability of marine resource managers to assess and prepare for the harmful impacts of ocean acidification on our marine resources.

I would like to thank Senator CANTWELL for her cosponsorship and support on this important issue. I look forward to working with my colleagues in the Senate to ensure passage of this legislation so that we can fill this vital research need and protect our valuable marine resources.

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. 1581

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 ''Federal Ocean Acidification Research And Monitoring Act of 2007'' or the ''FOARAM Act''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The oceans help mitigate the effects of global warming by absorbing atmospheric carbon dioxide. About a third of anthropogenic carbon dioxide is currently absorbed by the ocean.

(2) The rapid increase in atmospheric carbon dioxide is overwhelming the natural ability of the oceans to cope with human-induced carbon dioxide emissions.

(3) The emission of carbon dioxide into the atmosphere is causing the oceans to become more acidic. The increase in acidity and changes in ocean chemistry are corrosive to marine shells and organisms that form the base of the food chain for many fish and marine mammals including the skeletons of corals which provide one of the richest habitats on earth.

(4) The rich biodiversity of marine organisms is an important contribution to the national economy and the change in ocean chemistry threatens our fisheries and marine environmental quality, and could result in significant social and economic costs.

(5) Existing Federal programs support research in related ocean chemistry, but gaps in funding, coordination, and outreach have impeded national progress in addressing ocean acidification.

(6) National investment in a coordinated program of research and monitoring would improve the understanding of ocean acidification effects on whole ecosystems, advance our knowledge of the socio-economic impacts of increased ocean acidification, and strengthen the ability of marine resource managers to assess and prepare for the harmful impacts of ocean acidification on our marine resources.

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

(1) development and coordination of a comprehensive interagency plan to monitor and conduct research on the processes and consequences of ocean acidification on marine organisms and ecosystems and to establish an ocean acidification program within the National Oceanic and Atmospheric Administration; and

(2) assessment and consideration of regional and national ecosystem and socio-economic impacts of increased ocean acidification, and integration into marine resource decisions.

SEC. 3. INTERAGENCY COMMITTEE ON OCEAN ACIDIFICATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established an Interagency Committee on Ocean Acidification.

(2) MEMBERSHIP.—The Committee shall be comprised of senior representatives from the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Aeronautics and Space Administration, the United States Geological Survey, the United States Fish and Wildlife Service, the Environmental Protection Agency, the Department of Energy, and such other Federal agencies as the Secretary considers appropriate.

(3) CHAIRMAN.—The Committee shall be chaired by the representative from the National Oceanic and Atmospheric Administration. The chairman may create subcommittees chaired by any member agency of the committee. Working groups may be formed by the full Committee to address issues that may require more specialized expertise than is provided by existing subcommittees.

(b) PURPOSE.—The Committee shall oversee the planning, establishment, and coordination of a plan designed to improve the understanding of the role of increased ocean acidification on marine ecosystems.

(c) REPORTS TO CONGRESS.—

(1) STRATEGIC RESEARCH AND IMPLEMENTATION PLAN.—The Committee shall submit the strategic research and implementation plan established under section 4 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources.

(2) TRIENNIAL REPORT.—Not later than 2 years after the date of the enactment of this Act and every 3 years thereafter, the Committee shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources that includes—

(A) a summary of federally funded ocean acidification research and monitoring activities, including the budget for each of these activities; and

(B) an analysis of the progress made toward achieving the goals and priorities for the interagency research plan developed by the Committee under section 4 and recommendations for future activities.

SEC. 4. STRATEGIC RESEARCH AND IMPLEMENTATION PLAN.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Committee shall develop a strategic research and implementation plan for coordinated Federal activities. In developing the plan, the Committee shall consider and use reports and studies conducted by Federal agencies and departments, the National Research Council, the Ocean Research and Resources Advisory Panel, the Joint Subcommittee on Ocean, Science, and Technology of the National Science and Technology Council, the Joint Ocean Commission Initiative, and other expert scientific bodies.

(b) SCOPE.—The plan shall—

(1) provide for interdisciplinary research among the ocean sciences, and coordinated research and activities to improve understanding of ocean acidification that will affect marine ecosystems and to assess the potential and realized socio-economic impact of ocean acidification, including—

(A) effects of atmospheric carbon dioxide on ocean chemistry;

(B) biological impacts of ocean acidification, including research on—

(i) commercially and recreationally important species and ecologically important calcifiers that lie at the base of the food chain; and

(ii) physiological changes in response to ocean acidification;

(C) identification and assessment of ecosystems most at risk from projected changes in ocean chemistry including—

(i) coral reef ecosystems;

(ii) polar ecosystems; and

(iii) coastal ocean ecosystems;

(D) modeling the effects of pH including ecosystem forecasting;

(E) identifying feedback mechanisms resulting from the ocean chemistry changes and the subsequent decrease in calcification rates in organisms;

(F) socio-economic impacts of ocean acidification, including commercially and recreationally important fisheries;

(2) establish, for the 10-year period beginning in the year it is submitted, goals, priorities, and guidelines for coordinated activities that will—

(A) most effectively advance scientific understanding of the characteristics and impacts of ocean acidification;

(B) provide forecasts of changes in ocean acidification and the consequent impacts on marine ecosystems; and

(C) provide a basis for policy decisions to reduce and manage ocean acidification and its environmental impacts;

(3) provide an estimate of Federal funding requirements for research and monitoring activities; and

(4) identify and strengthen relevant programs and activities of the Federal agencies and departments that would contribute to accomplishing the goals of the plan and prevent unnecessary duplication of efforts, including making recommendations for the use of observing systems and technological research and development.

SEC. 5. NOAA OCEAN ACIDIFICATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and maintain an ocean acidification program within the National Oceanic and Atmospheric Administration to implement activities consistent with the strategic research and implementation plan developed by the Committee under section 4 that—

(1) includes—

(A) interdisciplinary research among the ocean sciences, and coordinated research and activities to improve understanding of ocean acidification;

(B) the establishment of a long-term monitoring program of pH levels in the ocean utilizing existing global ocean observing assets and adding instrumentation and sampling stations as appropriate to the aims of the research program;

(C) educational opportunities that encourage an interdisciplinary and international approach to exploring the impacts of ocean acidification;

(D) national public outreach activities to improve the understanding of ocean acidification and its impacts on marine resources; and

(E) coordination of ocean acidification monitoring and impacts research with other appropriate international ocean science bodies such as the International Oceanographic Commission, the International Council for the Exploration of the Sea, the North Pacific Marine Science Organization, and others;

(2) provides grants for critical research projects that explore the effects of ocean acidification on ecosystems and the socio-economic impacts of increased ocean acidification that are relevant to the goals and priorities of the strategic research plan; and

(3) incorporates a competitive merit-based grant process that may be conducted jointly with other participating agencies or under the National Oceanographic Partnership Program under section 7901 of title 10, United States Code.

(b) ADDITIONAL AUTHORITY.—In conducting the Program, the Secretary may enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act on such terms as the Secretary deems appropriate.

SEC. 6. DEFINITIONS.

In this Act:

(1) COMMITTEE.—The term ''Committee'' means the Interagency Committee on Ocean Acidification established by section 3(a).

(2) OCEAN ACIDIFICATION.—The term ''ocean acidification'' means the decrease in the pH of the Earth's oceans caused by the uptake of anthropogenic carbon dioxide from the atmosphere.

(3) PROGRAM.—The term ''Program'' means the National Oceanic and Atmospheric Administration Ocean Acidification Program established under section 5.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the National Oceanic and Atmospheric Administration $30,000,000 to carry out the purposes of this Act for each of fiscal years 2008 through 2012, and such sums as may be necessary for fiscal years after fiscal year 2012.

(b) ALLOCATION.—

(1) Of the amounts made available to carry out this Act for a fiscal year, the Secretary shall allocate at least 60 percent to other departments and agencies to carry out the priorities of the plan developed by the Committee.

(2) Of the amounts made available to carry out this Act for any fiscal year, the Secretary, and other departments and agencies to which amounts are allocated under paragraph (1), shall allocate at least 50 percent for competitive grants.

By Mr. INOUYE (for himself, Mr. STEVENS, Ms. CANTWELL, and Ms. SNOWE):

S. 1582. A bill to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

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

S. 1582

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 ''Hydrographic Services Improvement Act Amendments of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

The Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.) is amended—

(1) by redesignating sections 302 through 306 as sections 303 through 307, respectively; and

(2) by inserting after section 301 the following:

''SEC. 302. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds the following:

''(1) In 2007, the Nation celebrates the 200th anniversary of its oldest scientific agency, the Survey of the Coast, which was authorized by Congress and created by President Thomas Jefferson in 1807 to conduct surveys of the coast and provide nautical charts for safe passage through the Nation's ports and along its extensive coastline.

''(2) These mission requirements and capabilities, which today are located in the National Oceanic and Atmospheric Administration, evolved over time to include—

''(A) research, development, operations, products, and services associated with hydrographic, geodetic, shoreline, and baseline surveying;

''(B) cartography, mapping, and charting;

''(C) tides, currents, and water level observations;

''(D) maintenance of a national spatial reference system; and

''(E) associated products and services.

''(3) There is a need to maintain Federal expertise and capability in hydrographic data and services to support a safe and efficient marine transportation system for the enhancement and promotion of international trade and interstate commerce vital to the Nation's economic prosperity and for myriad other commercial and recreational activities.

''(4) The Nation's marine transportation system is becoming increasingly congested, the volume of international maritime commerce is expected to double within the next 20 years, and nearly half of the cargo transiting United States waters is oil, refined petroleum products, or other hazardous substances.

''(5) In addition to commerce, hydrographic data and services support other national needs for the Great Lakes and coastal waters, the territorial sea, the Exclusive Economic Zone, and the continental shelf of the United States, including—

''(A) emergency response;

''(B) homeland security;

''(C) marine resource conservation;

''(D) coastal resiliency to sea-level rise, coastal inundation, and other hazards;

''(E) ocean and coastal science advancement; and

''(F) improved and integrated ocean and coastal mapping and observations for an integrated ocean observing system.

''(6) The National Oceanic and Atmospheric Administration, in cooperation with other agencies and the States, serves as the Nation's leading civil authority for establishing and maintaining national standards and datums for hydrographic data and services.

''(7) The Director of the National Oceanic and Atmospheric Administration's Office of Coast Survey serves as the National Hydrographer and the primary United States representative to the international hydrographic community, including the International Hydrographic Organization.

''(8) The hydrographic expertise, data, and services of the National Oceanic and Atmospheric Administration provide the underlying and authoritative basis for baseline and boundary demarcation, including the establishment of marine and coastal territorial limits and jurisdiction, such as the Exclusive Economic Zone.

''(9) Research, development and application of new technologies will further increase efficiency, promote the Nation's competitiveness, provide social and economic benefits, enhance safety and environmental protection, and reduce risks.

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

''(1) to augment the ability of the National Oceanic and Atmospheric Administration to fulfill its responsibilities under this and other authorities;

''(2) to provide more accurate and up-to-date hydrographic data and services in support of safe and efficient international trade and interstate commerce, including—

''(A) hydrographic surveys;

''(B) electronic navigational charts;

''(C) real-time tide, water level, and current information and forecasting;

''(D) shoreline surveys; and

''(E) geodesy and 3-dimensional positioning data;

''(3) to support homeland security, emergency response, ecosystem approaches to marine management, and coastal resiliency by providing hydrographic data and services with many other useful operational, scientific, engineering, and management applications, including—

''(A) storm surge, tsunami, coastal flooding, erosion, and pollution trajectory monitoring, predictions, and warnings;

''(B) marine and coastal geographic information systems;

''(C) habitat restoration;

''(D) long-term sea-level trends; and

''(E) more accurate environmental assessments and monitoring;

''(4) to promote improved integrated ocean and coastal mapping and observations through increased coordination and cooperation;

''(5) to provide for and support research and development in hydrographic data, services and related technologies to enhance the efficiency, accuracy and availability of hydrographic data and services and thereby promote the Nation's scientific and technological competitiveness; and

''(6) to provide national and international leadership for hydrographic and related services, sciences, and technologies.''.

SEC. 3. DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892), as redesignated by section 2, is amended—

(1) by amending paragraph (3) to read as follows:

''(3) HYDROGRAPHIC DATA.—The term ''hydrographic data'' means information acquired through hydrographic, bathymetric, or shoreline surveying; geodetic, geospatial, or geomagnetic measurements; tide, water level, and current observations, or other methods, that is used in providing hydrographic services.'';

(2) by striking paragraph (4)(A) and inserting the following:

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;''; and

(3) by striking paragraph (5) and inserting the following:

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 4. FUNCTIONS OF THE ADMINISTRATOR.

Section 304 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a), as redesignated by section 2, is amended—

(1) by striking ''the Act of 1947,'' in subsection (a) and inserting ''the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(2) by striking ''data;'' in subsection (a)1) and inserting ''data and provide hydrographic services;''; and

(3) by striking subsection (b) and inserting the following:

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations—

''(1) the Administrator may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) the Administrator shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency;

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Administrator may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, the Administrator may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining Mission Assignments as defined in section 641 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 741);

''(5) the Administrator may create, support, and maintain such joint centers, and enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act; and

''(6) notwithstanding paragraph (5), the Administrator shall award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 1101 et seq.).''.

SEC. 5. QUALITY ASSURANCE PROGRAM.

Subsection (b) of section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b), as redesignated by section 2, is amended by striking ''303(a)(3)'' each place it appears and inserting ''304(a)(3)''.

SEC. 6. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c), as redesignated by section 2, is amended—

(1) by striking ''303'' in subsection (b)(1) and inserting ''304'';

(2) by striking subsection (c)(1)(A) and inserting ''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training,

are especially qualified in 1 or more of the disciplines and fields relating to hydrographic data and hydrographic services, and other disciplines as determined appropriate by the Administrator.'';

(3) by striking ''Secretary'' in subsections (c)(1)(C), (c)(3), and (e) and inserting ''Administrator''; and

(4) by striking subsection (d) and inserting the following:

''(d) COMPENSATION.—Voting members of the panel shall be reimbursed for actual and reasonable expenses, such as travel and per diem, incurred in the performance of such duties.''.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 307 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), as redesignated by section 2, is amended to read as follows:

''SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator sums as may be necessary for each of fiscal years 2008 through 2012 for the purposes of carrying out this Act.''.

By Mr. INOUYE (for himself and Mr. STEVENS) (by request):

S. 1583. A bill to reauthorize the Coral Reef Conservation Act of 2000, and for other coral conservation purposes; to the Committee on Commerce, Science, and Transportation.

Mr. President, I ask unanimous conset 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. 1583

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

SECTION 1. SHORT TITLE AND REFERENCES.

(a) This Act may be cited as the ''Coral Reef Ecosystem Conservation Amendments Act of 2007''.

(b) Except as otherwise expressly provided, whenever in this bill an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 2. REDESIGNATIONS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by redesignating—

(1) section 206 (16 U.S.C. 6405) as section 207;

(2) section 207 (16 U.S.C. 6406) as section 208;

(3) section 208 (16 U.S.C. 6407) as section 215;

(4) section 209 (16 U.S.C. 6408) as section 216; and

(5) section 210 (16 U.S.C. 6409) as section 217.

SEC. 3. FINDINGS AND PURPOSES.

Section 202 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401) is amended to read as follows:

''SEC. 202. FINDINGS AND PURPOSES.

''(a) The Congress finds that—

''(1) coral reefs contain high biological diversity and serve important ecosystem functions;

''(2) coral reef resources provide economic and environmental benefits in the form of food, jobs, natural products, and pharmaceuticals;

''(3) coral reefs are the basis of thriving commercial and recreational fishing and tourism industries;

''(4) a combination of stressors, including climate change, has caused a rapid decline in the health of many coral reef ecosystems globally;

''(5) natural stressors on coral reefs are compounded by human impacts including pollution, overfishing, and physical damage; and

''(6) healthy coral reefs provide shoreline protection for coastal communities and resources.

''(b) The purposes of this title are—

''(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

''(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

''(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

''(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

''(5) to provide financial resources for those programs and projects;

''(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

''(7) to provide mechanisms to address injuries to coral reefs.''.

SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203(a) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6402(a)) is amended to read as follows:

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Natural Resources of the House of Representatives and publish in the Federal Register a national coral reef action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary shall consult with the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).''.

SEC. 5. CORAL REEF CONSERVATION PROGRAM.

Section 204 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6403) is amended—

(1) throughout by striking ''Administrator'' and inserting ''Secretary'';

(2) by amending subsection (a) to read as follows:

''(a) GRANTS.—The Secretary, subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reef ecosystems (hereafter in this title referred to as 'coral conservation projects'), for proposals approved by the Secretary in accordance with this section.'';

(3) by amending subsection (c) to read as follows:

''(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit to the Secretary a coral conservation proposal under subsection (e).'';

(4) by striking subsection (d) and renumbering the subsequent sections as (d) through (i);

(5) in subparagraph (e)(2)(A), as redesignated, by striking ''Magnuson- Stevens'' and inserting ''Magnuson-Stevens'';

(6) by amending subsection (f), as redesignated, to read as follows:

''(f) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

''(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;

''(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

''(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reef ecosystems or regulate the use and management of coral reef ecosystems;

''(4) developing sound scientific information on the condition of coral reef ecosystems or the threats to such ecosystems and their biodiversity, including factors that cause coral disease and bleaching;

''(5) promoting and assisting to implement cooperative coral reef ecosystem conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

''(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long-term conservation, including how they function to protect coastal communities;

''(7) mapping the location, distribution and biodiversity of coral reef ecosystems;

''(8) developing and implementing techniques to monitor and assess the status and condition of coral reef ecosystems and biodiversity;

''(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity;

''(10) responding to coral disease and bleaching events; or

''(11) promoting ecologically sound navigation and anchorages near coral reef ecosystems.''; and

(7) in subsection (i), as redesignated, by striking ''coral reefs'' and inserting ''coral reef ecosystems''.

SEC. 6. CORAL REEF CONSERVATION FUND.

Section 205 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6404) is amended—

(1) by amending subsection (a) to read as follows:

''(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest-bearing account, hereafter referred to as the Fund, established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef action strategy under section 203.'';

(2) in subsection (c) by striking ''Administrator'' and inserting ''Secretary'';

(3) in subsection (c) by striking ''the grant program'' and inserting ''any grant program''; and

(4) in subsection (d) by striking ''Administrator'' and inserting ''Secretary''.

SEC. 7. AGREEMENTS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 206 as follows:

''SEC. 206. AGREEMENTS.

''(a) The Secretary shall have the authority to enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act.

''(b) For purposes related to the conservation, preservation, protection, restoration or replacement of coral reefs or coral reef ecosystems and the enforcement of this Act, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency or instrumentality of the United States, or of any state, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

''(c) AUTHORITY TO UTILIZE GRANT FUNDS.—

''(1) Except as provided in paragraph (2), the Secretary is authorized to apply for, accept, and obligate research grant funding from any federal source operating competitive grant programs where such funding furthers the purpose of this Act.

''(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting agency lacks authority to grant funds to federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

''(3) Appropriated funds may be used to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment in advance of appropriations.

''(4) Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account that serves to accomplish the purpose for which the grant was awarded.''.

SEC. 8. EMERGENCY ASSISTANCE.

Section 207 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6405), as redesignated by section 2, is amended to read as follows:

''SEC. 207. EMERGENCY ASSISTANCE.

The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.''.

SEC. 9. NATIONAL PROGRAM.

Section 208 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6406), as redesignated by section 2, is amended to read as follows:

''SEC. 208. NATIONAL PROGRAM.

''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including with local, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972.

''(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

''(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

''(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

''(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reefs ecosystems to conserve living marine resources;

''(4) responding to incidents and events that threaten and damage coral reef ecosystems, including disease and bleaching;

''(5) cooperative conservation and management of coral reef ecosystems; and

''(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public. with local, regional, or international programs and partners.

''(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies, as appropriate, shall provide for long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities, pursuant to this Act. To implement this provision, the Secretary may—

(1) Archive environmental data collected by federal, State, local agencies and tribal organizations and federally funded research;

(2) Promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

(3) Develop standards, protocols and procedures for sharing federal data with State and local government programs and the private sector or academia; and

(4) Develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

''(d) EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.—The Secretary shall establish an account (to be called the Emergency Response, Stabilization and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by Public Law 101-515, 104 Stat. 2101 (1990) (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. There are authorized to be deposited into the Emergency Response, Stabilization and Restoration Account amounts which are authorized to be appropriated for such Account pursuant to section 216, and funds which are authorized by sections 210(d)(3)(B) and 211(f)(3)(B). Amounts in the Emergency Response, Stabilization and Restoration Account shall be available for use by the Secretary as specified in sections 210 and 211.''.

SEC. 10. PROHIBITED ACTIVITIES.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 209 as follows:

''SEC. 209. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

''The provisions in this section are in addition to, and shall not affect the operation of, other Federal, State or local laws or regulations providing protection to coral reefs. It is unlawful for any person to—

'(1) destroy, cause the loss of, or injure any coral reef or any component thereof, except—

''(A) if the destruction, loss, or injury was caused by the use of fishing gear; provided, however, that such gear is used in a manner not prohibited under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., or other Federal or State law;

''(B) if the destruction, loss, or injury was caused by an activity that is authorized by Federal or State law including, but not limited to, lawful discharges from vessels of graywater, cooling water, engine exhaust, ballast water and sewage from marine sanitation devices; provided, however, that such activity shall not be construed to include actions such as vessel groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

''(C) if the destruction, loss, or injury was the necessary result of bona fide marine scientific research; provided, however, that conduct of such research shall not be construed to include excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities; provided further, however, that marine scientific research activities approved by State or local permits qualify as bona fide marine scientific research;

''(D) if the destruction, loss, or injury—

''(i) was caused by a Federal Government agency during—

''(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment,

''(II) an emergency that posed a threat to national security, or

''(III) an activity necessary for law enforcement or search and rescue, and

''(ii) could not reasonably be avoided;

''(2) interfere with the enforcement of this Act by—

''(A) refusing to permit any officer authorized to enforce this Act to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this Act;

''(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this Act or any such authorized officer in the conduct of any search or inspection performed under this Act; or

''(C) submitting false information to the Secretary or any officer authorized to enforce this Act in connection with any search or inspection conducted under this Act.

''(3) violate any provision of this Act, any permit issued pursuant to this Act, or any regulation promulgated pursuant to this Act.''.

SEC. 11. DESTRUCTION OF CORAL REEFS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 210 as follows:

''SEC. 210. DESTRUCTION OR LOSS OF, OR INJURY TO, CORAL REEFS.

''(a) LIABILITY.—

''(1) LIABILITY TO THE UNITED STATES.—Except as provided insubsection (f), all persons who engage in an activity that is prohibited under sections 209(a) or 209(c), or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

''(A) response costs and damages resulting from the destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(C) interest on that amount calculated in the manner described under section 2705 of Title 33.

''(2) LIABILITY IN REM.—

''(A) Any vessel used in an activity that is prohibited under sections 209(a) or 209(c), or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

''(i) response costs and damages resulting from such destruction, loss, or injury, or imminent risk thereof, including damages resulting from the response actions;

''(ii) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

''(iii) interest on that amount calculated in the manner described under section 2705 of Title 33.

''(B) The amount of liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

''(3) DEFENSES.—A person is not liable under this subsection if that person establishes that the destruction, loss, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person acted with due care.

''(4) LIMITS TO LIABILITY.—Nothing in sections 30501 to 30512 or 30706 of Title 46 shall limit liability to any person under this Act.

''(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

''(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

''(2) DAMAGE ASSESSMENT.—

''(A) The Secretary shall assess damages to coral reefs in accordance with the damages definition in section 217 and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

''(B) There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

''(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described under section 2705 of Title 33. The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

''(2) VENUE IN CIVIL ACTIONS.—A civil action under this Act may be brought in the United States district court for any district in which—

''(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(B) the vessel is located, in the case of an action against a vessel;

''(C) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(D) where some or all of the coral reef(s) or componentsthereof that are the subject of the action are not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

''(d) USE OF RECOVERED AMOUNTS.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

''(1) as appropriate be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by Public Law 101–515, 104 Stat. 2101 (1990) (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment Fund created pursuant to Title I of Public Law 102–154, 105 Stat. 990 (1991);

''(2) be available for use by the Secretary without further appropriation and remain available until expended;

''(3) and shall be for use, as the Secretary considers appropriate, as follows:

''(A) to reimburse the Secretary or any other Federal or State agency that conducted activities under sections 210(a) and (b);

''(B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized emergency actions; and ''(C) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

''(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

''(f) FEDERAL GOVERNMENT ACTIVITIES.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.''.

SEC. 12. ENFORCEMENT.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 211 as follows:

''SEC. 211. ENFORCEMENT.

''(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this Act.

''(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this Act may—

''(1) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this Act, any regulation promulgated under this Act, or any permit issued under this Act, and any equipment, stores, and cargo of such vessel;

''(2) seize wherever found any component of coral reef taken or retained in violation of this Act, any regulation promulgated under this Act, or any permit issued under this Act;

''(3) seize any evidence of a violation of this Act, any regulation promulgated under this Act, or any permit issued under this Act;

''(4) execute any warrant or other process issued by any court of competent jurisdiction;

''(5) exercise any other lawful authority; and

''(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 209.

''(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

''(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this Act or any regulation promulgated or permit issued thereunder, shall be liable to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

''(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this Act, and who violates this Act or any regulation or permit issued under this Act, the Secretary may deny, suspend, amend or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this Act.

(3) ''IMPOSITION OF CIVIL JUDICIAL PENALTIES.—Any person who violates any provision of this Act, any regulation promulgated or permit issued thereunder, shall be subject to a civil judicial penalty not to exceed $250,000 for each such violation. Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

''(4) NOTICE.—No penalty or permit sanction shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(5) IN REM JURISDICTION.—A vessel used in violating this Act, any regulation promulgated under this Act, or any permit issued under this Act, shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

''(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States (plus interest at current prevailing rates from the date of the final order). In such action, the validity and appropriateness of the final order imposing the civil 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 shall be required to pay, in addition to such amount and interest, attorney's fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties that are unpaid as of the beginning of such quarter.

''(7) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil administrative penalty or permit sanction which is or may be imposed under this section and that has not been referred to

the Attorney General for further enforcement action.

''(8) JURISIDICATION OF COURTS.—The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this section. For the purpose of this section, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law.

(d) FORFEITURE.—

''(1) CRIMINAL FORFEITURE.—A person who is convicted of an offense in violation of this Act shall forfeit to the United States—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation. Pursuant to Title 28, Section 2461(c), the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) with the exception of subsection (d) of that section shall apply to criminal forfeitures under this section.

''(2) CIVIL FORFEITURE.—The property set forth below shall be forfeited to the United States in accordance with the provisions of Chapter 46 of Title 18, and no property right shall exist in it—

''(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this Act, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

''(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this Act, including, without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

''(3) APPLICATION OF THE CUSTOMS LAWS.—All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as applicable and not inconsistent with the provisions hereof. However, with respect to seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

''(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all coral reefs, or components thereof, found on board a vessel that is used or seized in connection with a violation of this Act or of any regulation promulgated under this Act were taken, obtained, or retained in violation of this Act or of a regulation promulgated under this Act.

''(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this Act or of any regulation promulgated under this Act and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

''(f) EXPENDITURES.—

''(1) Notwithstanding section 3302 of Title 31 or section 1861 of Title 16, United States Code, amounts received by the United States as civil penalties under section 211(c) of this bill, forfeitures of property under section 211(d), and costs imposed under section 211(e), shall—

''(A) be placed into an account;

''(B) be available for use by the Secretary without further appropriation; and

''(C) remain available until expended.

''(2) Amounts received under this section for forfeitures under section 211(d) and costs imposed under section 211(e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this Act or any regulation promulgated under this Act.

''(3) Amounts received under this section as civil penalties under section 211(c) of this bill and any amounts remaining after the operation of paragraph (2) shall be used as follows—

''(A) to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

''(B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) or an account referenced in section 210(d)(1) of this Act, to reimburse such account for amounts used for authorized emergency actions;

''(C) to conduct monitoring and enforcement activities;

''(D) to conduct research on techniques to stabilize and restore coral reefs;

''(E) to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

''(F) to stabilize, restore or otherwise manage any other coral reef; or

''(G) to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this Act or any regulation promulgated under this Act.

''(g) CRIMINAL ENFORCEMENT.—

''(1) Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 209(b) of this Act shall be imprisoned for not more than five years and shall be fined not more than $500,000 for individuals or $1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than ten years.

''(2) Any person (other than a foreign government or any entity of such government) who knowingly violates sections 209(a) or 209(c) shall be fined under Title 18 or imprisoned not more than five years or both.

''(3) The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. For the purpose of this subsection, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of Title 18, Section 3238.

''(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of Title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

''(i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of Title 14, United States Code.

''(j) INJUNCTIVE RELIEF.—

''(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 210 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the Unites States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(2) Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this Act, or any regulation or permit issued under this Act, and the district courts shall have jurisdiction to grant such relief.

''(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this Act includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

''(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this Act, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with Rule 4 of the Federal Rules of Civil Procedure.

''(m) VENUE IN CIVIL ACTIONS.—A civil action under this Act may be brought in the United States district court for any district in which—

''(1) the defendant is located, resides, or is doing business, in the case of an action against a person;

''(2) the vessel is located, in the case of an action against a vessel;

''(3) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

''(4) where some or all of the coral reef(s) or components thereof that are the subject of the action are not within the territory covered by any United States district court,

such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.''.

SEC. 13. PERMITS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 212 as follows:

''SEC. 212. PERMITS.

''(a) IN GENERAL.—The Secretary may allow for the conduct of activities that would otherwise be prohibited by this Act or regulations issued thereunder through, in accordance with such regulations, issuance of coral reef conservation permits.

''(b) FINDINGS.—No permit may be issued unless the Secretary finds—

''(1) the activity proposed to be conducted is compatible with one or more of the purposes in section 202(b) of this Act;

''(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

''(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component thereof.

''(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary deems reasonable.

''(d) FEES.—

''(1) ASSESSMENT AND COLLECTION.—Subject to any regulations issued under this Act, the Secretary may assess and collect fees as specified in this subsection.

''(2) AMOUNT.—Any fee assessed shall be equal to the sum of—

''(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

''(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

''(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section shall be collected and available for use only to the extent provided in advance in appropriations Acts and may be used by the Secretary for issuing and administering permits under this section.

''(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

''(A) accept in-kind contributions in lieu of a fee; or

''(B) waive or reduce the fee.

(e) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities not prohibited by this Act or regulations issued thereunder.''.

SEC. 14. COORDINATION WITH STATES AND TERRITORIES.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 213 as follows:

''SEC. 213. COORDINATION WITH STATES AND TERRITORIES.

''(a) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall, when appropriate, enter into a written agreement with any affected State regarding the manner in which response and restoration activities will be conducted within the affected State's waters.

''(b) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by sections 208(d) through 212 of this Act shall be updated to include enforcement of this Act where appropriate.''.

SEC. 15. REGULATIONS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 214 as follows:

''SEC. 214. REGULATIONS.

''The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this Act. This Act and any regulations promulgated under this Act shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.''.

SEC. 16. EFFECTIVENESS REPORT.

Section 215 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6407), as redesignated by section 2, is amended to read as follows:

''SEC. 215. EFFECTIVENESS REPORT.

''Not later than 2 years after the date on which the Secretary publishes the Report on U.S. Coral Reef Task Force Agency Activities 2002 to 2003 and every 2 years thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report describing all activities undertaken to implement the strategy, under section 203, including a description of the funds obligated each fiscal year to advance coral reef ecosystem conservation. This report will cover the time period since the last report was submitted.''.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6408), as redesignated by section 2, is amended to read as follows:

''SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this Act, including for the Emergency Response, Stabilization and Restoration Account established under section 208(d), $25,797,000 in fiscal year 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012.

''(b) ADMINISTRATION.—Of the amounts appropriated under subsection (a), not more than 10 percent of the amounts appropriated, may be used for program administration or for overhead costs incurred by the National Oceanic and Atmospheric Administration or the Department of Commerce and assessed as an administrative charge.''.

SEC. 18. DEFINITIONS.

Section 217 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6409), as redesignated by section 2, is amended to read as follows:

''SEC. 217. DEFINITIONS.

''In this title:

''(1) BIODIVERSITY.—The term 'biodiversity' means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

(2) CONSERVATION.—The term 'conservation' means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

''(3) CORAL.—The term 'coral' means species of the phylum Cnidaria, including—

''(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyonacea (soft corals), and Helioporacea (blue coral), of the class Anthozoa; and

''(B) all species of the families Milleporidea (fire corals) and Stylasteridae (stylasterid hydrocorals) of the class Hydrozoa.

''(4) CORAL REEF.—Coral Reefs are defined as limestone structures composed in whole or in part of living zooxanthellate stony corals (Class Anthozoa, Order Scleractinia), as described in section 217(3), their skeletal remains, or both, and including other coral, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(5) CORAL REEF COMPONENT.—The term 'coral reef component' means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

''(6) CORAL REEF ECOSYSTEM.—The term 'coral reef ecosystem' means the system of coral reefs and geographically associated species and habitats, including but not limited to mangroves and seagrass habitats, their living marine resources, the people, the environment, and the processes that control its dynamics.

''(7) CORAL PRODUCTS.—The term 'coral products' means any living or dead specimens, parts, or derivatives, or any product containing specimens, parts, or derivatives, of any species referred to in paragraph (3).

''(8) DAMAGES.—The term 'damages' includes—

''(A) compensation for—

''(i) the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or component thereof; and

''(ii) the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or component thereof;

''(B) the reasonable cost of damage assessments under section 210;

''(C) the reasonable costs incurred by the Secretary in implementing section 208(d);

''(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

''(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archeological, historical, and cultural resource;

''(F) the cost of legal actions under section 210, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

''(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

''(9) EMERGENCY ACTIONS.—The term 'emergency actions' means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the

risk of such additional destruction, loss, or injury.

''(10) EXCLUSIVE ECONOMIC ZONE.—The term 'Exclusive Economic Zone' means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

''(11) LOCAL ACTION STRATEGY.—The term 'Local Action Strategy' refers to a plan developed within each of the seven U.S. Coral Reef Task Force member states for collaborative action among federal, state, territory and non-governmental partners, which identifies priority actions needed to reduce key threats to valuable coral reef resources.

''(12) PERSON.—The term 'person' means any individual; private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic; private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

''(13) RESPONSE COSTS.—The term 'response costs' means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 210.

''(14) SECRETARY.—The term 'Secretary' means—

''(A) for purposes of sections 201 through 208 and sections 215 through 217, the Secretary of Commerce; and

''(B) for purposes of sections 209 through 214 and section 218—

''(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (Sept. 4, 1962)); or

''(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not governed by clause (B)(i).

''(15) SERVICE.—Within section 217(7), the term 'service' means function(s), ecological or otherwise, performed by a coral reef, or component thereof.

''(16) STATE.—The term 'State' means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

''(17) TERRITORIAL SEA.—The term 'Territorial Sea' means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.''.

SEC. 19. JUDICIAL REVIEW.

The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 218 as follows:

''SEC. 218. JUDICIAL REVIEW.

''(a) Judicial review of any action taken by the Secretary under this Act shall be in accordance with sections 701 through 706 of Title 5, except that—

''(1) review of any final agency action of the Secretary taken pursuant to sections 211(c)(1) and 211(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district; any such complaint must be filed within thirty days of the date such final agency action is taken; and

''(2) review of all other final agency actions of the Secretary under this Act may be had only by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the federal judicial district in which such person resides or transacts business which is directly affected by the action taken; such petition shall be filed within 120 days from the date such final agency action is taken.

''(b) Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.''.

SEC. 20. THE DEPARTMENT OF THE INTERIOR PROGRAM.

(a) DEFINITIONAL AMENDMENTS AND CLARIFICATIONS.—

(1) Section 8 of the Act of March 10, 1934 (16 U.S.C. 666b), commonly known as the Fish and Wildlife Coordination Act, is amended by inserting at the end thereof the words '', including coral reef ecosystems (as such term is defined in section 217(b) of the Coral Reef Conservation Act of 2000, as amended)'';

(2) With respect to the authorities under the Act of August 8, 1956 (16 U.S.C. 742a et. seq.), as amended, commonly known as the Fish and Wildlife Act of 1956; and under Public Law 95–616 (16 U.S.C. 742l), as amended, commonly known as the Fish and Wildlife Improvement Act of 1978, references in such Acts to ''wildlife'' or ''fish and wildlife'' shall be construed to include coral reef ecosystems (as such term is defined in section 217(b) of the Coral Reef Conservation Act of 2000, as amended).

(b) ASSISTANCE TO INSULAR AREAS.—Sec. 601 of Public Law 96–597 (48 U.S.C. 1469d), as amended, is amended by redesignating existing subsection (d) as (e), and by inserting:

''(d) CORAL REEFS.—The Secretary of the Interior is authorized to extend to the governments of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands, and their agencies and instrumentalities, financial and technical assistance for the conservation of coral reef ecosystems (as such term is defined in the Coral Reef Conservation Act of 2000 [Pub. L. No. 106–562, 114 Stat. 2794 (2000)], as amended) under the jurisdiction of such governments.''.

(c) The Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.) is amended by inserting a new section 219 as follows:

''SEC. 219. DEPARTMENT OF THE INTERIOR.

CORAL REEF CONSERVATION ASSISTANCE.—The Secretary of the Interior may provide technical and financial assistance to States, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the Virgin Islands, for management and conservation of coral reef ecosystems, including implementation of Local Action Strategies. The Secretary shall coordinate coral reef conservation activities under the Act of March 10, 1934 (16 U.S.C. 666b), as amended, commonly known as the Fish and Wildlife Coordination Act, Public Law 95–616 (16 U.S.C. 742l), as amended, commonly known as the Fish and Wildlife Improvement Act of 1978, Public Law 96-597 (48 U.S.C. 1469d), as amended, with those coral reef conservation activities of other agencies and partners, including those activities carried out through the U.S. Coral Reef Task Force.''.

By Mr. INOUYE (for himself and Mr. STEVENS) (by request):

S. 1584. A bill to reauthorize and amend the Hydrographic Services Improvement Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

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

S. 1584

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 ''Hydrographic Services Improvement Act Amendments of 2007''.

SEC. 2. REDESIGNATIONS.

The Hydrographic Services Improvement Act of 1998 is amended by redesignating sections 302 through 306 (33 U.S.C. 892d) as sections 303 through 307, respectively.

SEC. 3. ADDITION OF FINDINGS AND PURPOSES.

The Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.) is amended by inserting a new section 302 as follows:

''SEC. 302. FINDINGS AND PURPOSES

''(a) FINDINGS.—The Congress finds that—

''(1) in 2007, the Nation celebrates the 200th anniversary of its oldest scientific agency, the Survey of the Coast, which was authorized by Congress and created by President Thomas Jefferson in 1807 to conduct surveys of the coast and provide nautical charts for safe passage through the Nation's ports and along its extensive coastline;

''(2) these mission requirements and capabilities, which today are located in the National Oceanic and Atmospheric Administration, evolved over time to include research, development, operations, products, and services associated with hydrographic, geodetic, shoreline and baseline surveying; cartography, mapping, and charting; tides, currents, and water level observations; maintenance of a national spatial reference system, and associated products and services;

''(3) there is a need to maintain federal expertise and capability in hydrographic data and services to support a safe and efficient marine transportation system for the enhancement and promotion of international trade and interstate commerce vital to the Nation's economic prosperity and for myriad other commercial and recreational activities;

''(4) the Nation's marine transportation system is becoming increasingly congested, the volume of international maritime commerce is expected to double within the next 20 years, and nearly half of the cargo transiting U.S. waters is oil, refined petroleum products, or other hazardous substances;

''(5) in addition to commerce, hydrographic data and services support other national needs for the Great Lakes and coastal waters, the territorial sea, the Exclusive Economic Zone, and the continental shelf of the United States, including emergency response; homeland security; marine resource conservation; coastal resiliency to sea-level rise, coastal inundation, and other hazards; ocean and coastal science advancement; and improved and integrated ocean and coastal mapping and observations for an integrated ocean observing system;

''(6) the National Oceanic and Atmospheric Administration, in cooperation with other agencies and the States, serves as the Nation's leading civil authority for establishing and maintaining national standards and datums for hydrographic data and services;

''(7) the Director of the National Oceanic and Atmospheric Administration's Office of Coast Survey serves as the U.S. National Hydrographer and the primary U.S. representative to the international hydrographic community, including the International Hydrographic Organization;

''(8) the hydrographic expertise, data, and services of the National Oceanic and Atmospheric Administration provide the underlying and authoritative basis for baseline and boundary demarcation, including the establishment of marine and coastal territorial limits and jurisdiction, such as the Exclusive Economic Zone; and

''(9) research, development and application of new technologies will further increase efficiency, promote the Nation's competitiveness, provide social and economic benefits, enhance safety and environmental protection, and reduce risks.

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

''(1) augment the ability of the National Oceanic and Atmospheric Administration to fulfill its responsibilities under this and other authorities;

''(2) provide more accurate and up-to-date hydrographic data and services in support of safe and efficient international trade and interstate commerce, including hydrographic surveys; electronic navigational charts; real-time tide, water level, and current information and forecasting; shoreline surveys; and geodesy and three-dimensional positioning data;

''(3) support homeland security, emergency response, ecosystem approaches to marine management, and coastal resiliency by providing hydrographic data and services with many other useful operational, scientific, engineering, and management applications, including storm surge, tsunami, coastal flooding, erosion, and pollution trajectory monitoring, predictions, and warnings; marine and coastal geographic information systems; habitat restoration; long-term sea-level trends; and more accurate environmental assessments and monitoring;

''(4) promote improved integrated ocean and coastal mapping and observations through increased coordination and cooperation;

''(5) provide for and support research and development in hydrographic data, services and related technologies to enhance the efficiency, accuracy and availability of hydrographic data and services and thereby promote the Nation's scientific and technological competitiveness; and

''(6) provide national and international leadership for hydrographic and related services, sciences, and technologies.''.

SEC. 4. CHANGES IN DEFINITIONS.

Section 303 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892), as redesignated by section 2, is amended—

(1) by amending paragraph (3) to read as follows:

''(3) HYDROGRAPHIC DATA.—The term 'hydrographic data' means information acquired through hydrographic, bathymetric, or shoreline surveying; geodetic, geospatial, or geomagnetic measurements; tide, water level, and current observations, or other methods, that is used in providing hydrographic services.'';

(2) by amending paragraph (4)(A) to read as follows:

''(A) the management, maintenance, interpretation, certification, and dissemination of bathymetric, hydrographic, shoreline, geodetic, geospatial, geomagnetic, and tide, water level, and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;''; and

''(3) by amending paragraph (5) to read as follows:

''(5) COAST AND GEODETIC SURVEY ACT.—The term 'Coast and Geodetic Survey Act' means the Act entitled 'An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes', approved August 6, 1947 (33 U.S.C. 883a et seq.).''.

SEC. 5. CHANGES IN FUNCTIONS OF THE ADMINISTRATOR.

Section 304 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892a), as redesignated by section 2, is amended—

(1) in subsection (a)—

(A) in the stem by striking ''To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947,'' and inserting ''To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act,'';

(B) in paragraph (1) by striking ''data;'' and inserting ''data and provide hydrographic services;'';

(2) by amending subsection (b) to read as follows:

''(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Coast and Geodetic Survey Act, promote safe, efficient, and environmentally sound marine transportation, and otherwise fulfill the purposes of this Act, subject to the availability of appropriations—

''(1) the Administrator may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

''(2) the Administrator shall design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency;

''(3) where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Administrator may acquire hydrographic data and provide hydrographic services to support the conservation and management of coastal and ocean resources;

''(4) where appropriate, the Administrator may acquire hydrographic data and provide hydrographic services to save and protect life and property and support the resumption of commerce in response to emergencies, natural and man-made disasters, and homeland security and maritime domain awareness needs, including obtaining Mission Assignments as defined in section 741 of title 6, United States Code;

''(5) the Administrator shall have the authority to create, support and maintain such joint centers, and to enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act;

''(6) notwithstanding paragraph (5), the Administrator may award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 1101 et seq.).''.

SEC. 6. CHANGES TO QUALITY ASSURANCE PROGRAM.

Section 305 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892b), as redesignated by section 2, is amended in subsections (b)(1)(A) and (b)(2) by striking ''303(a)(3)'' and inserting ''304(a)(3)''.

SEC. 7. CHANGES IN HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 306 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892c), as redesignated by section 2, is amended—

(1) in subsection (b)(1) by striking ''303'' and inserting ''304'';

(2) by amending subsection (c)(1)(A) to read as follows:

''(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Co-directors of the Joint Hydrographic Institute and no more than two employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields relating to hydrographic data and hydrographic services, as defined in this Act, and other disciplines as determined appropriate by the Administrator.'';

(3) in subsections (c)(1)(C), (c)(3), and (e) by striking ''Secretary'' and inserting ''Administrator''; and

(4) by amending subsection (d) to read as follows:

''(d) COMPENSATION.—Voting members of the panel shall be reimbursed for actual and reasonable expenses, such as travel and per diem, incurred in the performance of such duties.''.

SEC. 8. CHANGES TO AUTHORIZATION OF APPROPRIATIONS.

Section 307 of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892d), as redesignated by section 2, is amended to read as follows:

''There are authorized to be appropriated to the Administrator $168,771,000 in fiscal year 2008 and thereafter such sums as may be necessary for each of fiscal years 2009 through 2012 for the purposes of carrying out this Act.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 224—EXPRESSING THE SENSE OF THE SENATE REGARDING THE ISRAELI-PALESTINIAN PEACE PROCESS

Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. DODD, Mr. HAGEL, Mr. BAUCUS, Mr. BYRD, Mr. SUNUNU, Mr. WHITEHOUSE, and Mr. VOINOVICH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 224

Whereas ending the violence and terror that have devastated the State of Israel, the West Bank, and Gaza since September 2000 is in the vital interests of the United States, Israel, and the Palestinian people;

Whereas the ongoing Israeli-Palestinian conflict strengthens extremists and opponents of peace throughout the region;

Whereas more than 7 years of violence, terror, and military engagement have demonstrated that armed force alone will not solve the Israeli-Palestinian dispute;

Whereas the vast majority of Israelis and Palestinians want to put an end to decades of confrontation and conflict and live in peaceful coexistence, mutual dignity, and security, based on a just, lasting, and comprehensive peace;

Whereas on May 24, 2006, addressing a Joint Session of the United States Congress, Prime Minister of Israel Ehud Olmert reiterated the Government of Israel's position that ''In a few years, [the Palestinians] could be living in a Palestinian state, side by side in peace and security with Israel, a Palestinian state which Israel and the international community would help thrive'';