CRAPO) was added as a cosponsor of S. 2575, a bill to amend title 38, United States Code, to remove certain limitations on the transfer of entitlement to basic educational assistance under Montgomery GI Bill, and for other purposes.

S. 2577

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2577, a bill to establish background check procedures for gun shows.

S. 2586

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2586, a bill to provide States with fiscal relief through a temporary increase in the Federal medical assistance percentage and direct payments to States.

S. 2598

At the request of Mr. DORGAN, the names of the Senator from Montana (Mr. TESTER), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2598, a bill to increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve.

S. 2606

At the request of Mr. DODD, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2606, a bill to reauthorize the United States Fire Administration, and for other purposes.

S. 2687

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2687, a bill to amend title XVIII of the Social Security Act to enhance beneficiary protections under parts C and D of the Medicare program.

S. 2717

At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Texas (Mr. CORNYN), the Senator from South Carolina (Mr. DEMINT), the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mrs. DOLE), the Senator from Louisiana (Mr. VITTER), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 2717, a bill to provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes.

S. 2718

At the request of Mr. BARRASSO, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2718, a bill to withhold 10 percent of the Federal funding apportioned for highway construction and maintenance from States that issue driver's licenses to individuals without verifying the legal status of such individuals.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2731, a bill to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. CON. RES. 60

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 60, a concurrent resolution expressing the sense of Congress relating to negotiating a free trade agreement between the United States and Taiwan.

AMENDMENT NO. 4148

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of amendment No. 4148 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4153

At the request of Mr. BURR, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. GREGG) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 4153 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4154

At the request of Mr. REED, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Wisconsin (Mr. KOHL), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 4154 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4160

At the request of Mr. BAUCUS, the names of the Senator from Michigan (Ms. STABENOW), the Senator from Delaware (Mr. CARPER), the Senator from New York (Mrs. CLINTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 4160 proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4171

At the request of Mr. CASEY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 4171 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4173

At the request of Mr. BINGAMAN, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Massachusetts (Mr. KERRY), the Senator from Illinois (Mr. OBAMA), the Senator from Florida (Mr. MARTINEZ), the Senator from Hawaii (Mr. INOUYE) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 4173 proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4182

At the request of Mr. PRYOR, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 4182 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4183

At the request of Mr. PRYOR, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 4183 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

AMENDMENT NO. 4185

At the request of Mr. PRYOR, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 4185 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. CORNYN):

S. 2746. A bill to amend section 552(b)(3) of title 5, United States Code (commonly referred to as the Freedom of Information Act) to provide that statutory exemptions to the disclosure requirements of that Act shall specifically cite to the provision of that Act authorizing such exemptions, to ensure an open and deliberative process in Congress by providing for related legislative proposals to explicitly state such required citations, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, as we approach the national celebration of Sunshine Week 2008, I am pleased to join with Senator CORNYN to introduce the OPEN FOIA Act of 2008, a concise and straightforward bill to further strengthen the Freedom of Information Act, FOIA. This bill is the next step in the important work that Senator CORNYN and I have undertaken to reinvigorate and strengthen FOIA, and it follows the enactment late last year of the Leahy-Cornyn OPEN Government Act, a law which made the first major reforms to FOIA in more than a decade.

The OPEN FOIA Act simply requires that when Congress provides for a statutory exemption to FOIA in new legislation, Congress must state its intention to do so explicitly and clearly in that bill. This commonsense bill mirrors bipartisan legislation that unanimously passed the Senate during the last Congress, S.1181. I hope that the Senate will once again promptly and unanimously pass this good-government bill.

While no one can fairly question the need to keep certain government information secret to ensure the public good, excessive government secrecy is a constant temptation and the enemy of a vibrant democracy. For more than 4 decades, FOIA has served as perhaps the most important Federal law to ensure the public's right to know and to balance the government's power with the need for government accountability.

FOIA contains a number of exemptions to its disclosure requirements for national security, law enforcement, confidential business information, personal privacy and other circumstances. The FOIA exemption commonly known as the ''(b)(3) exemption,'' requires that Government records that are specifically exempted from FOIA by statute may be withheld from the public. Of course, neither I nor Senator CORNYN would quibble with the notion that some Government information is appropriately kept from public view. But in recent years we have witnessed an alarming number of FOIA (b)(3) exemptions being offered in legislation—often in very ambiguous terms—to the detriment of the American people's right to know.

The bedrock principles of open government lead me to believe that (b)(3) statutory exemptions should be clear and unambiguous, and vigorously debated before they are enacted into law. Of course, sometimes this does happen. But more and more often, legislative exemptions to FOIA are buried within a few lines of very complex and lengthy bills, which are never debated openly and publicly before becoming law. The consequence of this troubling practice is the erosion of the public's right to know and the shirking of Congress' duty to fully consider these exemptions.

Senator CORNYN and I both believe that Congress must be diligent in reviewing any new exemptions to FOIA, to prevent possible abuses and a situation where the exceptions to disclosure under FOIA swallow this important disclosure rule. The OPEN FOIA Act will ensure openness and clarity about how we treat one of our most important open Government laws. Our bill will also shine more light into the process of creating legislative exemptions to FOIA—which is the best antidote to exemption creep.

Democratic and Republican Senators alike have rightly supported and voted for this bill in the past. As I have said many times before, open Government is not a Democratic issue, nor a Republican issue. It is an American value and a virtue that all Americans can embrace. I urge all Members to support this bipartisan good-government bill to strengthen the public's right to know.

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. 2746

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 ''OPEN FOIA Act of 2008''.

SEC. 2. SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.

Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

''(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

''(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

''(B) if enacted after the date of enactment of the OPEN FOIA Act of 2008, specifically cites to this paragraph.''.

By Mr. HARKIN (for himself and Mr. BROWNBACK):

S. 2748. A bill to direct the Secretary of Health and Human Services to publish physical activity guidelines for the general public, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, some time back, a principal of a school in Atlanta, GA, explained why his school had eliminated recess from its school day, and why new elementary schools in Atlanta were being built without playgrounds: He told The New York Times: ''We are intent on improving academic performance. You don't do that by having kids hanging on the monkey bars.''

Now, there is no reason to pick on Atlanta alone. Nationwide, only 8 percent of elementary schools provide daily physical education or its equivalent for all students.

We are building schools without playgrounds, subdivisions without sidewalks, roads without bicycle lanes. The average American spends more than 4 hours each day sitting passively in front of the TV set—that is equal to 2 months of nonstop TV-watching per year.

Then we are shocked, shocked to find that rates of overweight, obesity and diabetes are skyrocketing, and cardiovascular disease remains the No. 1 cause of death in our country. Among children, we have what the Centers for Disease Control describes as an ''epidemic'' of obesity and juvenile diabetes.

The shame is that so much of this is entirely preventable. Americans are suffering from a range of diseases and conditions—obesity, heart disease, diabetes, stress, and depression. All of these are largely preventable by changes in diet and lifestyle; specifically, by increasing the amount of physical activity in our lives.

I am a firm believer that people want to stay healthy, and that Government can help out by giving Americans the tools they need to take charge of their own health.

But, right now, individuals do not know how much physical activity they should be getting daily. They don't have a target to shoot for.

That is why, today, I am joining with Senator SAM BROWNBACK, Congressman MARK UDALL, and Congressman ZACH WAMP to introduce the Physical Activities Guidelines for Americans Act of 2008.

Our bill would direct the Department of Health and Human Services to prepare and promote science-based physical activity guidelines for Americans, similar to the dietary and nutritional guidelines, commonly known as the Food Pyramid. Our bill also would require that the guidelines be updated every 5 years.

I believe that the Physical Activity Guidelines will assist many Americans in living longer, healthier, and more active lives.

By Mrs. FEINSTEIN:

S. 2750. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will help address a troublesome byproduct of our Nation's mining history: abandoned mines.

The 1872 Mining Law created national standards to regulate gold and silver mining operations on Federal lands. Since then, hundreds of thousands of gold and silver mines have been abandoned.

There are roughly 500,000 abandoned mines across the U.S., and nearly 47,000 abandoned mines in my home State of California.

According to the California Department of Conservation, all but two of California's 58 counties have abandoned mines; and close to 70 percent of California's abandoned mines are located in the ''Mother Lode'' area in the Northern Sierra or San Bernardino, Inyo and Kern Counties in the southeastern part of the State.

Because the 1872 Mining Law is so outdated, we have been unable to adequately clean up and remediate these abandoned mines.

The need for action is great.

The bill that I am introducing today, is not intended to be a comprehensive hardrock mining reform bill, but it is an important piece of the reform that is needed in hardrock mining.

The Abandoned Mine Reclamation Act of 2008, will reform the 1872 Mining Law by: establishing fees to support abandoned mine cleanup; establishing a royalty payment system; and creating an Abandoned Mine Cleanup Fund.

Unlike the coal industry, the metal mining industry does not pay to clean up its legacy of abandoned mines, making lack of funding the primary obstacle to abandoned hardrock mine cleanup.

This legislation would help fund the cleanup of abandoned mines by placing an Abandoned Mine Reclamation fee on all hardrock minerals, using the underground coal industry fee program as a model.

Here is why—the condition of abandoned coal mines has greatly improved since the Surface Mining Control and Reclamation Act of 1977 established a fee to finance restoration of land abandoned or inadequately restored by coal mining companies.

This fund has been able to raise billions of dollars for coal mine reclamation—and I believe that a similar program could be part of the solution to the hardrock abandoned mine cleanup.

This legislation also establishes a royalty on Hardrock Mining Claims.

Companies that mine for gold and silver on Federal lands are not currently required to pay any royalties to the Federal Government—even though we are experiencing near record high gold prices, around $900 an ounce.

These companies should be required to pay their fair share.

The Abandoned Mine Reclamation Act establishes an 8 percent royalty on new mining operations located on Federal lands, and a 4 percent royalty for existing operations.

These royalties are at the same level as the Hardrock Mining and Reclamation Act, H.R. 2262, which was passed by the House late last year.

The legislation I am introducing today also creates an Abandoned Mine Fund.

In these times of budget deficits, it's clear that we will not be able to simply appropriate the funds necessary to clean up the hundreds of thousands of abandoned hard rock mines.

So, this legislation will create an abandoned mine cleanup fund to ensure that we have a lasting source of funding for this critical cleanup effort.

Specifically, the fund will direct the royalties, as well as other payments collected from mining operations, and dedicate them to the cleanup of abandoned hardrock mines.

Now I would like to take a moment to talk more about why abandoned mines are so problematic.

First, members of the public are in danger of getting seriously hurt or killed by falling down old mine shafts.

In the past 2 years, eight accidents at abandoned mine sites were reported in California. These accidents resulted in four fatalities and seven others were injured and/or required rescuing.

But the even greater threat from abandoned mines comes from the danger of groundwater pollution.

Environmental impact studies have shown that important watersheds are being polluted by high levels of mercury or increased sedimentation.

This in turn exposes people who drink this water to harmful minerals like mercury, chromium and asbestos and the fish who swim in streams fed by these waters are likewise contaminated.

The Bureau of Land Management reports that abandoned mines have contaminated 17 major watersheds in California, which supply water for millions of people and provide habitat for important species like salmon and other fish that are caught and consumed by the public.

So, the threat to public health is critical.

Mining has played in California's history. The discovery of gold at Sutter Mill near Placerville, California in 1848 was a defining moment for California and the U.S.

It is fair to say that without mining and the Gold Rush, California and the entire country would be a far different place than it is today.

The great history of mining in California, however, is tarnished by the legacy of tens of thousands of abandoned mines. In particular, abandoned mine sites on Federal lands.

Let me illustrate a few examples of abandoned mine sites located on Federal land in California.

These sites are causing serious public safety and environmental problems: Rand Historic Mining Complex located on BLM land in eastern Kern County and northwestern San Bernardino County.

This area includes the Kelly Silver Mine and the Yellow Aster Gold Mine near the communities of Johannesburg, Randsburg, and Red Mountain.

The problem is this: The sites contain extensive arsenic-bearing mine waste and numerous open mine shafts that could cause safety hazards.

The Pond Gold Mine Site located in Placer County on BLM land.

This mine site consists of an extensive network of sluice tunnels and a large waste rock pile.

Here's the problem: The Pond Mine has been determined to be a source of mercury to Pond Creek and the Middle Fork of the American River.

The Golinsky Mine located on Forest Service land located in Shasta County.

The Golinsky mine is an abandoned copper mine that is releasing acid mine drainage into Shasta Lake.

The responsible party has been identified, but has declared bankruptcy. This has forced the Forest Service to spend more than $2.2 million dollars investigating and mitigating the environmental problems while they try to recoup the costs.

There are numerous abandoned mine sites that may not yet have been discovered all across California.

One place where we expect the problem to grow is in Joshua Tree National Park.

Joshua Tree has numerous former mine sites that contain a series of shafts near trails and roads. These mine shafts vary in size and the depth ranges from 20 to 200 feet deep—and are extremely dangerous, potentially causing people to fall into them.

So, these abandoned mines are a serious problem throughout the State. We need to take action soon to clean them up.

The problems caused by abandoned mines are not going away—and with each passing day, the health danger will continue to rise.

It is important to our children and grandchildren that we start the process of cleaning up the abandoned mines that were left to us. But we cannot do it without a substantial and reliable source of funding.

Here is the key: this legislation doesn't reinvent the wheel. It implements solutions that have been working for a similar problem. It uses many of the ideas that have helped the coal industry to raise over seven billion dollars for abandoned mines.

It is time to expect the same from the hardrock mining industry.

Though this legislation is a significant step forward for the funding of abandoned mines, I know that there is much more mining reform to be done.

I look forward to working with my colleagues to ensure that the 1872 Mining Law is reformed—so that 21st Century mining regulations will be applied to 21st Century mining operations.

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. 2750

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 ''Abandoned Mine Reclamation Act of 2008''.

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

SEC. 2. DEFINITIONS AND REFERENCES.

(a) IN GENERAL.—As used in this Act:

(1) The term ''affiliate'' means with respect to any person, any of the following:

(A) Any person who controls, is controlled by, or is under common control with such person.

(B) Any partner of such person.

(C) Any person owning at least 10 percent of the voting shares of such person.

(2) The term ''applicant'' means any person applying for a permit under this Act or a modification to or a renewal of a permit under this Act.

(3) The term ''beneficiation'' means the crushing and grinding of locatable mineral ore and such processes as are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(4) The term ''claim holder'' means a person holding a mining claim, millsite claim, or tunnel site claim located under the general mining laws and maintained in compliance with such laws and this Act. Such term may include an agent of a claim holder.

(5) The term ''control'' means having the ability, directly or indirectly, to determine (without regard to whether exercised through one or more corporate structures) the manner in which an entity conducts mineral activities, through any means, including without limitation, ownership interest, authority to commit the entity's real or financial assets, position as a director, officer, or partner of the entity, or contractual arrangement.

(6) The term ''exploration''—

(A) subject to subparagraphs (B) and (C), means creating surface disturbance other than casual use, to evaluate the type, extent, quantity, or quality of minerals present;

(B) includes mineral activities associated with sampling, drilling, and analyzing locatable mineral values; and

(C) does not include extraction of mineral material for commercial use or sale.

(7) The term ''Federal land'' means any land, and any interest in land, that is owned by the United States and open to location of mining claims under the general mining laws.

(8) The term ''hardrock mineral'' has the meaning given the term ''locatable mineral'' except that legal and beneficial title to the mineral need not be held by the United States.

(9) The term ''Indian lands'' means lands held in trust for the benefit of an Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(10) The term ''Indian tribe'' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) The term ''locatable mineral''—

(A) subject to subparagraph (B), means any mineral, the legal and beneficial title to which remains in the United States and that is not subject to disposition under any of—

(i) the Mineral Leasing Act (30 U.S.C. 181 et seq.);

(ii) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.);

(iii) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 et seq.); or

(iv) the Mineral Leasing for Acquired Lands Act (30 U.S.C. 351 et seq.); and

(B) does not include any mineral that is subject to a restriction against alienation imposed by the United States and is—

(i) held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101); or

(ii) owned by any Indian or Indian tribe, as defined in that section.

(12) The term ''mineral activities'' means any activity on a mining claim, millsite claim, or tunnel site claim for, related to, or incidental to, mineral exploration, mining, beneficiation, processing, or reclamation activities for any locatable mineral.

(13) The term ''operator'' means any person proposing or authorized by a permit issued under this Act to conduct mineral activities and any agent of such person.

(14) The term ''person'' means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative, or other organization and any instrumentality of State or local government including any publicly owned utility or publicly owned corporation of State or local government.

(15) The term ''processing'' means processes downstream of beneficiation employed to prepare locatable mineral ore into the final marketable product, including but not limited to smelting and electrolytic refining.

(16) The term ''Secretary'' means the Secretary of the Interior, unless otherwise specified.

(17) The term ''temporary cessation'' means a halt in mine-related production activities for a continuous period of no longer than 5 years.

(b) REFERENCES TO OTHER LAWS.—(1) Any reference in this Act to the term general mining laws is a reference to those Acts that generally comprise chapters 2, 12A, and 16, and sections 161 and 162, of title 30, United States Code.

(2) Any reference in this Act to the Act of July 23, 1955, is a reference to the Act entitled ''An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes'' (30 U.S.C. 601 et seq.).

SEC. 3. APPLICATION RULES.

(a) IN GENERAL.—This Act applies to any mining claim, millsite claim, or tunnel site claim located under the general mining laws, before, on, or after the date of enactment of this Act, except as provided in subsection (b).

(b) PREEXISTING CLAIMS.—(1) Any unpatented mining claim or millsite claim located under the general mining laws before the date of enactment of this Act for which a plan of operation has not been approved or a notice filed prior to the date of enactment shall, upon the effective date of this Act, be subject to the requirements of this Act, except as provided in paragraph (2).

(2)(A) If a plan of operations is approved for mineral activities on any claim or site referred to in paragraph (1) prior to the date of enactment of this Act but such operations have not commenced prior to the date of enactment of this Act—

(i) during the 10-year period beginning on the date of enactment of this Act, mineral activities at such claim or site shall be subject to such plan of operations;

(ii) during such 10-year period, modifications of any such plan may be made in accordance with the provisions of law applicable prior to the enactment of this Act if such modifications are deemed minor by the Secretary concerned; and

(iii) the operator shall bring such mineral activities into compliance with this Act by the end of such 10-year period.

(B) Where an application for modification of a plan of operations referred to in subparagraph (A)(ii) has been timely submitted and an approved plan expires prior to Secretarial action on the application, mineral activities and reclamation may continue in accordance with the terms of the expired plan until the Secretary makes an administrative decision on the application.

(c) FEDERAL LANDS SUBJECT TO EXISTING PERMIT.—(1) Any Federal land shall be subject to the requirements of section 101(a)(2) if the land is—

(A) subject to an operations permit; and

(B) producing valuable locatable minerals in commercial quantities prior to the date of enactment of this Act.

(2) Any Federal land added through a plan modification to an operations permit on Federal land that is submitted after the date of enactment of this Act shall be subject to the terms of section 101(a)(3).

(d) APPLICATION OF ACT TO BENEFICIATION AND PROCESSING OF NON-FEDERAL MINERALS ON FEDERAL LANDS.—The provisions of this Act shall apply in the same manner and to the same extent to mining claims, millsite claims, and tunnel site claims used for beneficiation or processing activities for any mineral without regard to whether or not the legal and beneficial title to the mineral is held by the United States. This subsection applies only to minerals that are locatable minerals or minerals that would be locatable minerals if the legal and beneficial title to such minerals were held by the United States.

TITLE I—MINERAL EXPLORATION AND DEVELOPMENT

SEC. 101. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), production of all locatable minerals from any mining claim located under the general mining laws and maintained in compliance with this Act, or mineral concentrates or products derived from locatable minerals from any such mining claim, as the case may be, shall be subject to a royalty of 8 percent of the gross income from mining. The claim holder or any operator to whom the claim holder has assigned the obligation to make royalty payments under the claim and any person who controls such claim holder or operator shall be liable for payment of such royalties.

(2) ROYALTY FOR FEDERAL LANDS SUBJECT TO EXISTING PERMIT.—The royalty under

paragraph (1) shall be 4 percent in the case of any Federal land that—

(A) is subject to an operations permit on the date of the enactment of this Act; and

(B) produces valuable locatable minerals in commercial quantities on the date of enactment of this Act.

(3) FEDERAL LAND ADDED TO EXISTING OPERATIONS PERMIT.—Any Federal land added through a plan modification to an operations permit that is submitted after the date of enactment of this Act shall be subject to the royalty that applies to Federal land under paragraph (1).

(4) DEPOSIT.—Amounts received by the United States as royalties under this subsection shall be deposited into the Abandoned Mine Cleanup Fund established by section 201(a).

(b) DUTIES OF CLAIM HOLDERS, OPERATORS, AND TRANSPORTERS.—(1) A person—

(A) who is required to make any royalty payment under this section shall make such payments to the United States at such times and in such manner as the Secretary may by rule prescribe; and

(B) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment that such person may have made of the obligation to make any royalty or other payment under a mining claim.

(2) Any person paying royalties under this section shall file a written instrument, together with the first royalty payment, affirming that such person is responsible for making proper payments for all amounts due for all time periods for which such person has a payment responsibility. Such responsibility for the periods referred to in the preceding sentence shall include any and all additional amounts billed by the Secretary and determined to be due by final agency or judicial action. Any person liable for royalty payments under this section who assigns any payment obligation shall remain jointly and severally liable for all royalty payments due for the claim for the period.

(3) A person conducting mineral activities shall—

(A) develop and comply with the site security provisions in the operations permit designed to protect from theft the locatable minerals, concentrates or products derived therefrom which are produced or stored on a mining claim, and such provisions shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances on mining claims; and

(B) not later than the 5th business day after production begins anywhere on a mining claim, or production resumes after more than 90 days after production was suspended, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(4) The Secretary may by rule require any person engaged in transporting a locatable mineral, concentrate, or product derived therefrom to carry on his or her person, in his or her vehicle, or in his or her immediate control, documentation showing, at a minimum, the amount, origin, and intended destination of the locatable mineral, concentrate, or product derived therefrom in such circumstances as the Secretary determines is appropriate.

(c) RECORDKEEPING AND REPORTING REQUIREMENTS.—A claim holder, operator, or other person directly involved in developing, producing, processing, transporting, purchasing, or selling locatable minerals, concentrates, or products derived therefrom, subject to this Act, through the point of royalty computation shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with rules or orders under this section. Such records shall include, but not be limited to, periodic reports, records, documents, and other data. Such reports may also include, but not be limited to, pertinent technical and financial data relating to the quantity, quality, composition volume, weight, and assay of all minerals extracted from the mining claim. Upon the request of any officer or employee duly designated by the Secretary conducting an audit or investigation pursuant to this section, the appropriate records, reports, or information that may be required by this section shall be made available for inspection and duplication by such officer or employee. Failure by a claim holder, operator, or other person referred to in the first sentence to cooperate with such an audit, provide data required by the Secretary, or grant access to information may, at the discretion of the Secretary, result in involuntary forfeiture of the claim.

(d) AUDITS.—The Secretary is authorized to conduct such audits of all claim holders, operators, transporters, purchasers, processors, or other persons directly or indirectly involved in the production or sales of minerals covered by this Act, as the Secretary deems necessary for the purposes of ensuring compliance with the requirements of this section. For purposes of performing such audits, the Secretary shall, at reasonable times and upon request, have access to, and may copy, all books, papers and other documents that relate to compliance with any provision of this section by any person.

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary is authorized to enter into cooperative agreements with the Secretary of Agriculture to share information concerning the royalty management of locatable minerals, concentrates, or products derived therefrom, to carry out inspection, auditing, investigation, or enforcement (not including the collection of royalties, civil or criminal penalties, or other payments) activities under this section in cooperation with the Secretary, and to carry out any other activity described in this section.

(2) Except as provided in paragraph (3) of this subsection (relating to trade secrets), and pursuant to a cooperative agreement, the Secretary of Agriculture shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of locatable minerals, concentrates, or products derived therefrom from claims on lands open to location under this Act.

(3) Trade secrets, proprietary, and other confidential information protected from disclosure under section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, shall be made available by the Secretary to other Federal agencies as necessary to assure compliance with this Act and other Federal laws. The Secretary, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and other Federal officials shall ensure that such information is provided protection in accordance with the requirements of that section.

(f) INTEREST AND SUBSTANTIAL UNDERREPORTING ASSESSMENTS.—(1) In the case of mining claims where royalty payments are not received by the Secretary on the date that such payments are due, the Secretary shall charge interest on such underpayments at the same interest rate as the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. In the case of an underpayment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount.

(2) If there is any underreporting of royalty owed on production from a claim for any production month by any person liable for royalty payments under this section, the Secretary shall assess a penalty of not greater than 25 percent of the amount of that underreporting.

(3) For the purposes of this subsection, the term ''underreporting'' means the difference between the royalty on the value of the production that should have been reported and the royalty on the value of the production which was reported, if the value that should have been reported is greater than the value that was reported.

(4) The Secretary may waive or reduce the assessment provided in paragraph (2) of this subsection if the person liable for royalty payments under this section corrects the underreporting before the date such person receives notice from the Secretary that an underreporting may have occurred, or before 90 days after the date of the enactment of this section, whichever is later.

(5) The Secretary shall waive any portion of an assessment under paragraph (2) of this subsection attributable to that portion of the underreporting for which the person responsible for paying the royalty demonstrates that—

(A) such person had written authorization from the Secretary to report royalty on the value of the production on basis on which it was reported;

(B) such person had substantial authority for reporting royalty on the value of the production on the basis on which it was reported;

(C) such person previously had notified the Secretary, in such manner as the Secretary may by rule prescribe, of relevant reasons or facts affecting the royalty treatment of specific production which led to the underreporting; or

(D) such person meets any other exception which the Secretary may, by rule, establish.

(6) All penalties collected under this subsection shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(g) DELEGATION.—For the purposes of this section, the term ''Secretary'' means the Secretary of the Interior acting through the Director of the Minerals Management Service.

(h) EXPANDED ROYALTY OBLIGATIONS.—Each person liable for royalty payments under this section shall be jointly and severally liable for royalty on all locatable minerals, concentrates, or products derived therefrom lost or wasted from a mining claim located under the general mining laws and maintained in compliance with this Act when such loss or waste is due to negligence on the part of any person or due to the failure to comply with any rule, regulation, or order issued under this section.

(i) GROSS INCOME FROM MINING DEFINED.—For the purposes of this section, for any locatable mineral, the term ''gross income from mining'' has the same meaning as the term ''gross income'' in section 613(c) of the Internal Revenue Code of 1986.

(j) EFFECTIVE DATE.—The royalty under this section shall take effect with respect to the production of locatable minerals after the enactment of this Act, but any royalty payments attributable to production during the first 12 calendar months after the enactment of this Act shall be payable at the expiration of such 12-month period.

(k) FAILURE TO COMPLY WITH ROYALTY REQUIREMENTS.—Any person who fails to comply with the requirements of this section or any regulation or order issued to implement this section shall be liable for a civil penalty under section 109 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1719) to

the same extent as if the claim located under the general mining laws and maintained in compliance with this Act were a lease under that Act.

SEC. 102. HARDROCK MINING CLAIM MAINTENANCE FEE.

(a) FEE.—

(1) Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992 (relating to oil shale claims), for each unpatented mining claim, mill or tunnel site on federally owned lands, whether located before, on, or after enactment of this Act, each claimant shall pay to the Secretary, on or before August 31 of each year, a claim maintenance fee of $300 per claim to hold such unpatented mining claim, mill or tunnel site for the assessment year beginning at noon on the next day, September 1. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 et seq.) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(2)(A) The claim maintenance fee required under this subsection shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(i) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(ii) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28 et seq.) to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(B) For purposes of subparagraph (A), with respect to any claimant, the term ''all related parties'' means—

(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; or

(ii) a person affiliated with the claimant, including—

(I) a person controlled by, controlling, or under common control with the claimant; or

(II) a subsidiary or parent company or corporation of the claimant.

(3)(A) The Secretary shall adjust the fees required by this subsection to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(B) The Secretary shall provide claimants notice of any adjustment made under this paragraph not later than July 1 of any year in which the adjustment is made.

(C) A fee adjustment under this paragraph shall begin to apply the calendar year following the calendar year in which it is made.

(4) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(b) LOCATION.—

(1) Notwithstanding any provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act and before September 30, 1998, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary a location fee, in addition to the fee required by subsection (a) of $50 per claim.

(2) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(c) TRANSFER.—

(1) Notwithstanding any provision of law, for every unpatented mining claim, mill, or tunnel site the ownership interest of which is transferred after the date of enactment of this Act, the transferee shall, at the time the transfer document is recorded with the Bureau of Land Management, pay to the Secretary a transfer fee, in addition to the fee required by subsection (a) of $100 per claim.

(2) Moneys received under this subsection that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited in the Abandoned Mine Cleanup Fund established by section 201(a).

(d) CO-OWNERSHIP.—The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28 et seq.) will remain in effect except that the annual claim maintenance fee, where applicable, shall replace applicable assessment requirements and expenditures.

(e) FAILURE TO PAY.—Failure to pay the claim maintenance fee as required by subsection (a) shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

(f) OTHER REQUIREMENTS.—

(1) Nothing in this section shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b) of that Act, which remain in effect.

(2) Section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) is amended by inserting ''or section 102 of the Abandoned Mine Reclamation Act of 2008'' after ''Act of 1993,''.

SEC. 103. RECLAMATION FEE.

(a) IMPOSITION OF FEE.—

(1) IN GENERAL.—Except as provided in paragraph (2), each operator of a hardrock minerals mining operation shall pay to the Secretary, for deposit in the Abandoned Mine Cleanup Fund established by section 201(a), a reclamation fee of 0.3 percent of the gross income of the hardrock minerals mining operation for each calendar year.

(2) EXCEPTION.—With respect to any calendar year required under subsection (b), an operator of a hardrock minerals mining operation shall not be required to pay the reclamation fee under paragraph (1) if—

(A) the gross annual income of the hardrock minerals mining operation for the calendar year is an amount less than $500,000; and

(B) the hardrock minerals mining operation is comprised of—

(i) 1 or more hardrock mineral mines located in a single patented claim; or

(ii) 2 or more contiguous patented claims.

(b) PAYMENT DEADLINE.—The reclamation fee shall be paid not later than 60 days after the end of each calendar year beginning with the first calendar year occurring after the date of enactment of this Act.

(c) DEPOSIT OF REVENUES.—Amounts received by the Secretary under subsection (a)(1) shall be deposited into the Abandoned Mine Cleanup Fund established by section 201(a).

(d) EFFECT.—Nothing in this section requires a reduction in, or otherwise affects, any similar fee required under any law (including regulations) of any State.

SEC. 104. EFFECT OF PAYMENTS FOR USE AND OCCUPANCY OF CLAIMS.

Timely payment of the claim maintenance fee required by section 102(a) of this Act or any related law relating to the use of Federal land, asserts the claimant's authority to use and occupy the Federal land concerned for prospecting and exploration, consistent with the requirements of this Act and other applicable law.

TITLE II—ABANDONED MINE CLEANUP FUND

SEC. 201. ESTABLISHMENT OF FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States a separate account to be known as the Abandoned Mine Cleanup Fund (hereinafter in this title referred to as the ''Fund'').

(b) INVESTMENT.—The Secretary shall notify the Secretary of the Treasury as to what portion of the Fund is not, in the Secretary's judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the Fund in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketplace obligations of the United States of comparable maturities.

SEC. 202. CONTENTS OF FUND.

The following amounts shall be credited to the Fund:

(1) All donations by persons, corporations, associations, and foundations for the purposes of this title.

(2) All amounts deposited in the Fund under section 101 (relating to royalties and penalties for underreporting).

(3) All amounts received by the United States pursuant to section 102 as claim maintenance, location, and transfer fees minus the moneys allocated for administration of the mining laws by the Department of the Interior.

(4) All amounts received by the Secretary in accordance with section 103(a).

(5) All income on investments under section 201(b).

SEC. 203. USE AND OBJECTIVES OF THE FUND.

(a) IN GENERAL.—The Secretary is authorized, without further appropriation, to use moneys in the Fund for the reclamation and restoration of land and water resources adversely affected by past mineral activities on lands the legal and beneficial title to which resides in the United States, land within the exterior boundary of any national forest system unit, or other lands described in subsection (d), including any of the following:

(1) Protecting public health and safety.

(2) Preventing, abating, treating, and controlling water pollution created by abandoned mine drainage, including in river watershed areas.

(3) Reclaiming and restoring abandoned surface and underground mined areas.

(4) Reclaiming and restoring abandoned milling and processing areas.

(5) Backfilling, sealing, or otherwise controlling, abandoned underground mine entries.

(6) Revegetating land adversely affected by past mineral activities in order to prevent erosion and sedimentation, to enhance wildlife habitat, and for any other reclamation purpose.

(7) Controlling of surface subsidence due to abandoned underground mines.

(b) ALLOCATION.—Expenditures of moneys from the Fund shall reflect the following priorities in the order stated:

(1) The protection of public health and safety, from extreme danger from the adverse effects of past mineral activities, especially as relates to surface water and groundwater contaminants.

(2) The protection of public health and safety, from the adverse effects of past mineral activities.

(3) The restoration of land, water, and fish and wildlife resources previously degraded by the adverse effects of past mineral activities, which may include restoration activities in river watershed areas.

(c) HABITAT.—Reclamation and restoration activities under this title, particularly those identified under subsection (a)(4), shall include appropriate mitigation measures to provide for the continuation of any established habitat for wildlife in existence prior to the commencement of such activities.

(d) OTHER AFFECTED LANDS.—Where mineral exploration, mining, beneficiation, processing, or reclamation activities have been carried out with respect to any mineral which would be a locatable mineral if the legal and beneficial title to the mineral were in the United States, if such activities directly affect lands managed by the Bureau of Land Management as well as other lands and if the legal and beneficial title to more than 50 percent of the affected lands resides in the United States, the Secretary is authorized, subject to appropriations, to use moneys in the Fund for reclamation and restoration under subsection (a) for all directly affected lands.

(e) RESPONSE OR REMOVAL ACTIONS.—Reclamation and restoration activities under this title which constitute a removal or remedial action under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), shall be conducted with the concurrence of the Administrator of the Environmental Protection Agency. The Secretary and the Administrator shall enter into a Memorandum of Understanding to establish procedures for consultation, concurrence, training, exchange of technical expertise and joint activities under the appropriate circumstances, that provide assurances that reclamation or restoration activities under this title shall not be conducted in a manner that increases the costs or likelihood of removal or remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and that avoid oversight by multiple agencies to the maximum extent practicable.

SEC. 204. ELIGIBLE LANDS AND WATERS.

(a) ELIGIBILITY.—Reclamation expenditures under this title may be made with respect to Federal, State, local, tribal, and private land or water resources that traverse or are contiguous to Federal, State, local, tribal, or private land where such lands or water resources have been affected by past mineral activities, including any of the following:

(1) Lands and water resources which were used for, or affected by, mineral activities and abandoned or left in an inadequate reclamation status before the effective date of this Act.

(2) Lands for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, operator, or other person who abandoned the site prior to completion of required reclamation under State or other Federal laws.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The provisions of section 411(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(d)) shall apply to expenditures made from the Fund.

(c) INVENTORY.—

(1) IN GENERAL.—The Secretary shall prepare and maintain a publicly available inventory of abandoned locatable minerals mines on public lands and any abandoned mine on Indian lands that may be eligible for expenditures under this title, and shall deliver a yearly report to the Congress on the progress in cleanup of such sites.

(2) PRIORITY.—In preparing and maintaining the inventory described in paragraph (1), the Secretary shall give priority to abandoned locatable minerals mines in accordance with section 203(b).

(3) PERIODIC UPDATES.—Not later than 5 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall update the inventory described in paragraph (1).

SEC. 205. EXPENDITURES.

Moneys available from the Fund may be expended for the purposes specified in section 203 directly by the Director of the Office of Surface Mining Reclamation and Enforcement. The Director may also make such money available for such purposes to the Director of the Bureau of Land Management, the Chief of the United States Forest Service, the Director of the National Park Service, or Director of the United States Fish and Wildlife Service, to any other agency of the United States, to an Indian tribe, or to any public entity that volunteers to develop and implement, and that has the ability to carry out, all or a significant portion of a reclamation program under this title.

SEC. 206. AVAILABILITY OF AMOUNTS.

Amounts credited to the Fund shall—

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

(2) remain available until expended.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, except as otherwise provided in this Act.

By Mr. LEAHY (for himself and Mr. SPECTER):

S. 2751. A bill to facilitate foreign investment by permanently reauthorizing the EB–5 regional center program, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am introducing legislation to strengthen and make permanent the Regional Center pilot program at the U.S. Citizenship and Immigration Services, USCIS. 1 am pleased that Senator SPECTER has joined me in this effort, and I commend him for his recognition of this program's importance. The Regional Center program has had tremendous success in creating American jobs and infusing investment capital into many economically challenged areas across the country, and I urge all Senators to join us in building upon this success.

The Regional Center pilot program was created in 1993 by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act. In 1993, I worked to reauthorize the program for an additional five years as part of the Basic Pilot Program Extension and Expansion Act. The Regional Center pilot program is set to expire in September of 2008. Should Congress fail to act before then, millions of dollars in capital and thousands of potential American jobs will be forfeited. The legislation I introduce today would make this pilot program permanent, and would make other important changes to strengthen its solid foundation.

The Regional Center program allows a regional governmental agency or private enterprise within a State to apply for designation as a Regional Center through USCIS. This designation allows the enterprise to recruit foreign investors to a discrete project or projects, and provides USCIS with an additional layer of screening against immigration fraud. The process for a foreign citizen to gain legal permanent residence through the Regional Center program is a rigorous one. Prior to applying to invest in a Regional Center, a foreign investor must pledge a minimum of $500,000 and independently apply for an EB–5 visa through USCIS, which solely determines the potential investor's eligibility for a visa. If approved, the investor is given a 2-year conditional green card. At the end of the conditional period and in order to continue legal residence in the United States, the investor must demonstrate that his or her investment created a minimum of 10 jobs within the Regional Center, and that his or her investment was fully obligated to the targeted project.

This program's continuation promises a bright future for job creation and capital investment in participating communities. The Regional Center program has resulted in millions of dollars of direct investment and the creation of thousands of jobs in the U.S. Moreover, foreign investment serves to attract additional domestic private sector capital, further increasing the program's beneficial economic effects. There are 17 Regional Centers across the country—and several more with pending applications—which manage investments in a diverse range of projects from energy production to resort development. Making this successful program permanent will provide significant economic benefits to participating States at no cost to the taxpayer.

My home State of Vermont has benefited tremendously from this program, with foreign investments committed to local projects ranging in the millions of dollars. As a result of these ongoing developments, many new jobs are being created for Vermont's residents. For example, two of Vermont's premier ski resorts are active participants in this program, and have been successful in attracting foreign investment to help make ambitious development projects a reality. In a rural State like Vermont, which depends heavily on tourism and its natural resources, the Regional Center program has been instrumental in supporting projects that take advantage of Vermont's natural beauty and outdoor recreation opportunities.

In addition to making the Regional Center program permanent, the bill also makes a number of other improvements to ensure its efficiency and to accommodate expected expansion. The bill provides a premium processing option for potential investors, allowing expedited processing for an additional fee to USCIS, as well as concurrent processing of a potential investor's application for designation as an immigrant investor and his or her adjustment of status application to obtain

conditional permanent residency. Finally, the bill creates a $2,500 fee for those domestic entities applying for Regional Center status, and directs USCIS to re-invest this additional revenue back into the Regional Center program to allow the agency to accommodate future growth in the program.

Because the pilot program is set to expire in 2008, potential investors are feeling a chill stemming from uncertainty about the Regional Center Program's future. Permanently authorizing this program will create certainty and predictability for potential investors interested in the numerous projects currently in development across the country. This non-controversial program has enjoyed broad bipartisan support, and I strongly believe that we would do well to increase American job creation and capital investment by matching American ingenuity with the desire of those who seek not only to invest in the U.S., but who seek to share in our country's promise as eventual citizens.

In a time of severe economic turbulence, and in an era where Americans are witnessing the outsourcing of too many good jobs overseas, this bill builds upon a proven record of success and encourages investment and job creation in the States and local communities of our Nation.

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. 2751

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 ''State Foreign Investment Improvement Act''.

SEC. 2. PERMANENT REAUTHORIZATION OF EB–5 REGIONAL CENTER PROGRAM; APPLICATION FEE.

(a) IN GENERAL.—Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note) is amended—

(1) by striking ''pilot'' each place it appears;

(2) in subsection (b), by striking ''for 15 years''; and

(3) by adding at the end the following:

''(e) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose a fee of $2,500 to apply for designation as a regional center under this section. Fees collected under this subsection shall be deposited in the Treasury in accordance with section 286(w) of the Immigration and Nationality Act (8 U.S.C. 1356(w)).''.

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) IMMIGRANT ENTREPRENEUR REGIONAL CENTER ACCOUNT.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'Immigrant Entrepreneur Regional Center Account'. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 610(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note).

''(2) USE OF FEES.—Fees collected under this section may only be used by the Secretary of Homeland Security to administer and operate the EB–5 immigrant investor program.''.

(c) RULEMAKING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prescribe regulations to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by subsections (a)(3) and (b) shall take effect on the effective date of the regulations prescribed pursuant to subsection (c).

SEC. 3. PREMIUM PROCESSING FEE FOR EB–5 IMMIGRANT INVESTORS.

(a) IN GENERAL.—Section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)) is amended by striking ''$1,000,'' and inserting ''$1,000 per petition. If the petition is filed under section 203(b)(5), the fee shall be set at $2,000 and may only be used by the Secretary of Homeland Security to administer and operate the EB–5 immigrant investor program. Fees collected under this subsection''.

(b) RULEMAKING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prescribe regulations to implement the amendment made by subsection (a).

SEC. 4. CONCURRENT FILING OF EB–5 PETITIONS AND APPLICATIONS FOR ADJUSTMENT OF STATUS.

Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) If, at the time a petition is filed for classification through a regional center under section 203(b)(5), approval of the petition would make a visa immediately available to the alien beneficiary, the alien beneficiary's adjustment application under this section shall be considered to be properly filed whether the application is submitted concurrently with, or subsequent to, the visa petition.''.

Mr. SPECTER. Mr. President, I seek recognition to speak on the State Foreign Investment Improvement Act, which I am cosponsoring with Senator LEAHY. This bill will make permanent the Immigrant Investor Pilot Program, an innovative and successful program which has been in existence for 15 years. Under this program, State and local governments, and private entities, are able to apply to the U.S. Citizenship and Immigration Service for ''regional center'' status which enables them to attract the job-creating dollars of immigrant investor visa holders.

The immigrant investor visa—known as the EB–5 visa—was created in 1990 and grants lawful permanent residency to individuals willing to invest at least $1 million in an enterprise that directly employs at least 10 legal workers in the United States. In certain rural or high-unemployment areas, however, the dollar amount is reduced to at least $500,000, though the job-creation requirements remain the same.

In 1992, to stimulate interest in these immigrant investor visas, Congress created the Immigrant Investor Pilot Program. By investing in the designated ''regional centers'' instead of creating their own enterprises or partnerships, immigrant investors can meet the job-creation requirements of their visas more easily, since they need only show the indirect creation of 10 jobs through a ''regional center.'' Otherwise, an immigrant investor would have to show that his or her investment directly created the jobs.

The Immigrant Investor Pilot Program has proven to be an attractive option for potential immigrant investors, being chosen by an estimated 75 percent to 80 percent of all immigrant investors since its inception. Indeed, in my home state of Pennsylvania, the two regional centers—one in western Pennsylvania and one in Philadelphia—have generated millions of dollars in foreign investment. However, this program is set to expire at the end of the 2008 fiscal year.

The Immigrant Investor Pilot Program has thus become a vital component of the immigrant investor visa, a category of visa whose benefits are difficult to overstate. The Government Accountability Office estimates that immigrant investors were responsible for over $1 billion in job-creating investments between 1992 and mid-2004. These investments have aided enterprises as diverse as the growth of dairy and meat-packing industries in South Dakota and improvements to the shipyard in Philadelphia. However, the most important contribution of the immigrant investor visa has been the creation of jobs within the United States. And in this aim, the immigrant investor visa has been very successful, creating jobs in the thousands.

In addition to preserving the current successful status quo of the Immigrant Investor Pilot Program by making it permanent, this bill makes minor improvements to the immigrant investor visa application procedure. It establishes an application fee for entities seeking designation as a ''regional center'' under the Pilot Program, and it provides premium processing fees for immigrant investor applications. Both of these fees will enable the U.S. Citizenship and Immigration Service to devote more resources to adjudicating these applications rapidly. Finally, this bill allows for concurrent filing of the immigrant investor petition and application for adjustment to lawful permanent resident, thereby providing for a shorter processing time for ''regional center'' applicants.

Last November, the Wall Street Journal stated that the immigrant investor visa is ''pumping millions of dollars from foreign investors into dilapidated inner cities and employment-starved rural areas across the U.S.'' At a time when Congress is weighing how it will address economic instability, it would be unwise to neglect such an economically beneficial program. Accordingly, I am pleased to co-sponsor this piece of legislation with Senator LEAHY and I urge my colleagues to support it.

By Mr. SMITH (for himself and Mr. DURBIN):

S. 2752. A bill to authorize the President to award grants to improve the capacity of nongovernmental organizations and individuals in foreign countries to provide appropriate mental disability and mental trauma care training, and for other purposes; to the Committee on Foreign Relations.

Mr. SMITH. Mr. President, I rise today to congratulate an inspiring young man, Brian McCarthy. Brian is a student at Liberty High School in Hillsboro, Oregon, and was this year's third place finalist in the prestigious Intel Science Talent Search. He was selected from over 1600 students and is the recipient of a $50,000 scholarship. The Science Talent Search is lauded as the ''junior Nobel Prize'' and America's oldest and most prestigious research competition for high school seniors.

Brian's award winning chemistry project focused on solar cells. During his lab work, Brian synthesized extremely thin and fragile films of plant-like materials found in nature. What he discovered is a polymer that could potentially act as a less expensive option to today's silicon-based solar cell technology.

It is no surprise that Brian is first in his class of 293. However, his interests and abilities span a wide gamut, including being a member of the varsity track and field team, volunteering with the community emergency response team, and studying aviation history.

Brian and his peers from the Science Talent Search are an inspiration and give me hope for the future of our country. Congratulations to the McCarthy family. I can only imagine what heights this young Oregonian will reach.

By Mr. WYDEN (for himself, Mr. ENZI, Mr. WICKER, Mr. WARNER, and Mr. WHITEHOUSE):

S.J. Res. 29. A joint resolution expressing Congressional support for the goals and ideals of National Health Care Decisions Day; to the Committee on Health, Education, Labor, and Pensions.

Mr. WYDEN. Mr. President, it is not easy talking to a family member or loved one about what kind of medical care you'd want or not want at the end of your life. Yet every day family members are making medical care decisions for seriously ill people who cannot speak for themselves. Most family members with relatives who had executed advance directives find comfort in knowing that the hard decisions they may need to make about end-of-life care will reflect the wishes of the ill relative. End-of-life planning is a gift to the people who are important to you and to yourself.

Americans are talking a lot more about the topic of advance directives than they used to and are also doing something about it by preparing written advance directives. Advance directives come in two main forms. The first is a ''health care power of attorney'' in which someone is designated to be your voice in health decisions if you can not speak for yourself. The second is a ''living will'' which states what types of medical care you would want or not want at the end of life. Most married people have had a conversation with a husband or wife about end of life medical care and most people have spoken with one or both older parents about the topic. Research has found that people who have had to make decisions about medical care at the end of life for others are more likely to make end of life plans for themselves. They have learned how important it is to make a plan. Congress helped to get the advance directives conversation going with the Patient Self-Determination Act. This law directed Medicare-participating health care facilities to engage patient and staff in a discussion of end of life wishes. Since 1990 when the Patient Self-Determination Act was passed, the percentage of Americans who have made a living will has more than doubled from 12 percent to 29 percent.

Yet more conversation is needed. The National Health Care Decisions Day will help promote that conversation. National Health Care Decisions Day will be a 50-state annual event to increase knowledge and awareness of the importance of advance directives for all Americans. At this year's annual event on April 16, 2008, a coordinated series of activities across the U.S. will encourage Americans to discuss their wishes for end-of-life care and then fill out documents that reflect those wishes. The National Heath Care Decisions Day is supported by many of our distinguished local, state, and national health care organizations.

This joint Senate-House resolution: supports the goals and ideals of National Health Care Decisions Day and the importance of advance care planning, encourages health care, civic, educational, religious and other organizations to encourage individuals to use advance directives, and asks all Americans, including members of Congress, to prepare advance directives for themselves. The Senate resolution is cosponsored by Senators ENZI, WICKER, WARNER, and WHITEHOUSE. A companion House resolution will be introduced by Congressman PHIL GINGREY, M.D. I encourage my congressional colleagues to support this resolution. I also ask you to begin or continue the dialogue about end-of-life issues with family members and to complete written advance directives.

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

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

S.J. RES. 29

Whereas National Health Care Decisions Day is designed to raise public awareness of the need to plan ahead for health care decisions related to end-of-life care and medical decision-making whenever patients are unable to speak for themselves and to encourage the specific use of advance directives to communicate these important decisions;

Whereas the Patient Self-Determination Act (42 U.S.C. 1395cc(f) et seq.) guarantees patients the right to information about their rights under State law regarding accepting or refusing medical treatment;

Whereas it is estimated that only a minority of Americans have executed advance directives, including those who are terminally ill or living with life-threatening or life-limiting illnesses;

Whereas advance directives offer individuals the opportunity to discuss with loved ones in advance of a health care crisis and decide what measures would be appropriate for them when it comes to end-of-life care;

Whereas, the preparation of an advance directive would advise family members, health care providers, and other persons as to how an individual would want to be treated with respect to health care;

Whereas, to avoid any legal or medical confusion due to the emotions involved in end-of-life decisions, it is in the best interest of all Americans that each person over the age of 18 communicate his or her wishes by creating an advance directive;

Whereas the Conditions of Participation in Medicare and Medicaid, section 489.102 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this resolution), require all participating facilities to provide information to patients and the public on the topic of advance directives;

Whereas the Centers for Medicare & Medicaid Services has recognized that the use of advance directives is tied to quality health care and has included discussions of advance directives in the criteria of the Physician Quality Reporting Initiative;

Whereas establishing National Health Care Decisions Day will encourage health care facilities and professionals as well as chaplains, attorneys, and others to participate in a collective, nationwide effort to provide clear, concise, and consistent information to the public about health care decision-making, particularly advance directives; and

Whereas as a result of National Health Care Decisions Day, recognized on April 16, 2008, more Americans will have conversations about their health care decisions, more Americans will execute advance directives to make their wishes known, and fewer families and health care providers will have to struggle with making difficult health care decisions in the absence of guidance from the patient: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) supports the goals and ideals of National Health Care Decisions Day;

(2) supports the goals and ideals of advance care planning for all adult Americans;

(3) encourages each person in the United States who is over the age of 18 to prepare an advance directive to assist his or her loved ones, health care providers, and others as they honor his or her wishes;

(4) calls upon all members of Congress to execute such documents and discussions for themselves; and

(5) encourages health care, civic, educational, religious, and for- and non-profit organizations to encourage individuals to prepare advance directives to ensure that their wishes and rights with respect to health care are protected.