S. 2705

At the request of Mr. DURBIN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2705, a bill to authorize programs to increase the number of nurses within the Armed Forces through assistance for service as nurse faculty or education as nurses, and for other purposes.

S. 2717

At the request of Mr. CHAMBLISS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor 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. 2723

At the request of Mr. BROWN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2723, a bill to expand the dental workforce and improve dental access, prevention, and data reporting, and for other purposes.

S. 2746

At the request of Mr. CORNYN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of 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.

S. 2766

At the request of Mr. NELSON of Florida, the names of the Senator from North Carolina (Mr. BURR), the Senator from Maine (Ms. SNOWE) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2766, a bill to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

S. 2769

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 2769, a bill to authorize appropriate use of information in the Firearms Trace Database, and for other purposes.

S. 2771

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2771, a bill to require the president to call a White House Conference on Children and Youth in 2010.

S. 2785

At the request of Ms. STABENOW, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 2785, a bill to amend title XVIII of the Security Act to preserve access to physicians' services under the Medicare program.

S. 2794

At the request of Mr. VITTER, his name was withdrawn as a cosponsor of S. 2794, a bill to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security.

S.J. RES. 28

At the request of Mr. DORGAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S.J. Res. 28, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. RES. 456

At the request of Ms. SNOWE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 456, a resolution directing the United States to undertake bilateral discussions with Canada to negotiate an agreement to conserve populations of large whales at risk of extinction that migrate along the Atlantic seaboard of North America.

S. RES. 481

At the request of Mr. HAGEL, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Res. 481, a resolution designating April 2008 as ''National Autism Awareness Month'' and supporting efforts to increase funding for research into the causes and treatment of autism and to improve training and support for individuals with autism and those who care for individuals with autism.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Ms. SNOWE, Mrs. LINCOLN, and Mr. COLEMAN):

S. 2795. A bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible; to the Committee on Finance.

Mr. DURBIN. 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. 2795

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Health Options Program Act of 2008'' or the ''SHOP Act''.

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—SMALL BUSINESS HEALTH OPTIONS PROGRAM

''SEC. 3001. DEFINITIONS.

''(a) IN GENERAL.—In this title:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator appointed under section 3002(a).

''(2) SMALL BUSINESS HEALTH BOARD.—The term 'Small Business Health Board' means the Board established under section 3002(d).

''(3) EMPLOYEE.—The term 'employee' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)). Such term shall not include an employee of the Federal Government.

''(4) EMPLOYER.—The term 'employer' has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include employers who employed an average of at least 1 but not more than 100 employees (who worked an average of at least 35 hours per week) on business days during the year preceding the date of application, and shall include self-employed individuals with either not less than $5,000 in net earnings or not less than $15,000 in gross earnings from self-employment in the preceding taxable year. Such term shall not include the Federal Government.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given such term in section 2791.

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791.

''(7) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning given such term in section 2791(d)(9).

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means an employer that—

''(A) elects to provide health insurance coverage under this title to its employees; and

''(B) is not offering other comprehensive health insurance coverage to such employees.

''(b) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of subsection (a)(3):

''(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full year prior to the date on which the employer applies to participate, the determination of whether such employer meets the requirements of subsection (a)(4) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the employer's first full year.

''(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(c) WAIVER AND CONTINUATION OF PARTICIPATION.—

''(1) WAIVER.—The Administrator may waive the limitations relating to the size of an employer which may participate in the health insurance program established under this title on a case by case basis if the Administrator determines that such employer makes a compelling case for such a waiver.

In making determinations under this paragraph, the Administrator may consider the effects of the employment of temporary and seasonal workers and other factors.

''(2) CONTINUATION OF PARTICIPATION.—An employer participating in the program under this title that experiences an increase in the number of employees so that such employer has in excess of 100 employees, may not be excluded from participation solely as a result of such increase in employees.

''(d) TREATMENT OF HEALTH INSURANCE COVERAGE AS GROUP HEALTH PLAN.—Health insurance coverage offered under this title shall be treated as a group health plan for purposes of applying the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) except to the extent that a provision of this title expressly provides otherwise.

''(e) APPLICATION OF HIPAA RULES.—Notwithstanding any provision of State law, the provisions of subparts 1, 3, and 4 of part A of title XXVII shall apply to health insurance coverage offered under this title. A State may modify State law as appropriate to provide for the enforcement of such provisions for health insurance coverage offered in the State under this title.

''SEC. 3002. ADMINISTRATION OF SMALL BUSINESS HEALTH INSURANCE POOL.

''(a) OFFICE AND ADMINISTRATOR.—The Secretary shall designate an office within the Department of Health and Human Services to administer the program under this title. Such office shall be headed by an Administrator to be appointed by the Secretary.

''(b) QUALIFICATIONS.—The Secretary shall ensure that the individual appointed to serve as the Administrator under subsection (a) has an appropriate background with experience in health insurance, business, or health policy.

''(c) DUTIES.—The Administrator shall—

''(1) enter into contracts with health insurance issuers to provide health insurance coverage to individuals and employees who enroll in health insurance coverage in accordance with this title;

''(2) maintain the contracts for health insurance policies when an employee elects which health plan offered under this title to enroll in as permitted under section 3007(d)(7);

''(3) ensure that health insurance issuers comply with the requirements of this title;

''(4) ensure that employers meet eligibility requirements for participation in the health insurance pool established under this title;

''(5) enter into agreements with entities to serve as navigators, as defined in section 3003;

''(6) collect premiums from employers and employees and make payments for health insurance coverage;

''(7) collect other information needed to administer the program under this title;

''(8) compile, produce, and distribute information (which shall not be subject to review or modification by the States) to employers and employees (directly and through navigators) concerning the open enrollment process, the health insurance coverage available through the pool, and standardized comparative information concerning such coverage, which shall be available through an interactive Internet website, including a description of the coverage plans available in each State and comparative information, about premiums, index rates, benefits, quality, and consumer satisfaction under such plans;

''(9) provide information to health insurance issuers, including, at the discretion of the Administrator, notification when proposed rates are not in a competitive range;

''(10) conduct public education activities (directly and through navigators) to raise the awareness of the public of the program under this title and the associated tax credit under the Internal Revenue Code of 1986;

''(11) develop methods to facilitate enrollment in health insurance coverage under this title, including through the use of the Internet;

''(12) if appropriate, enter into contracts for the performance of administrative functions under this title as permitted under section 3009;

''(13) carefully consider benefit recommendations that are endorsed by at least two-thirds of the members of the Small Business Health Board;

''(14) establish and administer a contingency fund for risk corridors as provided for in section 3008; and

''(15) carry out any other activities necessary to administer this title.

''(d) LIMITATIONS.—The Administrator shall not—

''(1) negotiate premiums with participating health insurance issuers; or

''(2) exclude health insurance issuers from participating in the program under this title except for violating contracts or the requirements of this title.

''(e) SMALL BUSINESS HEALTH BOARD.—

''(1) IN GENERAL.—There shall be established a Small Business Health Board to monitor the implementation of the program under this title and to make recommendations to the Administrator concerning improvements in the program.

''(2) APPOINTMENT.—The Comptroller General shall appoint 13 individuals who have expertise in health care benefits, financing, economics, actuarial science or other related fields, to serve as members of the Small Business Health Board. In appointing members under the preceding sentence, the Comptroller General shall ensure that such members include—

''(A) a mix of different types of professionals;

''(B) a broad geographic representation;

''(C) not less than 3 individuals with an employee perspective;

''(D) not less than 3 individuals with a small business perspective, at least 1 of whom shall have a self-employed perspective; and

''(E) not less than 1 individual with a background in insurance regulation.

''(3) TERMS.—Members of the Small Business Health Board shall serve for a term of 3 years, such terms to end on March 15 of the applicable year, except as provided in paragraph (4). The Comptroller General shall stagger the terms for members first appointed. A member may be reappointed after the expiration of a term. A member may serve after expiration of a term until a successor has been appointed.

''(4) SMALL BUSINESS REPRESENTATIVES.—Beginning on March 16, 2012, 3 of the individuals the Comptroller General appoints to the Small Business Health Board shall be representatives of the 3 navigators through which the largest number of individuals have enrolled for health insurance coverage over the previous 2-year period. Such appointees shall serve for 1 year. The Comptroller General shall consider for appointment in years prior to the date specified in this paragraph, individuals who are representatives of entities that may serve as navigators.

''(5) CHAIRPERSON; VICE CHAIRPERSON.—The Comptroller General shall designate a member of the Small Business Health Board, at the time of appointment of such member, to serve as Chairperson and a member to serve as Vice Chairperson for the term of the appointment, except that in the case of a vacancy of either such position, the Comptroller General may designate another member to serve in such position for the remainder of such member's term.

''(6) COMPENSATION.—While serving on the business of the Small Business Health Board (including travel time), a member of the Small Business Health Board shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairperson of the Small Business Health Board.

''(7) DISCLOSURE.—The Comptroller General shall establish a system for the public disclosure, by members of the Small Business Health Board, of financial and other potential conflicts of interest.

''(8) MEETINGS.—The Small Business Health Board shall meet at the call of the Chairperson. Each such meeting shall be open to the public.

''(9) DUTIES.—The Small Business Health Board shall—

''(A) provide general oversight of the program under this title and make recommendations to the Administrator;

''(B) monitor and make recommendations to the Administrator on the benefit requirements for national plans in this title;

''(C) make recommendations concerning information that the Administrator, health plans, and navigators should distribute to employers and employees participating in the program under this title; and

''(D) monitor and make recommendations to the Administrator on adverse selection within the program under this title and between the coverage provided under the program and the State-regulated health insurance market.

''(10) APPROVAL OF RECOMMENDATIONS.—A recommendation shall require approval by not less than two-thirds of the members of the Board.

''(11) PUBLIC NOTICE AND COMMENT ON RECOMMENDATIONS.—The Administrator shall—

''(A) publish recommendations by the Small Business Health Board in the Federal Register;

''(B) solicit written comments concerning such recommendations; and

''(C) provide an opportunity for the presentation of oral comments concerning such recommendations at a public meeting.

''SEC. 3003. NAVIGATORS.

''(a) IN GENERAL.—The Administrator shall enter into agreements with private and public entities, beginning a reasonable period prior to the beginning of the first calendar year in which health insurance coverage is offered under this title, under which such entities will serve as navigators.

''(b) ELIGIBILITY.—To be eligible to enter into an agreement under subsection (a), an entity shall demonstrate to the Administrator that the entity has existing relationships with, or could readily establish relationships with, employers and employees, and self-employed individuals, likely to be eligible to participate in the program under this title. Such entities may include trade, industry and professional associations, chambers of commerce, unions, small business development centers, and other entities that the Administrator determines to be capable of carrying out the duties described in subsection (c).

''(c) DUTIES.—An entity that serves as a navigator under an agreement under subsection (a) shall—

''(1) coordinate with the Administrator on public education activities to raise awareness of the program under this title;

''(2) distribute information developed by the Administrator on the open enrollment process, private health plans available

through the program under this title, and standardized comparative information about the health insurance coverage under the program;

''(3) distribute information about the availability of the tax credit under section 36 of the Internal Revenue Code of 1986 as added by the Small Business Health Options Program Act of 2008;

''(4) assist employers and employees in enrolling in the program under this title; and

''(5) respond to questions about the program under this title and participating plans.

''(d) SUPPLEMENTAL MATERIALS.—In addition to information developed by the Administrator under subsection (c)(2), a navigator may develop and distribute other information that is related to the health insurance program established under this title, subject to review and approval by the Administrator and filing in each State in which the navigator operates.

''(e) STANDARDS.—

''(1) IN GENERAL.—The Administrator shall establish standards for navigators under this section, including provisions to avoid conflicts of interest. Under such standards, a navigator may not—

''(A) be a health insurance issuer; or

''(B) receive any consideration directly or indirectly from any health insurance issuer in connection with the participation of any employer in the program under this title or the enrollment of any eligible employee in health insurance coverage under this title.

''(2) FAIR AND IMPARTIAL INFORMATION AND SERVICES.—The Administrator shall consult with the Small Business Health Board concerning the standards necessary to ensure that a navigator will provide fair and impartial information and services. An agreement between the Administrator and a navigator may include specific provisions with respect to such navigator to ensure that such navigator will provide fair and impartial information and services. If a navigator, or entity seeking to become a navigator, is a party to any arrangement with any health insurance issuer to receive compensation related to other health care programs not covered under this title, the entity shall disclose the terms of such compensation arrangements to the Administrator, and the Administrator shall take such information into account in determining the appropriate standards and agreement terms for such navigator.

''SEC. 3004. CONTRACTS WITH HEALTH INSURANCE ISSUERS.

''(a) IN GENERAL.—The Administrator may enter into contracts with qualified health insurance issuers, without regard to section 5 of title 41, United States Code, or other statutes requiring competitive bidding, to provide health benefits plans to employees of participating employers and self-employed individuals under this title. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Administrator shall ensure that health benefits coverage is provided for an individual only, two adults in a household, one adult and one or more children, and a family.

''(b) ELIGIBILITY.—A health insurance issuer shall be eligible to enter into a contract under subsection (a) if such issuer—

''(1) is licensed to offer health benefits plan coverage in each State in which the plan is offered; and

''(2) meets such other reasonable requirements as determined appropriate by the Administrator, after an opportunity for public comment and publication in the Federal Register.

''(c) COST-SHARING AND NETWORKS.—The Administrator shall ensure that health benefits plans with a range of cost-sharing and network arrangements are available under this title.

''(d) REVOCATION.—Approval of a health benefits plan participating in the program under this title may be withdrawn or revoked by the Administrator only after notice to the health insurance issuer involved and an opportunity for a hearing without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

''(e) CONVERSION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a contract may not be made or a plan approved under this section if the health insurance issuer under such contract or plan does not provide to each enrollee whose coverage under the plan is terminated, including a termination due to discontinuance of the contract or plan, the option to have issued to that individual a nongroup policy without evidence of insurability. A health insurance issuer shall provide a notice of such option to individuals who enroll in the plan. An enrollee who exercises such conversion option shall pay the full periodic charges for the nongroup policy.

''(2) EXCEPTIONS.—A health insurance issuer shall not be required to offer a nongroup policy under paragraph (1) if the termination under the plan occurred because—

''(A) the enrollee failed to pay any required monthly premiums under the plan;

''(B) the enrollee performed an act or practice that constitutes fraud in connection with the coverage under the plan;

''(C) the enrollee made an intentional misrepresentation of a material fact under the terms of coverage of the plan; or

''(D) the terminated coverage under the plan was replaced by similar coverage within 31 days after the date of termination.

''(f) PAYMENT OF PREMIUMS.—

''(1) IN GENERAL.—Employers shall collect premium payments from their employees through payroll deductions and shall forward such payments and the contribution of the employer (if any) to the Administrator. The Administrator shall develop procedures through which such payments shall be received and forwarded to the health insurance issuer involved.

''(2) FAILURE TO PAY.—

''(A) IN GENERAL.—Failure to pay premiums shall be treated as a debt owed to the United States in the same manner as the failure to repay a loan made to an individual under the Higher Education Act of 1965 is treated as such a debt.

''(B) PROCEDURES.—The Administrator shall establish procedures—

''(i) for the termination of employers that fail, for a two consecutive month period (or such other time period as determined appropriate by the Administrator), to make premium payments in a timely manner; and

''(ii) for recovering the cost of unpaid and uncollected premiums through an adjustment in the rates charged for the subsequent year in accordance with section 3007(b)(1)(C).

''SEC. 3005. EMPLOYER PARTICIPATION.

''(a) PARTICIPATION PROCEDURE.—The Administrator shall develop a procedure for employers and self-employed individuals to participate in the program under this title, including procedures relating to the offering of health benefits plans to employees and the payment of premiums for health insurance coverage under this title. For the purpose of premium payments, a self-employed individual shall be considered an employer that is making a 100 percent contribution toward the premium amount.

''(b) ENROLLMENT AND OFFERING OF OTHER COVERAGE.—

''(1) ENROLLMENT.—A participating employer shall ensure that each eligible employee has an opportunity to enroll in a plan of the employer's choice or a plan of the employee's choice in accordance with section 3007(d)(7).

''(2) PROHIBITION ON OFFERING OTHER COMPREHENSIVE HEALTH BENEFIT COVERAGE.—A participating employer may not offer a health insurance plan providing comprehensive health benefit coverage to employees other than a health benefits plan offered under this title.

''(3) PROHIBITION ON COERCION.—An employer shall not pressure, coerce, or offer inducements to an employee to elect not to enroll in coverage under the program under this title or to select a particular health benefits plan.

''(4) OFFER OF SUPPLEMENTAL COVERAGE OPTIONS.—

''(A) IN GENERAL.—A participating employer may offer supplementary coverage options to employees.

''(B) DEFINITION.—In subparagraph (A), the term 'supplementary coverage' means benefits described as 'excepted benefits' under section 2791(c).

''(c) REGULATORY FLEXIBILITY.—In developing the procedure under subsection (a), the Administrator shall comply with the requirements specified under the Regulatory Flexibility Act under chapter 6 of title 5, United States Code, consider the economic impacts that the regulation will have on small businesses, and consider regulatory alternatives that would mitigate such impact. The Administrator shall publish and publicly disseminate a small business compliance guide, pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act, that explains the compliance requirements for employer participation. Such compliance guide shall be published not later than the date of the publication of the final rule under this title, or the effective date of such rules, whichever is later.

''(d) RULE OF CONSTRUCTION.—Except as provided in section 3004(f), nothing in this title shall be construed to require that an employer make premium contributions on behalf of employees.

''SEC. 3006. ELIGIBILITY AND ENROLLMENT.

''(a) IN GENERAL.—An individual shall be eligible to enroll in health insurance coverage under this title for coverage beginning in 2011 if such individual is an employee of a participating employer described in section 3001(a)(4) or is a self-employed individual as defined in section 401(c)(1)(B) of the Internal Revenue Code of 1986 and meets the definition of a participating employer in section 3001(a)(8). An employer may allow employees who average fewer than 35 hours per week to enroll.

''(b) LIMITATION.—A health insurance issuer may not refuse to provide coverage to any eligible individual under subsection (a) who selects a health benefits plan offered by such issuer under this title.

''(c) TYPE OF ENROLLMENT.—An eligible individual may enroll as an individual or as an adult with one or more children regardless of whether another adult is present in the enrollee's household or family.

''(d) OPEN ENROLLMENT.—

''(1) IN GENERAL.—The Administrator shall establish an annual open enrollment period during which an employer may elect to become a participating employer and an employee may enroll in a health benefits plan under this title for the following calendar year.

''(2) OPEN ENROLLMENT PERIOD.—For purposes of this title, the term 'open enrollment period' means, with respect to calendar year 2011 and each succeeding calendar year, the

period beginning on October 1, 2010, and ending December 1, 2010, and each succeeding period beginning October 1 and ending December 1. Coverage in a health benefits plan selected during such an open enrollment period shall begin on January 1 of the calendar year following the selection.

''(3) NEWLY ELIGIBLE EMPLOYERS AND EMPLOYEES.—Notwithstanding the open enrollment period provided for under paragraph (2), the Administrator shall establish an enrollment process to enable a newly eligible employer or an employer with an existing health benefits policy whose term is ending to become a participating employer and for an employee of such employer, or a new employee of a participating employer, to enroll in a health benefits plan under this title outside of an open enrollment period. The Administrator may establish a process for setting the renewal date for the participation of an employer that initially becomes a participating employer outside of the open enrollment period to coincide with a subsequent open enrollment period.

''(4) LIMITATION OF CHANGING ENROLLMENT.—An employer or employee (as the case may be) may elect to change the health benefits plan that the employee is enrolled in only during an open enrollment period.

''(5) EFFECTIVENESS OF ELECTION AND CHANGE OF ELECTION.—An election to change a health benefits plan that is made during the open enrollment period under paragraph (2) shall take effect as of the first day of the following calendar year.

''(6) CONTINUATION OF ENROLLMENT.—An employee who has enrolled in a health benefits plan under this title is considered to have been continuously enrolled in that health benefits plan until such time as—

''(A) the employer or employee (as the case may be) elects to change health benefits plans; or

''(B) the health benefits plan is terminated.

''(e) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—The Administrator shall compile, produce, and disseminate information to employers, employees, and navigators under section 3002(c)(8) to promote informed choice that shall be made available at least 30 days prior to the beginning of each open enrollment period.

''(f) TERMINATION OF EMPLOYMENT.—An employee may remain enrolled in a health plan under this title for the remainder of the calendar year following the termination or separation of the employee from employment or termination of the employer, if the employee pays 100 percent of the monthly premium for the remainder of the year involved.

''(g) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to prohibit a health insurance issuer providing coverage through the program under this title from using the services of a licensed agent or broker.

''SEC. 3007. HEALTH COVERAGE AVAILABLE WITHIN THE SMALL BUSINESS POOL.

''(a) PREEXISTING CONDITION EXCLUSIONS.—

''(1) IN GENERAL.—Each contract under this title may include a preexisting condition exclusion as defined under section 9801(b)(1) of the Internal Revenue Code of 1986.

''(2) EXCLUSION PERIOD.—A preexisting condition exclusion under this subsection shall provide for coverage of a preexisting condition to begin not later than 6 months after the date on which the coverage of the individual under a health benefits plan commences, reduced by the aggregate of 1 day for each day that the individual was covered under creditable health insurance coverage (as defined for purposes of section 2701(c)) immediately preceding the date the individual submitted an application for coverage under this title. This provision shall be applied notwithstanding the applicable provision for the reduction of the exclusion period provided for in section 701(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(a)(3)).

''(b) RATES AND PREMIUMS; STATE LAWS.—

''(1) IN GENERAL.—Rates charged and premiums paid for a health benefits plan under this title—

''(A) shall be determined in accordance with subsection (d);

''(B) may be annually adjusted; and

''(C) shall be adjusted to cover the administrative costs of the Administrator under this title and the office established under section 3002.

''(2) BENEFIT MANDATE LAWS.—With respect to a contract entered into under this title under which a health insurance issuer will offer health benefits plan coverage, State mandated benefit laws in effect in the State in which the plan is offered shall continue to apply, except in the case of a nationwide plan.

''(3) LIMITATION.—Nothing in this subsection shall be construed to preempt any State or local law (including any State grievance, claims, and appeals procedure laws, State provider mandate laws, and State network adequacy laws) except those laws and regulations described in subsection (b)(2), (d)(2)(B), and (d)(5).

''(c) TERMINATION AND REENROLLMENT.—If an individual who is enrolled in a health benefits plan under this title voluntarily terminates the enrollment, except in the case of an individual who has lost or changes employment or whose employer is terminated for failure to pay premiums, the individual shall not be eligible for reenrollment until the first open enrollment period following the expiration of 6 months after the date of such termination.

''(d) RATING RULES AND TRANSITIONAL APPLICATION OF STATE LAW.—

''(1) YEARS 2011 AND 2012.—With respect to calendar years 2011 and 2012 (open enrollment period beginning October 1, 2010, and October 1, 2011), the following shall apply:

''(A) In the case of an employer that elects to participate in the program under this title, the State rating requirements applicable to employers purchasing health insurance coverage in the small group market in the State in which the employer is located shall apply with respect to such coverage, except that premium rates for such coverage shall not vary based on health-status related factors.

''(B) State rating requirements shall apply to health insurance coverage purchased in the small group market in the State, except that a State shall be prohibited from allowing premium rates to vary based on health-status related factors.

''(2) SUBSEQUENT YEARS.—

''(A) NAIC RECOMMENDATIONS.—

''(i) STUDY.—Beginning in 2009, the Administrator shall contract with the National Association of Insurance Commissioners to conduct a study of the rating requirements utilized in the program under this title and the rating requirements that apply to health insurance purchased in the small group markets in the States, and to develop recommendations concerning rating requirements. Such recommendations shall be submitted to the appropriate committees of Congress during calendar year 2011.

''(ii) CONSULTATION.—In conducting the study under clause (i), the National Association of Insurance Commissioners shall consult with key stakeholders (including small businesses, self-employed individuals, employees of small businesses, health insurance issuers, health care providers, and patient advocates).

''(iii) RECOMMENDATIONS.—During calendar year 2011, the recommendations of the National Association of Insurance Commissioners shall be submitted to Congress (in the form of a legislative proposal), and shall concern—

''(I) rating requirements for health insurance coverage under this title for calendar year 2013 and subsequent calendar years; and

''(II) a maximum permissible variance between State rating requirements and the rating requirements for coverage under this title that will allow State flexibility without causing significant adverse selection for health insurance coverage under this title.

''(B) APPLICATION OF REQUIREMENTS.—If, pursuant to this subsection, an Act is enacted to implement rating requirements pursuant to the recommendations submitted under subparagraph (A), or alternative rating requirements developed by Congress, such rating requirements shall apply to the program under this title beginning in calendar year 2013 (open enrollment periods beginning October 1, 2012, and thereafter).

''(3) FAILURE TO ENACT LEGISLATION.—If an Act is not enacted as provided for in paragraph (2)(B), the fallback rating rules under paragraph (5) shall apply beginning in calendar year 2013 (open enrollment periods beginning October 1, 2012, and thereafter).

''(4) EXPEDITED CONGRESSIONAL CONSIDERATION.—

''(A) INTRODUCTION AND COMMITTEE CONSIDERATION.—

''(i) INTRODUCTION.—A legislative proposal submitted to Congress pursuant to paragraph (2) shall be introduced in the House of Representatives by the Speaker, and in the Senate by the Majority Leader, immediately upon receipt of the language and shall be referred to the appropriate committees of Congress. If the proposal is not introduced in accordance with the preceding sentence, legislation may be introduced in either House of Congress by any member thereof.

''(ii) COMMITTEE CONSIDERATION.—Legislation introduced in the House of Representatives and the Senate under clause (i) shall be referred to the appropriate committees of jurisdiction of the House of Representatives and the Senate. Not later than 45 calendar days after the introduction of the legislation or February 15th, 2012, whichever is later, the committee of Congress to which the legislation was referred shall report the legislation or a committee amendment thereto. If the committee has not reported such legislation (or identical legislation) at the end of 45 calendar days after its introduction, or February 15th, 2012, whichever is later, such committee shall be deemed to be discharged from further consideration of such legislation and such legislation shall be placed on the appropriate calendar of the House involved.

''(B) EXPEDITED PROCEDURE.—

''(i) CONSIDERATION.—Not later than 15 calendar days after the date on which a committee has been or could have been discharged from consideration of legislation under this paragraph, the Speaker of the House of Representatives, or the Speaker's designee, or the Majority Leader of the Senate, or the Leader's designee, shall move to proceed to the consideration of the committee amendment to the legislation, and if there is no such amendment, to the legislation. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the legislation at any time after the conclusion of such 15-day period. All points of order against the legislation (and against consideration of the legislation) with the exception of points of order under the Congressional Budget Act of 1974 are waived. A motion to proceed to the consideration of the legislation is highly privileged

in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the legislation, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the legislation in accordance with the Standing Rules of the House of Representatives or the Senate, as the case may be, without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of, except as provided in clause (iii).

''(ii) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the legislation that was introduced in such House, such House receives from the other House legislation as passed by such other House—

''(I) the legislation of the other House shall not be referred to a committee and shall immediately displace the legislation that was introduced in the House in receipt of the legislation of the other House; and

''(II) the legislation of the other House shall immediately be considered by the receiving House under the same procedures applicable to legislation reported by or discharged from a committee under this paragraph.

''Upon disposition of legislation that is received by one House from the other House, it shall no longer be in order to consider the legislation that was introduced in the receiving House.

''(iii) SENATE VOTE REQUIREMENT.—Legislation under this paragraph shall only be approved in the Senate if affirmed by the votes of 3/5 of the Senators duly chosen and sworn. If legislation in the Senate has not reached final passage within 10 days after the motion to proceed is agreed to (excluding periods in which the Senate is in recess) it shall be in order for the Majority Leader to file a cloture petition on the legislation or amendments thereto, in accordance with rule XXII of the Standing Rules of the Senate. If such a cloture motion on the legislation fails, is shall be in order for the Majority Leader to proceed to other business and the legislation shall be returned to or placed on the Senate calendar.

''(iv) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the legislation that results in a disagreement between the two Houses of Congress with respect to the legislation, conferees shall be appointed and a conference convened. Not later than 15 days after the date on which conferees are appointed (excluding periods in which one or both Houses are in recess), the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the legislation. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the legislation filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives or their designees and the Majority and Minority Leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report. The conference report shall be approved in the Senate only if affirmed by the votes of 3/5 of the Senators duly chosen and sworn.

''(C) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This paragraph is enacted by Congress—

''(i) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of legislation under this paragraph, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(ii) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

''(5) FALLBACK RATING RULES.—For purposes of paragraph (3), the fallback rating rules are as follows:

''(A) PROGRAM.—

''(i) RATING RULES.—A health insurance issuer that enters into a contract under the program under this title shall determine the amount of premiums to assess for coverage under a health benefits plan based on a community rate that may be annually adjusted only—

''(I) based on the age of covered individuals (subject to clause (iii));

''(II) based on the geographic area involved if the adjustment is based on geographical divisions that are not smaller than a metropolitan statistical area and the issuer provides evidence of geographic variation in cost of services;

''(III) based on industry (subject to clause (iv))

''(IV) based on tobacco use; and

''(V) based on whether such coverage is for an individual, 2 adults in a household, 1 adult and 1 or more children, or a family.

''(ii) LIMITATION.—Premium rates charged for coverage under the program under this title shall not vary based on health-status related factors, gender, class of business, or claims experience or any other factor not described in clause (i).

''(iii) AGE ADJUSTMENTS.—

''(I) IN GENERAL.—With respect to clause (i)(I), in making adjustments based on age, the Administrator shall establish not more than 5 age brackets to be used by a health insurance issuer in establishing rates for individuals under the age of 65. The rates for any age bracket shall not exceed 300 percent of the rate for the lowest age bracket. Age-related premiums may not vary within age brackets.

''(II) AGES 65 AND OLDER.—With respect to clause (i)(I), a health insurance issuer may develop separate rates for covered individuals who are 65 years of age or older for whom the primary payor for health benefits coverage is the medicare program under title XVIII of the Social Security Act, for the coverage of health benefits that are not otherwise covered under medicare.

''(iv) INDUSTRY ADJUSTMENT.—With respect to clause (i)(III), in making adjustments based on industry, the rates for any industry shall not exceed 115 percent of the rate for the lowest industry and shall be based on evidence of industry variation in cost of services.

''(B) STATE RATING RULES.—State rating requirements shall apply to health insurance coverage purchased in the small group market, except that a State shall not permit premium rates to vary based on health-status related factors.

''(6) STATE WITH LESS PREMIUM VARIATION.—Effective beginning in calendar year 2013, in the case of a State that provides a rating variance with respect to age that is less than the Federal limit established under paragraph (2)(B) or (3) or that provides for some form of community rating, or that provides a rating variance with respect to industry that is less than the Federal limit established under paragraph (2)(B) or (3), or that provides a rating variance with respect to the geographic area involved that is less than the Federal limit established in paragraph (2)(B) or (3), premium rates charged for health insurance coverage under this title in such State with respect to such factor shall reflect the rating requirements of such State.

''(7) EMPLOYEE CHOICE.—

''(A) CALENDAR YEARS 2011 AND 2012.—With respect to calendar years 2011 and 2012 (open enrollment periods beginning October 1, 2010, and October 1, 2011), in the case of a State that applies community rating or adjusted community rating where any age bracket does not exceed 300 percent of the lowest age bracket, employees of an employer located in that State may elect to enroll in any health plan offered under this title.

''(B) SUBSEQUENT YEARS.—Beginning in calendar year 2013 (open enrollment periods beginning October 1, 2012, and thereafter), employees of an employer that participates in the program under this title may elect to enroll in any health plan offered under this title.

''(C) EXCEPTION.—In any State or year in which an employee is not able to select a health plan as provided for in subparagraph (A) or (B), the employer shall select the health plan or plans that shall be made available to the employees of such employer.

''(8) STATE APPROVAL OF RATES.—State laws requiring the approval of rates with respect to health insurance shall continue to apply to health insurance coverage under this title in such State unless the State fails to enforce the application of rates that would otherwise apply to health insurance issuers under the program under this title.

''(e) BENEFITS.—

''(1) STATEMENT OF BENEFITS.—Each contract under this title shall contain a detailed statement of benefits offered and shall include information concerning such maximums, limitations, exclusions, and other definitions of benefits as the Administrator considers necessary or reasonable.

''(2) NATIONWIDE PLANS.—

''(A) IN GENERAL.—In the case of contracts with health insurance issuers that offer a health benefit plan on a nationwide basis, in the first year after the date of enactment of this title, the benefit package shall include benefits established by the Administrator.

''(B) PROCESS FOR ESTABLISHING BENEFITS FOR NATIONWIDE PLANS.—The benefits provide for under subparagraph (A) shall be determined as follows:

''(i) Not later than 30 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine to develop a minimum set of benefits to be offered by nationwide plans.

''(ii) In developing such minimum set of benefits, the Institute of Medicine shall convene public forums to allow input from key stakeholders (including small businesses, self-employed individuals, employees of small businesses, health insurance issuers, insurance regulators, health care providers, and patient advocates) and shall consult with the Small Business Health Board.

''(iii) The Institute of Medicine shall consider—

''(I) the clinical appropriateness and effectiveness of the benefits covered;

''(II) the affordability of the benefits covered;

''(III) the financial protection of enrollees against high health care expenses;

''(IV) access to necessary health care services; and

''(V) benefits similar to those available in the small group market on the date of enactment of this title.

''(iv) The benefits package shall not be discriminatory or be likely to promote or induce adverse selection.

''(v) The Administrator shall publish the benefits recommended by the Institute of Medicine for public comment.

''(vi) Based on the comments received, the Administrator may make changes only to the extent that the recommendation from the Institute of Medicine is not consistent with the criteria contained in clause (iii) or there is a compelling need for the changes to ensure the effective functioning of the program.

''(C) CHANGES TO BENEFITS.—

''(i) IN GENERAL.—By a vote of a two-thirds majority, the Small Business Health Board may recommend to the Administrator changes to the benefit package for nationwide plans under this paragraph for years subsequent to the first year in which such benefits are in effect.

''(ii) REDUCTION IN BENEFITS.—The Administrator may reduce benefits that were previously covered under this paragraph only if—

''(I) two-thirds of the Small Business Health Board recommend such change; or

''(II) there is a compelling need for the change to prevent a substantial reduction in participation in the program under this title.

''(f) ADDITIONAL PREMIUM FOR DELAYED ENROLLMENT.—

''(1) IN GENERAL.—A self-employed individual who is eligible to participate in the program under this title, who does not reside in a State where a self-employed individual is eligible for coverage in the small group market, and who does not elect to enroll in coverage under such program in the first year in which the self-employed individual is eligible to so enroll, shall be subject to an additional premium for delayed enrollment.

''(2) AMOUNT.—The Administrator shall establish the amount of the additional premium under paragraph (1), which shall be the amount determined by the Administrator to be actuarially appropriate, to encourage enrollment, and to reduce adverse selection. The amount of the additional premium shall be calculated by the Administrator based on the number of years specified in paragraph (4).

''(3) PAYMENT.—A self-employed individual shall pay the additional premium under this subsection, if any, for a period of time equal to the number of years specified in paragraph (4). After the expiration of such period the additional premium for delayed enrollment shall be terminated.

''(4) YEARS.—The number of years specified in this paragraph is the number of years that the self-employed individual involved was eligible to participate in the program under this title but did not enroll in coverage under such program and did not otherwise have creditable coverage (as defined for purposes of section 2701(c)).

''(g) STATE ENFORCEMENT.—

''(1) STATE AUTHORITY.—With respect to the enforcement of provisions in this title that supersede State law (as described in paragraph (2)), a State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the small group market or through the program under this title, comply with the requirements of this title with respect to such issuers.

''(2) PROVISIONS DESCRIBED.—The provisions described in this paragraph shall include the following:

''(A) Prohibitions on varying premium rates based on health-status related factors (subsections (d)(1)(A) and (B) of section 3007).

''(B) The implementation of rating requirements that shall apply to the program under this title beginning in calendar year 2013 (subsections (d)(2)(B) and (d)(3) of section 3007).

''(C) Benefit requirements for nationwide plans available in the program under this title (subsection (e)).

''(3) FAILURE TO IMPLEMENT OR ENFORCE PROVISIONS.—In the case of a determination by the Secretary that a State has failed to substantially enforce a provision (or provisions) described in paragraph (2) with respect to health insurance issuers in the State, the Secretary shall enforce such provision (or provisions).

''(4) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to the enforcement of the provisions of this title with respect to issuers of health insurance coverage in a State as the Secretary has under section 2722(b)(2) in relation to the enforcement of the provisions of part A of title XXVII with respect to issuers of health insurance coverage in the small group market in the State.

''(h) STATE OPT OUT.—A State may prohibit small employers and self-employed individuals in the State from participating in the program under this title if the State—

''(1) defines its small group market to include groups of one (so that self-employed individuals are eligible for coverage in such market);

''(2) prohibits the use of health-status related factors and other factors described in subsection (d)(5)(A);

''(3) has in effect rating rules that—

''(A) in calendar years 2011 and 2012, comply with subsection (d)(5)(A); and

''(B) in calendar year 2013 and thereafter, comply with subsection (d)(2)(B) or (d)(3), whichever is in effect for such calendar year; except that such rules may impose limits on rating variation in addition to those provided for in such subsection;

''(4) maintains a State-wide purchasing pool that provides purchasers in the small group market a choice of health benefit plans, with comparative information provided concerning such plans and the premiums charged for such plans made available through the Internet; and

''(5) enacts a law to request an opt out under this subsection.

''SEC. 3008. ENCOURAGING PARTICIPATION BY HEALTH INSURANCE ISSUERS THROUGH ADJUSTMENTS FOR RISK.

''(a) APPLICATION OF RISK CORRIDORS.—

''(1) IN GENERAL.—This section shall only apply to health insurance issuers with respect to health benefits plans offered under this Act during any of calendar years 2011 through 2013.

''(2) NOTIFICATION OF COSTS UNDER THE PLAN.—In the case of a health insurance issuer that offers a health benefits plan under this title in any of calendar years 2011 through 2013, the issuer shall notify the Administrator, before such date in the succeeding year as the Administrator specifies, of the total amount of costs incurred in providing benefits under the health benefits plan for the year involved and the portion of such costs that is attributable to administrative expenses.

''(3) ALLOWABLE COSTS DEFINED.—For purposes of this section, the term 'allowable costs' means, with respect to a health benefits plan offered by a health insurance issuer under this title, for a year, the total amount of costs described in paragraph (2) for the plan and year, reduced by the portion of such costs attributable to administrative expenses incurred in providing the benefits described in such paragraph.

''(b) ADJUSTMENT OF PAYMENT.—

''(1) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN 3 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for a calendar year are at least 97 percent, but do not exceed 103 percent, of the target amount for the plan and year involved, there shall be no payment adjustment under this section for the plan and year.

''(2) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

''(A) COSTS BETWEEN 103 AND 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are greater than 103 percent, but not greater than 108 percent, of the target amount for the plan and year, the Administrator shall reimburse the issuer for such excess costs through payment to the issuer of an amount equal to 75 percent of the difference between such allowable costs and 103 percent of such target amount.

''(B) COSTS ABOVE 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are greater than 108 percent of the target amount for the plan and year, the Administrator shall reimburse the issuer for such excess costs through payment to the issuer in an amount equal to the sum of—

''(i) 3.75 percent of such target amount; and

''(ii) 90 percent of the difference between such allowable costs and 108 percent of such target amount.

''(3) REDUCTION IN PAYMENT IF ALLOWABLE COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

''(A) COSTS BETWEEN 92 AND 97 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are less than 97 percent, but greater than or equal to 92 percent, of the target amount for the plan and year, the issuer shall be required to pay into a contingency reserve fund established and maintained by the Administrator, an amount equal to 75 percent of the difference between 97 percent of the target amount and such allowable costs.

''(B) COSTS BELOW 92 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are less than 92 percent of the target amount for the plan and year, the issuer shall be required to pay into the contingency fund established under subparagraph (A), an amount equal to the sum of—

''(i) 3.75 percent of such target amount; and

''(ii) 90 percent of the difference between 92 percent of such target amount and such allowable costs.

''(4) TARGET AMOUNT DESCRIBED.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'target amount' means, with respect to a health benefits plan offered by an issuer under this title in any of calendar years 2011 through 2013, an amount equal to—

''(i) the total of the monthly premiums estimated by the health insurance issuer and accepted by the Administrator to be paid for enrollees in the plan under this title for the calendar year involved; reduced by

''(ii) the amount of administrative expenses that the issuer estimates, and the Administrator accepts, will be incurred by the issuer with respect to the plan for such calendar year.

''(B) SUBMISSION OF TARGET AMOUNT.—Not later than December 31, 2010, and each December 31 thereafter through calendar year

2012, an issuer shall submit to the Administrator a description of the target amount for such issuer with respect to health benefits plans provided by the issuer under this title.

''(c) DISCLOSURE OF INFORMATION.—

''(1) IN GENERAL.—Each contract under this title shall provide—

''(A) that a health insurance issuer offering a health benefits plan under this title shall provide the Administrator with such information as the Administrator determines is necessary to carry out this subsection including the notification of costs under subsection (a)(2) and the target amount under subsection (b)(4)(B); and

''(B) that the Administrator has the right to inspect and audit any books and records of the issuer that pertain to the information regarding costs provided to the Administrator under such subsections.

''(2) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this subsection may be used by the office designated under section 3002(a) and its employees and contractors only for the purposes of, and to the extent necessary in, carrying out this section.

''SEC. 3009. ADMINISTRATION THROUGH REGIONAL OR OTHER ADMINISTRATIVE ENTITIES.

''(a) IN GENERAL.—In order to provide for the administration of the benefits under this title with maximum efficiency and convenience for participating employers and health care providers and other individuals and entities providing services to such employers, the Administrator—

''(1) shall enter into contracts with eligible entities, to the extent appropriate, to perform, on a regional or other basis, activities to receive, disburse, and account for payments of premiums to participating employers by individuals, and for payments by participating employers and employees to health insurance issuers; and

''(2) may enter into contracts with eligible entities, to the extent appropriate, to perform, on a regional or other basis, one or more of the following:

''(A) Collect and maintain all information relating to individuals, families, and employers participating in the program under this title.

''(B) Serve as a channel of communication between health insurance issuers, participating employers, and individuals relating to the administration of this title.

''(C) Otherwise carry out such activities for the administration of this title, in such manner, as may be provided for in the contract entered into under this section.

''(b) APPLICATION.—To be eligible to receive a contract under subsection (a), an entity shall prepare and submit to the Administrator an application at such time, in such manner, and containing such information as the Administration may require.

''(c) PROCESS.—

''(1) COMPETITIVE BIDDING.—All contracts under this section shall be awarded through a competitive bidding process on a bi-annual basis.

''(2) REQUIREMENT.—No contract shall be entered into with any entity under this section unless the Administrator finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Administrator finds pertinent.

''(3) PUBLICATION OF STANDARDS AND CRITERIA.—If the Administrator enters into contracts under subsection (a), the Administrator shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation. In establishing such standards and criteria, the Administrator shall provide for a system to measure an entity's performance of responsibilities.

''(4) TERM.—Each contract under this section shall be for a term of at least 2 years, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term, except that the Administrator may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the entity involved as the Administrator may provide in regulations) if the Administrator finds that the entity has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the program established by this title.

''(d) TERMS OF CONTRACT.—A contract entered into under this section shall include—

''(1) a description of the duties of the contracting entity;

''(2) an assurance that the entity will furnish to the Administrator such timely information and reports as the Administrator determines appropriate;

''(3) an assurance that the entity will maintain such records and afford such access thereto as the Administrator finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this title;

''(4) an assurance that the entity shall comply with such confidentiality and privacy protection guidelines and procedures as the Administrator may require;

''(5) an assurance that the entity does not have, and will continue to avoid, any conflicts of interest relative to any functions it will perform; and

''(6) such other terms and conditions not inconsistent with this section as the Administrator may find necessary or appropriate.

''SEC. 3010. PUBLIC EDUCATION CAMPAIGN AND REPORT.

''(a) IN GENERAL.—In carrying out this title, the Administrator shall develop and implement an educational campaign with interagency participation (including at a minimum the Small Business Administration, the Department of Labor, and employees of the office established under section 3002 who oversee the provision of information through navigators) to provide information to employers and the general public concerning the health insurance program developed under this title, including the contact information relating to an individual or individuals who will be available to resolve various types of problems with health insurance coverage provided under this title.

''(b) PUBLIC EDUCATION CAMPAIGN.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2008 through 2010.

''(c) REPORTS TO CONGRESS.—Not later than 1 year and 2 years after the implementation of the campaign under subsection (a), the Administrator shall submit to the appropriate committees of Congress a report that describes the activities of the Administrator under subsection (a), including a determination by the Administrator of the percentage of employers with knowledge of the health benefits program under this title.

''SEC. 3011. APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator such sums as may be necessary in each fiscal year for the development and administration of the program under this title.

''SEC. 3012. EFFECTIVE DATE.

''This title shall take effect on the date of enactment of this title.''.

SEC. 3. AMENDMENT TO ERISA.

Section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(2)) is amended by adding at the end the following:

''(C) Notwithstanding subparagraph (A), the provisions of subsections (d)(1)(B) and (g)(2)(A) of section 3007 of the Public Health Service Act (relating to the prohibition on health-status related rating and the Federal enforcement of such provisions) shall supercede any State law that conflicts with such provisions.''.

SEC. 4. CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits) is amended by inserting after section 45N the following new section:

''SEC. 45O. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE CREDIT.

''(a) DETERMINATION OF CREDIT.—In the case of a qualified small employer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the credit amount described in subsection (b).

''(b) GENERAL CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount described in this subsection is the product of—

''(A) the amount specified in paragraph (2),

''(B) the employer size factor specified in paragraph (3), and

''(C) the percentage of year factor specified in paragraph (4).

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The applicable amount is equal to—

''(i) $1,000 for each employee of the employer who receives self-only health insurance coverage through the employer,

''(ii) $2,000 for each employee of the employer who receives family health insurance coverage through the employer, and

''(iii) $1,500 for each employee of the employer who receives health insurance coverage for two adults or one adult and one or more children through the employer.

''(B) BONUS FOR PAYMENT OF GREATER PERCENTAGE OF PREMIUMS.—The applicable amount otherwise specified in subparagraph (A) shall be increased by $200 in the case of subparagraph (A)(i), $400 in the case of subparagraph (A)(ii), and $300 in the case of subparagraph (A)(iii), for each additional 10 percent of the qualified employee health insurance expenses exceeding 60 percent which are paid by the qualified small employer.

''(3) EMPLOYER SIZE FACTOR.—For purposes of paragraph (1), the employer size factor is the percentage determined in accordance with the following table:

''If the employer size is:	The percentage is:
10 or fewer full-time employees	100%
More than 10 but not more than 20 full-time employees	80%
More than 20 but not more than 30 full-time employees	60%

''If the employer size is:	The percentage is:
More than 30 but not more than 40 full-time employees	40%
More than 40 but not more than 50 full-time employees	20%
More than 50 full-time employees	0%

''(4) PERCENTAGE OF YEAR FACTOR.—For purposes of paragraph (1), the percentage of year factor is equal to the ratio of—

''(A) the number of months during the taxable year for which the employer paid or incurred qualified employee health insurance expenses, and

''(B) 12.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED SMALL EMPLOYER.—

''(A) IN GENERAL.—The term 'qualified small employer' means any employer (as defined in section 3001(a)(4) of the Public Health Service Act) which—

''(i) either—

''(I) purchases health insurance coverage for its employees in a small group market in a State which meets the requirements under subparagraph (B), or

''(II) with respect to any taxable year beginning after 2010, is a participating employer (as defined in section 3001(a)(8) of such Act) in the program under title XXX of such Act,

''(ii) pays or incurs at least 60 percent of the qualified employee health insurance expenses of such employer or is self-employed, and

''(iii) employed an average of 50 or fewer full-time employees during the preceding taxable year or was a self-employed individual with either not less than $5,000 in net earnings or not less than $15,000 in gross earnings from self-employment in the preceding taxable year.

''(B) STATE SMALL GROUP MARKET REQUIREMENTS.—A State meets the requirements of this subparagraph if—

''(i) during calendar years 2009 and 2010, the State—

''(I) defines its small group market to include groups of one (so that self-employed individuals are eligible for coverage in such market),

''(II) prohibits the use of health-status related factors and other factors described in section 3007(d)(5)(A) of such Act, and

''(III) has in effect rating rules that comply with section 3007(d)(5)(A) of such Act (except that such rules may impose limits on rating variation in addition to those provided for in such section),

''(ii) during calendar years 2011 and 2012, the State—

''(I) meets the requirements under clause (i), and

''(II) maintains a State-wide purchasing pool that provides purchasers in the small group market a choice of health benefit plans, with comparative information provided concerning such plans and the premiums charged for such plans made available through the Internet, and

''(iii) for calendar years after 2012, the State—

''(I) meets the requirements under clauses (i)(I), (i)(II), and (ii)(II), and

''(II) has in effect rating rules that comply with paragraph (2)(B) or (3) of section 3007(d) of such Act, whichever is in effect for such calendar year (except that such rules may impose limits on rating variation in addition to those provided for in such section).

''(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

''(A) IN GENERAL.—The term 'qualified employee health insurance expenses' means any amount paid by an employer or an employee of such employer for health insurance coverage under such Act to the extent such amount is attributable to coverage—

''(i) provided to any employee (as defined in subsection 3001(a)(3) of such Act), or

''(ii) for the employer, in the case of a self-employed individual.

''(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

''(3) FULL-TIME EMPLOYEE.—The term 'full-time employee' means, with respect to any period, an employee (as defined in section 3001(a)(3) of such Act) of an employer if the average number of hours worked by such employee in the preceding taxable year for such employer was at least 35 hours per week.

''(d) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—For each taxable year after 2009, the dollar amounts specified in subsections (b)(2)(A), (b)(2)(B), and (c)(1)(A)(iii) (after the application of this paragraph) shall be the amounts in effect in the preceding taxable year or, if greater, the product of—

''(A) the corresponding dollar amount specified in such subsection, and

''(B) the ratio of the index of wage inflation (as determined by the Bureau of Labor Statistics) for August of the preceding calendar year to such index of wage inflation for August of 2008.

''(2) ROUNDING.—If any amount determined under paragraph (1) is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(e) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this section—

''(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

''(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full preceding taxable year, the determination of whether such employer meets the requirements of this section shall be based on the average number of full-time employees that it is reasonably expected such employer will employ on business days in the employer's first full taxable year.

''(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(f) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced by the aggregate amount paid on behalf of such taxpayer under section 7527A for months beginning in such taxable year. If the amount determined under this subsection is less than zero, the taxpayer shall owe additional tax in such amount under this chapter.

''(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.''.

(b) ADVANCE PAYMENTS OF CREDIT.—Chapter 77 of the Internal Revenue Code of 1986 is amended by inserting after section 7527 the following new section:

''SEC. 7527A. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS FOR QUALIFIED SMALL EMPLOYERS.

''(a) GENERAL RULE.—Not later than December 31, 2008, the Secretary shall establish a program for making monthly payments on behalf of qualified small employers to the program established under title XXX of the Public Health Service Act. The amount of the monthly payment for a qualified small employer shall be one twelfth of the amount of the credit for the tax year to which the qualified small employer is entitled under section 36. If a monthly payment is made by the Secretary for which the employer is not entitled to a corresponding credit, the employer shall owe additional tax in such amount under this chapter.

''(b) QUALIFIED SMALL EMPLOYER.—For purposes of this section, the term 'qualified small employer' has the meaning given such term in section 36(c)(1).''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new items:

''Sec. 45O. Small business employee health insurance credit.''.

(2) The table of sections for chapter 77 of such Code is amended by inserting after the item relating to section 7527 the following new item:

''Sec. 7527A. Advance payment of credit for health insurance costs for qualified small employers.''.

(d) DEDUCTIBILITY.—The payment of premiums by a participating employer under this Act shall be considered to be an ordinary and necessary expense in carrying on a trade or business for purposes of the Internal Revenue Code of 1986 and shall be deductible.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2008.

Ms. SNOWE. Mr. President, I rise today to join with my colleagues Senators DURBIN, COLEMAN, and LINCOLN, to introduce the landmark Small Business Health Options Program Act of 2008 or the SHOP Act because after more than 10 years of discussion in Congress of this No. 1 priority for America's small businesses, this bill should finally be the vehicle that brings us to the finish line in passing legislation that's critical not only to our small businesses but also to millions of America's uninsured.

This compromise proposal represents the culmination of 15 months of coming together, of reaching across the partisan divide, to fashion a workable solution to pass this year. So I want to thank Assistant Majority Leader DURBIN for his steadfast and stalwart leadership on this issue—he has been a true champion in this cause—and Senator LINCOLN, my esteemed colleague on the Senate Finance Committee—she and I had pledged to work together on small business health insurance at the start of this Congress—for her remarkable

dedication to making this moment possible. I also thank Senator COLEMAN, who recently held a Small Business Committee field hearing on health insurance reform in St. Paul, Minnesota, for joining us and for his staunch support of our Nation's small businesses.

As former chair and now ranking member of the Senate Small Business Committee, if there is one concern I have heard time and again—from small businesses in Maine and across the country—it is the exorbitant cost to small businesses of providing health insurance to their employees. Throughout America, health insurance premiums have increased by a staggering 78 percent since 2001—far outpacing inflation and wage gains. In Maine, annual premiums in the small group market now average an astronomical $4,868 for individual coverage and $14,605 for a family plan. Just recently a group of Maine small businesses told me that, incredibly, the most ''affordable'' insurance policies available to them included a $636 monthly premium with a $2,500 annual deductible

This is just simply unacceptable. And the reality of these unreal increases is that it perpetuates a vicious cycle of spiraling costs and declining access—as fewer and fewer small businesses can afford to offer health insurance to their employees. Today, only 45 percent of our smallest businesses are able to provide this workplace benefit—a 13-percent drop from 2002. No wonder that nearly 9 out of 10 to firms told the National Association of Manufacturers last year that the cost of health insurance is one of their top-three concerns—even above Government regulations and foreign competition. And when you couple all this with the fact there are already around 47 million uninsured in America, shouldn't we be helping to add to the rolls of the insured, rather than the uninsured? What exactly is there not to get when the status quo absolutely makes no sense?

That is why in the 108th and 109th Congresses, when I was chair of the Small Business Committee, I championed a Small Business Health Insurance Plan bill the full Senate considered back in May 2006—thanks largely to the stewardship of Senator ENZI—and we came up just a handful of votes short. At the same time, Senators DURBIN and LINCOLN advocated for a different approach, the Small Employer Health Benefits Program. Yet, regrettably, Congress has failed to muster the bipartisan support to pass either of these measures—despite overwhelming public support, on both sides of the aisle, to pass something.

Well, the clock has been ticking for far too long for America's small businesses—and with this bill, we believe their hour may have finally arrived because with the SHOP Act, we blend the best of the previous approaches and address the major concerns critics have expressed in a package that both the National Federation of Independent Businesses, the National Association of Realtors, and the Service Employees International Union agree on—and that is what I call a diverse base of support that speaks volumes for this bill's chances for success.

In short, we make health insurance more affordable and accessible by encouraging development of State-based purchasing pools backstopped by a voluntary, nationwide small business risk pool. The SHOP Act maintains the basic premise of allowing small businesses and the self-employed to pool together, across State lines—just as larger employers are able to do—to secure quality coverage that is more affordable, thanks to a reduction in administrative costs, which today account for an astonishing 25 percent of small business premiums—compared to just 10 percent for large employers.

So the creation of these purchasing pools will increase competition among insurers and provide more coverage choices for small businesses. And that is all the more critical as small group insurance markets—like those in Maine—currently have no real competition. In fact, the largest insurers now control 43 percent of the small group markets, and in Maine, a sum total of 4 large insurers now control 98 percent of the small group market. This cannot be allowed to continue because no competition means higher costs. Higher costs mean no health insurance. And we need more insured in America, not fewer.

Moreover, under the SHOP Act, business and trade associations would serve as health plan ''navigators,'' helping employers and employees alike with enrollment in health insurance plans and in responding to questions and distributing information about SHOP. And to assist small employers who offer health insurance, we provide a targeted tax credit of up to $1,000 for each covered employee, and $2,000 for family coverage—with a bonus credit for employers who contribute more than 60 percent of the premium—encouraging our Nation's smallest businesses to offer health insurance for their employees as a workplace benefit.

But perhaps most significantly, what this bill does that others have not is it resolves the persistent policy concerns that have thwarted previous attempts to pass small business health insurance legislation in the Senate.

As we know, some have voiced concern that small business health insurance plans could offer stripped-down, ''bare-bones'' coverage plans that would leave out such key benefits as cancer screenings, diabetic supplies, mammograms, and maternity care. Well, we agree and we address this concern by requiring SHOP's nationwide plans to meet or exceed a minimum benefit ''floor'' to be developed by the nonpartisan and highly respected National Academies of Science's Institute of Medicine—based on clinically appropriate and affordable practices in today's small group market. So this issue of coverage should no longer be a legitimate roadblock.

Others have said that small business health insurance legislation could drive up premium costs for all those who don't participate in these new small business plans because these plans would be playing by different and more advantageous rules. They have been concerned that, as a result, companies would set up plans that would attract a healthier pool of individuals—who would pay lower premiums—while potentially relegating the less healthy to existing group or individual plans that would then have to raise premiums.

So we worked closely with the nonpartisan National Association of Insurance Commissioners to create strong incentives for states to ensure a level playing field for all plans—both inside and outside of SHOP. We say, if you want the small businesses in your State to be eligible for that targeted tax credit of up to $1,000 for individual employees and $2,000 for family coverage that's included in our bill, you must have rules prohibiting ''health status'' as a factor for varying insurance and reducing excessive variations for other factors. As an additional benefit to the self-employed, States must also ensure that those individuals have the option to purchase a small group plan—rather than being left with only the far more expensive option of the individual insurance market.

Still others have expressed concerns about a potential role of the Federal Government in insurance regulation, which has traditionally been left to the States. So under the SHOP Act, we ensure that State insurance commissioners—not the Federal Government—would handle all consumer complaints about health plans and would be responsible for ensuring that all SHOP health plans operating in their State meet State requirements for financial solvency and for grievance claim and appeals procedures.

In conclusion, for all of these reasons I firmly believe they Small Business Health Options Program Act represents our best hope for achieving passage this Congress. By addressing the major concerns about previous legislation, frankly there is now no longer any good reason we cannot make it happen. I look forward to working with Chairman BAUCUS and Ranking Member GRASSLEY on the Finance Committee to consider this bipartisan measure, so it can be passed by the full Senate.

By Mr. AKAKA:

S. 2796. A bill to require a pilot program on the use of community-based organizations to ensure that veterans receive the care and benefits they need, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I am pleased to introduce legislation today that will help the Department of Veterans Affairs reach out to underserved veterans, through collaboration with community organizations.

The Department of Veterans Affairs is the second largest cabinet level Federal department, operating the Nation's largest health care system. VA provides benefits and health care to millions of veterans and their families every year. Without question, VA helps countless veterans through its various programs every day, largely thanks to its employees, who make it their mission to serve those who served their country honorably.

Unfortunately, while VA makes a positive impact on the veterans it serves, many others are left underserved. Far too often, these are veterans already in difficult circumstances, those who could benefit most from VA support. For example, veterans from rural areas must do without the kind of local support systems urban and suburban veterans often enjoy. Many veterans from racial and ethnic minority groups also remain underserved by VA, regardless of their physical proximity to veterans' programs.

More must be done for these veterans, who look at VA and see a system either out of reach or out of touch. The legislation I have introduced today pursues one potential solution: VA partnerships with community based organizations.

If enacted, this bill would require VA to work with community based organizations to reach out to veterans who are underserved. Five community organizations, chosen by VA, would be selected for pilot partnerships. Special consideration would be given to rural communities and areas with a high proportion of minorities and other underserved veterans. The five pilots, each in partnership with a VA medical center, would focus on providing support to their underserved group by helping servicemembers transition from military service to veteran status, and helping them navigate the complicated veterans' health care and benefits system. Also, the pilot programs would reach out to the families of veterans, in recognition of the central role that families play in helping veterans readjust and reintegrate.

As Mental Health America, the country's oldest and largest mental health nonprofit, has pointed out, America's newest generation of veterans is returning from combat with invisible wounds that require care. These and other complicated injuries place new challenges on VA to provide the quality health care and benefits veterans have earned through their service. I hope that through the partnerships outlined in this legislation, VA will be better able to provide services to veterans who deserve support, yet are underserved.

By Mr. AKAKA:

S. 2797. A bill to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal year 2009, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, today I introduce legislation requested by the Secretary of Veterans Affairs, as a courtesy to the Secretary and the Department of Veterans Affairs. Except in unusual circumstances, it is my practice to introduce legislation requested by the administration so that such measures will be available for review and consideration.

This ''by-request'' bill would authorize $1.87 billion in construction projects in various areas of the country in fiscal year 2009. It also would authorize one new polytrauma center in San Antonio, TX, and upgrades to the polytrauma center in Palo Alto, CA.

The bill would also extend and increase the total authorizations for new VA Medical Centers in Denver, CO, and New Orleans, LA.

Finally, this bill authorizes $60 million in leases for 12 outpatient clinics in various States and territories.

I am introducing this bill for the review and consideration of my colleagues at the request of the administration. As chairman of the Committee on Veterans' Affairs, I have not taken a position on this legislation.

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

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

S. 2797

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

SECTION 1. AUTHORIZATION OF FISCAL YEAR 2009 MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2009, with each project to be carried out in the amount specified for each project:

(1) Construction of an 80-bed replacement facility in Palo Alto, California, to replace a seismically unsafe acute psychiatric inpatient building, in an amount not to exceed $54,000,000.

(2) Construction of an outpatient clinic to meet the increased demand for diagnostic procedures, ambulatory surgery, and specialty care in Lee County, Florida, in an amount not to exceed $131,800,000.

(3) Seismic corrections to Building 1 at the Department of Veterans Affairs Medical Center in San Juan, Puerto Rico, in an amount not to exceed $225,900,000.

(4) Construction of a facility for a state-of-the-art polytrauma healthcare and rehabilitation center in San Antonio, Texas, in an amount not to exceed $66,000,000.

SEC. 2. EXTENSION OF AUTHORIZATION FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS PREVIOUSLY AUTHORIZED.

The Secretary of Veterans Affairs may carry out the following major medical facility projects in fiscal year 2009, as originally authorized by section 801 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109–461; 120 Stat. 3442) and as follows with each project to be carried out in the amount specified for that project:

(1) Replacement of the Department of Veterans Affairs Medical Center, Denver, Colorado, in an amount not to exceed $769,200,000.

(2) Restoration, new construction, or replacement of the medical center facility for the Department of Veterans Affairs Medical Center, New Orleans, Louisiana, due to damage from Hurricane Katrina, in an amount not to exceed $625,000,000.

SEC. 3. AUTHORIZATION OF FISCAL YEAR 2009 MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may carry out the following major medical facility leases in fiscal year 2009 at the locations specified, and in an amount for each lease not to exceed the amount shown for each such location:

(1) For an outpatient clinic, Brandon, Florida, $4,326,000.

(2) For a community-based outpatient clinic, Colorado Springs, Colorado, $3,995,000.

(3) For an outpatient clinic, Eugene, Oregon, $5,826,000.

(4) For expansion of an outpatient clinic, Green Bay, Wisconsin, $5,891,000.

(5) For an outpatient clinic, Greenville, South Carolina, $3,731,000.

(6) For a community-based outpatient clinic, Mansfield, Ohio, $2,212,000.

(7) For a satellite outpatient clinic, Mayaguez, Puerto Rico, $6,276,000.

(8) For a community-based outpatient clinic for Southeast Phoenix, Mesa, Arizona, $5,106,000.

(9) For interim research space, Palo Alto, California, $8,636,000.

(10) For expansion of a community-based outpatient clinic, Savannah, Georgia, $3,168,000.

(11) For a community-based outpatient clinic for Northwest Phoenix, Sun City, Arizona, $2,295,000.

(12) For a primary care annex, Tampa, Florida, $8,652,000.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR MAJOR MEDICAL FACILITY PROJECTS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2009 for the Construction, Major Projects, account—

(1) $477,700,000 for the projects authorized in section 1; and

(2) $1,394,200,000 for projects whose authorization is extended by section 2.

(b) AUTHORIZATION OF APPROPRIATIONS FOR MEDICAL FACILITY LEASES.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2009 for the Medical Facilities account, $60,114,000 for the leases authorized in section 3.

(c) LIMITATION.—The projects authorized in sections 1 and 2 may only be carried out using—

(1) funds appropriated for fiscal year 2009 pursuant to the authorization of appropriations in subsection (a) of this section;

(2) funds available for Construction, Major Projects, for a fiscal year before fiscal year 2009 that remain available for obligation;

(3) funds available for Construction, Major Projects, for a fiscal year after fiscal year 2009 that remain available for obligation;

(4) funds appropriated for Construction, Major Projects, for fiscal year 2009 for a category of activity not specific to a project;

(5) funds appropriated for Construction, Major Projects, for a fiscal year before 2009 for a category of activity not specific to a project; and

(6) funds appropriated for Construction, Major Projects, for a fiscal year after 2009 for a category of activity not specific to a project.

SECRETARY OF VETERANS AFFAIRS,
Washington, DC, February 13, 2008.

Hon. RICHARD B. CHENEY,
President of the Senate,
Washington, DC.

DEAR MR. VICE PRESIDENT: I am pleased to submit the enclosed draft bill to authorize $1,871,900,000 for Department of Veterans Affairs (VA) major facility construction projects for Fiscal Year 2009 and $60,114,000 for major facility leases for Fiscal Year 2009.

Title 38 U.S.C. section 8104(a)(2) requires statutory authorization for all VA major medical facility construction projects and all major medical facility leases prior to the appropriation of funds. In accordance with title 38, the draft bill authorizes six major medical facility construction projects and twelve major medical facility leases. The six major medical facility construction projects are located in: Lee County, Florida; Palo Alto, California; San Antonio, Texas; San Juan, Puerto, Rico; Denver, Colorado; and New Orleans, Louisiana. Previously, Congress authorized funds necessary for Denver and New Orleans under P.L. 109–461. This proposed bill would authorize additional funds necessary to complete the remaining construction for these projects.

The proposed project in Lee County provides a state-of-the-art ambulatory care facility which is expected to improve the ''quality of life'' of the veteran population. Needed services for diagnostic procedures, ambulatory surgery, and specialty care will be provided in response to these areas being identified as service shortfalls in the CARES analysis. The proposed project in Palo Alto is required to replace a functionally deficient and seismically unsafe acute psychiatric inpatient building. This will be accomplished by constructing an approximately 80–bed replacement facility. The proposed project in San Antonio is for a state-of-the-art polytrauma healthcare and rehabilitation center that will include patient ward space and transitional housing space. The proposed project in San Juan will provide needed seismic corrections to Building 1 at the VA Medical Center.

The proposed project in Denver will provide a replacement facility near the University of Colorado, Fitzsimons campus. The project will accommodate the tertiary, secondary and primary care operations for the Eastern Colorado Health Care System. Previous authorization, in the amount of $98,000,000, provided pursuant to P.L. 109–461, only satisfied the cost of land acquisition and some architect engineering costs. Additional authorization is required to complete this project.

The proposed project in New Orleans will reestablish the services in Southeast Louisiana that existed prior to Hurricane Katrina. A tertiary care medical complex will be constructed and will include 200 inpatient beds with 60 nursing home beds. Through P.L. 109–461, this project, as a facility to be co-located with the Louisiana State University Health Sciences Center in New Orleans (LSU), was authorized in the amount of $300,000,000; however, additional authorization is required to deliver the project described. Authorization is requested in an amount not to exceed $625,000,000 regardless of whether the project is co-located with LSU as prescribed in P.L. 109–461.

The proposed authorization will allow leases for Outpatient Clinics in Brandon, Florida; Eugene, Oregon; and Greenville, South Carolina. An Outpatient Clinic will be expanded through a lease in Green Bay, Wisconsin. A lease for a Satellite Outpatient Clinic will be acquired in Mayaguez, Puerto Rico. Leases for Community Based Outpatient Clinics will be acquired in Colorado Springs, Colorado; Mansfield; Ohio; Mesa, Arizona; and Sun City, Arizona. A lease in Savannah, Georgia, will expand its Community Based Outpatient Clinic. A lease for Interim Research Space will be acquired in Palo Alto, California. A lease for a Primary Care Annex will be acquired in Tampa, Florida.

The Office of Management and Budget advises that the transmission of this legislative package is in accord with the Administration's program.

Sincerely yours,

JAMES B. PEAKE.

By Mr. NELSON of Florida:

S. 2803. A bill to amend the Act entitled ''An Act authorizing associations of producers of aquatic products'' to include persons engaged in the fishery industry as charter boats or recreational fishermen, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President. I rise today to introduce legislation to aid an industry that is vital to the State of Florida and that, like many others in this Nation, is suffering during the current economic downturn: the charter and recreational fishing industry.

I am introducing the Charter and Recreational Fishing Collective Marketing Act of 2008. This bill would allow charter boat and other recreational fishermen to act together in associations for the purposes of catching, producing, and marketing aquatic products. By gaining strength in numbers through such associations, charter and recreational fishermen could negotiate lower prices when purchasing services and products, such as insurance, fuel, ice, and other supplies.

If they choose to do so, this bill would also allow these associations to implement vessel capacity reduction programs—in other words, to buy-out those members who already wish to leave the industry voluntarily but lack the financial wherewithal to do so. These associations could also undertake research, such as scientific monitoring of their fisheries, and in the process help improve conservation and management of fishery resources.

Mr. President, this legislation does nothing more than provide charter and recreational fishermen the same rights and abilities to work collectively that commercial fishermen have enjoyed since 1934. This legislation has no hearing on fishing allocations or related regulations. In light of the great economic challenges that our country is facing, we have an obligation to ensure the viability of industries that support our coastal communities. The Charter and Recreational Fishing Collective Marketing Act of 2008 would help us meet that obligation.

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. 2803

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 ''The Charter and Recreational Fishing Collective Marketing Act of 2008''.

SEC. 2. CHARTER BOATS AND RECREATIONAL FISHERMEN.

(a) IN GENERAL.—The Act entitled ''An Act authorizing associations of producers of aquatic products'', approved June 25, 1934 (15 U.S.C. 521), is amended—

(1) in the second undesignated paragraph, by inserting ''and recreational'' after ''includes all commercial''; and

(2) by inserting after the first undesignated paragraph the following:

''Persons engaged in the fishery industry, as charter boat or recreational fishermen catching aquatic products, may act together in associations, corporate or otherwise, with or without capital stock, in collectively catching, producing, and marketing such aquatic products, including implementing a vessel capacity reduction program, improving the operational and economic efficiency of a fishery, undertaking research, and improving the conservation and management of a fishery resource.''.

(b) CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to diminish or supersede any authority or provision of the Magnuson-Sevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 2804. A bill to adjust the boundary of the Everglades National Park, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. NELSON of Florida. 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. 2804

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 ''Everglades National Park Boundary Adjustment Act of 2008''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Tarpon Basin property proposed for acquisition by the Secretary (acting through the Director of the National Park Service) contains habitat for—

(A) the wood stork and the West Indian manatee, each of which is listed as an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) the roseate spoonbill and the white-crowned pigeon, each of which is listed as a threatened species by the Florida Game and Fresh Water Fish Commission;

(2) the Tarpon Basin property also includes approximately 10 acres of subtropical hardwood hammock, a habitat found only in South Florida and the Florida Keys;

(3) more than 70 percent of the hardwood hammock in South Key Largo has been lost to development; and

(4) vessel owners often anchor the vessels of the owners in a saltwater pond—

(A) that is located within the Tarpon Basin property; and

(B) to protect the vessels from tropical storms and hurricanes.

SEC. 3. DEFINITIONS.

In this Act:

(1) HURRICANE HOLE.—The term ''Hurricane Hole'' means the saltwater pond that—

(A) is located east of the Intracoastal Waterway as the Waterway passes through Dusenbury Creek; and

(B) has been used historically to moor sailboats during tropical storms and hurricanes.

(2) MAP.—The term ''map'' means the map entitled ''Proposed Tarpon Basin Boundary Revision'' and dated April 14, 2003.

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

(4) TARPON BASIN PROPERTY.—The term ''Tarpon Basin property'' means the land that—

(A) is comprised of approximately 600 acres of land and water surrounding Tarpon Basin, as generally depicted on the map; and

(B) is located in South Key Largo.

SEC. 4. BOUNDARY REVISION.

(a) BOUNDARY REVISION.—The boundary of the Everglades National Park is adjusted to include the Tarpon Basin property.

(b) ACQUISITION AUTHORITY.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary may acquire, through a voluntary donation, sale, or exchange, any land or interest in land that is located in the Tarpon Basin property.

(2) REQUIREMENT RELATING TO SALES.—With respect to a sale to acquire any land or interest in land under paragraph (1) that is located in the Tarpon Basin property, the Secretary may only use donated or appropriated funds.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ADMINISTRATION.—The Secretary shall administer each land and water added to the Everglades National Park by subsection (a), or through a voluntary donation, sale, or exchange under subsection (b)—

(1) as part of the Everglades National Park; and

(2) in accordance with applicable laws (including regulations).

SEC. 5. USE OF HURRICANE HOLE.

(a) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a permit to any owner of a sailing vessel who, before the date of enactment of this Act, had secured the sailing vessel of the owner in Hurricane Hole to protect the sailing vessel from a tropical storm or hurricane.

(b) ELIGIBILITY.—

(1) EVIDENCE OF PRIOR USE.—To be eligible to receive a permit under subsection (a), an owner of a sailing vessel shall provide to the Secretary evidence that the Secretary determines to be sufficient to establish that the owner of the sailing vessel had, before the date of enactment of this Act, secured the sailing vessel of the owner in Hurricane Hole to protect the vessel from a tropical storm or hurricane.

(2) INDEMNITY REQUIREMENT.—To be eligible to receive a permit under subsection (a), an owner of a sailing vessel shall agree to hold the United States harmless, and to indemnify the United States from any claim or damage that may arise from any activity conducted under the permit (including damage to the sailing vessel that is the subject of the permit).

(c) CONDITIONS OF PERMIT.—

(1) SAILING VESSELS.—A permit issued under subsection (a) shall be valid only for a sailing vessel.

(2) TRANSFERABILITY.—A permit issued under subsection (a) shall not be transferrable.

(3) EXPIRATION.—A permit issued under subsection (a) shall expire on the date of the death of the holder of the permit.

(d) PROTECTION OF RESOURCES.—

(1) AUTHORITY OF SECRETARY.—The Secretary may include in a permit issued under subsection (a) any term or condition that the Secretary determines to be necessary—

(A) to protect the resources of the Everglades National Park; and

(B) to ensure the safety of the public at the Everglades National Park.

(2) BOND.—To accomplish each goal described in paragraph (1), the Secretary may require each holder of a permit issued under subsection (a) to post a bond.

(e) FEES.—The Secretary may charge a fee to recover the cost of issuing, and monitoring the compliance of, the permits under subsection (a).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

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

By Mr. BINGAMAN:

S. 2805. A bill to direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to assess the irrigation infrastructure of the Rio Grande Pueblos in the State of New Mexico and provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to repair, rehabilitate, or reconstruct existing infrastructure, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Rio Grande Pueblos Irrigation Infrastructure Improvement Act of 2008. This legislation is based on recommendations made by the 2000 report by the Bureau of Reclamation and Bureau of Indian Affairs entitled Pueblo Irrigation Facilities Rehabilitation Report. This report identifies the serious needs that exist in rehabilitating Pueblo Indian irrigation infrastructure, and more importantly, the lack of any existing program to meet these challenges.

The 18 Pueblos of the Rio Grande basin have historically sustained themselves through agriculture, irrigating their crops with water from the Rio Grande watershed. However, the number of Pueblo irrigation works in serious disrepair has placed this way of life in jeopardy. In many cases, diversion structures and other facilities are unsafe, barely operable, and wholly inefficient, thereby preventing the irrigation of historical farmland. Despite the time and effort the Pueblo people have committed to operating and maintaining these irrigation systems, the tribes lack the financial and technical resources to carry out the necessary improvements by themselves.

Unfortunately, according to a recent GAO Report on the Bureau of Indian Affairs' irrigation program, it appears that the BIA also lacks the resources necessary to maintain irrigation infrastructure on Indian land. Given this and the BIA's historical lack of attention to the issue, it is clear that the Bureau of Reclamation may be best suited to provide the technical expertise needed to assist the Pueblos. Over the last 5 years, Reclamation has funded a number of water conservation efforts within its irrigation projects in New Mexico. The work that's been done has been highly beneficial, and it's time to include the Rio Grande Pueblos in that effort.

Accordingly, this bill directs the Secretary of the Interior, through the Bureau of Reclamation, to work with the eighteen Pueblos in the Rio Grande basin to assess Pueblo irrigation infrastructure and initiate projects to rehabilitate and repair such infrastructure on Pueblo lands. Moreover, the activity authorized in the bill is consistent with the goals of Reclamation's Water 2025 program. Recognizing the limited resources available within Reclamation, though, the bill directs the Secretary of the Interior to work with BIA, the Natural Resources Conservation Service, and the Army Corps of Engineers to identify opportunities to use the authorities of those agencies to collaborate on projects that make sense to all involved.

By focusing Federal resources and expertise on this problem now, the federal government, as part of its trust responsibility, will help prevent further deterioration of Pueblo irrigation systems and any additional rehabilitation costs in the future. The Rio Grande Pueblos will benefit markedly from increased agricultural productivity, increased water conservation, and overall safer facilities. More importantly however, these improvements have the capacity to assist the Pueblos in sustaining their historical way of life, both economically and culturally. Finally, the overall health of the Rio Grande basin will likely benefit through increased efficiency in water use. For these reasons, I urge my colleagues to support this legislation.

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. 2805

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 ''Rio Grande Pueblos Irrigation Infrastructure Improvement Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) drought, population increases, and environmental needs are exacerbating water supply issues across the western United States, including the Rio Grande Basin in New Mexico;

(2) a report developed by the Bureau of Reclamation and the Bureau of Indian Affairs in 2000 identified a serious need for the rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos;

(3) inspection of existing irrigation infrastructure of the Rio Grande Pueblos shows that many key facilities, such as diversion structures and main conveyance ditches, are unsafe and barely, if at all, operable;

(4) the benefits of rehabilitating and repairing irrigation infrastructure of the Rio Grande Pueblos include—

(A) water conservation;

(B) extending available water supplies;

(C) increased agricultural productivity;

(D) economic benefits;

(E) safer facilities; and

(F) the preservation of the culture of Indian Pueblos in the State;

(5) certain Indian Pueblos in the Rio Grande Basin receive water from facilities operated or owned by the Bureau of Reclamation; and

(6) rehabilitation and repair of irrigation infrastructure of the Rio Grande Pueblos would improve—

(A) overall water management by the Bureau of Reclamation; and

(B) the ability of the Bureau of Reclamation to help address potential water supply conflicts in the Rio Grande Basin.

(b) PURPOSE.—The purpose of this Act is to direct the Secretary—

(1) to assess the condition of the irrigation infrastructure of the Rio Grande Pueblos;

(2) to establish priorities for the rehabilitation of irrigation infrastructure of the Rio Grande Pueblos in accordance with specified criteria; and

(3) to implement projects to rehabilitate and improve the irrigation infrastructure of the Rio Grande Pueblos.

SEC. 3. DEFINITIONS.

In this Act:

(1) 2004 AGREEMENT.—The term ''2004 Agreement'' means the agreement entitled ''Agreement By and Between the United States of America and the Middle Rio Grande Conservancy District, Providing for the Payment of Operation and Maintenance Charges on Newly Reclaimed Pueblo Indian Lands in the Middle Rio Grande Valley, New Mexico'' and executed in September 2004 (including any successor agreements and amendments to the agreement).

(2) DESIGNATED ENGINEER.—The term ''designated engineer'' means a Federal employee designated under the Act of February 14, 1927 (69 Stat. 1098, chapter 138) to represent the United States in any action involving the maintenance, rehabilitation, or preservation of the condition of any irrigation structure or facility on land located in the Six Middle Rio Grande Pueblos.

(3) DISTRICT.—The term ''District'' means the Middle Rio Grande Conservancy District, a political subdivision of the State established in 1925.

(4) PUEBLO IRRIGATION INFRASTRUCTURE.—The term ''Pueblo irrigation infrastructure'' means any diversion structure, conveyance facility, or drainage facility located on land of a Rio Grande Pueblo that is associated with the delivery of water for the irrigation of agricultural land.

(5) RIO GRANDE BASIN.—The term ''Rio Grande Basin'' means the headwaters of the Rio Chama and the Rio Grande Rivers (including any tributaries) from the State line between Colorado and New Mexico downstream to the elevation corresponding with the spillway crest of Elephant Butte Dam at 4,457.3 feet mean sea level.

(6) RIO GRANDE PUEBLO .—The term ''Rio Grande Pueblo'' means any of the 18 Pueblos that—

(A) occupy land in the Rio Grande Basin; and

(B) are included on the list of federally recognized Indian tribes published by the Secretary in accordance with section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) SIX MIDDLE RIO GRANDE PUEBLOS.—The term ''Six Middle Rio Grande Pueblos'' means each of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia, and Isleta.

(9) SPECIAL PROJECT.—The term ''special project'' has the meaning given the term in the 2004 Agreement.

(10) STATE.—The term ''State'' means the State of New Mexico.

SEC. 4. IRRIGATION INFRASTRUCTURE STUDY.

(a) STUDY.—

(1) IN GENERAL.—On the date of enactment of this Act, the Secretary, in accordance with paragraph (2), and in consultation with the Rio Grande Pueblos, shall—

(A) conduct a study of Pueblo irrigation infrastructure; and

(B) based on the results of the study, develop a list of projects (including a cost estimate for each project), that are recommended to be implemented over a 10–year period to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure.

(2) REQUIRED CONSENT.—The Secretary shall carry out paragraph (1) with the consent of each Pueblo that notifies the Secretary of the intention of the Pueblo to participate in—

(A) the conduct of the study under paragraph (1)(A); and

(B) the development of the list of projects under paragraph (1)(B).

(b) PRIORITY.—

(1) CONSIDERATION OF FACTORS.—

(A) IN GENERAL.—In developing the list of projects under subsection (a)(1)(B), the Secretary shall—

(i) consider each of the factors described in paragraph (2); and

(ii) prioritize the projects recommended for implementation based on—

(I) a review of each of the factors; and

(II) a consideration of the projected benefits of the project on completion of the project.

(B) ELIGIBILITY OF PROJECTS.—A project is eligible to be considered and prioritized by the Secretary if the project addresses at least 1 factor described in paragraph (2).

(2) FACTORS.—The factors referred to in paragraph (1) are—

(A)(i) the extent of disrepair of the Pueblo irrigation infrastructure; and

(ii) the effect of the disrepair on the ability of the applicable Rio Grande Pueblo to irrigate agricultural land using Pueblo irrigation infrastructure;

(B) whether, and the extent that, the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would provide an opportunity to conserve water;

(C)(i) the economic and cultural impacts that the Pueblo irrigation infrastructure that is in disrepair has on the applicable Rio Grande Pueblo; and

(ii) the economic and cultural benefits that the repair, rehabilitation, or reconstruction of the Pueblo irrigation infrastructure would have on the applicable Rio Grande Pueblo;

(D) the opportunity to address water supply or environmental conflicts in the applicable river basin if the Pueblo irrigation infrastructure is repaired, rehabilitated, or reconstructed; and

(E) the overall benefits of the project to efficient water operations on the land of the applicable Rio Grande Pueblo.

(c) CONSULTATION.—In developing the list of projects under subsection (a)(1)(B), the Secretary shall consult with the Director of the Bureau of Indian Affairs (including the designated engineer with respect to each proposed project that affects the Six Middle Rio Grande Pueblos), the Chief of the Natural Resources Conservation Service, and the Chief of Engineers to evaluate the extent to which programs under the jurisdiction of the respective agencies may be used—

(1) to assist in evaluating projects to repair, rehabilitate, or reconstruct Pueblo irrigation infrastructure; and

(2) to implement—

(A) a project recommended for implementation under subsection (a)(1)(B); or

(B) any other related project (including on-farm improvements) that may be appropriately coordinated with the repair, rehabilitation, or reconstruction of Pueblo irrigation infrastructure to improve the efficient use of water in the Rio Grande Basin.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that includes—

(1) the list of projects recommended for implementation under subsection (a)(1)(B); and

(2) any findings of the Secretary with respect to—

(A) the study conducted under subsection (a)(1)(A);

(B) the consideration of the factors under subsection (b)(2); and

(C) the consultations under subsection (c).

(e) BIENNIAL REVIEW.—Not later than 2 years after the date on which the Secretary submits the report under subsection (d) and biennially thereafter, the Secretary, in consultation with each Rio Grande Pueblo, shall—

(1) review the report submitted under subsection (d); and

(2) update the list of projects described in subsection (d)(1) in accordance with each factor described in subsection (b)(2), as the Secretary determines to be appropriate.

SEC. 5. IRRIGATION INFRASTRUCTURE GRANTS.

(a) IN GENERAL.—The Secretary may provide grants to, and enter into cooperative agreements with, the Rio Grande Pueblos to plan, design, construct, or otherwise implement projects to repair, rehabilitate, reconstruct, or replace Pueblo irrigation infrastructure that are recommended for implementation under section 4(a)(1)(B)—

(1) to increase water use efficiency and agricultural productivity for the benefit of a Rio Grande Pueblo;

(2) to conserve water; or

(3) to otherwise enhance water management or help avert water supply conflicts in the Rio Grande Basin.

(b) LIMITATION.—Assistance provided under subsection (a) shall not be used for—

(1) the repair, rehabilitation, or reconstruction of any major impoundment structure;

(2) any on-farm improvements; or

(3) the rehabilitation of any Pueblo irrigation infrastructure for the purpose of irrigating Rio Grande Pueblo land that has not been historically irrigated.

(c) CONSULTATION.—In carrying out a project under subsection (a), the Secretary shall—

(1) consult with, and obtain the approval of, the applicable Rio Grande Pueblo;

(2) consult with the Director of the Bureau of Indian Affairs; and

(3) as appropriate, coordinate the project with any work being conducted under the irrigation operations and maintenance program of the Bureau of Indian Affairs.

(d) COST-SHARING REQUIREMENT.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the total cost of carrying out a project under subsection (a) shall be not more than 75 percent.

(B) EXCEPTION.—The Secretary may waive or limit the non-Federal share required under subparagraph (A) if the Secretary determines, based on a demonstration of financial hardship by the Rio Grande Pueblo, that the Rio Grande Pueblo is unable to contribute the required non-Federal share.

(2) DISTRICT CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may accept from the District a partial or total contribution toward the non-Federal share required for a project carried out under subsection (a) on land located in any of the Six Middle Rio Grande Pueblos if the Secretary determines that the project is a special project.

(B) LIMITATION.—Nothing in subparagraph (A) requires the District to contribute to the non-Federal share of the cost of a project carried out under subsection (a).

(3) STATE CONTRIBUTIONS.—

(A) IN GENERAL.—The Secretary may accept from the State a partial or total contribution toward the non-Federal share for a project carried out under subsection (a).

(B) LIMITATION.—Nothing in subparagraph (A) requires the State to contribute to the non-Federal share of the cost of a project carried out under subsection (a).

(4) FORM OF NON-FEDERAL SHARE.—The non-Federal share under paragraph (1)(A) may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to a project carried out under subsection (a).

(e) OPERATION AND MAINTENANCE.—The Secretary may not use any amount made available under section 8(b) to carry out the operation or maintenance of any project carried out under subsection (a).

SEC. 6. EFFECT ON EXISTING AUTHORITY AND RESPONSIBILITIES.

Nothing in this Act—

(1) affects any existing project-specific funding authority; or

(2) limits or absolves the United States from any responsibility to any Rio Grande Pueblo (including any responsibility arising from a trust relationship or from any Federal law (including regulations), Executive order, or agreement between the Federal Government and any Rio Grande Pueblo).

SEC. 7. EFFECT ON PUEBLO WATER RIGHTS OR STATE WATER LAW.

(a) PUEBLO WATER RIGHTS.—Nothing in this Act (including the implementation of any project carried out in accordance with this Act) affects the right of any Pueblo to receive, divert, store, or claim a right to water, including the priority of right and the quantity of water associated with the water right under Federal or State law.

(b) STATE WATER LAW.—Nothing in this Act preempts or affects—

(1) State water law; or

(2) an interstate compact governing water.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) STUDY.—There is authorized to be appropriated to carry out section 4 $4,000,000.

(b) PROJECTS.—There is authorized to be appropriated to carry out section 5 $6,000,000 for each of fiscal years 2010 through 2019.

By Mrs. FEINSTEIN (for herself and Ms. SNOWE):

S. 2806. A bill to require the Administrator of the Environmental Protection Agency to reconsider the decision of the Administrator to deny the request of the State of California to regulate greenhouse gas emissions from new motor vehicles, and to complete further proceedings in accordance with the decision of the Supreme Court in Massachusetts v. Environmental Protection Agency; to the Committee on Environment and Public Works.

Mrs. FEINSTEIN. Mr. President, I rise today, on the 1-year anniversary of the Supreme Court's landmark Massachusetts v. EPA decision on global warming pollution, to introduce the Greenhouse Gas Endangerment Finding Deadline and California Waiver Reconsideration Act. The bill would force the EPA and this administration to act—at long last—against global warming.

This legislation will impose two significant deadlines on the Environmental Protection Agency.

First, the legislation gives EPA 60 days to respond to the Massachusetts v. EPA ruling.

Second, this bill requires EPA to reconsider its unprecedented decision to deny the State of California a Federal waiver that would have allowed the State to limit tailpipe greenhouse gas pollution from cars and trucks.

Unfortunately, deadlines for EPA action are necessary in both cases.

In its landmark Massachusetts v. EPA ruling, issued 1 year ago today, the Supreme Court gave EPA a specific task: Determine whether the emissions of greenhouse gases endanger public health and welfare, and then comply with the Clean Air Act requirements that result from this determination.

Yet 1 year later, EPA has done nothing. EPA Administrator Johnson pledged to act by December, but that day came and went.

I wrote to Administrator Johnson in January asking for a timeline for action.

He wrote back to tell me he could not give me one.

Last month, when I asked Mr. Johnson how many people were working on this endangerment finding, he could not tell me if anyone was working on it.

In a March 27, 2008, letter to me and many of my colleagues, EPA indicated that it intends to begin soliciting comments from the public as the Agency ''considers'' regulations of greenhouse gas emissions.

EPA's letter indicates that it does not intend to determine whether greenhouse gases endanger public health and welfare, as the court instructed it to do, anytime in the near future.

Instead EPA's Administrator stated that ''implementing the Supreme Court's decision could affect many sources beyond just the cars and trucks considered by the Court,'' suggesting that the U.S. Supreme Court would have come to a different conclusion had it better understood the Clean Air Act.

The process will not begin until ''later this spring.''

EPA has no further timeline for action, nor has it set a deadline for completion.

The plaintiffs in the Massachusetts v. EPA case today returned to court to compel the EPA to act. This bill is intended to work in tandem with their suit, compelling EPA to take an action, which both the courts and the law indicate should not be unreasonably delayed. No one should interpret this bill as a substitute for the courts taking action to compel EPA to act without delay under existing law. Both the new lawsuit and this bill are prompted by the clear failure of EPA to act on a reasonable timeline.

Bottom Line: Responding to the Supreme Court's remand cannot and should not be delayed for an undefined period of time.

EPA has had a full year to collect public comment and consider the implications of its response, and it has done so. EPA staff told Congress that they spent thousands of hours writing an endangerment finding and proposed regulations this past autumn. A draft has already been submitted to the White House Office of Management and Budget.

This legislation puts EPA on the clock to finish the job it was assigned by the highest court in the land.

The second deadline in this legislation requires the EPA Administrator to reconsider, and either confirm or reject, EPA Administrator Johnson's December decision to deny California a Clean Air Act waiver.

Without the waiver, California and 15 other States are unable to control greenhouse gas emissions from automobiles.

EPA Administrator Johnson denied this waiver even though EPA's legal and technical staff unanimously recommended that the waiver be issued.

EPA's attorneys had told Mr. Johnson that a waiver denial in this case would ''in effect, amend the Clean Air Act by Administrative Action.''

They told him that EPA would be sued and ''was likely to lose suit.''

The decision was made before the legal justification had been written. EPA staff had been cut out of the process entirely.

His official legal document, issued more than 2 months after Mr. Johnson issued the decision, asserts that the waiver was denied based almost entirely on the legislative history of the 1967 Clean Air Act. His legal document made no mention of the fact that Congress rewrote the operative section in 1977.

In hearing after hearing, Mr. Johnson has asserted that he made this decision himself. Apparently he read the law differently than every one of his agency's experts and attorneys—a different reading he has never explained. But even he has acknowledged that the process under which this decision was made was unusual.

I believe that an unusual process led to an unusual result.

This bill would give EPA the opportunity to reconsider this decision. And with this reconsideration we will see whether a normal process will produce a different result.

This legislation sets firm deadlines by which EPA must complete its work. It instructs the administration to act in the face of climate change. It brings an end to the delay and obfuscation that impede progress.

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. 2806

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 ''Greenhouse Gas Endangerment Finding Deadline and California Waiver Reconsideration Act''.

SEC. 2. REQUIREMENTS OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.

(a) RECONSIDERATION OF DENIAL.—Not later than June 30, 2009, the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') shall reconsider, and confirm or reverse, the decision of the Administrator to deny the request of the State of California to regulate greenhouse gas emissions from new motor vehicles.

(b) ISSUANCE OF FINDING.—Not later than 60 days after the date of enactment of this Act, the Administrator shall issue a finding in accordance with—

(1) section 202(a)(1) of the Clean Air Act (42 U.S.C. 7521(a)(1)) with respect to whether the emission of greenhouse gases from any 1 or more classes of new motor vehicles or new motor vehicle engines, in the judgment of the Administrator, causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare; and

(2) the decision of the Supreme Court in Massachusetts v. Environmental Protection Agency, 127 S. Ct. 1438 (2007).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 496—HONORING THE 60TH ANNIVERSARY OF THE COMMENCEMENT OF THE CARVING OF THE CRAZY HORSE MEMORIAL

Mr. THUNE (for himself and Mr. JOHNSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 496

Whereas sculptor Korczak Ziolkowski, who never received any formal art training but nonetheless won 1st place for sculpture at the New York World's Fair in 1939, came to the Black Hills of South Dakota as an assistant to Gutzon Borglum to help carve Mount Rushmore;

Whereas Lakota Chief Henry Standing Bear contacted Korczak Ziolkowski in 1939 to encourage him to create another mountain memorial, saying in his letter of invitation: ''My fellow chiefs and I would like the white man to know the red man has great heroes, too'';

Whereas Crazy Horse was remembered by his people as a fierce warrior and visionary leader who was committed to preserving the traditional Lakota way of life;

Whereas Korczak Ziolkowski was inspired to honor the culture, tradition, and living heritage of North American Indians, and thus designed a metaphoric tribute to the spirit of Crazy Horse and his people;

Whereas Korczak Ziolkowski was dedicated as well to helping his country preserve freedom, enlisted in the Army, and was wounded in 1944 at Omaha Beach;

Whereas Korczak Ziolkowski returned to South Dakota after World War II in order to find a suitable mountain to carve in order to honor Crazy Horse and his people;

Whereas Korczak Ziolkowski and Chief Standing Bear dedicated the Crazy Horse Memorial on June 3, 1948;

Whereas Korczak Ziolkowski worked until his death in 1982, and his wife, Ruth, and their family have dedicated their lives to carving the mountain and continuing the mission of the Crazy Horse Memorial;

Whereas there is no way to predict when the mountain carving will be completed, owing to the uncertainty of weather, the availability of private funding, and the challenges of mountain engineering;

Whereas, when completed, the Crazy Horse mountain carving will be the largest carving in the world, at 641 feet long by 563 feet high;

Whereas Korczak Ziolkowski's parting words to his wife were, ''You must work on the mountain—but go slowly so you do it right'';

Whereas the Ziolkowski family and the Crazy Horse Memorial Foundation have continued to do it right, have proceeded without government financial support, and remain dedicated to making steady progress on the Memorial's humanitarian goals; and

Whereas the Crazy Horse Memorial will celebrate the 60th anniversary of the dedication of the mountain carving on June 3, 2008: Now, therefore, be it

Resolved, That the Senate, on the 60th anniversary of the commencement of the mountain carving of the Crazy Horse Memorial, honors sculptor Korczak Ziolkowski, the Ziolkowski family, and the Crazy Horse Memorial Foundation for their dedication to honoring the culture, tradition, and living heritage of North American Indians and the spirit of Crazy Horse and his people.

SENATE RESOLUTION 497—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 5 THROUGH 11, 2008

Mr. AKAKA (for himself, Mr. VOINOVICH, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEVIN, Mr. STEVENS, Mr. CARPER, Mr. WARNER, Mr. OBAMA, and Mrs. MCCASKILL) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 497

Whereas Public Service Recognition Week provides an opportunity to recognize and promote the important contributions of public servants and honor the diverse men and women who meet the needs of the Nation through work at all levels of government;

Whereas millions of individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas public service is a noble calling involving a variety of challenging and rewarding professions;

Whereas Federal, State, and local governments are responsive, innovative, and effective because of the outstanding work of public servants;

Whereas the United States of America is a great and prosperous Nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) defend our freedom and advance United States interests around the world;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fires;

(4) ensure equal access to secure, efficient, and affordable mail service;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) enforce laws guaranteeing equal employment opportunity and healthy working conditions;

(9) defend and secure critical infrastructure;

(10) help the Nation recover from natural disasters and terrorist attacks;

(11) teach and work in our schools and libraries;

(12) develop new technologies and explore the earth, moon, and space to help improve our understanding of how our world changes;

(13) improve and secure our transportation systems;

(14) promote economic growth; and

(15) assist active duty service members and veterans;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, are committed to doing their jobs regardless of the circumstances, and contribute greatly to the security of the Nation and the world;

Whereas public servants have bravely fought in armed conflict in defense of this Nation and its ideals and deserve the care and benefits they have earned through their honorable service;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 5 through 11, 2008, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees; and

Whereas Public Service Recognition Week is celebrating its 24th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation during Public Service Recognition Week and throughout the year;

(2) salutes government employees for their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President, I rise to introduce a resolution honoring the dedication, commitment, and noble service of Federal, State, and local government employees during Public Service Recognition Week.