humanity they committed during World War II, by encouraging foreign governments to more efficiently prosecute and extradite wanted criminals.

S. 3073

At the request of Mr. CORNYN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 3073, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

S. 3080

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3080, a bill to ensure parity between the temporary duty imposed on ethanol and tax credits provided on ethanol.

S. 3143

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3143, a bill to assist law enforcement agencies in locating, arresting, and prosecuting fugitives from justice.

S. 3150

At the request of Mr. SCHUMER, the names of the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 3150, a bill to prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from conducting auctions, implementing congestion pricing, limiting airport operations, or charging certain use fees at airports.

S. 3167

At the request of Mr. BURR, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 3167, a bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes.

S. 3185

At the request of Ms. CANTWELL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3185, a bill to provide for regulation of certain transactions involving energy commodities, to strengthen the enforcement authorities of the Federal Energy Regulatory Commission under the Natural Gas Act and the Federal Power Act, and for other purposes.

S. 3186

At the request of Mr. SANDERS, the names of the Senator from Maine (Ms. SNOWE), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Minnesota (Mr. COLEMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Maine (Ms. COLLINS), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 3186, a bill to provide funding for the Low-Income Home Energy Assistance Program.

S.J. RES. 43

At the request of Mr. WICKER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S.J. Res. 43, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 75

At the request of Mr. COLEMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 75, a concurrent resolution expressing the sense of Congress that the Secretary of Defense should take immediate steps to appoint doctors of chiropractic as commissioned officers in the Armed Forces.

S. RES. 580

At the request of Mr. BAYH, the names of the Senator from Florida (Mr. NELSON) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 580, a resolution expressing the sense of the Senate on preventing Iran from acquiring a nuclear weapons capability.

At the request of Mr. DORGAN, his name was added as a cosponsor of S. Res. 580, supra.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of amendment No. 4979 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5040

At the request of Ms. LANDRIEU, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Mr. VITTER), the Senator from Illinois (Mr. OBAMA), the Senator from Nebraska (Mr. NELSON) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 5040 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BENNETT, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Mr. CORKER, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LUGAR, Mr. MARTINEZ, Ms. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WICKER):

S. 3202. A bill to address record high gas prices at the pump, and for other purposes; read the first time.

Mr. MCCONNELL. 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 placed in the RECORD, as follows:

S. 3202

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Gas Price Reduction Act of 2008''.

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

TITLE I—DEEP SEA EXPLORATION

SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Gas Price Reduction Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

''(iv) Funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

SEC. 103. CONFORMING AMENDMENTS.

Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are amended by striking ''No funds'' each place it appears and inserting ''Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds''.

TITLE II—WESTERN STATE OIL SHALE EXPLORATION

SEC. 201. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

TITLE III—PLUG-IN ELECTRIC CARS AND TRUCKS

SEC. 301. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

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

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than $250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; or

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed $100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

TITLE IV—ENERGY COMMODITY MARKETS

SEC. 401. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall jointly conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the heads of the Federal agencies described in subsection (a) shall jointly submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market.

SEC. 402. FOREIGN BOARDS OF TRADE.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades directly into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

''(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trade information published by the registered entity for the contract or contracts against which it settles;

''(B) the foreign board of trade or a foreign futures authority adopts position limitations (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limitations (including related hedge exemption provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles; and

''(C) the foreign board of trade or a foreign futures authority provides such information to the Commission regarding the extent of speculative and non-speculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its weekly report of traders (commonly known as the Commitments of Traders report) for the contract or contracts against which it settles.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 1 year after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission's staff had granted relief from the requirements of this Act prior to the date of enactment of this subsection.''.

SEC. 403. INDEX TRADERS AND SWAP DEALERS; DISAGGREGATION OF INDEX FUNDS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 3) is amended by adding at the end the following:

''(f) INDEX TRADERS AND SWAP DEALERS.—

''(1) REPORTING.—The Commission shall—

''(A) issue a proposed rule regarding routine reporting requirements for index traders and swap dealers (as those terms are defined by the Commission) in energy and agricultural transactions (as those terms are defined by the Commission) within the jurisdiction of the Commission not later than 180 days after the date of enactment of this subsection, and issue a final rule regarding such reporting requirements not later than 270 days after the date of enactment of this subsection; and

''(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive, long-only positions in the energy and agricultural futures markets.

''(2) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding—

''(A) the scope of commodity index trading in the futures markets;

''(B) whether classification of index traders and swap dealers in the futures markets can be improved for regulatory and reporting purposes; and

''(C) whether, based on a review of the trading practices for index traders in the futures markets—

''(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

''(ii) different practices and controls should be required.''.

SEC. 404. IMPROVED OVERSIGHT AND ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) crude oil prices are at record levels and consumers in the United States are paying record prices for gasoline;

(2) funding for the Commodity Futures Trading Commission has been insufficient to cover the significant growth of the futures markets;

(3) since the establishment of the Commodity Futures Trading Commission, the volume of trading on futures exchanges has grown 8,000 percent while staffing numbers have decreased 12 percent; and

(4) in today's dynamic market environment, it is essential that the Commodity Futures Trading Commission receive the funding necessary to enforce existing authority to ensure that all commodity markets, including energy markets, are properly monitored for market manipulation.

(b) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Commodity Futures Trading Commission shall hire at least 100 additional full-time employees—

(1) to increase the public transparency of operations in energy futures markets;

(2) to improve the enforcement in those markets; and

(3) to carry out such other duties as are prescribed by the Commission.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009.

By Mr. DURBIN (for himself, Mr LAUTENBERG, and Mr. KENNEDY):

S. 3206. A bill to amend titles V, XVIII, and XIX of the Social Security Act to promote cessation of tobacco use under the Medicare program, the Medicaid program, and the maternal and child health services block grant program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce legislation to help millions of Americans overcome a deadly addiction: the addiction to tobacco. The Medicare, Medicaid and MCH Smoking Cessation Promotion Act of 2008 will help make smoking cessation therapy available to recipients of Medicare, Medicaid, and the Maternal and Child Health, MCH, Program.

More than 45 million adults in the United States smoke cigarettes. Approximately 90 percent started smoking before the age of 14. Despite the fact that we have known for decades that cigarette smoking are the leading preventable cause of death, 1,600 adults become regular smokers each day, including 4,000 kids. Depending on your race/ethnicity, socioeconomic status, even where you live, the likelihood that you are a smoker varies greatly. African-Americans are twice as likely as the general population to smoke. Communities in the South are more likely to be smoker-friendly than other communities in the U.S. While 22.5 percent of the general adult population in the U.S. are current smokers, the percentage is about 50 percent higher among Medicaid recipients. Thirty-six percent of adults covered by Medicaid smoke.

We have a moral argument and an economic argument to end the addiction to nicotine. Morally, how do we ignore the deaths of 438,000 smokers or 8.6 million Americans living with serious smoking-related illnesses? Smoking causes virtually all cases of lung cancer and contributes to primary heart disease, peripheral vascular disease, chronic obstructive pulmonary disease, COPD, and other deadly health ailments. It is too often a bleak future for smokers and their families. An American Legacy Foundation report reminds us that second-hand smoke in children of smokers leads to asthma and chronic ear infections in children but also that 43,000 children are orphaned every year because of tobacco-related deaths.

We are not only paying a heavy health toll, but an economic price as well. According to the Campaign for Tobacco Free Kids, health care expenditures caused by smoking is approaching $100 billion. Our federal government pays $17.6 billion in smoking-caused Medicaid payments and $27.4 billion in smoking-caused Medicare expenditures.

Ironically, we do not hear that much about how many smokers America—70 percent—want to quit. Unfortunately, they face long odds—in 2000, only about 5 percent of smokers were successful in quitting long-term. Overcoming an addiction to tobacco is arguably one of the single most important lifestyle changes that can improve and extend lives. However, most smokers who want to quit don't appreciate how hard it really is to break an addition to nicotine.

This is why it is essential that we make this decision and the courage that it takes as easy as possible. States are already stepping up to the plate when it comes to smoking cessation. Last year in my home State of Illinois, a record-breaking 36 cities and counties enacted smoke-free laws, more than any other State in the Nation. More and more Illinoisans and Americans nationwide are realizing that life without smoking is possible. And the support for cessation does not end there. In fact, in 2003, 37 States had some form of coverage under Medicaid for at least one evidence-based treatment for smoking addiction. States like New Jersey and Oregon now have some of the lowest smoking-related Medicaid costs.

Studies have shown that reducing adult smoking through tobacco use treatment pays immediate dividends, both in terms of health improvements and cost savings. Shortly after quitting smoking, blood circulation improves, carbon monoxide levels in the blood decrease, the risk of heart attack decreases, lung function and breathing are improved, and coughing decreases.

Pregnant women who quit smoking before their second trimester decrease the chances that they will give birth to a low-birth-weight baby. Over the long term, quitting will reduce a person's risk of heart disease and stroke, improve symptoms of COPD, reduce the risk of developing smoking-caused cancer, and extend life expectancy.

We are fortunate to have identified clinically proven, effective strategies to help smokers quit. Advancements in treating tobacco use and nicotine addiction using pharmacotherapy and counseling have helped millions kick the habit. An updated clinical practice guideline released in May of 2008 by the U.S. Public Health Service urges health care insurers and purchasers to include counseling and FDA-approved pharmacologic treatments as a covered benefit. The Guideline also emphasizes the role that counseling, especially in conjunction with medication, increases the odds of success in quitting. As we urge healthcare insurers and purchasers to offer this important benefit, so too should our government sponsored health programs keep pace.

I am proud to be joined by my colleagues Senators KENNEDY and LAUTENBERG to introduce the Medicare, Medicaid and MCH Smoking Cessation Promotion Act of 2008 and require government-sponsored health programs to cover this important benefit. The Medicare, Medicaid, and MCH Smoking Cessation Promotion Act of 2008 makes it easier for people to have access to smoking cessation treatment therapies. It does three meaningful things.

First, this bill adds a smoking cessation counseling benefit and coverage of FDA-approved tobacco cessation drugs to Medicare. By 2020, 17 percent of the U.S. population will be 65 years of age or older. It is estimated that Medicare will pay $800 billion to treat tobacco related diseases over the next 20 years.

Second, this bill provides coverage for counseling, prescription and non-prescription smoking cessation drugs in the Medicaid program. The bill eliminates the provision in current federal law that allows States to exclude FDA-approved smoking cessation therapies from coverage under Medicaid. Despite the fact that the States have received payments from their successful Federal lawsuit against the tobacco industry, less than half the States provide coverage for smoking cessation in their Medicaid program. Even if Medicaid covered cessation products and services exclusively to pregnant women, we would see significant cost savings and health improvements. Children whose mothers smoke during pregnancy are almost twice as likely to develop asthma as those whose mothers did not. Over 7 years, reducing smoking prevalence by just one percentage point among pregnant women would prevent 57,200 low birth weight births and save $572 million in direct medical costs.

Third, this bill ensures that the Maternal and Child Health Program recognizes that medications used to promote smoking cessation and the inclusion of anti-tobacco messages in health promotion are considered part of quality maternal and child health services.

As Congress begins to examine more closely the impact of tobacco on our country—considering regulation by the FDA or raising taxes to pay for public health priorities—we must make sure we assist those fighting this deadly addiction. I hope my colleagues will join me in cosponsoring this legislation and taking a stand for the public health of our Nation.

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

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

S. 3206

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 ''Medicare, Medicaid, and MCH Tobacco Cessation Promotion Act of 2008''.

SEC. 2. MEDICARE COVERAGE OF COUNSELING FOR CESSATION OF TOBACCO USE.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (Z), by striking ''and'' at the end;

(2) in subparagraph (AA)(iii), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(BB) counseling for cessation of tobacco use (as defined in subsection (ddd));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''(ddd) COUNSELING FOR CESSATION OF TOBACCO USE.—(1)(A) Subject to subparagraph (B), the term 'counseling for cessation of tobacco use' means diagnostic, therapy, and counseling services for cessation of tobacco use for individuals who use tobacco products or who are being treated for tobacco use which are furnished—

''(i) by or under the supervision of a physician;

''(ii) by a practitioner described in clause (i), (iii), (iv), (v) or (vi) of section 1842(b)(18)(C); or

''(iii) by a licensed tobacco cessation counselor (as defined in paragraph (2)).

''(B) Such term is limited to—

''(i) services recommended in 'Treating Tobacco Use and Dependence: A Clinical Practice Guideline', published by the Public Health Service in May 2008, or any subsequent modification of such Guideline; and

''(ii) such other services that the Secretary recognizes to be effective.

''(2) In this subsection, the term 'licensed tobacco cessation counselor' means a tobacco cessation counselor who—

''(A) is licensed as such by the State (or in a State which does not license tobacco cessation counselors as such, is legally authorized to perform the services of a tobacco cessation counselor in the jurisdiction in which the counselor performs such services); and

''(B) meets uniform minimum standards relating to basic knowledge, qualification training, continuing education, and documentation that are established by the Secretary for purposes of this subsection.''.

(c) PAYMENT AND ELIMINATION OF COST-SHARING FOR COUNSELING FOR CESSATION OF TOBACCO USE.—

(1) PAYMENT AND ELIMINATION OF COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and'' before ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to counseling for cessation of tobacco use (as defined in section 1861(ddd)), the amount paid shall be 100 percent of the lesser of the actual charge for the service or the amount determined by a fee schedule established by the Secretary for purposes of this subparagraph''.

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—

(A) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking ''and diagnostic mammography'' and inserting '', diagnostic mammography, or counseling for cessation of tobacco use (as defined in section 1861(ddd))''.

(B) CONFORMING AMENDMENTS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (F), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (G)(ii), by striking the comma at the end and inserting ''; and''; and

(iii) by inserting after subparagraph (G)(ii) the following new subparagraph:

''(H) with respect to counseling for cessation of tobacco use (as defined in section 1861(ddd)) furnished by an outpatient department of a hospital, the amount determined under paragraph (1)(W),''.

(3) ELIMINATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(8)''; and

(B) by inserting before the period the following: '', and (9) such deductible shall not apply with respect to counseling for cessation of tobacco use (as defined in section 1861(ddd))''.

(d) APPLICATION OF LIMITS ON BILLING.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

''(vii) A licensed tobacco cessation counselor (as defined in section 1861(ddd)(2)).''.

(e) INCLUSION AS PART OF INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) of the Social Security Act (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

''(M) Counseling for cessation of tobacco use (as defined in subsection (ddd)).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date that is 1 year after the date of enactment of this Act.

SEC. 3. MEDICARE COVERAGE OF TOBACCO CESSATION PHARMACOTHERAPY.

(a) INCLUSION OF TOBACCO CESSATION AGENTS AS COVERED DRUGS.—Section 1860D–2(e)(1) of the Social Security Act (42 U.S.C. 1395w–102(e)(1)) is amended—

(1) in subparagraph (A), by striking ''or'' after the semicolon at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subparagraph (B) the following new subparagraph:

''(C) any agent approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation that may be dispensed without a prescription (commonly referred to as an 'over-the-counter' drug), but only if such an agent is prescribed by a physician (or other person authorized to prescribe under State law),''.

(b) ESTABLISHMENT OF CATEGORIES AND CLASSES CONSISTING OF TOBACCO CESSATION AGENTS.—Section 1860D–4(b)(3)(C) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)(C)) is amended by adding at the end the following new clause:

''(iv) CATEGORIES AND CLASSES OF TOBACCO CESSATION AGENTS.—There shall be a therapeutic category or class of covered part D drugs consisting of agents approved by the Food and Drug Administration for cessation of tobacco use. Such category or class shall include tobacco cessation agents described in subparagraphs (A) and (C) of section 1860D–2(e)(1).''.

(c) CONFORMING AMENDMENT.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by striking '', other than subparagraph (E) of such section (relating to smoking cessation agents),''.

SEC. 4. PROMOTING CESSATION OF TOBACCO USE UNDER THE MEDICAID PROGRAM.

(a) COVERAGE OF TOBACCO CESSATION COUNSELING SERVICES.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(A) in paragraph (27), by striking ''and'' after the semicolon at the end;

(B) in paragraph (28), by striking the comma at the end and inserting ''; and''; and

(C) by inserting after paragraph (28) the following new paragraph:

''(29) at the option of the State, counseling for cessation of tobacco use (as defined in section 1861(ddd)),''.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting ''or (29)'' after ''(24)''.

(b) ELIMINATION OF OPTIONAL EXCLUSION FROM MEDICAID PRESCRIPTION DRUG COVERAGE FOR TOBACCO CESSATION MEDICATIONS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended—

(1) by striking subparagraph (E);

(2) by redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively; and

(3) in subparagraph (F) (as redesignated by paragraph (2)), by inserting before the period at the end the following: '', other than agents approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation''.

(c) REMOVAL OF COST-SHARING FOR TOBACCO CESSATION COUNSELING SERVICES AND MEDICATIONS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(1) in subparagraph (D), by striking ''or'' after the comma at the end;

(2) in subparagraph (E), by striking ''; and'' and inserting '', or''; and

(3) by adding at the end the following new subparagraph:

''(F)(i) counseling for cessation of tobacco use described in section 1905(a)(29); or

''(ii) covered outpatient drugs (as defined in paragraph (2) of section 1927(k), and including nonprescription drugs described in paragraph (4) of such section) that are prescribed for purposes of promoting, and when used to promote, tobacco cessation; and''.

(d) INCREASED FMAP FOR TOBACCO CESSATION COUNSELING SERVICES AND MEDICATIONS.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking ''and'' before ''(4)''; and

(2) by inserting before the period the following: '', and (5) for purposes of this title, the Federal medical assistance percentage shall be 80 percent with respect to amounts expended as medical assistance for counseling for cessation of tobacco use described in subsection (a)(29) and for covered outpatient drugs (as defined in paragraph (2) of section 1927(k), and including nonprescription drugs described in paragraph (4) of such section) that are prescribed for purposes of promoting, and when used to promote, tobacco cessation''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date that is 1 year after the date of enactment of this Act.

SEC. 5. PROMOTING CESSATION OF TOBACCO USE UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

(a) QUALITY MATERNAL AND CHILD HEALTH SERVICES INCLUDES TOBACCO CESSATION COUNSELING AND MEDICATIONS.—Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:

''(d) For purposes of this title, quality maternal and child health services include the following:

''(1) Counseling for cessation of tobacco use (as defined in section 1861(ddd)).

''(2) The encouragement of the prescribing and use of agents approved by the Food and Drug Administration for purposes of tobacco cessation.

''(3) The inclusion of messages that discourage tobacco use in health promotion counseling.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

By Mr. CONRAD (for himself and Mr. HATCH):

S. 3208. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for clean coal technology, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, I would like to discuss a bill that I am introducing along with Senator HATCH today, the Carbon Reduction Technology Bridge Act of 2008.

This bill is designed to develop the technologies that will enable us to use coal in a manner that helps address the threat of climate change.

Our country depends on coal to provide half of our electricity. In North Dakota, coal accounts for over 90 percent of our power. This is the power we need for lighting and heating our homes, powering our businesses, and, in the future, charging our cars.

The U.S. has vast resources of coal, enough to last over 250 years. We need to ensure that we can continue to enjoy the affordable electricity provided by coal, while developing technologies that will lower the greenhouse gas emissions that result from coal use.

We need to advance carbon capture and storage technologies to address the reality of climate change. The scientific evidence is clear that human activity is increasing the concentration of greenhouse gases in the atmosphere, which contributes to warming temperatures. The increased occurrence of severe weather and other effects that we have seen to date are small in comparison to what scientists say are the likely consequences of continued warming.

This bill will help jumpstart investment in technologies to capture and store carbon. It provides tax credits to the first generation of highly efficient advanced coal plants that capture carbon dioxide. It helps companies make the first investments in carbon capture and storage equipment on the first existing plants. It also provides credits for each ton of carbon dioxide captured and stored underground. It provides a number of other incentives to advance coal technology.

The science on climate change is clear, but what is not proven is the technology that can provide the solution. This bill sets ambitious but achievable goals for those companies willing to be the first to address this challenge head-on and build and install these technologies. Under this bill, a typical new coal plant would be required to capture 65 percent of its carbon dioxide emissions. After the first generation of projects supported by this bill, we will have tested and refined the technologies to enable an even higher rate of capture on future plants.

This bill will provide an important step toward affordable, low-carbon power. I welcome comments from my colleagues on this proposal and hope that they will join me in sponsoring this bill.

Mr. BINGAMAN:

S. 3213. A bill to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; read the first time.

Mr. BINGAMAN. Mr. President, today I am introducing the Omnibus Public Land Management Act of 2008, a collection of over 90 individual bills that have been reported by the Committee on Energy and Natural Resources. This legislation follows enactment of the Consolidated Natural Resources Act, Public Law 110–229, which was signed into law last month. That act was successful in combining together several bills which were not able to pass the Senate individually. It is my hope that the Omnibus Public Land Management Act will similarly facilitate the passage of the remaining bills which have been reported by the Energy and Natural Resources Committee during this Congress.

For the information of the Senate and the public, I ask unanimous consent that the table of contents listing the various measures included in this bill be printed in the RECORD.

There bein no objection, the material as ordered to be placed in the RECORD, as follows:

By Mr. DOMENICI (for himself, Mr. SESSIONS, Ms. LANDRIEU, and Ms. MURKOWSKI):

S. 3215. A bill to require the Secretary of Energy to enter into cooperative agreements with private entities to share the cost of obtaining construction and operating licenses for certain types of recycling facilities, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to introduce, on behalf of myself and Senators SESSIONS, MURKOWSKI, and LANDRIEU, a bill that establishes the foundation for a sustainable nuclear fuel cycle for the U.S. A sustainable nuclear fuel cycle is the key to nuclear energy reaching its full potential to provide the large scale base load electrical generating capacity our country needs, while reducing greenhouse gas emissions. Today, nuclear energy provides nearly 20 percent of our electricity generation capacity and does so more reliably, and with a lower cost per kilowatt hour than coal, with essentially no greenhouse gas emissions. In the decades to come, we will need nuclear energy to play an even greater role, not only in electrical generation, but also in the transportation and industrial sectors, if we are to achieve the reductions in greenhouse gas emissions needed to address the challenge of global climate change. The Strengthening Management of Advanced Recycling Technologies Act, or SMART Act, represents the first important step in building the bridge to that future.

The SMART Act promotes the establishment of privately owned and operated used nuclear fuel storage and recycling facilities. These facilities will help resolve the current deadlock in spent nuclear fuel management while providing a means to extract additional energy from used nuclear fuel. I believe that a commercially viable used fuel recycling strategy, combined with a responsible waste disposition strategy, will enable the expansion of nuclear energy necessary to meet all our goals for the future of nuclear energy. The SMART Act advances this vision through incentives—rather than mandates—for both industry and local communities.

The SMART Act establishes a competitive 50–50 cost share program between the Department of Energy and private industry to finance engineering and design work and the development of license applications for up to 2 spent fuel recycling facilities. The SMART Act restricts facility designs to commercial scale facilities that do not separate pure plutonium. The recycling technology must also reduce the burden on geologic repositories used for ultimate disposal of waste and promote extraction of additional energy from used fuel stocks. Beyond these restrictions, the choice of recycling technology is left up to industry.

The resulting reference licenses for recycling facilities may then be used by industry to construct domestic used nuclear fuel recycling capacity. To assist industry in securing the necessary financing for these facilities, the SMART Act authorizes DOE to offer long term contracts for spent fuel recycling services. All construction and financing costs, however, would be born by industry.

Although ultimate geologic disposition of waste will always be needed, interim storage of used nuclear fuel is a

necessary component of the nuclear fuel cycle infrastructure. To encourage development of interim storage facilities the SMART Act establishes an economic incentive program for communities and states that wish to host a facility within their jurisdiction. All interim storage facilities would be privately owned and operated and licensed by the Nuclear Regulatory Commission. The SMART Act incentives are designed to encourage the development of two large scale facilities with enough capacity to accommodate our annual domestic used nuclear fuel generation.

As with the used fuel recycling facilities, the SMART act authorizes the Department of Energy to enter into long term contracts with storage facility operators. In addition, the SMART Act allows the Department of Energy to enter into agreements with utilities for the settlement of all future claims against the department for failure to take title to spent nuclear fuel by 1998.

Currently, the Nuclear Waste Fund established by the Nuclear Waste Policy Act of 1982 has a balance of approximately $20 billion and is growing by nearly $1.8 billion annually from fees paid by the utilities and interest on the fund. Unfortunately, this fund is currently ''on budget'' and amounts to little more than an IOU to the U.S. ratepayers. The SMART Act will allow access to a small portion of this fund so that it can begin working to resolve the nuclear waste issue as it was intended.

The SMART Act establishes a revolving fund from $1 billion of the current waste fund as well as the annual interest on the fund. The remaining 95 percent of the current waste fund, as well as all future fees, would be placed in a legacy fund for the purposes of constructing a geologic repository. Expenditures from the revolving fund for the provisions of the act could be made without further appropriations but would be subject to limitations in appropriations acts. In this way the revolving fund could be put to use without being subject to the uncertainty of the annual appropriations process while still retaining the authority of Congress to oversee the fund.

The resolution of the used nuclear fuel issue has been deadlocked for decades. Fortunately time has been on our side since nuclear energy produces so little waste. For example the nuclear waste generated by a family of four during their entire lives is only a couple of pounds. Some have even said that we do not need to begin recycling used nuclear fuel for 30 or 40 years. I do not believe we can wait that long before we resolve the used nuclear fuel issue, however. We must begin taking steps today that will place us on the path to a secure and sustainable nuclear energy industry in the future. We must demonstrate to industry and financial institutions the Government's commitment to resolving the used nuclear fuel issue. The SMART bill will place us on that path to the future.

By Mr. MCCONNELL:

S. 3216. A bill to provide for the introduction of pay-for-performance compensation mechanisms into contracts of the Department of Veterans Affairs with community-based outpatient clinics for the provision of health care services, and for other purposes; to the Committee on Veterans' Affairs.

Mr. MCCONNELL. 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 placed in the RECORD, as follows:

S. 3216

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Health Care Improvement Act of 2008''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Veterans of the Armed Forces have made tremendous sacrifices in the defense of freedom and liberty.

(2) Congress recognizes these great sacrifices and reaffirms America's strong commitment to its veterans.

(3) As part of the on-going congressional effort to recognize the sacrifices made by America's veterans, Congress has dramatically increased funding for the Department of Veterans Affairs for veterans health care in the years since September 11, 2001.

(4) Part of the funding for the Department of Veterans Affairs for veterans health care is allocated toward community-based outpatient clinics (CBOCs).

(5) Many CBOCs are administered by private contractors.

(6) CBOCs administered by private contractors operate on a capitated basis.

(7) Some current contracts for CBOCs may create an incentive for contractors to sign up as many veterans as possible, without ensuring timely access to high quality health care for such veterans.

(8) The top priorities for CBOCs should be to provide quality health care and patient satisfaction for America's veterans.

(9) The Department of Veterans Affairs currently tracks the quality of patient care through its Computerized Patient Record System. However, fees paid to contractors are not currently adjusted automatically to reflect the quality of care provided to patients.

(10) A pay-for-performance payment model offers a promising approach to health care delivery by aligning the payment of fees to contractors with the achievement of better health outcomes for patients.

(11) The Department of Veterans Affairs should begin to emphasize pay-for-performance in its contracts with CBOCs.

SEC. 3. PAY-FOR-PERFORMANCE UNDER DEPARTMENT OF VETERANS AFFAIRS CONTRACTS WITH COMMUNITY-BASED OUTPATIENT HEALTH CARE CLINICS.

(a) PLAN REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a plan to introduce pay-for-performance measures into contracts which compensate contractors of the Department of Veterans Affairs for the provision of health care services through community-based outpatient clinics (CBOCs).

(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

(1) Measures to ensure that contracts of the Department for the provision of health care services through CBOCs begin to utilize pay-for-performance compensation mechanisms for compensating contractors for the provision of such services through such clinics, including mechanisms as follows:

(A) To provide incentives for clinics that provide high-quality health care.

(B) To provide incentives to better assure patient satisfaction.

(C) To impose penalties (including termination of contract) for clinics that provide substandard care.

(2) Mechanisms to collect and evaluate data on the outcomes of the services generally provided by CBOCs in order to provide for an assessment of the quality of health care provided by such clinics.

(3) Mechanisms to eliminate abuses in the provision of health care services by CBOCs under contracts that continue to utilize capitated-basis compensation mechanisms for compensating contractors.

(c) IMPLEMENTATION.—The Secretary shall commence the implementation of the plan required by subsection (a) unless Congress enacts an Act, not later than 60 days after the date of the submittal of the plan, prohibiting or modifying implementation of the plan. In implementing the plan, the Secretary may initially carry out one or more pilot programs to assess the feasability and advisability of mechanisms under the plan.

(d) REPORTS.—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary shall submit to Congress a report setting forth the recommendations of the Secretary as to the feasability and advisability of utilizing pay-for-performance compensation mechanisms in the provision of health care services by the Department by means in addition to CBOCs.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. GRAHAM, Mr. KERRY, Mr. CORNYN, Mr. PRYOR, Mrs. DOLE, Ms. LANDRIEU, Mr. COCHRAN, Mr. CARPER, Mrs. MCCASKILL, and Mrs. FEINSTEIN):

S. 3217. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Attorney-Client Privilege Protection Act of 2008, which is a modified version of my earlier legislation by the same name. This legislation, which adds original cosponsors, continues to address the Department of Justice's corporate prosecution guidelines. Those guidelines, last revised by former Deputy Attorney General Paul McNulty in December 2006, erode the attorney-client relationship by allowing prosecutors to request privileged information backed by the hammer of prosecution if the request is denied.

Like my previous bill, S. 186, this bill will protect the sanctity of the attorney-client relationship by prohibiting federal prosecutors and investigators from requesting waiver of attorney-client privilege and attorney work product protections in corporate investigations. The bill would similarly prohibit the government from conditioning charging decisions or any adverse treatment on an organization's payment of employee legal fees, invocation

of the attorney-client privilege, or agreement to a joint defense agreement.

The new version of the bill makes many subtle improvements, including defining ''organization'' to make clear that continuing criminal enterprises and terrorist organizations will not benefit from the bill's protections. The bill also clarifies language that the Department of Justice had previously criticized as ambiguous. The bill also makes clear in its findings that its prohibition on informal privilege waiver demands is far from unprecedented. The bill states: ''Congress recognized that law enforcement can effectively investigate without attorney-client privileged information when it banned Attorney General demands for privileged materials in the Racketeer Influenced and Corrupt Organizations Act. See 18 U.S.C. §1968(c)(2).''

There is no need to wait to see how the McNulty memorandum will operate in practice. There is similarly no need to wait for another internal Department of Justice reform that will likely fall short and be the fifth policy in the last 10 years. Any such internal reform will not address the privilege waiver policies of other government agencies that refer matters to the Department of Justice and allow in through the window what isn't allowed through the door.

As I said when I introduced S. 186, the right to counsel is too important to be passed over for prosecutorial convenience. It has been engrained in American jurisprudence since the 18th century when the Bill of Rights was adopted. The 6th Amendment is a fundamental right afforded to individuals charged with a crime and guarantees proper representation by counsel throughout a prosecution. However, the right to counsel is largely ineffective unless the confidential communications made by a client to his or her lawyer are protected by law. As the Supreme Court observed in Upjohn Co. v. United States, ''the attorney-client privilege is the oldest of the privileges for confidential communications known to the common law.'' When the Upjohn Court affirmed that attorney-client privilege protections apply to corporate internal legal dialogue, the Court manifested in the law the importance of the attorney-client privilege in encouraging full and frank communication between attorneys and their clients, as well as the broader public interests the privilege serves in fostering the observance of law and the administration of justice. The Upjohn Court also made clear that the value of legal advice and advocacy depends on the lawyer having been fully informed by the client.

In addition to the importance of the right to counsel, it is also fundamental that the Government has the burden of investigating and proving its own case. Privilege waiver tends to transfer this burden to the organization under investigation. As a former prosecutor, I am well aware of the enormous power and tools a prosecutor has at his or her disposal. The prosecutor has enough power without the coercive tools of the privilege waiver, whether that waiver policy is embodied in the Holder, Thompson, McCallum, McNulty—or a future Filip—memorandum.

As in S. 186, this bill amends title 18 of the United States Code by adding a new section, §3014, that would prohibit any agent or attorney of the U.S. Government in any criminal or civil case to demand or request the disclosure of any communication protected by the attorney-client privilege or attorney work product. The bill would also prohibit government lawyers and agents from basing any charge or adverse treatment on whether an organization pays attorneys' fees for its employees or signs a joint defense agreement.

This legislation is needed to ensure that basic protections of the attorney-client relationship are preserved in Federal prosecutions and investigations.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 603—EXPRESSING THE SENSE OF THE SENATE ON THE RESTITUTION OF OR COMPENSATION FOR PROPERTY SEIZED DURING THE NAZI AND COMMUNIST ERAS

Mr. NELSON of Florida (for himself, Mr. SMITH, Mr. CARDIN, Mr. COLEMAN, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 603

Whereas many East European countries were dominated for parts of the last century by Nazi or communist regimes, without the consent of their people;

Whereas victims of Nazi persecution included individuals persecuted or targeted for persecution by the Nazi or Nazi-allied governments based on their religious, ethnic, or cultural identity, political beliefs, sexual orientation, or disability;

Whereas the Nazi regime and the authoritarian and totalitarian regimes that emerged in Eastern Europe after World War II perpetuated the wrongful and unjust confiscation of property belonging to the victims of Nazi persecution, including real property, personal property, and financial assets;

Whereas communal and religious property was an early target of the Nazi regime and, by expropriating churches, synagogues and other community-controlled property, the Nazis denied religious communities the temporal facilities that held those communities together;

Whereas, after World War II, communist regimes expanded the systematic expropriation of communal and religious property in an effort to eliminate the influence of religion;

Whereas many insurance companies that issued policies in pre-World War II Eastern Europe were nationalized or had their subsidiary assets nationalized by communist regimes;

Whereas such nationalized companies and those with nationalized subsidiaries have generally not paid the proceeds or compensation due on pre-war policies, because control of those companies or their East European subsidiaries had passed to the government;

Whereas East European countries involved in these nationalizations have not participated in a compensation process for Holocaust-era insurance policies for victims of Nazi persecution;

Whereas the protection of and respect for private property rights is a basic principle for all democratic governments that operate according to the rule of law;

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures and such laws themselves must be consistent with international human rights standards;

Whereas the Paris Declaration of the Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly in July 2001 noted that the process of restitution, compensation, and material reparation of victims of Nazi persecution has not been pursued with the same degree of comprehensiveness by all of the OSCE participating States;

Whereas the OSCE participating States have agreed to achieve or maintain full recognition and protection of all types of property, including private property and the right to prompt, just, and effective compensation for the private property that is taken for public use;

Whereas the OSCE Parliamentary Assembly has called on the OSCE participating States to ensure that they implement appropriate legislation to secure the restitution of or compensation for property losses of victims of Nazi persecution and property losses of communal organizations and institutions during the Nazi era, irrespective of the current citizenship or place of residence of victims or their heirs or the relevant successor to communal property;

Whereas Congress passed resolutions in the 104th and 105th Congresses that emphasized the longstanding support of the United States for the restitution of or compensation for property wrongly confiscated during the Nazi or communist eras;

Whereas certain post-communist countries in Europe have taken steps toward compensating victims of Nazi persecution whose property was confiscated by the Nazis or their allies or collaborators during World War II or subsequently seized by communist governments after World War II;

Whereas, at the 1998 Washington Conference on Holocaust-Era Assets, 44 countries adopted Principles on Nazi-Confiscated Art to guide the restitution of looted artwork and cultural property;

Whereas the Government of Lithuania has promised to adopt an effective legal framework to provide for the restitution of or compensation for wrongly confiscated communal property, but so far has not done so;

Whereas successive governments in Poland have promised to adopt an effective general property compensation law, but so far the current Government of Poland has not adopted one;

Whereas the legislation providing for the restitution of or compensation for wrongly confiscated property in Europe has, in various instances, not always been implemented in an effective, transparent, and timely manner;

Whereas such legislation is of the utmost importance in returning or compensating property wrongfully seized by totalitarian or authoritarian governments to its rightful owners;

Whereas compensation and restitution programs can never bring back to Holocaust