from Louisiana (Mr. VITTER) were added as cosponsors of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 645

At the request of Mrs. LINCOLN, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 702

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 702, a bill to amend the Internal Revenue Code of 1986 to allow long-term care insurance to be offered under cafeteria plans and flexible spending arrangements and to provide additional consumer protections for long-term care insurance.

AMENDMENT NO. 687

At the request of Ms. MIKULSKI, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Wyoming (Mr. ENZI) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 687 proposed to H.R. 1388, a bill entitled ''The Edward M. Kennedy Serve America Act, an Act to reauthorize and reform the national service laws.''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Ms. COLLINS):

S. 712. A bill to amend title XVIII of the Social Security Act to improve the Medicare program for beneficiaries residing in rural areas; to the Committee on Finance.

Mr. FEINGOLD. Mr. President, today, along with my colleague Senator COLLINS from Maine, I am introducing legislation to address the needs of the nearly one-quarter of all Medicare beneficiaries who live in rural America. These beneficiaries are systematically disadvantaged in the Medicare program. The beauty of Medicare is its equity, its universality, and its accessibility. But we have compromised these values by stratifying payments, by under-representing rural voices on the Medicare Payment Advisory Commission, and by continuing to use obsolete payment data that hurts rural America.

First, we must stop indexing physician payments for work based on geographic differences. Rural areas already have a hard enough time recruiting and retaining the Nation's top talent. Currently, even though 25 percent of Medicare beneficiaries live in rural areas, only 10 percent of the nation's physicians serve them. Lower payments to doctors in these areas only perpetuate this dangerous shortage of medical expertise. We should not be discouraging medical school graduates from moving to underserved rural areas by continuing to offer sub-par pay—in fact, we should be providing incentives to encourage them to work in underserved areas. My legislation proposes a project to help rural facilities to host educators and clinical practitioners in clinical rotations.

Lack of dollars to rural health facilities has also prevented communities from investing in vital information technology. The Institute of Medicine published a report in 2005 detailing the ways in which health IT could assist isolated communities. For example, since rural physicians tend to be generalists rather than specialists, virtual libraries within physician offices would provide both doctors and patients with a wider and deeper source of information at their fingertips. Rural residents can also be quite far from health facilities, so technology that allows emergency room physicians to communicate with EMS workers in an ambulance can help patients receive life-saving treatment before they physically reach the hospital. These kinds of technologies will improve both the quality and efficiency of care given in rural areas. My legislation offers funding for quality improvement demonstration projects, to allow isolated communities to invest in this otherwise out of reach technology.

Lastly, this legislation will end the disproportionately low representation of rural interests on the Medicare Payment Advisory Commission. This lack of representation has resulted in policies that hurt rural communities. Those policies have hurt—and continue to hurt—the people of my State of Wisconsin, and they hurt my colleague Senator COLLINS' constituents as well. For every dollar that Medicare spends on the average beneficiary in the average state in this country, Medicare spends only 82 cents on a beneficiary in Wisconsin. In Maine, Medicare spends only 80 cents per dollar it spends on the average beneficiary.

How is this the case, if beneficiaries in Wisconsin and in Maine pay the same payroll taxes as beneficiaries in other states? Because the distribution of Medicare dollars among the 50 States is grossly unfair to Wisconsin, and to much of the Upper Midwest. Wisconsinites pay payroll taxes just like every American taxpayer, but the Medicare funds we get in return are lower than those received in many other States.

With the guidance and support of people across my State who are fighting for Medicare fairness, I am introducing this legislation to address Medicare's discrimination against Wisconsin's seniors and health care providers. My bill will decrease some of the inequitable payments that harm rural areas. It will provide rural areas the help they need to grow crucial health information technology infrastructure. It will offer the necessary incentives to help attract the Nation's top medical talent to underserved rural areas. It will mandate rural representation on the Medicare Payment Advisory Commission. Rural seniors are already underserved in their communities; they should not be underrepresented in Washington as well.

Rural Americans have worked hard and paid into the Medicare program all their lives. In return, they deserve full access to the same benefits as seniors throughout the country: their choice of highly skilled physicians, use of the latest technologies, and a strong voice representing their needs in Medicare policy.

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. 712

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 ''Rural Medicare Equity Act of 2009''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Elimination of geographic physician work adjustment factor from geographic indices used to adjust payments under the physician fee schedule.
Sec. 3. Clinical rotation demonstration project.
Sec. 4. Medicare rural health care quality improvement demonstration projects.
Sec. 5. Ensuring proportional representation of interests of rural areas on the Medicare Payment Advisory Commission.
Sec. 6. Implementation of GAO recommendations regarding geographic adjustment indices under the Medicare physician fee schedule.

SEC. 2. ELIMINATION OF GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR FROM GEOGRAPHIC INDICES USED TO ADJUST PAYMENTS UNDER THE PHYSICIAN FEE SCHEDULE.

(a) FINDINGS.—Congress finds the following:

(1) Variations in the geographic physician work adjustment factors under section 1848(e) of the Social Security Act (42 U.S.C. 1395w–4(e)) result in inequity between localities in payments under the Medicare physician fee schedule.

(2) Beneficiaries under the Medicare program that reside in areas where such adjustment factors are high have relatively more access to services that are paid based on such fee schedule.

(3) There are a number of studies indicating that the market for health care professionals has become nationalized and historically low labor costs in rural and small urban areas have disappeared.

(4) Elimination of the adjustment factors described in paragraph (1) would equalize the reimbursement rate for services reimbursed under the Medicare physician fee schedule while remaining budget-neutral.

(b) ELIMINATION.—Section 1848(e) of the Social Security Act (42 U.S.C. 1395w–4(e)) is amended—

(1) in paragraph (1)(A)(iii), by striking ''an index'' and inserting ''for services provided before January 1, 2010, an index''; and

(2) in paragraph (2), by inserting '', for services provided before January 1, 2010,'' after ''paragraph (4)), and''.

(c) BUDGET NEUTRALITY ADJUSTMENT FOR ELIMINATION OF GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (1)(A), by striking ''The conversion'' and inserting ''Subject to paragraph (10), the conversion''; and

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

''(10) BUDGET NEUTRALITY ADJUSTMENT FOR ELIMINATION OF GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—Before applying an update for a year under this subsection, the Secretary shall (if necessary) provide for an adjustment to the conversion factor for that year to ensure that the aggregate payments under this part in that year shall be equal to aggregate payments that would have been made under such part in that year if the amendments made by section 2(b) of the Rural Medicare Equity Act of 2009 had not been enacted.''.

SEC. 3. CLINICAL ROTATION DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a demonstration project that provides for demonstration grants designed to provide financial or other incentives to hospitals to attract educators and clinical practitioners so that hospitals that serve beneficiaries under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who are residents of underserved areas may host clinical rotations.

(b) DURATION OF PROJECT.—The demonstration project shall be conducted over a 5-year period.

(c) WAIVER.—The Secretary shall waive such provisions of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq. and 1395 et seq.) as may be necessary to conduct the demonstration project under this section.

(d) REPORTS.—The Secretary shall submit to the appropriate committees of Congress interim reports on the demonstration project and a final report on such project within 6 months after the conclusion of the project, together with recommendations for such legislation or administrative action as the Secretary determines to be appropriate.

(e) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this section, $20,000,000.

(f) DEFINITIONS.—In this section:

(1) HOSPITAL.—The term ''hospital'' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) that had indirect or direct costs of medical education during the most recent cost reporting period preceding the date of enactment of this Act.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(3) UNDERSERVED AREA.—The term ''underserved area'' means such medically underserved urban areas and medically underserved rural areas as the Secretary may specify.

SEC. 4. MEDICARE RURAL HEALTH CARE QUALITY IMPROVEMENT DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish not more that 10 demonstration projects to provide for improvements, as recommended by the Institute of Medicine, in the quality of health care provided to individuals residing in rural areas.

(2) ACTIVITIES.—Activities under the projects may include public health surveillance, emergency room videoconferencing, virtual libraries, telemedicine, electronic health records, data exchange networks, and any other activities determined appropriate by the Secretary.

(3) CONSULTATION.—The Secretary shall consult with the Office of Rural Health Policy of the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, and the Centers for Medicare & Medicaid Services in carrying out the provisions of this section.

(b) DURATION.—Each demonstration project under this section shall be conducted over a 4-year period.

(c) DEMONSTRATION PROJECT SITES.—The Secretary shall ensure that the demonstration projects under this section are conducted at a variety of sites representing the diversity of rural communities in the United States.

(d) WAIVER.—The Secretary shall waive such provisions of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq. and 1395 et seq.) as may be necessary to conduct the demonstration projects under this section.

(e) INDEPENDENT EVALUATION.—The Secretary shall enter into an arrangement with an entity that has experience working directly with rural health systems for the conduct of an independent evaluation of the demonstration projects conducted under this section.

(f) REPORTS.—The Secretary shall submit to the appropriate committees of Congress interim reports on each demonstration project and a final report on such project within 6 months after the conclusion of the project. Such reports shall include recommendations regarding the expansion of the project to other areas and recommendations for such other legislative or administrative action as the Secretary determines appropriate.

(g) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out this section, $50,000,000.

SEC. 5. ENSURING PROPORTIONAL REPRESENTATION OF INTERESTS OF RURAL AREAS ON THE MEDICARE PAYMENT ADVISORY COMMISSION.

(a) IN GENERAL.—Section 1805(c)(2) of the Social Security Act (42 U.S.C. 1395b–6(c)(2)) is amended—

(1) in subparagraph (A), by inserting ''consistent with subparagraph (E)'' after ''rural representatives''; and

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

''(E) PROPORTIONAL REPRESENTATION OF INTERESTS OF RURAL AREAS.—In order to provide a balance between urban and rural representatives under subparagraph (A), the proportion of members who represent the interests of health care providers and Medicare beneficiaries located in rural areas shall be no less than the proportion, of the total number of Medicare beneficiaries, who reside in rural areas.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to appointments made to the Medicare Payment Advisory Commission after the date of the enactment of this Act.

SEC. 6. IMPLEMENTATION OF GAO RECOMMENDATIONS REGARDING GEOGRAPHIC ADJUSTMENT INDICES UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall implement the recommendations contained in the March 2005 GAO report 05–119 entitled ''Medicare Physician Fees: Geographic Adjustment Indices are Valid in Design, but Data and Methods Need Refinement.''.

By Mr. WEBB (for himself, Mr. SPECTER, Mr. REID, Mr. LEAHY, Mr. DURBIN, Mr. GRAHAM, Mr. SCHUMER, Mrs. MURRAY, Mr. WYDEN, Mr. BROWN, Mr. WARNER, Mrs. GILLIBRAND, Mr. BURRIS, Mr. KENNEDY, Mr. CARDIN, and Mrs. MCCASKILL):

S. 714. A bill to establish the National Criminal Justice Commission; to the Committee on the Judiciary.

Mr. WEBB. Today I am pleased to be introducing a piece of legislation designed to establish a national criminal justice commission. I do so with, at the moment, 12 cosponsors, including our majority leader, the chairman and the ranking Republican on the Senate Judiciary Committee, the chairman and the ranking member of the Judiciary Subcommittee on Crime and Drugs, and other members of our leadership. I introduce this bill after more than 2 years of effort here in the Senate that I will explain shortly; also with the prior conferral with Supreme Court Justice Kennedy and having discussed this matter with the President and the Attorney General, both of whom I think are strongly supportive of this concept.

Our design, our goal in this legislation, is to create a national commission with an 18-month timeline, not to simply talk about the problems that we have in our criminal justice system but actually to look at all of the elements in this system, how they are interrelated in terms of the difficulties that we have in remedying issues of criminal justice in this country, and to deliver us from a situation that has evolved over time where we are putting far too many of the wrong people into prison and we are still not feeling safer in our neighborhoods; we are still not putting in prison or bringing to justice those people who are perpetrating violence and criminality as a way of life.

I would like to say that, although I am not on the Judiciary Committee, I come to this issue as someone who first became interested in criminal justice issues while I was serving as a U.S. marine, serving on a number of courts-martial and thinking about the interrelationship between discipline and fairness; then after that, from having spent time as an attorney at one point representing, pro bono, a young former marine who had been convicted of murder in Vietnam. I represented him for 6 years pro bono. He took his life halfway through this process. I cleared his name 3 years later, but I became painfully aware of how sometimes inequities infect our process.

Prior to joining the Senate, I spent time as a journalist, including a stint 25 years ago as the first American journalist to have been inside the Japanese prison system, where I became aware of the systemic difficulties and challenges

we have. At that time, 25 years ago, Japan was half our population, and had only 40,000 sentenced prisoners in jail. We had 480,000. Today, we have 2.38 million prisoners in our criminal justice system and another 5 million involved in the process, either due to probation or parole situations.

This is a system that is very much in need of the right sort of overarching examination. I do note the senior Senator from Pennsylvania has joined me on the Senate floor. I am very gratified he has also joined me as the lead Republican on this measure. I look forward to hearing from him as soon as I am finished with my remarks.

The third thing I would like to say at the outset is, I believe very strongly, even though we are a Federal body, that there is a compelling national interest for us to examine this issue and reshape and reform our criminal justice system at the Federal, State, and local levels. I believe the commission I am going to present would provide us with that opportunity.

I start with a premise I do think not a lot of Americans are aware of. We have 5 percent of the world's population. We have 25 percent of the world's known prison population. We have an incarceration rate in the United States, the world's greatest democracy, that is five times as high as the incarceration rate in the rest of the world.

There are only two possibilities. Either we have the most evil people on Earth living in the United States or we are doing something dramatically wrong in terms of how we approach the issue of criminal justice. And I would ask my fellow Senators and my fellow citizens to think about the challenges that attend these kind of numbers when we are looking at people who have been released from prison and are reentering American society.

We have hundreds and thousands of American people who are reentering American society without the sort of transition that would allow a great percentage of them to again become productive citizens.

I think we need to look at this in terms of our own history, our own recent history. This is a chart that shows our incarceration rate from 1925 until today. Beginning in about 1980, our incarceration rate started to skyrocket. What has happened since 1980 is not reflective of where our own history has been on this issue. That is another need, why we need to examine it fuller. We also, for a complex set of reasons, are warehousing the mentally ill in our prisons. We now have four times as many mentally ill people in our prisons than we do in mental institutions. There are a complex set of reasons for that, but the main point for all of us to consider is, these people who are in prison are not receiving the kind of treatment they would need in order to remedy the disabilities that have brought them to that situation.

Drug incarceration has sharply increased over the past three decades. In 1980, we had 41,000 drug offenders in prison. Today we have more than 500,000. That is an increase of 112 percent.

Those blue disks represent the numbers in 1980. The red disks represent the numbers in 2007. A significant percent of these individuals are incarcerated for possession or nonviolent drug offenses, and in many cases, criminal offenses that stem from drug addiction and those sorts of related behavioral issues.

African Americans are about 12 percent of our population. Contrary to a lot of thought and rhetoric, their drug use, in terms of frequent drug use rate, is about the same as all other elements of our society, about 14 percent. But they end up being 37 percent of those arrested on drug charges, 59 percent of those convicted, and 74 percent of those sentenced to prison, by the numbers that have been provided to us and to the Joint Economic Committee. This is a disturbing statistic for us. I emphasize to my colleagues and to others that the issues we face with respect to criminal justice are not overall racial issues. They involve issues, in many cases, of how people are treated based on their ability to have proper counsel and other issues like that. But this is a statistic with respect to drugs that we all must come to terms with.

At the same time, I say we are putting too many of the wrong people in prison, and we are not solving the problems that will bring safety to our communities. Gangs are a hot issue today. I am on the Armed Services Committee. I am on the Foreign Relations Committee. There has been a lot of back and forth in recent months about the transnational gangs that are emanating across the Mexican border. Approximately 1 million gang members are currently in our country today. And I emphasis this is not an issue that is simply existent along the Mexican border. This is an issue that affects every community in the United States, and it is not simply an issue with respect to the Mexican drug cartels, although theirs are the most violent and the most visible today.

The Mexican drug cartels are operating in more than 230 American cities, not simply along the border. The incidents along on the border illuminate the largeness of this problem and of this challenge. Gangs in many areas of the United States commit 80 percent of the crimes. They are heavily involved in drug distribution, but they are involved in other violent activities as well.

There has been some talk over the past few days about how our position toward drugs and our gun policies feed this problem. I would ask my colleagues to think very hard about that. Drugs are a demand-pull problem in the United States, there is no question about that. There are a lot of weapons that are going back and forth across the border. But we should remember the Mexican drug cartels are capable of very sophisticated levels of quasi-military violence.

Many of the members who are brought into the gangs by the drug cartels are former Mexican military. Some of them have been trained by our own special forces, and the weapons they use are not the kind of weapons you are going to buy at a gun show. You do not get automatic weapons, RPGs, and grenades at a gun show.

We have to realize these cartels have a lot of money. By some indications they make profit levels of about $25 billion a year. They can buy the weapons they want. We have to get on top of this as a national priority. Again, it is not simply the transnational gangs that come out of Mexico. Many of them are Central American.

In Northern Virginia, right across the Potomac River, we have thousands of members who belong to the MS–13 gangs emanating out of Central America, who are very active up the I–95 corridor. There are Asian gangs. We have to get our arms around this problem as we address the other problem of mass incarceration in the United States.

Another piece of this issue I hope we will be able to address with this national criminal justice commission is what happens inside our prisons. When I was looking at the Japanese system many years ago, their model in terms of prison administration was basically designed after a traditional military model. You could not be a warden in a Japanese jail unless you started as a turnkey. They had national examinations. They had a year of preparation, training in psychology, in counseling techniques, before an individual was allowed to be a turnkey in a jail. The promotion systems were internal, like the U.S. military. It provided a quality career path, and it brought highly trained people in at the very beginning.

We do not have that in America. Prisons vary warden to warden; they vary locality to locality. We need to examine a better way to do that in our country.

We also have a situation in this country with respect to prison violence and sexual victimization that is off the charts. We must get our arms around this problem.

We also have many people in our prisons who are among what are called the criminally ill, people who are suffering from hepatitis and HIV who are not getting the sorts of treatment they deserve.

I started, once I arrived in the Senate, working on this issue. I was pleased to be working with Senator SCHUMER on the Joint Economic Committee. He allowed me to chair hearings to try to get our arms around this problem and see what sort of legislative approach might help. I chaired a hearing on mass incarceration in October of 2007. I chaired another hearing last year on the overall impact of illegal drugs from point of origin through the criminal justice system. How does this work in terms of the underground

business environment? How does it work in terms of the disparity in treatment of people who end up incarcerated? How does it affect people's long-term lives? What are the costs associated with it?

I was able to work with the George Mason University Law Center to put together a forum bringing people in from across the country to talk about our overall drug policy. Once we started talking about this, particularly over the last year, we started being contacted by people all across the country, people from every different aspect of the political and the philosophical areas that come into play when we talk about incarceration. It is a very emotional issue.

As I said, I heard from Justice Kennedy at the Supreme Court. I have heard from prosecutors, judges, defense lawyers, former offenders, people in prison, police on the street. All of them are saying we have a mess; we have a mess. We have to get a holistic view of how to solve it. There are many good pieces of legislation that have been introduced in the Congress to deal with different pieces of this issue. But after going through this process over the past year, I have come to the conclusion that the way we should address this is with a national commission that will examine all of these pieces together and make specific findings so we can turn it around.

These are examples of some of the editorial support that we have received. I have written a piece for Parade magazine which will be out this weekend to summarize the challenges we have; I hope our fellow citizens will take a look at it.

As to the design of this legislation, we are looking for two things. One is to shape a commission with bipartisan balance: the President nominating the chairman; the majority and minority leaders in the Senate, in consultation with the Judiciary Committee, each nominating two members; the Speaker of the House and the House Minority Leader, in concert with the Judiciary Committee, each nominating two members; and the National Governors Association, Republican and Democrat, each getting one member. The idea is not to have a group of people who are going to sit around and simply remonstrate about the problem. It is to get a group of people with credibility and wide expertise to examine specific findings and to come up with policy recommendations on an 18-month time period.

This commission will be asked to investigate the reasons in our own history that we have seen this incredible increase in incarceration. What do other countries do, particularly countries that have the same basic governmental systems we do? How do they handle comparable types of crime? What should we do about prison administration policies, prison management? How can we bring more quality, stability, and predictability in terms of the prison environment itself? What are the costs of our current incarceration policies, not only in terms of the billions of dollars we spend on building prisons or the billions we spend on housing people in prisons but also in terms of lost opportunities with our post-prison systems, and how we can better manage that area. What is the impact of gang activities, including these transnational gangs, and how should we approach that issue, not simply in terms of incarceration but as a nation that is under duress from not being able to respond properly? Importantly, what are we going to do about drug policy, the whole area of drug policy, and how does that affect sentencing procedures and other alternatives we might look at? We need to examine the policies as they relate to the mentally ill. We should look at the historical role of the military when it comes to how we are approaching these cross-border situations, particularly on the Mexican border. Finally, importantly, any other area the Commission deems relevant.

This is our best effort, after 2 years of coming up with the universe of issues that need to be examined. There are many people, including the senior Senator from Pennsylvania, who have worked on these areas for a number of years. If they have specific findings they believe the Commission should review, we are very happy to accommodate that.

The first step for the commission would be to give us findings, factual findings. From those findings, then give us recommendations for policy changes. The same areas I addressed in terms of findings apply in terms of the policy recommendations: How we can refocus our incarceration policies, work toward properly reducing the incarceration rate in fair, cost-effective ways that still protect communities; how we should address the issue of prison violence in all forms; how we can improve prison administration; how we can establish meaningful reentry programs. I believe with the high volume of people coming out of prisons, we must, on a national level, assist local and State communities in figuring out a way to transition these people so those former offenders who are not going to become recidivists will have a true pathway to get away from the stigma of incarceration and move into a productive future.

Again, importantly, the last category, any other aspect of the system the Commission or the people participating in it determine necessary.

This is our approach. I am gratified to have had as initial cosponsors six members of the Senate Judiciary Committee, including the chairman, Senator LEAHY; the ranking Republican, Senator SPECTER; the chairman of the Subcommittee on Crime and Drugs, Senator DURBIN; the ranking Republican on that subcommittee, Senator GRAHAM; and a number of others, including key Democratic leadership—most importantly, our leader.

I hope we can get this legislation done this year. This is an issue that does not percolate up in the same way. It doesn't have a programmatic element to it in many cases, but it is an issue that threatens every community and begs for the notion of fairness.

I see the senior Senator from Pennsylvania is on the floor. I greatly admire the work he has done in this area over many years, and I appreciate his support on this endeavor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I begin by complimenting my distinguished colleague from Virginia for his initiative in proposing the creation of a national commission to examine criminal justice. There have been many Commissions in recent years, recent decades. But the problems which we are now confronting warrant a fresh look. Senator WEBB has proposed that. This Commission has the potential to be not just another Commission but to make some very significant advances on this very serious problem.

The principal issue on crime is public security, protection from violent criminals. I have long believed the issue could be divided into two parts. One is the violent career criminals. They are defined as someone who has committed three or more serious crimes. One of the first bills which I authored was the armed career criminal bill, which was enacted in 1984, which made it a Federal offense punishable by what is the equivalent of a life sentence under the Federal system, 15 years to life, for anyone caught in possession of a firearm who has committed three or more offenses—a robbery, burglary, rape, arson or the sale of drugs. Statistics show that about 70 percent of violent crimes are committed by career criminals. It is my view, shared by many, that those people ought to be sent to jail for life. They ought to be separated from society. The second category involves those who have been convicted of crimes and who are going to be released. With respect to juveniles, we call that juvenile delinquency, at least in Pennsylvania we do, as opposed to a criminal charge. They are going to be released. First and second offenders are going to be released. The object is, how do we deal with them to, No. 1, protect society and, No. 2, to take them out of the crime cycle so they can have productive, contributing lives in society? We know what to do, but we have never done it. The steps are to work with those who suffer from drug abuse or alcohol abuse. We find that 70 to 80 percent of the people arrested have drug or alcohol problems. They have to be treated, detoxification. Then they need literacy training. So many cannot read or write. Then they need job training so they will have a trade or skill. Then they need to be placed in society.

It is no surprise, when someone who is a functional illiterate, without a trade or skill, gets out of jail, that the

odds are high they will go back to jail. There are a number of programs but not enough, not sufficiently carefully thought through, to place people. We have tax credits which will encourage employers to hire people. In the stimulus package for veterans or juvenile offenders, there is a 40-percent tax break on the first $6,000 of a job which is paid. That is a start. But it doesn't go very far. We have been unwilling to make the kind of investment to provide that kind of realistic rehabilitation. Therefore, we have recidivism and the revolving door in our jails. The public is the principal loser because these people come out and commit more crimes. Individuals are lost. So both in terms of the individual on rehabilitation, to have a productive role in society, a decent life, and for public safety. Candidly, you don't get too far on legislation looking out for the criminals on rehabilitation. But when you talk about the threat to society from repeat crimes, then people pick up their ears.

There has been a fascinating debate recently about whether we can afford to have a criminal justice system that keeps people in jail and protects the public, whether we can afford to have the death penalty imposed. Is it too expensive to undertake the litigation process for society. I do not think we can make a decision on public safety based upon cost. Security is the basic purpose, fundamental first purpose of Government. National security on the international scene, protection from attacks; now we have a new form of security in terrorism. When we come to the domestic scene, it is a matter of having safety on the streets. There is a debate as to whether we ought to have the death penalty. That is a worthwhile debate. The Supreme Court has been moving in a number of areas to limit the application of the death penalty.

From my experience as district attorney of Philadelphia, I believe the death penalty is a deterrent. I questioned FBI Director Mueller about it yesterday in the Judiciary oversight hearing. Director Mueller thinks the death penalty ought to be retained.

When I was an assistant DA many years ago, I had a case in the Pennsylvania Supreme Court when I was chief of the appeals division. There were three young hoodlums, Williams, Caters, and Rivers. They were 19, 18, and 17. They planned a robbery. The two younger ones, Cater and Rivers, said to Williams, who had a gun: We are not going if you take the gun along. They had IQs under 100 but were smart enough to know that if a gun was taken, there might be a killing. That would be felony murder and they could get the death penalty. Williams said: I won't take the gun. He put it in the drawer, slammed it shut. Then, unbeknownst to Cater and Rivers, he took the gun back, put it in his pocket, went to rob a grocer in north Philadelphia, a tussle ensued. Williams pulled the gun and shot and killed a man named Viner. All three were sentenced to death in the electric chair. Williams actually was executed. This goes back to about 1960. Cater and Rivers got a life sentence.

I argued the case in the State Supreme Court which upheld the death penalties and then later, when I was district attorney, I joined in the recommendation of a life sentence for Cater and Rivers. The point is that even with a marginal IQ, there was a deterrent effect. The critical factor in my thinking on their not having the death penalty was they didn't want to take the weapon. In the eyes of the law, they were as guilty as Williams. They were coconspirators. When you rob and a killing ensues, a murder ensues, it is murder in the first degree and calls for the death penalty.

The commission which has been proposed here today ought to take a look at white-collar crime, and ought to make an evaluation of the sentencing which has been imposed and whether it is adequate. If you are dealing with a domestic quarrel, a husband-wife dispute—there are many homicides arising in that context—a jail sentence is not a deterrent. If you are dealing with white-collar crime, there is a deterrent.

Today, we have—and I questioned FBI Director Mueller about this yesterday. He said they have many investigations being undertaken as a result of what has happened with corporate fraud, the misrepresentation of assets, leading us to the tremendous economic problems which we face today. There is no doubt about the deterrent effect. I urged Director Mueller to expedite some of the cases.

There is great public concern about whether there will be accountability. I said yesterday—and repeat to—we do not want to send anybody to jail who does not deserve to go to jail, but you do not have to investigate a case for years and bring forth 100 charges, 100 counts of an indictment. It can be done on a much more rapid pace and have an appropriate trial and have a result, and it would be important to show the example and to show the American people there is accountability.

When we talk about the jails, the commission ought to make a determination as to whether there are people in jail who ought not to be in jail. This morning's news has a report about the State of New York reexamining sentencing on drug laws. There is a lot of thought that the drug laws catch too many people, and many people go to jail who ought not to be in jail. Well, that is a question that ought to be examined.

Our whole prison system in Pennsylvania is called a correctional system, which is a misnomer. It does not correct people. It does not have the facilities to correct people. What they do is warehouse.

A related issue that considerable work has been done on recently is the issue of mentoring. We have some 80,000 at-risk youth in the city of Philadelphia, determined by a hearing which was held recently. Those at-risk youth can go one of two ways: They can move through the education system, if they have proper guidance; or they can be on the streets and turn into criminals, as so many of them do.

Mentoring is a way of providing some guidance. There are so many single-parent homes—a working mother, nobody to give guidance. We have appropriated federally, recently, $25 million nationally for five target cities, one of which is Philadelphia, but that is a very modest beginning. But to be a surrogate parent, you have an opportunity. That is a subject which a commission ought to undertake.

Those are some of the ideas which are current in this very complex field. In trying to estimate the cost of crime, it is hard to do. My own judgment would be, if you put a billion-dollar price figure on the cost of robberies, burglaries, corporate fraud, automobile thefts, to say nothing about the pain and suffering people have—the anxiety in the middle of the night when there is a loud noise in your house; the consolation you have, to some extent, from an alarm system that does not go too far—but this is a big problem in America, and it is a problem which has largely gone unsolved.

Problems of crime are the same today as they were when I first entered the field as an assistant district attorney decades ago. There are ways to deal with violent crime. There are ways to deal with realistic rehabilitation. There are ways to deal with deterrence on white-collar crime—that it ought not to be only a fine, which turns out to be a license to do business. In the confirmation hearing of the new Assistant Attorney General for the Criminal Division, that point was emphasized.

But what Senator WEBB has had to say today, and the blueprint he has outlined, could be a major advance on a very complex problem, which needs a—I was about to say ''solution,'' but there is not going to be a solution—but there can be an enormous amelioration if we tackle the problem with the guidance that could be provided by the Webb commission. May I give it the name: The Webb commission? Hearing no objection, so ordered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. I wish to express my appreciation to the senior Senator from Pennsylvania for joining me on this legislation and in this endeavor because it will be an endeavor, as the Senator knows, well beyond the legislative approval of the commission. I think this is going to take years. But I wish to express my appreciation for that, for his comments today, and for all the work he has done in this field.

I wish to emphasize a couple of things, in reaction to what the Senator mentioned. I agree. I do believe we can

meaningfully address this problem. And ''solution'' is perhaps a more illusive word. But we can certainly meaningfully address this problem. I think it is very important to say that it is in the interest of every American we do so.

There are a lot of people who will look at this and talk about specific elements of who has committed a crime and whether you should do the time and these sorts of things, but we do need to sort it out. When we have 5 percent of the world's population and 25 percent of the world's prison population, there are better ways. When we still have public safety issues in every community because of gang violence, and particularly transnational gang violence at this moment, there are better ways.

That is the purpose of having a commission: getting the greatest minds in this area in the country together, with a specific timeline, to bring us specific findings and recommendations for the entire gamut of criminal justice in the country—not simply incarceration, not simply gang violence, not simply reentry—but all of those and other issues together, so we can have a much needed and long overdue restructuring of how we address the issue of crime in this country.

I ask unanimous consent that Senator KENNEDY be added as an original cosponsor on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. LEVIN (for himself, Ms. SNOWE, Ms. STABENOW, Ms. COLLINS, and Mr. SCHUMER):

S. 715. A bill to establish a pilot program to provide for the preservation and rehabilitation of historic lighthouses; to the Committee on Energy and Natural Resources.

Mr. LEVIN. Mr. President, today, with Senators SNOWE, STABENOW, COLLINS and SCHUMER, I introduce The National Lighthouse Stewardship Act. This legislation creates a three-year competitive grant program at the Department of the Interior that will help to pay for the preservation and rehabilitation of historic lighthouses in Michigan and across the country. The grants will help nonprofit organizations, which serve as caretakers for these historic landmarks, to help them preserve and rehabilitate the historic lighthouses and keep them accessible to the public.

This legislation complements a bill that was enacted in October 2000, the National Historic Lighthouse Preservation Act, which I joined Sen. Frank Murkowski in offering. With the Coast Guard getting out of the lighthouse business, the National Historic Lighthouse Preservation Act helped facilitate the process of transferring historic lighthouses from the government to non-profit historical organizations who would take over the responsibility for their care. It established an expedited process through the Government Services Agency to help ease lighthouse transfers by helping to cut through the bureaucratic red tape. As a result of the law, 46 lighthouses to date—9 in Michigan—have been transferred to custodians who will preserve them and keep them accessible to the public.

Many of these lighthouse structures are in need of significant repair and rehabilitation, which is now the responsibility of their nonprofit custodians. Unfortunately, after obtaining custody of the lighthouses, many of the nonprofit organizations have struggled to raise the funds to adequately restore and maintain the lighthouses. To address this problem our legislation establishes a pilot program that would enable state and nonprofit groups to apply for competitive grants to help with restoration and maintenance efforts. This pilot program would authorize the secretary to distribute $20 million a year for 3 years.

Funding for Lighthouse restoration is important to Michigan and to the Nation's historic preservation efforts. There are approximately 740 lighthouses in 31 coastal states. Michigan alone has over 120 lighthouses, more than any other State. They draw thousands of visitors to Michigan and other States each year and create jobs throughout our States. Michigan's and the Nation's lighthouses are national treasures that beautify our shorelines. These historic lighthouses are part of our Nation's rich maritime heritage. The grants are needed to help nonprofit organizations, which serve as caretakers for the historic landmarks, to maintain the beauty of the lighthouses and keep them accessible to the public.

My office worked closely with lighthouse preservation groups in drafting this legislation. The Michigan Lighthouse Fund in my home state was invaluable in providing information on the needs of our Nation's lighthouses. This week in Washington, the American Lighthouse Coordinating Committee is meeting to coincide with the introduction of this act. These funds are desperately needed by these groups who work tirelessly to preserve our Nation's maritime heritage.

This funding would help ensure our lighthouses remain cultural beacons for generations to come. America's lighthouses are national treasures that we cannot let deteriorate to the point beyond repair. I hope my colleagues will support the swift enactment of the National Lighthouse Stewardship Act.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

AMERICAN LIGHTHOUSE
COORDINATING COMMITTEE,
Evanston, IL, March 26, 2009.

MEMBERS OF THE UNITED STATES SENATE:

I'm writing to urge your support of the National Lighthouse Stewardship Act of 2009 as introduced by Senators Levin and Stabenow (MI), and Snowe (ME).

Since passage of the National Lighthouse Preservation Act of 2000, responsibility for management of many historic lighthouses has been transferred from the US Coast Guard to the public sector. While these facilities remain the property of the federal government, the cost for their preservation and programming is borne by local government and nonprofit organizations with very limited economic resources. As a result, these agencies require assistance in meeting the demands of maintaining historic lighthouses so that they are safe and accessible. The proposed National Lighthouse Stewardship Act of 2009 recognizes the important role of this new generation of administrative organizations in properly managing these facilities. And, it provides a means by which some dedicated funding is made available from the US Government to support projects that will maintain structural integrity.

Since this transfer program began, historic lighthouses still brighten our lives and are now adaptively used for many different purposes that include museums and centers of education for the interpretation of U.S. maritime history; as facilities to aid in environmental research of oceans and Great Lakes; and to promote local and regional tourism. This has resulted in an overwhelmingly positive public response and is testimony to Americans' desire to preserve and use these built resources.

Passage of the National Lighthouse Stewardship Act of 2009 is essential to the continued success of this federal transfer program and mirrors public sentiment for the preservation of historic lighthouse properties to benefit public interests.

The American Lighthouse Coordinating Committee (ALCC) is a consortium of organizations and individuals across the United States that actively engage in the operation of historic lighthouse properties and which strongly supports adoption of this legislation.

Respectfully submitted, this 26th day of March 2009.

DONALD J. TERRAS,
President.

MICHIGAN LIGHTHOUSE ALLIANCE,
March 20, 2009.

Senator CARL LEVIN,
Russell Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: We are writing to you in support of your bill to redirect the nominal port fees towards lighthouse restoration grant programs. The amount of money your office has identified that could be coming to those of us on the front lines of the restoration effort would make a huge difference in the quality of our work.

Most lighthouses are located in out of the way places. As such, the number of people living around these remote structures is limited, and thus the local funding available for work is limited. It is difficult to keep the numbers of volunteers and find resources for materials in such a challenging situation.

But to see a large increase in the available grant funds not only in our home state of Michigan, but throughout the US, would surely help us get these wonderful icons of our collective maritime history restored and ready for the next generations to learn from and support as well. Being able to attract the next generations of stewards is a constant subject of conversation in our circles, and having sufficient funding available to make this volunteer effort attractive would really help out.

In addition, MLA would like to make a request. As you know things are very tight in our state budget now, and it would be extremely helpful for us if a small part of our state allocation could go towards a full time MLA staff person who could support the grant program by visiting our members and

reaching out with education on how to fill out the grant requests, and other technical support. Right now our Alliance is all volunteer as well, and we love what we do, but often lament the loss of the staff person we had at MI SHPO. As the representative voice now for all of Michigan's lighthouse groups, we can be much more supportive and effective if we had funding for a full time staffer.

Thank you as always for all you have done to advance the lighthouse movement in Michigan and throughout the country. You can count on the MLA and it's dozens of member groups and their volunteers to be behind you on this bill, just ask for what help you need!

Sincerely,

Buzz Hoerr, President, Harbor Beach Lighthouse Preservation; Lou Schillinger, Vice President, Port Austin Reef Light Association; Sally Frye, Sec'y/Treasurer, Fox Point Lighthouse Association; Ann Method Green, De-Tour Reef Light Preservation Society; John Gronberg, Holland Harbor Lighthouse Historical Commission; Dick Moehl, Great Lakes Lightkeepers Association; Jeff Shook, Michigan Lighthouse Conservancy; Susan Skibbe, Thunder Bay Island; Gail Vander Stoep, Michigan State University.

Ms. SNOWE. Mr. President, I rise in support of the National Lighthouse Stewardship Act, which will create a 3-year competitive grant program to be administered by the Department of the Interior that will help preserve and rehabilitate historic lighthouses across the country.

In my State of Maine, we are lucky to be home to 83 lighthouses. Further, there are approximately 740 lighthouses in 31 other States. The Coast Guard has not traditionally had the resources to maintain the lighthouses which are now being transferred under the National Lighthouse Preservation Act from Federal ownership to nonprofit historical societies who have taken on the responsibility. Helping to provide the resources necessary to ensure these lighthouses are not lost would be a boost to both tourism and jobs. Failure to do so would potentially harm not only the existence of an historic emblem of my State and our Nation—but also a key economic catalyst for tourism that is part and parcel of my home State and the livelihood of many of her citizens.

Each lighthouse tells a different story and each one is as integral to the history and narrative of our State as the magnificent landscapes on which they proudly stand. That is why in 1995, I introduced a bill that would later become law to establish the Maine Lights Program. We succeeded in preserving this significant component of American heritage through collaboration among the Federal Government, the State of Maine, local communities, and private organizations, while at the same time, relieving what had become a costly strain on the U.S. Coast Guard.

Across the country, responsibility for the care of our lighthouses has been assumed by non-profit historic societies—many of which are struggling in these uncertain economic times. This bill would authorize $20 million for a three-year competitive grant pilot program that would provide grants to stewards of historic lighthouses to help them preserve and rehabilitate the lighthouses under their care.

I believe that the essential word in my previous sentence is ''stewards''—because the structures are still federally owned property. It is not private property; it is not city or town property, or even state property; but federal property. It is also imperative to note that these lighthouses are operable aids to navigation. Lighthouses may seem a quaint relic of a bygone era, however they are not. Daily, lighthouses lead our nation's mariners and fishermen away from danger.

Given that the maintenance of lighthouses is now being transferred under the National Lighthouse Preservation Act from Federal ownership to nonprofit historical societies, the task of providing the required resources to ensure the longevity and viability of these lighthouses would also represent a welcomed economic boost both to tourism and to job creation.

The fact is, tourism has become increasingly crucial to Maine's economy, as manufacturing jobs have fled our State, not to mention our Nation. In fact, in 2006, the most recent year for which statistics are available, approximately 1/5 of State sales tax revenues were attributable to tourism, and, when income and fuel taxes are added, the Maine State government collected $429 million tourism-related tax dollars in that year.

The Maine State Planning Office, which has quantified more precisely the pivotal role tourism plays in the Maine economy, found that in 2006, tourism generated $10 billion in sales of goods and services, 140,000 jobs, and $3 billion in earnings. Tourism accounts for one in five dollars of sales throughout Maine's economy and supported the equivalent of one in six Maine jobs. The planning office also discovered that an estimated 10 million overnight trips and 30 million day trips were taken that year in Maine, with travelers spending nearly $1 billion on lodging, $3 billion on food, and $1 billion on recreational activities.

But those statistics are from 3 years ago . . . before the economy began to unravel at an accelerating rate, and so given these economic times confronting all of us, the financial necessity of our lighthouses, especially to tourism, has grown, not dissipated.

I urge my colleagues to support this bill and send a message not only that historic preservation of our Nation's prominent buildings and structures—like our lighthouses—continues to be in the national interest, but also that tourism—especially international tourism—is an industry we should be striving to support as a key component of reviving our ailing economy.

By Mr. KENNEDY (for himself, Mrs. HUTCHISON, and Mrs. FEINSTEIN):

S. 717. A bill to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, 37 years ago, a Republican President and Democratic Congress came together in a new commitment to find a cure for cancer. At the time, a cancer diagnosis meant almost certain death. In 1971, we took action against this deadly disease and passed the National Cancer Act with broad bipartisan support, and it marked the beginning of the War on Cancer.

Since then, significant progress has been made. Amazing scientific research has led to methods to prevent cancer, and treatments that give us more beneficial and humane ways to deal with the illness. The discoveries of basic research, the use of large scale clinical trials, the development of new drugs, and the special focus on prevention and early detection have led to breakthroughs unimaginable only a generation ago.

As a result, cancer today is no longer the automatic death sentence that it was when the war began. But despite the advances we have made against cancer, other changes such as aging of the population, emerging environmental issues, and unhealthy behavior, have allowed cancer to persist. The lives of vast numbers of Americans have been touched by the disease. In 2008, over 1.4 million Americans were diagnosed with some form of cancer, and more than half a million lost their lives to the disease.

The solution is not easy but there are steps we can and must take now, if we hope to see the diagnosis rate decline substantially and the survival rate increase in the years ahead. The immediate challenge we face is to reduce the barriers that obstruct progress in cancer research and treatment by integrating our current fragmented and piecemeal system of addressing the disease.

Last year, my colleague Senator HUTCHISON and I agreed that to build on what the nation has accomplished, we must launch a new and more urgent war on cancer. The 21st Century Cancer ALERT Act we are introducing today will accelerate our progress by using a better approach to fighting this relentless disease. Our goal is to break down the many barriers that impede cancer research and prevent patients from obtaining the treatment that can save their lives.

We must do more to prevent cancer, by emphasizing scientifically proven methods such as tobacco cessation, healthy eating, and exercise. Healthy families and communities that have access to nutritious foods and high quality preventive health care will be our best defense against the disease. I

am confident that swift action on national health reform will make our vision of a healthier Nation a reality. Obviously, we cannot prevent all cancers, so it is also essential that the cancers that do arise be diagnosed at an initial, curable stage, with all Americans receiving the best possible care to achieve that goal.

We cannot overemphasize the value of the rigorous scientific efforts that have produced the progress we have made so far. To enhance these efforts, our bill invests in two key aspects of cancer research—infrastructure and collaboration of the researchers. We include programs that will bring resources to the types of cancer we least understand. We invest in scientists who are committed to translating basic research into clinical practice, so that new knowledge will be brought to the patients who will most benefit from it.

One of the most promising new breakthroughs is in identifying and monitoring the biomarkers that leave enough evidence in the body to alert clinicians to subtle signs that cancer may be developing. Biomarkers are the new frontier for improving the lives of cancer patients because they can lead to the earliest possible detection of cancer, and the Cancer ALERT Act will support the development of this revolutionary biomarker technology.

In addition, we give new focus to clinical trials, which have been the cornerstones of our progress in treating cancer in recent decades. Only through clinical trials are we able to discover which treatments truly work. Today, however, less than 5 percent of cancer patients currently are enrolled in clinical trials, because of the many barriers exist that prevent both providers and patients from participating in these trials. A primary goal of our bill is to begin removing these barriers and expanding access to clinical trials for many more patients.

Further, since many cancer survivors are now living longer lives, our health systems must be able to accommodate these men and women who are successfully fighting against this deadly disease. It is imperative for health professionals to have the support they need to care for these survivors. To bring good lifelong care to cancer survivors, we must invest more in research to understand the later effects of cancer and how treatments affect survivors' health and the quality of their lives.

We stand today on the threshold of unprecedented new advances in this era of extraordinary discoveries in the life sciences, especially in personalized medicine, early diagnosis of cancer at the molecular level, and astonishing new treatments based on a patient's own DNA. To make the remarkable promise of this new era a reality, we must make sure that patients can take DNA tests, free of the fear that their genetic information will somehow be used to discriminate against them. We took a major step toward unlocking the potential of this new era by approving strong protections against genetic discrimination in health insurance and employment when the Genetic Nondiscrimination Act was signed into law last year.

In sum, we need a new model for research, prevention and treatment of cancer, and we are here today to start that debate in Congress. We must move from a magic bullet approach to a broad mosaic of care, in which survivorship is also a key part of our approach to cancer. By doing so, we can take a giant step toward reducing or even eliminating the burden of cancer in our Nation and the world. It is no longer an impossible dream, but a real possibility for the future.

Mr. President, I ask by 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. 717

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 ''21st Century Cancer ALERT (Access to Life-Saving Early detection, Research and Treatment) Act''.

SEC. 2. FINDINGS AND PURPOSE.

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

(1) One in 2 men and one in 3 women are expected to develop cancer in their lifetimes.

(2) Cancer is the leading cause of death for people under the age of 85 and is expected to claim more than 1,500 lives per day in 2008.

(3) At least 30 percent of all cancer deaths and 87 percent of lung cancer deaths are attributed to smoking.

(4) The National Institutes of Health estimates that in 2007 alone, the overall cost of cancer to the United States was more than $219,000,000,000.

(5) In recent decades, the biomedical research enterprise has made considerable advances in the knowledge required to understand, prevent, diagnose, and treat cancer; however, it still takes 17 years, on average, to translate these discoveries into viable treatment options.

(6) While clinical trials are vital to the discovery and implementation of new preventative, diagnostic, and treatment options, only 3 to 5 percent of the more than 10,000,000 adults with cancer in the United States participate in cancer clinical trials.

(7) Where people reside should not determine whether they live, yet women in rural areas are less likely to obtain preventative cancer screenings than those residing in urban areas.

(8) Two-thirds of childhood cancer survivors are likely to experience at least one late effect from treatment and one-fourth are expected to experience a late effect that is life threatening.

(9) In 1971, there were only 3,000,000 cancer survivors. Today, cancer survivors account for 3 percent of the United States population, approximately 12,000,000.

(10) The National Cancer Act of 1971 (Public Law 92-218) advanced the ability of the United States to develop new scientific leads and help increase the rate of cancer survivorship.

(11) Yet in the 37 years since the national declaration of the War on Cancer, the age adjusted mortality rate for cancer is still extraordinarily high. Eight forms of cancer have a 5-year survival rate of less than 50 percent (pancreatic, liver, lung, esophageal, stomach, brain, multiple myeloma, and ovarian).

(12) While there have been substantial achievements since the crusade began, we are far from winning the war on cancer.

(13) Many obstacles have hindered our progress in cancer prevention, research, and treatment.

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

(1) To reauthorize the National Cancer Institute and National Cancer Program in order to enhance and improve the cancer research conducted and supported by the National Cancer Institute and the National Cancer Program in order to benefit cancer patients.

(2) To recognize that with an increased understanding of cancer as more than 200 different diseases with genetic and molecular variations, there is a need for increased coordination and greater flexibility in how cancer research is conducted and coordinated in order to maximize the return the United States receives on its investment in such research.

(3) To prepare for the looming impact of an aging population of the United States and the anticipated financial burden associated with medical treatment and lost productivity, along with the toll of human suffering that accompanies a cancer diagnosis.

(4) To support the National Cancer Institute in establishing relationships and scientific consortia with an emphasis on public-private partnership development, which will further the development of advanced technologies that will improve the prevention, diagnosis, and treatment of cancer.

SEC. 3. ADVANCEMENT OF THE NATIONAL CANCER PROGRAM.

Section 411 of the Public Health Service Act (42 U.S.C. 285a) is amended to read as follows:

''SEC. 411. NATIONAL CANCER PROGRAM.

''(a) IN GENERAL.—There shall be established a National Cancer Program (referred to in this section as the 'Program') that shall consist of—

''(1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other national research institutes, including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens; and

''(2) the other programs and activities of the Institute.

''(b) COLLABORATION.—In carrying out the Program—

''(1) the Secretary and the Director of the Institute shall identify relevant Federal agencies that shall collaborate with respect to activities conducted under the Program (including the Institute, the other Institutes and Centers of the National Institutes of Health, the Office of the Director of the National Institutes of Health, the Food and Drug Administration, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Department of Defense, the Department of Energy, the Agency for Healthcare Research and Quality, the Office for Human Research Protections, the Health Resources and Services Administration, and the Office for Human Research Protections); and

''(2) the Secretary shall ensure that the policies related to the promotion of cancer research of all agencies within the Department of Health and Human Services (including the Institute, the Food and Drug Administration, and the Centers for Medicare & Medicaid Services) are harmonized, and shall

ensure that such agencies collaborate with regard to cancer research and development.

''(c) TRANSPARENCY AND EFFICIENCY.—

''(1) BUDGETING.—In carrying out the Program, the Director of the Institute shall, in preparing and submitting to the President the annual budget estimate for the Program—

''(A) develop the budgetary needs of the entire Program and submit the budget estimate relating to such needs to the National Cancer Advisory Board for review prior to submitting such estimate to the President; and

''(B) submit such budget estimate to the Committee on the Budget and the Committee on Appropriations of the Senate and the Committee on the Budget and Committee on Appropriations of the House of Representatives at the same time that such estimate is submitted to the President.

''(2) NATIONAL CANCER ADVISORY BOARD.—In establishing the priorities of the Program, the National Cancer Advisory Board shall provide for increased coordination by increasing the participation of representatives (to the extent practicable, representatives who have appropriate decision making authority) of appropriate Federal agencies, including—

''(A) the Centers for Medicare & Medicaid Services;

''(B) the Health Resources and Services Administration;

''(C) the Centers for Disease Control and Prevention; and

''(D) the Agency for Healthcare Research and Quality.

''(d) PROGRAMS TO ENCOURAGE EARLY DETECTION RESEARCH.—The Director of the Institute shall develop a standard process through which Federal agencies, including the Department of Defense, and administrators of federally funded programs may engage in early cancer detection research.

''(e) IDENTIFICATION OF PROMISING TRANSLATIONAL RESEARCH OPPORTUNITIES.—

''(1) IN GENERAL.—The Director of the Institute, acting through the Program and in accordance with the NIH Reform Act of 2007, shall continue to identify promising translational research opportunities across all disease sites, populations, and pathways to clinical goals through a transparent, inclusive process by—

''(A) continuing to support efforts to develop a robust number of public or nonprofit entities to carry out early translational research activities;

''(B) emphasizing the role of the young researcher in the program under this section; and

''(C) modifying guidelines for multiproject, collaborative, early translational research awards to focus research and reward collaborative team science.

''(2) MATCHING FUNDS FOR RESEARCH.—

''(A) IN GENERAL.—The Secretary may provide assistance to eligible entities to match the amount of non-Federal funds made available by such entity for translational research of the type described in paragraph (1) relating to cancer.

''(B) ELIGIBILITY.—To be eligible to receive assistance under subparagraph (A), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(C) RECOMMENDATIONS AND PRIORITIZATION.—In providing assistance under subparagraph (A), the Secretary shall—

''(i) select entities based on the recommendations of—

''(I) the Director of NIH; and

''(II) a peer review process; and

''(ii) give priority to those entities submitting applications under subparagraph (B) that demonstrate that the research involved is high risk or translational research (as determined by the Secretary).

''(D) AMOUNT.—The amount of assistance to be provided to an entity under subparagraph (A) shall be at the discretion of the Secretary but shall not exceed an amount equal to 100 percent of the amount of non-Federal funds ($1 for each $2 of non-Federal funds) made available for research described in subparagraph (A).

''(E) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal funds to be matched under subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

''(f) BIOLOGICAL RESOURCE COORDINATION AND ADVANCEMENT OF TECHNOLOGIES FOR CANCER RESEARCH.—

''(1) ESTABLISHMENT.—The Director of the Institute, acting through the Program, shall establish an entity within the Institute to augment ongoing efforts to advance new technologies in cancer research, support the national collection of tissues for cancer research purposes, and ensure the quality of tissue collection.

''(2) GOALS.—The entity established under paragraph (1) shall—

''(A) be designed to expand the access of researchers to biospecimens for cancer research purposes;

''(B) establish uniform standards for the handling and preservation of patient tissue specimens by entities participating in the network established under paragraph (3);

''(C) require adequate annotation of all relevant clinical data while assuring patient privacy;

''(D) facilitate the linkage of public and private entities into the national network under paragraph (3);

''(E) provide for the linkage of cancer registries to other administrative Federal Government data sources, including the Centers for Medicare & Medicaid Services, the Social Security Administration, and the Centers for Disease Control and Prevention, with the goal of understanding the determinants of cancer treatment, care, and outcomes by allowing economic, social, genetic, and other factors to be analyzed in an independent manner; and

''(F) develop strategies to ensure patient rights and privacy, including an assessment of the regulations promulgated pursuant to part C of title XI of the Social Security Act and section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) (referred to in this section as the 'HIPAA Privacy Rule'), while facilitating advances in medical research.

''(3) ADVANCEMENT OF NEW TECHNOLOGIES FOR CANCER RESEARCH AND EXPANSION OF CANCER BIOREPOSITORY NETWORKS.—

''(A) IN GENERAL.—As part of the entity established under paragraph (1), the Director of the Institute shall build upon existing initiatives to establish an interconnected network of biorepositories (referred to in this subsection as the 'Network') with consistent, interoperable systems for the collection and storage of tissues and information, the annotation of such information, and the sharing of such information through an interoperable information system.

''(B) GUIDELINES.—A biorepository in the Network that receives Federal funds shall adopt the Institute's Best Practices for Biospecimen Resources for Institute-supported biospecimen resources (as published by the Institute and including any successor guidelines) for the collection of biospecimens and any accompanying data.

''(C) REPRESENTATION.—The composition of any leadership entity of the Network shall be determined by the Director of the Institute and shall, at a minimum, include a representative of—

''(i) private sector entities and individuals, including cancer researchers and health care providers;

''(ii) the Centers for Disease Control and Prevention;

''(iii) the Agency for Healthcare Research and Quality;

''(iv) the Office of National Coordination of Health Information Technology;

''(v) the National Library of Medicine;

''(vi) the Office for the Protection of Research Subjects; and

''(vii) the National Science Foundation.

''(D) PARTNERSHIPS WITH TISSUE SOURCE SITES.—The Director of the Institute may enter into contracts with tissue source sites to acquire data from such sites. Any such data shall be acquired through the use of protocols and closely monitored, transparent procedures within appropriate ethical and legal frameworks.

''(4) COLLECTION OF DATA.—

''(A) HOSPITALS.—A hospital or ambulatory cancer center that receives Federal funds shall offer patients the opportunity to contribute their biospecimens and clinical data to the entity established under paragraph (1).

''(B) CLINICAL TRIAL DATA.—Clinical trial data relating to cancer care and treatment shall be provided to the entity established under paragraph (1).''.

SEC. 4. COMPREHENSIVE AND RESPONSIBLE ACCESS TO RESEARCH, DATA, AND OUTCOMES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office for Human Research Protections shall issue guidance to National Institutes of Health grantees concerning use of the facilitated review process in conjunction with the central institutional review board of the National Cancer Institute as the preferred mechanism to satisfy regulatory requirements to review ethical or scientific issues for all National Cancer Institute-supported translational and clinical research.

(b) IMPROVED PRIVACY STANDARDS IN CLINICAL RESEARCH.—

(1) PERMITTED DISCLOSURE UNDER THE PRIVACY RULE.—For purposes of the Privacy Rule (as referred to in section 411(f)(2)(F) of the Public Health Service Act, as amended by this Act), a covered entity (as defined for purposes of such Rule) shall be in compliance with such Rule relating to the disclosure of de-identified patient information if such disclosure is—

(A) pursuant to a waiver that had been granted by an institutional review board or privacy board relating to such disclosure; and

(B) the entity informs patients when they make first patient contact with the entity that the entity is a research institution that may conduct research using their de-identified medical records.

(2) SYNCHRONIZATION OF STANDARDS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall study the advantages and disadvantages of the synchronization of the standards for research under the Common Rule (under part 46 of title 45, Code of Federal Regulations) and the Privacy Rule (as defined in section 411(f)(2)(F) of the Public Health Service Act, as amended by this Act) in order to determine the appropriate data elements that should be omitted under the strict de-identification standards relating to personal information.

(B) REVIEW OF RECOMMENDATIONS.—In carrying out subparagraph (A), the Secretary of Health and Human Services shall conduct a review of recommendations made by the Advisory Committee on Human Research Protections as well as recommendations from the appropriate leadership of the National Committee on Vital and Health Statistics.

(C) ADDITIONAL AREAS.—In carrying out subparagraph (A), the Secretary of Health and Human Services shall—

(i) make recommendations concerning the conduct of international research to determine the boundaries and applications of extraterritorially under the Privacy Rule (as referred to in section 411(f)(2)(F) of the Public Health Service Act, as amended by this Act); and

(ii) include biorepository storage information when obtaining patient consent.

(D) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committee of Congress, a report concerning the recommendations made under this paragraph.

(3) APPLICATION OF PRIVACY RULE TO EXTERNAL RESEARCHERS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Privacy Rule (as defined in section 411(f)(2)(F) of the Public Health Service Act, as amended by this Act) shall apply to external researchers.

(B) DEFINITION.—

(i) IN GENERAL.—In this paragraph, the term ''external researcher'' means a researcher who is on the staff of a covered entity (as defined in the Privacy Rule) but who is not actually employed by such covered entity.

(ii) INTERNAL AND EXTERNAL RESEARCHERS.—With respect to determining the distinction of whether or not a researcher has the ability to use protected health information under the provisions of this paragraph, such determination shall be based on whether the covered entity involved exercises effective control over that researcher's activities. For purposes of the preceding sentence, effective control may include membership and privileges of staff or the ability to terminate staff membership or discipline staff.

(c) LIABILITY.—The Director of the Office of Human Research Protection, the Director of the National Institutes of Health, and the Director of the National Cancer Institute shall issue guidance for entities awarded grants by such Federal agencies to provide instruction on how such entities may best address concerns or issues relating to the liability that institutions or researchers may incur as a result of using the facilitated review process.

SEC. 5. ENHANCED FOCUS AND REPORTING ON CANCER RESEARCH.

Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by inserting after section 417A the following:

''SEC. 417B. ENHANCED FOCUS AND REPORTING ON CANCER RESEARCH.

''(a) ANNUAL INDEPENDENT REPORT.—

''(1) IN GENERAL.—The Director of the Institute shall complete an annual independent report that shall be submitted to Congress on the same date that the annual budget estimate described in section 413(b)(9) is submitted to the President.

''(2) CONTENTS OF REPORT.—

''(A) CANCER CATEGORIES.—The report required under paragraph (1) shall address the following categories of cancer:

''(i) Cancers that result in a 5-year survival rate of less than 50 percent.

''(ii) Cancers in which the incidence rate is less than 15 cases per 100,000 people, or fewer than 40,000 new cases per year.

''(B) INFORMATION.—With regard to each of the categories of cancer described in subparagraph (A), the report shall contain information regarding—

''(i) a strategic plan for reducing the mortality rate for the annual year, including specific research areas of interest and budget amounts;

''(ii) identification of any barriers to implementing the strategic plan described in clause (i) for the annual year;

''(iii) if the report for the prior year contained a strategic plan described in clause (i), an assessment of the success of such plan;

''(iv) the total amount of grant funding, including the total dollar amount awarded per grant and per funding year, under—

''(I) the National Cancer Institute; and

''(II) the National Institutes of Health;

''(v) the percentage of grant applications favorably reviewed by the Institute that the Institute funded in the previous annual year;

''(vi) the total number of grant applications, with greater than 50 percent relevance to each of the categories of cancer described in subparagraph (A), received by the Institute for awards in the previous annual year;

''(vii) the total number of grants awarded, with greater than 50 percent relevance to each of the categories of cancer described in subparagraph (A), for the previous annual year and the number of awards per grant type, including the Common Scientific Outline designation specific to each such grant; and

''(viii) the total number of primary investigators that received grants from the Institute for projects with greater than 50 percent relevance to each of the categories of cancer described in paragraph (1), including the total number of awards granted to experienced investigators and the total number of awards granted to investigators receiving their first grant from the National Institutes of Health.

''(3) DEFINITION.—In this section, the term 'annual year' means the year for which the strategic plan described in paragraph (2)(B)(i) applies, which shall be the same fiscal year for which the Director of the Institute submits the annual budget estimate described in section 413(b)(9) for that year.

''(b) GRANT PROGRAM.—

''(1) IN GENERAL.—The Director of the Institute, in cooperation with the Director of the Fogarty International Center for Advanced Study in the Health Sciences and the Directors of other Institutes, as appropriate, shall award grants to researchers to conduct research regarding cancers for which—

''(A) the incidence is fewer than 40,000 new cases per year; and

''(B) the 5-year survival rate is less than 50 percent.

''(2) PRIORITIZATION.—In awarding grants for research regarding cancers described in paragraph (1)(A), the Director of the Institute shall give priority to collaborative research projects between adult and pediatric cancer research, with preference for projects building upon existing multi-institutional research infrastructures.

''(3) TISSUE SAMPLES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Director of the Institute shall require each recipient receiving a grant under this subsection to submit tissue samples to designated tumor banks.

''(B) WAIVER.—The Director of the Institute may grant a waiver of the requirement described in subparagraph (A) to a recipient who receives a grant for research described in paragraph (1)(B) and who submits an application for such waiver to the Director of the Institute, in the manner in which such Director may require.''.

SEC. 6. CONTINUING ACCESS TO CARE FOR PREVENTION AND EARLY DETECTION.

(a) COLORECTAL CANCER SCREENING PROGRAM.—Part B of title III of the Public Health Service Act is amended by inserting after section 317D (42 U.S.C. 247b-5) the following:

''SEC. 317D-1. COLORECTAL CANCER SCREENING PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award competitive grants to eligible entities to carry out programs—

''(1) to provide screenings for colorectal cancer to individuals according to screening guidelines set by the United States Preventive Services Task Force;

''(2) to provide appropriate referrals for medical treatment of individuals screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services and support services such as case management;

''(3) to develop and disseminate public information and education programs for the detection and control of colon cancer;

''(4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of colon cancer;

''(5) to establish mechanisms through which eligible entities can monitor the quality of screening procedures for colon cancer, including the interpretation of such procedures; and

''(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall—

''(A) be—

''(i) a State; or

''(ii) an Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act);

''(B) submit to the Secretary as application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(i) a description of the purposes for which the entity intends to expend amounts under the grant; and

''(ii) a description of the populations, areas, and localities with a need for the services or activities described in clause (i);

''(C) provide matching funds in accordance with paragraph (2);

''(D) provide assurances that the entity will—

''(i) establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received under subsection (a);

''(ii) upon request, provide records maintained pursuant to clause (i) to the Secretary or the Comptroller General of the United States for purposes of auditing the expenditures of the grant by the eligible entity; and

''(iii) submit to the Secretary such reports as the Secretary may require with respect to the grant; and

''(E) provide assurances that the entity will comply with the restrictions described in subsection (e).

''(2) MATCHING REQUIREMENT.—

''(A) IN GENERAL.—The Secretary may not award a grant to an eligible entity under this section unless the eligible entity involved agrees, with respect to the costs to be incurred by the eligible entity in carrying out the purpose described in the application under paragraph (1)(B)(i), to make available non-Federal contributions (in cash or in kind under subparagraph (B)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant.

Such contributions may be made directly or through donations from public or private entities.

''(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

''(i) IN GENERAL.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

''(ii) MAINTENANCE OF EFFORT.—In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the eligible entity involved toward the purpose described in subsection (a) for the 2-year period preceding the first fiscal year for which the eligible entity is applying to receive a grant under such section.

''(iii) INCLUSION OF RELEVANT NON-FEDERAL CONTRIBUTIONS FOR MEDICAID.—In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary shall, subject to clauses (i) and (ii), include any non-Federal amounts expended pursuant to title XIX of the Social Security Act by the eligible entity involved toward the purpose described in paragraphs (1) and (2) of subsection (a).

''(c) PRIORITIZATION.—

''(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give priority to recipients that are safety-net providers.

''(2) DEFINITION.—In this section, the term 'safety-net provider' means a health care provider—

''(A) that by legal mandate or explicitly adopted mission, offers care to individuals without regard to the individual's ability to pay for such services; or

''(B) for whom a substantial share of the patients are uninsured, receive Medicaid, or are otherwise vulnerable.

''(d) USE OF FUNDS.—

''(1) IN GENERAL.—An eligible entity may, subject to paragraphs (2) and (3), expend amounts received under a grant under subsection (a) to carry out the purposes described in such subsection through the awarding of grants to public and nonprofit private entities and through contracts entered into with public and private entities.

''(2) CERTAIN APPLICATION.—If a nonprofit private entity and a private entity that is not a nonprofit entity both submit applications to a grantee under subsection (a) for a grant or contract as provided for in paragraph (1), the grantee may give priority to the application submitted by the nonprofit private entity in any case in which the grantee determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity.

''(3) PAYMENTS FOR SCREENINGS.—The amount paid by a grantee under subsection (a) to an entity under this subsection for a screening procedure as described in subsection (a)(1) may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act if payment were made under such part for furnishing the procedure to an individual enrolled under such part.

''(e) RESTRICTION ON USE OF FUND.—The Secretary may not award a grant to an eligible entity under subsection (a) unless the entity agrees that—

''(1) in providing screenings under subsection (a)(1), the eligible entity will give priority to low-income individuals who lack adequate coverage under health insurance and health plans with respect to screenings for colorectal cancer;

''(2) initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant shall be expended to provide each of the services or activities described in subsections (a)(1) and (a)(2);

''(3) not more than 10 percent of the grant will be expended for administrative expenses with respect to the activities funded under the grant;

''(4) funding received under the grant will supplement, and not supplant, the expenditures of the eligible entity and the value for in-kind contributions for carrying out the activities for which the grant was awarded;

''(5) funding will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

''(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

''(B) by an entity that provides health services on a prepaid basis; and

''(6) funds will not be expended to provide inpatient hospital services for any individual.

''(f) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not award a grant to an eligible entity under this section unless the eligible entity involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

''(1) will be made according to a schedule of charges that is made available to the public;

''(2) will be adjusted to reflect the income of the individual involved; and

''(3) will not be imposed on any individual with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section.

''(g) REQUIREMENT REGARDING MEDICARE.—The Secretary may not award a grant to an eligible entity under this section unless the eligible entity involved provides, as applicable, the following assurances:

''(1) Screenings under subsection (a)(1) will be carried out as preventive health measures in accordance with evidence-based screening guidelines and procedures as specified in section 1861(pp)(1) of the Social Security Act.

''(2) An individual will be considered high risk for purposes of subsection (a)(1) only if the individual is high risk within the meaning of section 1861(pp)(2) of such Act.

''(h) REQUIREMENT REGARDING MEDICAID.—The Secretary may not award a grant to an eligible entity under subsection (a) unless the State plan under title XIX of the Social Security Act for the State includes the screening procedures and referrals specified in subsections (a)(1) and (a)(2) as medical assistance provided under the plan.

''(i) TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

''(1) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program funded by a grant under subsection (a). The Secretary may provide such technical assistance directly to eligible entities or through grants to, or contracts with, public and private entities.

''(2) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), upon the request of an eligible entity receiving a grant under subsection (a), the Secretary, for the purpose of aiding the eligible entity to carry out a program under this section—

''(i) may provide supplies, equipment, and services to the eligible entity; and

''(ii) may detail to the eligible entity any officer or employee of the Department of Health and Human Services.

''(B) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request made by an eligible entity under subparagraph (A), the Secretary shall reduce the amount of payments made under the grant under subsection (a) to the eligible entity by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and the costs of detailing personnel (including pay, allowances, and travel expenses) under subparagraph (A). The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

''(j) EVALUATIONS AND REPORT.—

''(1) EVALUATIONS.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to this section. Such evaluations shall include evaluations of the extent to which eligible entities carrying out such programs are in compliance with subsection (a)(2).

''(2) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated to carry out this section, and annually thereafter, submit to Congress, a report summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this section as the Secretary determines to be appropriate.''.

(b) OPTIONAL MEDICAID COVERAGE OF CERTAIN PERSONS SCREENED AND FOUND TO HAVE COLORECTAL CANCER.—

(1) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.—

(A) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(i) in subclause (XVIII), by striking ''or'' at the end;

(ii) in subclause (XIX), by adding ''or'' at the end; and

(iii) by adding at the end the following:

''(XX) who are described in subsection (gg) (relating to certain persons screened and found to need treatment from complications from screening or have colorectal cancer);''.

(B) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following:

''(gg) Individuals described in this subsection are individuals who—

''(1) are not described in subsection (a)(10)(A)(i);

''(2) have not attained age 65;

''(3) have been screened for colorectal cancer and need treatment for complications due to screening or colorectal cancer; and

''(4) are not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act.''.

(C) LIMITATION ON BENEFITS.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(i) by striking ''and (XIV)'' and inserting ''(XIV)''; and

(ii) by inserting '', and (XV) the medical assistance made available to an individual described in subsection (gg) who is eligible

for medical assistance only because of subparagraph (A)(10)(ii)(XX) shall be limited to medical assistance provided during the period in which such an individual requires treatment for complications due to screening or colorectal cancer'' before the semicolon.

(D) CONFORMING AMENDMENTS.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(i) in clause (xii), by striking ''or'' at the end;

(ii) in clause (xiii), by adding ''or'' at the end; and

(iii) by inserting after clause (xiii) the following:

''(xiv) individuals described in section 1902(gg),''.

(2) PRESUMPTIVE ELIGIBILITY.—

(A) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920B the following:

''OPTIONAL APPLICATION OF PRESUMPTIVE ELIGIBILITY PROVISIONS FOR CERTAIN PERSONS WITH COLORECTAL CANCER

''SEC. 1920C. A State may elect to apply the provisions of section 1920B to individuals described in section 1902(gg) (relating to certain colorectal cancer patients) in the same manner as such section applies to individuals described in section 1902(aa) (relating to certain breast or cervical cancer patients).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended—

(I) by striking ''and'' after ''section 1920'' and inserting a comma;

(II) by striking ''and'' after ''with such section'' and inserting a comma; and

(III) by inserting before the semicolon at the end the following: '', and provide for making medical assistance available to individuals described in section 1920C during a presumptive eligibility period in accordance with such section''.

(ii) Section 1903(u)(1)(d)(v) of such Act (42 U.S.C. 1396b(u)(1)(d)(v)) is amended—

(I) by striking ''or for'' and inserting '', for''; and

(II) by inserting before the period the following: '', or for medical assistance provided to an individual described in section 1920C during a presumptive eligibility period under such section''.

(3) ENHANCED MATCH.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

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

(B) by inserting before the period at the end the following: '', and (5) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance provided to individuals who are eligible for such assistance only on the basis of section 1902(a)(10)(A)(ii)(XX)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection apply to medical assistance for items and services furnished on or after the date that is 1 year after the date of enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(c) MOBILE MEDICAL VAN GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary''), acting through the Administrator of the Health Resources and Services Administration, shall award grants to eligible entities for the development and implementation of a mobile medical van program that shall provide cancer screening services that receive an ''A'' or ''B'' recommendation by the U.S. Preventative Services Task Force of the Agency for Healthcare Research and Quality to communities that are underserved and suffer from barriers to access to high quality cancer prevention care.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under paragraph (1), and entity shall—

(A) be a consortium of public and private entities (such as academic medical centers, universities, hospitals, and non profit organizations);

(B) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require, including—

(i) a description of the manner in which the applicant intends to use funds received under the grant;

(ii) a description of the manner in which the applicant will evaluate the impact and effectiveness of the health care services provided under the program carried out under the grant;

(iii) a plan for sustaining activities and services funded under the grant after Federal support for the program has ended;

(iv) a plan for the referral of patients to other health care facilities if additional services are needed;

(v) a protocol for the transfer of patients in the event of a medical emergency;

(vi) a plan for advertising the services of the mobile medical van to the communities targeted for health care services; and

(vii) a plan to educate patients about the availability of federally funded medical insurance programs for which such patients, or their children, may qualify; and

(C) agree that amounts under the grant will be used to supplement, and not supplant, other funds (including in-kind contributions) used by the entity to carry out activities for which the grant is awarded.

(3) USE OF FUNDS.—An entity shall use amounts received under a grant under this subsection to do any of the following:

(A) Purchase or lease a mobile medical van.

(B) Make repairs and provide maintenance for a mobile medical van.

(C) Purchase or lease telemedicine equipment that is reasonable and necessary to operate the mobile medical van.

(D) Purchase medical supplies and medication that are necessary to provide health care services on the mobile medical van.

(E) Retain medical professionals with expertise and experience in providing cancer screening services to underserved communities to provide health care services on the mobile medical van.

(4) MATCHING REQUIREMENTS.—

(A) IN GENERAL.—With respect to the costs of a mobile medical van program to be carried out under a grant under this subsection, the grantee shall make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than the amount of the Federal funds provided under this grant.

(B) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required under subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(C) WAIVER.—The Secretary may waive the requirement established in subparagraph (A) if—

(i) the Secretary determines that such waiver is justified; and

(ii) the Secretary publishes the rationale for such waiver in the Federal Register.

(D) RETURN OF FUNDS.—An entity that receives a grant under this section that fails to comply with subparagraph (A) shall return to the Secretary an amount equal to the difference between—

(i) the amount provided under the grant; and

(ii) the amount of matching funds actually provided by the grantee.

(5) CONSIDERATIONS IN MAKING GRANTS.—In awarding grants under this subsection, the Secretary shall give preference to eligible entities—

(A) that will provide cancer screening services in underserved areas; and

(B) that on the date on which the grant is awarded, have a mobile medical van that is nonfunctioning due to the need for necessary mechanical repairs.

(6) LIMITATION ON DURATION AND AMOUNT OF GRANT.—A grant under this subsection shall be for a 2-year period, except that the Secretary may waive such limitation and extend the grant period by an additional year. The amount awarded to an entity under such grant for a fiscal year shall not exceed $200,000.

(7) EVALUATION.—Not later than 1 year after the date on which a grant awarded to an entity under this subsection expires, the entity shall submit to the Secretary the results of an evaluation to be conducted by the entity concerning the effectiveness of the program carried out under the grant.

(8) REPORT.—Not later than 18 months after grants are first awarded under this subsection, the Secretary shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report on the results of activities carried out with amounts received under such grants.

(9) DEFINITIONS.—In this section:

(A) MOBILE MEDICAL VAN.—The term ''mobile medical van'' means a mobile vehicle that is equipped to provide non-urgent medical services and health care counseling to patients in underserved areas.

(B) UNDERSERVED AREA.—The term ''underserved area'', with respect to the location of patients receiving medical treatment, means a ''medically underserved community'' as defined in section 799B(6) of the Public Health Service Act (42 U.S.C. 295p(6)).

(d) ACCESS TO PREVENTION AND EARLY DETECTION FOR CERTAIN CANCERS.—

(1) CANCER GENOME ATLAS.—The Secretary of Health and Human Services, acting through the National Cancer Institute, shall provide for the inclusion of cancers with survival rates of less than 25 percent at 5 years in the Cancer Genome Atlas.

(2) PHASE IN.—The Director of the National Cancer Institute shall phase in the participation of cancers described in paragraph (1) in the Cancer Genome Atlas Consortium.

(3) WORKING GROUPS.—The Secretary of Health and Human Services, acting through the National Cancer Institute, shall establish formal working groups for cancers with survival rates of less than 25 percent at 5 years within the Early Detection Research Network.

(4) COMPUTER ASSISTED DIAGNOSTIC, SURGICAL, TREATMENT AND DRUG TESTING INNOVATIONS TO REDUCE MORTALITY FROM CANCERS.—The Director of the National Institute of Biomedical Imaging and Bioengineering shall ensure that the Quantum Grant Program and the Image Guided Interventions programs expedite the development of computer assisted diagnostic, surgical, treatment and drug testing innovations to reduce mortality from cancers with survival rates of less than 25 percent at 5 years.

SEC. 7. EARLY RECOGNITION AND TREATMENT OF CANCER THROUGH USE OF BIOMARKERS.

(a) PROMOTION OF THE DISCOVERY AND DEVELOPMENT OF BIOMARKERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), in consultation with appropriate Federal agencies including the National Institutes of Health, the National Cancer Institute, the Food and Drug Administration, and the National Institute of Standards and Technology, and extramural experts as appropriate, shall establish and coordinate a program to award contracts to eligible entities to support the development of innovative biomarker discovery technologies. All activities under this section shall be consistent with and complement the ongoing efforts of the Oncology Biomarker Qualification Initiative and the Reagan-Udall Foundation of the Food and Drug Administration.

(2) LEAD AGENCY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall designate a lead Federal agency to administer and coordinate the program established under paragraph (1).

(3) ELIGIBILITY.—To be eligible to enter into a contract under paragraph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such information shall be sufficient to enable the Secretary to—

(A) promote the scientific review of such contracts in a timely fashion; and

(B) contain the capacity to perform the necessary analysis of contract applications, including determinations as to the intellectual expertise of applicants.

(4) REQUIREMENT.—In awarding contracts under this subsection, the lead agency shall consider whether the research involved will result in the development of quantifiable biomarkers of cell signaling pathways that will have the broadest applicability across different tumor types or different diseases.

(5) INTERNATIONAL CONSORTIA.—The Secretary shall designate one of the Federal entities described in paragraph (1) to establish an international private-public consortia to develop and share methods and precompetitive data on the validation and qualification of cancer biomarkers for specific uses.

(b) CLINICAL STUDY GUIDELINES.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Food and Drugs, the Administrator of the Centers for Medicare & Medicaid Services, and the Director of the National Cancer Institute shall jointly develop guidelines for the conduct of clinical studies designed to generate clinical data relating to cancer care and treatment biomarkers that is adequate for review by each such Federal entity. Such guidelines shall be designed to assist in optimizing clinical study design and to strengthen the evidence base for evaluations of studies related to cancer biomarkers.

(c) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary, in consultation with the Commissioner of Food and Drugs and the Administrator of the Agency for Healthcare Research and Quality, shall carry out a demonstration project that provides for a limited regional assessment of biomarker tests to facilitate the controlled and limited use of a risk assessment measure with an intervention that may consist of a biomarker test.

(2) PROCEDURES.—As a component of the demonstration project under paragraph (1), the Commissioner of Food and Drugs, in consultation with other relevant agencies, shall establish procedures that independent research entities shall follow in conducting high quality assessments of efficacy of biomarker tests.

(d) POSTMARKET SURVEILLANCE.—The Food and Drug Administration and the Centers for Medicare & Medicaid Services shall assess quality and accuracy of biomarker tests through appropriate postmarket surveillance and other means, as necessary and appropriate to the mission of each such agency.

(e) SENSE OF THE SENATE.—It is the sense of the Senate that the Commissioner of Food and Drugs and the Director of the National Cancer Institute should continue to place high priority upon the identification and use of biomarkers to—

(1) determine the role of genetic polymorphisms on drug activity and toxicity;

(2) establish effective strategies for selecting patients for treatment with specific drugs; and

(3) identify early biomarkers of clinical benefit.

(f) DEFINITION.—In this section, the term ''biomarker'' means any characteristic that can be objectively measured and evaluated as an indicator of normal biologic processes, pathogenic processes, or pharmacological responses to therapeutic interventions.

SEC. 8. CANCER CLINICAL TRIALS.

(a) COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.—

(1) ERISA AMENDMENT.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 715. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CANCER CLINICAL TRIALS.

''(a) COVERAGE.—

''(1) IN GENERAL.—If a group health plan (or a health insurance issuer offering health insurance coverage in connection with the plan) provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

''(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

''(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

''(C) may not discriminate against the individual on the basis of the individual's participation in such trial.

''(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), subject to subparagraph (B), routine patient costs include all items and services consistent with the coverage provided in the plan (or coverage) that is typically covered for a qualified individual who is not enrolled in a clinical trial and that was not necessitated solely because of the trial, except—

''(A) the investigational item, device or service, itself; or

''(B) items and services that are provided solely to satisfy data collection and analysis needs and that are not used in the direct clinical management of the patient.

''(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

''(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term 'qualified individual' means an individual who is a participant or beneficiary in a group health plan and who meets the following conditions:

''(1)(A) The individual has been diagnosed with cancer.

''(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

''(2) Either—

''(A) the referring health care professional is a participating health care provider and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

''(B) the participant or beneficiary provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

''(c) LIMITATIONS ON COVERAGE.—This section shall not be construed to require a group health plan, or a health insurance issuer in connection with a group health plan, to provide benefits for routine patient care services provided outside of the plan's (or coverage's) health care provider network unless out-of-network benefits are otherwise provided under the plan (or coverage).

''(d) APPROVED CLINICAL TRIAL DEFINED.—

''(1) IN GENERAL.—In this section, the term 'approved clinical trial' means a phase I, phase II, phase III, or phase IV clinical trial that relates to the prevention and treatment of cancer (including related symptoms) and is described in any of the following subparagraphs:

''(A) FEDERALLY FUNDED TRIALS.—The study or investigation is approved or funded (which may include funding through in-kind contributions) by one or more of the following:

''(i) The National Institutes of Health.

''(ii) The Centers for Disease Control and Prevention.

''(iii) The Agency for Health Care Research and Quality.

''(iv) The Centers for Medicare & Medicaid Services.

''(v) cooperative group or center of any of the entities described in clauses (i) through (iv) or the Department of Defense or the Department of Veterans Affairs.

''(vi) A qualified non-governmental research entity identified in the guidelines issued by the National Institutes of Health for center support grants.

''(vii) Any of the following if the conditions described in paragraph (2) are met:

''(I) The Department of Veterans Affairs.

''(II) The Department of Defense.

''(III) The Department of Energy.

''(B) The study or investigation is conducted under an investigational new drug application reviewed by the Food and Drug Administration.

''(C) The study or investigation is a drug trial that is exempt from having such an investigational new drug application.

''(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

''(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

''(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

''(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

''(f) PREEMPTION.—Notwithstanding any other provision of this Act, nothing in this section shall preempt State laws that require a clinical trials policy for State regulated health insurance plans.''.

(2) CLERICAL AMENDMENTS.—

(A) Section 732(a) of such Act (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 715''.

(B) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Coverage for individuals participating in approved cancer clinical trials.''.

(b) CLINICAL TRIALS.—The Director of the National Cancer Institute shall—

(1) collaborate with the Director of the National Institutes of Health to engage in a campaign to educate the public on the value of clinical trials for oncology patients, which shall be implemented on the local level and focus on patient populations that traditionally are underrepresented in clinical trials;

(2) conduct an educational campaign for health care professionals to educate them to consider clinical trials as treatment options for their patients; and

(3) conduct research to document and demonstrate promising practices in cancer clinical trial recruitment and retention efforts, particularly for patient populations that traditionally are underrepresented in clinical trials.

SEC. 9. HEALTH PROFESSIONS WORKFORCE.

(a) INCREASE NURSE FACULTY.—Section 811(f)(2) of the Public Health Service Act (42 U.S.C. 296j(f)(2)) is amended to read as follows:

''(2) BENEFITS FOR RETIRING NURSE OFFICERS QUALIFIED AS FACULTY.—

''(A) IN GENERAL.—The Secretary of Defense shall provide to any individual described in subparagraph (B) the payment of retired or retirement pay without reduction based on receipt of pay or other compensation from the institution of higher education concerned.

''(B) COVERED INDIVIDUALS.—An individual described in this subparagraph is an individual who—

''(i) is retired from the Armed Forces after service as a commissioned officer in the nurse corps of the Armed Forces;

''(ii) holds a graduate degree in nursing; and

''(iii) serves as a part- or full-time faculty member of an accredited school of nursing.

''(C) NURSE CORPS.—Any accredited school of nursing that employs a retired nurse officer as faculty under this paragraph shall agree to provide financial assistance to individuals undertaking an educational program at such school leading to a degree in nursing who agree, upon completion of such program, to accept a commission as an officer in the nurse corps of the Armed Forces.''.

(b) ONCOLOGY WORKFORCE.—

(1) STUDY.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall conduct a study on the current and future cancer care workforce needs in the following areas:

(A) Cancer research.

(B) Care and treatment of cancer patients and survivors.

(C) Quality of life, symptom management, and pain management.

(D) Early detection and diagnosis.

(E) Cancer prevention.

(F) Genetic testing, counseling, and ethical considerations related to such testing.

(G) Diversity and appropriate care for disparity populations.

(H) Palliative and end-of-life care.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study conducted under paragraph (2).

SEC. 10. PATIENT NAVIGATOR PROGRAM.

Section 340A of the Public Health Service Act (42 U.S.C. 256a) is amended—

(1) in subsection (e), by adding at the end the following:

''(3) MINIMUM CORE PROFICIENCIES.—The Secretary shall not award a grant to an entity under this section unless such entity provides assurances that patient navigators recruited, assigned, trained, or employed using grant funds meet minimum core proficiencies that are tailored for the main focus or intervention of the navigation program involved.''; and

(2) in subsection (m)—

(A) in paragraph (1), by inserting before the period the following '', and such sums as may be necessary for each of fiscal years 2011 through 2015.''; and

(B) in paragraph (2), by striking ''2010'' and replacing with ''2015.''

SEC. 11. CANCER CARE AND COVERAGE UNDER MEDICAID AND MEDICARE.

(a) COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CLINICAL TRIALS UNDER MEDICARE.—

(1) COVERAGE UNDER PART A.—Section 1814 of the Social Security Act (42 U.S.C. 1395f) is amended by adding at the end the following new subsection:

''(m) COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CLINICAL TRIALS.—The Secretary shall not exclude from payment for items and services provided under a clinical trial payment for coverage of routine costs of care (as defined by the Secretary) furnished to an individual entitled to benefits under this part who participates in such a trial to the extent the Secretary provides payment for such costs as of the date of enactment of this subsection.''.

(2) COVERAGE UNDER PART B.—Section 1833(w) of the Social Security Act (42 U.S.C. 1395l(w)), as added by section 184 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended—

(A) by striking ''PAYMENT.—The Secretary'' and inserting ''PAYMENT AND COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CLINICAL TRIALS.—

''(1) METHODS OF PAYMENT.—Subject to paragraph (2), the Secretary''; and

(B) by adding at the end the following new paragraph:

''(2) COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CLINICAL TRIALS.—The Secretary shall not exclude from payment for items and services provided under a clinical trial payment for coverage of routine costs of care (as defined by the Secretary) furnished to an individual enrolled under this part who participates in such a trial to the extent the Secretary provides payment for such costs as of the date of enactment of this subsection.''.

(3) PROVIDER OUTREACH.—The Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall conduct an outreach campaign to providers of services and suppliers under the Medicare program under title XVIII of the Social Security Act regarding coverage of routine costs of care furnished to Medicare beneficiaries participating in clinical trials in accordance with sections 1814(m) and 1833(w)(2) of the Social Security Act (as added by paragraphs (1) and (2), respectively).

(b) DEMONSTRATION PROJECT TO PROVIDE COMPREHENSIVE CANCER CARE PLANNING SERVICES UNDER MEDICARE.—

(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall conduct a 3-year demonstration project (referred to in this subsection as the ''demonstration project'') under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) under which payment for comprehensive cancer care planning services furnished by eligible entities shall be made.

(2) COMPREHENSIVE CANCER CARE PLANNING SERVICES.—For purposes of this subsection, the term ''comprehensive cancer care planning services'' means—

(A) with respect to an individual who is diagnosed with cancer, the development of a plan of care that—

(i) details, to the greatest extent practicable, all aspects of the care to be provided to the individual, with respect to the treatment of such cancer, including any curative treatment and comprehensive symptom management (such as palliative care) involved;

(ii) is documented in the patient's medical record and furnished to the individual in person within a period specified by the Secretary that is as soon as practicable after the date on which the individual is so diagnosed;

(iii) is furnished, to the greatest extent practicable, in a form that appropriately takes into account cultural and linguistic needs of the individual in order to make the plan accessible to the individual; and

(iv) is in accordance with standards determined by the Secretary to be appropriate;

(B) with respect to an individual for whom a plan of care has been developed under subparagraph (A), the revision of such plan of care as necessary to account for any substantial change in the condition of the individual, if such revision—

(i) is in accordance with clauses (i) and (iii) of such subparagraph; and

(ii) is documented in the patient's medical record and furnished to the individual within a period specified by the Secretary that is as soon as practicable after the date of such revision;

(C) with respect to an individual who has completed the primary treatment for cancer, as defined by the Secretary (such as completion of chemotherapy or radiation treatment), the development of a follow-up cancer care plan that—

(i) describes the elements of the primary treatment, including symptom management, furnished to such individual;

(ii) provides recommendations for the subsequent care of the individual with respect to the cancer involved;

(iii) identifies, to the greatest extent possible, a healthcare provider to oversee subsequent care and follow-up as needed and to whom the individual may direct questions or concerns;

(iv) is documented in the patient's medical record and furnished to the individual in person within a period specified by the Secretary that is as soon as practicable after the completion of such primary treatment;

(v) is furnished, to the greatest extent practicable, in a form that appropriately takes into account cultural and linguistic needs of the individual in order to make the plan accessible to the individual; and

(vi) is in accordance with standards determined by the Secretary to be appropriate; and

(D) with respect to an individual for whom a follow-up cancer care plan has been developed under subparagraph (C), the revision of such plan as necessary to account for any substantial change in the condition of the individual, if such revision—

(i) is in accordance with clauses (i), (ii), and (iv) of such subparagraph; and

(ii) is documented in the patient's medical record and furnished to the individual within a period specified by the Secretary that is as soon as practicable after the date of such revision.

(3) QUALIFICATIONS AND SELECTION OF ELIGIBLE ENTITIES.—

(A) QUALIFICATIONS.—For purposes of this subsection, the term ''eligible entity'' means a physician office, hospital, outpatient department, or community health center. Qualified providers include physicians, nurse practitioners, and other health care professionals who develop or revise a comprehensive cancer care plan.

(B) SELECTION.—The Secretary shall select at least 6 eligible entities to participate in the demonstration project. Such entities shall be selected so that the demonstration project is conducted in different regions across the United States, in urban and rural locations, and across various sites of care.

(4) EVALUATION AND REPORT.—

(A) EVALUATION.—The Secretary shall conduct a comprehensive evaluation of the demonstration project to determine—

(i) the effectiveness of the project in improving patient outcomes and increasing efficiency and reducing error in the delivery of cancer care;

(ii) the cost of providing comprehensive cancer care planning services; and

(iii) the potential savings to the Medicare program demonstrated by the project, including the utility of the demonstration project in reducing duplicative cancer care services and decreasing the use of unnecessary medical services for cancer patients.

(B) REPORT.—

(i) IN GENERAL.—Not later than the date that is 1 year after the date on which the demonstration project concludes, the Secretary shall submit to Congress a report on the evaluation conducted under subparagraph (A).

(ii) PREVENTION OF FRAUDULENT BILLING.—The Secretary shall consult with the Medicare Fraud Task Force in the design of the demonstration project to identify and address concerns about fraudulent billing of comprehensive cancer care planning services. The Secretary's actions on prevention of fraud shall be included in the report under this subparagraph.

(iii) DEMONSTRATION OF SUBSTANTIAL BENEFIT.—If the evaluation conducted under subparagraph (A) indicates substantial benefit from the demonstration project, as measured by improved patient outcomes and more efficient delivery of healthcare services, such report shall include a legislative proposal to Congress for coverage of comprehensive cancer care planning services under the Medicare program, developed on the basis of information from the demonstration project and in consultation with the Administrator of the Agency for Healthcare Research and Quality, the Director of the Institute of Medicine, and the Director of the Centers for Disease Control and Prevention.

(iv) NO SUBSTANTIAL BENEFIT.—If the evaluation conducted under subparagraph (A) does not indicate substantial benefit from the demonstration project, as measured by improved patient outcomes and more efficient delivery of healthcare services, such report shall document, to the extent possible, the reasons why the demonstration project did not result in substantial benefit, and such report—

(I) shall include a legislative proposal for Medicare coverage of comprehensive cancer care planning services in a manner that will lead to substantial benefit; or

(II) shall include recommendations for additional demonstration projects or studies to evaluate the delivery of comprehensive cancer care planning services in a manner that will lead to substantial benefit and eventual Medicare coverage.

(5) FUNDING.—The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of the amount necessary to carry out the demonstration project and report under this subsection.

(c) PROMOTING CESSATION OF TOBACCO USE UNDER MEDICAID.—

(1) SERVICES DESCRIBED.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(y)(1) Subject to paragraph (2), for purposes of this title, the term 'counseling and pharmacotherapy for cessation of tobacco use' means diagnostic, therapy, and counseling services and pharmacotherapy (including the coverage of prescription and nonprescription tobacco cessation agents approved by the Food and Drug Administration) for cessation of tobacco use for individuals who use tobacco products or who are being treated for tobacco use which are furnished—

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

''(B) by any other health care professional who—

''(i) is legally authorized to furnish such services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished; and

''(ii) is authorized to receive payment for other medical assistance under this title or is designated by the Secretary for this purpose.

''(2) Such term is limited to—

''(A) services recommended in 'Treating Tobacco Use and Dependence: A Clinical Practice Guideline', published by the Public Health Service in June 2000, or any subsequent modification of such Guideline; and

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

(2) DROPPING EXCEPTION 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—

(A) by striking subparagraph (E);

(B) by redesignating subparagraphs (F) through (K) as subparagraphs (E) through (J), respectively; and

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

(3) REQUIRING COVERAGE OF TOBACCO CESSATION COUNSELING AND PHARMACOTHERAPY SERVICES FOR PREGNANT WOMEN.—Section 1905(a)(4) of the Social Security Act (42 U.S.C. 1396d(a)(4)) is amended—

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

(B) by inserting before the semicolon at the end the following: ''; and (D) counseling and pharmacotherapy for cessation of tobacco use for pregnant women''.

(4) REMOVAL OF COST-SHARING FOR TOBACCO CESSATION COUNSELING AND PHARMACOTHERAPY SERVICES FOR PREGNANT WOMEN.—

(A) IN GENERAL.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended in each of subsections (a)(2)(B) and (b)(2)(B), by inserting '', and counseling and pharmacotherapy for cessation of tobacco use'' after ''complicate the pregnancy''.

(B) CONFORMING AMENDMENT.—Section 1916A(b)(3)(B)(iii) of such Act (42 U.S.C. 1396o–1(b)(3)(B)(iii)) is amended by inserting '', and counseling and pharmacotherapy for cessation of tobacco use'' after ''complicate the pregnancy''.

(5) EFFECTIVE DATE.—The amendments made by this subsection take effect 1 year after the date of enactment of this Act and apply to medical assistance provided under a State Medicaid program on or after that date.

SEC. 12. CANCER SURVIVORSHIP AND COMPLETE RECOVERY INITIATIVES.

(a) CANCER SURVIVORSHIP PROGRAMS.—Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.), as amended by subsection (c), is amended by adding at the end the following:

''SEC. 417E. EXPANSION OF CANCER SURVIVORSHIP ACTIVITIES.

''(a) EXPANSION OF ACTIVITIES.—The Director of the Institute shall coordinate the activities of the National Institutes of Health with respect to cancer survivorship, including childhood cancer survivorship.

''(b) PRIORITY AREAS.—In carrying out subsection (a), the Director of the Institute shall give priority to the following:

''(1) Comprehensive assessment of the prevalence and etiology of late effects of cancer treatment, including physical, neurocognitive, and psychosocial late effects. Such assessment shall include—

''(A) development of a system for patient tracking and analysis;

''(B) establishment of a system of tissue collection, banking, and analysis for childhood cancers, using guidelines from the Office of Biorepositories and Biospecimen Research; and

''(C) coordination of, and resources for, assessment and data collection.

''(2) Identification of risk and protective factors related to the development of late effects of cancer.

''(3) Identification of predictors of neurocognitive and psychosocial outcomes, including quality of life, in cancer survivors and identification of qualify of life and other outcomes in family members.

''(4) Development and implementation of intervention studies for cancer survivors and their families, including studies focusing on—

''(A) preventive interventions during treatment;

''(B) interventions to lessen the impact of late effects of cancer treatment;

''(C) rehabilitative or remediative interventions following cancer treatment;

''(D) interventions to promote health behaviors in long-term survivors; and

''(E) interventions to improve health care utilization and access to linguistically and culturally competent long-term follow-up care for childhood cancer survivors in minority and other medically underserved populations.

''(c) GRANTS FOR RESEARCH ON CAUSES OF HEALTH DISPARITIES IN CHILDHOOD CANCER SURVIVORSHIP.—

''(1) GRANTS.—The Director of NIH, acting through the Director of the Institute, shall make grants to entities to conduct research relating to—

''(A) needs and outcomes of pediatric cancer survivors within minority or other medically underserved populations; and

''(B) health disparities in cancer survivorship outcomes within minority or other medically underserved populations.

''(2) BALANCED APPROACH.—In making grants for research under paragraph (1)(A) on pediatric cancer survivors within minority populations, the Director of NIH shall ensure that such research addresses both the physical and the psychological needs of such survivors.

''(3) HEALTH DISPARITIES.—In making grants for research under paragraph (1)(B) on

health disparities in cancer survivorship outcomes within minority populations, the Director of NIH shall ensure that such research examines each of the following:

''(A) Key adverse events after childhood cancer.

''(B) Assessment of health and quality of life in childhood cancer survivors.

''(C) Barriers to follow-up care to childhood cancer survivors.

''(D) Data regarding the type of provider and treatment facility where the patient received cancer treatment and how the provider and treatment facility may impact treatment outcomes and survivorship.

''(d) RESEARCH TO EVALUATE FOLLOW-UP CARE FOR CHILDHOOD CANCER SURVIVORS.—The Director of NIH shall conduct or support research to evaluate systems of follow-up care for childhood cancer survivors, with special emphasis given to—

''(1) transitions in care for childhood cancer survivors;

''(2) those professionals who should be part of care teams for childhood cancer survivors;

''(3) training of professionals to provide linguistically and culturally competent follow-up care to childhood cancer survivors; and

''(4) different models of follow-up care.''.

(b) COMPLETE RECOVERY CARE.—

(1) DEFINITION.—In this subsection, the term ''complete recovery care'' means care intended to address the secondary effects of cancer and its treatment, including late, psychosocial, neurocognitive, psychiatric, psychological, physical, and other effects associated with cancer and cancer survivorship beyond the impairment of bodily function directly caused by the disease, as described in the report by the Institute of Medicine of the National Academies entitled ''Cancer Care for the Whole Patient''.

(2) EXPANSION OF ACTIVITIES.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall—

(A) coordinate the activities of Federal agencies, including the National Institutes of Health, the National Cancer Institute, the National Institute of Mental Health, the Centers for Medicare and Medicaid Services, the Veterans Health Administration, the Centers for Disease Control and Prevention, the Food and Drug Administration, the Agency for Healthcare Research and Quality, the Office for Human Research Protections, and the Health Resources and Services Administration to improve the provision of complete recovery care in the treatment of cancer; and

(B) solicit input from professional and patient organizations, payors, and other relevant institutions and organizations regarding the status of provision of complete recovery care in the treatment of cancer.

(3) IMPROVING THE COMPLETE RECOVERY CARE WORKFORCE.—

(A) CHRONIC DISEASE WORKFORCE DEVELOPMENT COLLABORATIVE.—The Secretary shall, not later than 1 year after the date of enactment of this Act, convene a Workforce Development Collaborative on Psychosocial Care During Chronic Medical Illness (referred to in this paragraph as the ''Collaborative''). The Collaborative shall be a cross-specialty, multidisciplinary group composed of educators, consumer and family advocates, and providers of psychosocial and biomedical health services.

(B) GOALS AND REPORT.—The Collaborative shall submit to the Secretary a report establishing a plan to meet the following objectives for psychosocial care workforce development:

(i) Identifying, refining, and broadly disseminating to healthcare educators information about workforce competencies, models, and preservices curricula relevant to providing psychosocial services to persons with chronic medical illnesses and their families.

(ii) Adapting curricula for continuing education of the existing workforce using efficient workplace-based learning approaches.

(iii) Developing the skills of faculty and other trainers in teaching psychosocial health care using evidence-based teaching strategies.

(iv) Strengthening the emphasis on psychosocial healthcare in educational accreditation standards and professional licensing and certification exams by recommending revisions to the relevant oversight organizations.

(c) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 3 of the Hematological Cancer Research Investment and Education Act of 2002 (Public Law 107–172; 116 Stat. 541) is amended by striking ''section 419C'' and inserting ''section 417C''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 3 of the Hematological Cancer Research Investment and Education Act of 2002 (Public Law 107–172; 116 Stat. 541).

SEC. 13. ACTIVITIES OF THE FOOD AND DRUG ADMINISTRATION.

It is the sense of the Senate that the Food and Drug Administration should—

(1) integrate policies and structures to facilitate the concurrent development of drugs and diagnostics for cancer diagnosis, prevention, and therapy;

(2) consider alternatives or surrogates to traditional clinical trial endpoints (for example, other than survival) that are acceptable for regulatory approval as evidence of clinical benefit to patients; and

(3) modernize the Office of Oncology Drug Products by examining and addressing internal barriers that exist within the current organizational structure.

Mrs. HUTCHISON. I rise to talk about legislation that has been introduced today. My colleague and friend, Senator TED KENNEDY, and I and Senator FEINSTEIN are introducing a bill that we hope will help advance America's efforts to find cures for cancer.

We all know that cancer is a relentless disease. It does not discriminate between men and women, wealthy or poor, elderly or young.

In 2008, over 1.4 million Americans were diagnosed with some form of cancer. It may have been you, it may have been a friend, it may have been a coworker, a parent, a sibling, a spouse or even a child. More than half a million Americans lost their battle with cancer last year.

During the last session of Congress, Senator KENNEDY and I began working on what we would say would be the next generation of the war on cancer. Senator FEINSTEIN has been a leader in this area as well. She is vice chairman of C-Change, which is an organization that is led by President George Bush—the 41st—and his wife Barbara. DIANNE has been very active in the cancer cause for a long time, having lost her husband to cancer.

All of us have been touched by it. We know very poignantly what happened in our body last year; that Senator KENNEDY himself was diagnosed with a brain tumor. We have watched him valiantly fight off the scourge of this disease. I know in my own family my mother died from a brain tumor, and my brothers have also had cancer. It is such a reminder to all of us, especially when we see one of our own family members or one of our beloved colleagues fighting this disease. ARLEN SPECTER has had amazing feats of living through brain tumors, and he has been so valiant. He, too, is one of the leaders in the cause we are trying to fight today, and that is to win against cancer.

After Senator KENNEDY's diagnosis was announced, I stood on the floor and said I would have an absolute commitment to introduce legislation with him, which we had already been working on for months. We were working with many of the groups that have come together to fight cancer. There are so many in our country that are banding together to try to put all our resources and all our experiences and all of what we have learned to work to do that magic thing that will finally bring about a cure for this disease.

Today, we are keeping the promise we made. We waited, of course, for Senator KENNEDY to go through surgery and to be in treatment before we introduced it, and he is back with us today. He is part of introducing this bill today. So we are calling the bill the 21st Century Cancer ALERT Act. Here is why we must start again and renew our efforts.

Since the war on cancer was declared in 1971, we have amassed a wealth of knowledge, but our success in battling the disease has not been as great as with some of the other health concerns we have faced in our country, such as heart disease. When we adjust the mortality rate of cancer by age, it is still extraordinarily high when compared to mortality from other chronic diseases.

The impact that cancer has on all lives cannot and should not be underestimated. Today, one out of every two men and one out of every three women in our country will develop cancer in their lifetimes. That is an incredible statistic, and it shows how important it is that we get a handle on how we can either find the cure or, the next best thing, to be able to treat it and be able to live with the disease.

Let me tell you about some of the women who have fought with this disease. A woman named Elayne in Corinth, TX, is 44 years old and fighting cancer for the second time in her life. She says:

> I would like to see more research and options, especially for people like me who tend to have few options left as a stage 4 cancer patient. I think there is great hope in targeted therapies, and this should be a continued area of research and development.

The Kennedy-Hutchison-Feinstein bill will do several things: It will, first of all, promote cancer diagnosis at an early and more curable stage. We must encourage the discovery and advancement of early recognition and treatment. One promising research method is the use of biomarkers.

Biomarkers leave evidence within the body that alert clinicians to the

hidden activity that indicates cancer may be developing. Identifying biomarkers could represent the earliest possible detection of cancer in patients where it might otherwise be a long time before the person would see or feel any symptoms.

However, even if we strengthen our ability to diagnose cancer, impediments remain that prevent many Americans from undergoing routine screening for cancer. With early screening, the chances of catching the disease at a treatable stage are greater and improve the rate of survival.

No. 2, our bill will adopt a cooperative, coordinated approach to cancer research. By establishing a network of biorepositories, we will enable investigators to share information and samples. An integrated approach will accelerate the progress of lifesaving research.

Furthermore, finding cures should be a collaborative goal. Great research is being done by so many researchers who are not aware of advancements in the trials. We have the research that might be concentrated in one area, but people don't have the communication they need to know what is going on in another area that might be helpful in furthering the research going on in a different area.

The culture of isolated career research must shift toward cooperative strides to achieve breakthroughs. We must encourage all the stakeholders in the war on cancer to work in concert. This is perhaps going to be a difficult hurdle, but we must do it. If our researchers are just involved in their own microscope, they are not going to be able to have the full body of knowledge that might contain that one thing that triggers the end to cancer as we know it.

Next, our bill will increase enrollment in clinical trials. Clinical trials expand treatment options for patients while enabling researchers to explore new methods in prevention, diagnosis, and therapy. This is so valuable because these are the experimental stages of treatment where people who sign up—who know there are risks here but are willing to try—can help us learn what works and what might not work. This is essential for us to make real strides in this war on cancer.

One woman who understands the importance of clinical trials is Maria from El Paso. She is participating in a clinical trial, but she says:

> Every day we encounter women who are either unaware of the option for clinical trials or who want to participate but do not have access to them. It's not right that some of us have access to the most cutting-edge treatments, while others are shut out and left mired in a web of confusion.

Less than 5 percent of the 10 million adults with cancer in the United States participate in clinical trials. We need to raise awareness about clinical trials so more cancer patients will know they are available and have the full information of what they could do. Disincentives in the health insurance market to enrolling in clinical trials must be eliminated.

Last, as our knowledge of cancer advances and survivors live longer, we must move toward establishing a process of providing comprehensive care planning services. There is great value in arming patients with a treatment plan and a summary of their care once they enter remission. This can help ensure continuity of therapy and prevent costly duplicative or unnecessary services.

Together, Senator KENNEDY, Senator FEINSTEIN, and I hope this will be a bipartisan effort to reinvigorate this fight by enacting these necessary changes through legislation. One of the people who will benefit from our bill is Suzanne. After 10 years of treatment for cancer, at a cost of over $3 million, Suzanne came to my office this week to show her support for this bill. She said:

> I don't want my two daughters to go through what I went through. Screening saves lives and money.

She is right. Another woman who has been in touch with my office is Jodie. At the age of 36, she was diagnosed with cancer. After 5 years of treatment, she said: ''It is a gift to be here.''

The Kennedy-Hutchison-Feinstein bill, through screening programs, research, and clinical trials, will give people such as Suzanne, Maria, Elayne, Jodie, and many others in our country more time to spend with their loved ones.

This bill we are introducing today is not a finished product. There may need to be changes to this bill. It is not perfect. I already have had some point out the need for us to sit down and try to come up with the absolute right approach. The HELP Committee will be looking at this bill. They will be marking it up. We have already had hearings last year, but there will be more of a look and it will be important that this happen.

We want a bipartisan and resounding victory. We want this to be a victory for all of our country—a victory over this disease. It is the kind of bill that can be bipartisan, that should be bipartisan, and should have overwhelming support from this Congress and from the American people.

I am wearing today the ''Live Strong'' bracelet. This is from the Lance Armstrong Foundation. We all know Lance Armstrong is a cancer survivor. He is also a hero to many of us because of his wins of the Tour de France. He is the premier bicyclist in the world. Unfortunately, Lance is in the hospital right now—or he might be just getting out. He doesn't have cancer. That is the good news. He broke his collar bone—in about six places, apparently—and because he has insisted he is going back into cycling, he is recovering from that injury.

But we know the grit and determination of this man. After his Tour de France wins, and setting the ''straight record'' for Tour de France wins, he came home and decided to take on cancer for everyone. He has been a role model in showing us it can be defeated, because after his bout with cancer, he went on to win these grueling bicycle races all over the world. So he has been a role model in that regard, but he has also, through his foundation, been a champion of making sure other people have the same chance for survival that he has had. So while we wish him well on the mending of his collar bone, we already owe him a debt of gratitude, and I am going to wear his bracelet as we introduce the bill today to show what one person can do to defeat cancer.

We can all come together to help Lance get the message out throughout the world that we can defeat cancer, and no one is a better leader in this cause on the Senate floor today than Senator EDWARD KENNEDY. He not only helped craft the legislation—even as he was in treatment he was making edits to this bill—but he also is another person who has shown courage, as Lance Armstrong has, by not giving up, by coming right back to the Senate after his cancer treatments and showing us that he, too, is joining with Lance Armstrong to make sure everyone has the same chance he has for early detection and for a chance to live a full life. That is what we want for every American.

I am very proud to be standing here for Senator KENNEDY to say we are going to fight for this together. We are going to work together, and we are going to try to have a resounding bipartisan victory on this bill. Working with the HELP Committee and utilizing their input, we will win a victory for all Americans. Maybe we will make Americans see that we can work together here in Washington. Maybe that will be the change in how things are done in Washington that we have all been looking for. It would be a change for the better.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. LEAHY, Mr. CARDIN, Ms. MIKULSKI, Mr. KERRY, Mr. DURBIN, Mr. LAUTENBERG, Mr. MERKLEY, AND MRS. MCCASKILL):

S. 718. A bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes; to the Committee on the Judiciary.

Mr. HARKIN. Mr. President, today, I am proud to introduce the Civil Access to Justice Act of 2009, which will expand and improve vital civil legal services to our most vulnerable Americans.

This is an issue that is very personal with me. Before I was elected to Congress, I practiced law with Polk County legal aid. I know first-hand how crucial legal assistance is to struggling families who have no place else to turn

when they have lost a job and are facing a foreclosure. I know the invaluable assistance that legal aid provides to battered women trying to leave abusive marriages while fearing for their safety and the safety of their children. I know that, without access to an attorney, the poor are often powerless against the injustices they suffer. I can honestly say that the work I did with legal aid is some of the most rewarding work of my career.

The type of assistance I was able to provide needy clients in Iowa occurs throughout the country every day. Much of that assistance is the direct result of a commitment the federal government first made over forty years ago. In 1965, the Office of Economic Opportunity created 269 local legal services programs around the country. Ten years later, in 1974, Congress—with bipartisan support, including that of President Nixon—established the Legal Service Corporation, LSC, to be a major source of funding for civil legal aid in this country. LSC is a private, non-profit corporation, funded by Congress, with the mission to ensure equal access to justice under the law for all Americans by providing civil legal assistance to those who otherwise would be unable to afford it. LSC distributes 95 percent of its annual Federal appropriations to 137 local legal aid programs, with more than 900 offices serving all 50 states and every congressional district.

These LSC funding programs make a crucial difference to millions of Americans. Recipients help clients secure basic human needs, such as access to wrongly denied benefits including social security, pensions and needed health care. Just in the past decade, families of 9–11 victims, flood victims, and hurricane evacuees have received crucial legal assistance in obtaining permanent housing, unemployment compensation and government benefits. Further, members of our Armed Forces and their families receive help with estate planning, consumer and landlord/tenant problems and family law.

It is LSC-funded attorneys who help parents obtain and keep custody of their children, help family members obtain guardianship for children without parents, assist parents in enforcing child support payments and help women who are victims of domestic violence. In fact, three out of four legal aid clients are women, and legal aid programs identify domestic violence as one of their top priorities. Recent studies confirm, moreover, that the only public service that reduces domestic abuse in the long term is a woman's access to legal assistance.

Unfortunately, as the economy continues to wane, those needing legal assistance increase. Yet, the Federal commitment to legal services and LSC is not as effective as it needs to be. LSC has not been authorized since 1981, and since 1995 Congress has slashed funding for legal services for the poor, from $415 million to $350 million in fiscal year 2008, with only a recent increase to $390 million for fiscal year 2009. Further, severe restrictions on LSC funded attorneys impede the ability of legal aid attorneys to provide the most meaningful legal representation to low-income Americans. The result is that access to justice and quality representation has become far from a reality for too many of our citizens.

In many parts of the country, more than 80 percent of those who need legal representation are unable to obtain it. Nationally, 50 percent of eligible applicants who request legal assistance from LSC funded programs are turned away largely because such programs lack adequate funding. That translates into over one million eligible cases per year.

Bear in mind, to be eligible for Federal legal assistance, one must live at or below 125 percent Federal poverty level—an income of about $25,000 a year for a family of four. This means that we are turning away half of the families in America who need and seek civil legal help who make less than $25,000 a year. That is wrong and it makes a mockery of the principle of equal justice under the law.

Unfortunately, a combination of limited federal funding, state budget cuts and an increased demand for services due to the recession has exacerbated the problem. As the Chief Justice of the Texas Supreme Court recently noted, legal aid programs have reached a ''crisis of epic proportions.'' This year, requests for services have risen by 30 percent or more across the country while cutbacks in staffing are expected to reach 20 percent or more over the coming months. Connecticut Legal Services expects to lose as many as 150 legal positions. Boston's legal aid expects to lay off one-fifth of its lawyers. Two whole offices in New Jersey recently had to shut their doors. When legal aid lawyers lose their jobs and when offices close, unfortunately it is our most vulnerable citizens who suffer as their legal needs go unmet.

The housing crisis highlights this problem. Today, millions of Americans are struggling to meet their housing needs, including making their mortgage payments, in many cases traceable to predatory lending practices. Foreclosures are at a historic high and continue to soar. As more and more people face the devastating prospect of losing their home—their most prized possession—legal assistance is necessary to help renegotiate terms of loans or enforce truth-in-lending protections in court. The result is that many legal aid offices have seen a drastic increase in those seeking help. Between 2007 and 2008, for example, Iowa Legal Aid saw a 300 percent increase in foreclosure related cases. The Legal Aid Society of San Diego saw a 250 percent increase. Yet, legal aid is too often unavailable. A recent study, for example, revealed that in New Jersey, 99 percent of defendants in housing eviction cases go to court without an attorney.

Given these needs, the Civil Access to Justice Act of 2009, which I am proud to introduce today with Senators KENNEDY, LEAHY, MIKULSKI, CARDIN, KERRY, DURBIN, LAUTENBERG, MCCASKILL and MERKLEY, renews our commitment to equal justice for all Americans and will improve both the quantity and quality of legal assistance in this country.

The bill is supported by, among others, the American Bar Association, Brennan Center for Justice, National Legal Aid & Defender Association, National Organization of Legal Service Workers and United Auto Workers.

First, this bill authorizes funding for LSC at $750 million, which is approximately the amount appropriated in 1981, adjusted for inflation, the high water mark for LSC funding. That year, Congress allocated $321.3 million to LSC. At the time, that was seen as the level sufficient to provide a minimum level of access to legal aid in every county. Adjusted for inflation, this ''minimum access'' level of funding would need to be about $750 million in 2009 dollars.

Second, this bill lifts many of the restrictions Congress imposed in 1996 on federally funded attorneys. That year, Congress significantly limited whom federally funded attorneys could represent and the types of legal tools these attorneys could use in representing their clients. Proponents of these restrictions argued that LSC funded lawyers had overreached and were using federal funds to pursue what some considered an ideological political agenda through the courts, while neglecting basic legal work for poor Americans.

I vigorously disagreed with this characterization of legal aid attorneys and opposed the restrictions at the time; and I continue to do so. The restrictions have harmed our neediest Americans and in many instances prevent legal counsel from doing what attorneys are ethically bound to do—provide zealous representation for their clients. Further, the restrictions, by limiting the range of tools that legal aid attorneys can employ compared to other members of the bar, have created a system of second-class legal representation. That is why this legislation lifts limits on the legal tools that LSC-funded attorneys can use to represent their clients—for example, prohibitions on attorneys seeking court-ordered attorneys' fees, lobbying with nonfederal funds or representing clients in class action law suits.

With respect to attorney fees, Congress and state legislatures have recognized that such fees are an important remedy, and are critical in ensuring that civil rights and consumer protection suits are brought. As Congress stated in enacting the Civil Rights Attorneys' Fees Awards Act of 1976, ''fee awards have proved an essential remedy if private citizens are to have a

meaningful opportunity to vindicate the important Congressional policies which these laws contain.'' That is why Congress has enacted nearly 200 statutes, and states have enacted approximately 4,000 statutes, that provide for attorney fees. The current restriction preventing LSC-funded attorneys from receiving attorney fees has the effect of weakening the effectiveness of these statutes.

Lifting the restriction on attorney fees makes sense for additional reasons. First, because of the restriction, defendants who otherwise would pay attorney fees are unjustly enriched because they happen to face LSC-funded attorneys as opposed to a private counsel. Second, the potential for attorney fees is important leverage for attorneys as they negotiate settlements, leverage now not available to LSC-funded attorneys. Finally, by prohibiting collecting attorney fees, Congress has needlessly limited potential resources that can be used to provide legal aid to other clients.

The bill also lifts the restriction on LSC-funded attorneys' ability to lobby with non-federal funds for changes in the law that would benefit disadvantaged clients. Legal service attorneys are immersed in the day-to-day legal issues faced by low-income communities and, as a result, are often most knowledgeable about the true impact of state and Federal laws on low income Americans. Yet, LSC-funded attorneys may not participate legislative and administrative efforts unless they are responding to a written request from a legislator or other official.

When legal aid attorneys' input is requested, the results are telling. For example, Maryland Legal Aid Bureau was recently invited by the legislature to testify on an overhaul of state foreclosure and lending laws. Although the lending, mortgage and banking industries were well represented, the legal aid attorney was the only person there representing borrowers' views. While the attorney's voice was critical in ensuring appropriate consumer protections, it is significant that that voice was only heard because legislators chose to seek input from legal aid. Because of the current restrictions, absent an invitation, the experiences and knowledge of that attorney would be silenced, leaving a one-sided debate.

Let me be clear, I disagree with those who advocated for and enacted the 1996 restrictions. However, in the spirit of compromise and bipartisanship, and with the intent to avoid a repeat of the contentious debates of the 1990s, this legislation does not lift all of the restrictions. Illustrative is the present restriction on LSC-funded attorneys pursuing class action suits. Such cases are often the most efficient and cost-effective lawsuits, not only for clients but for the judicial system. As Congress found in enacting the Class Action Fairness Act in 2005, ''class action lawsuits are an important and valuable part of the legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.''

When the procedural requirements of State or Federal law are met, LSC-funded attorneys and their clients, like all others, should be able to utilize this essential litigation tool. That is why the bill lifts the restriction on the ability of legal aid programs to bring such suits. At the same time, again while I disagree, I acknowledge the concern that led to the restriction—that prior to the restriction some felt that LSC-funded attorneys were using class action suits to ''push the envelope'' and have courts establish ''new law.'' To allay this concern, the bill permits only class action suits that are grounded in ''established'' law. This will enable, for example, LSC-funded attorneys to represent as a class multiple families who are victims of predatory lending, but will not permit LSC-funded attorneys to attempt to achieve a novel interpretation of the law that lacks statutory support or judicial precedent.

Moreover, again in the spirit of compromise, the bill maintains many of the limits on who LSC-funded programs can represent, including the current exclusion of illegal immigrants, with limited exceptions, such as victims of domestic violence, prisoners challenging prison conditions, and people charged with illegal drug possession in public housing eviction proceedings. Also, consistent with current law, the legislation prohibits LSC-funded programs from participating in abortion-related cases.

Third, this legislation lifts all the restrictions, except those related to abortion litigation, on the use of state and local funds and private donations to Federal funded legal services programs that Congress also imposed in 1996. That year, Congress determined that for programs that receive federal funds, the same restrictions applicable to federal funds apply to non-federal funds a program receives.

The result is that millions of dollars in non-federal funds are encumbered by the same restrictions that drastically limit the tools available to legal aid attorneys, to the detriment of their clients. Through direct state and local funding, money from state Interest on Lawyers' Trust Accounts, IOLTA, and private sources, over $450 million in non-federal funds currently is provided for civil legal assistance. The restrictions place unnecessary and costly hurdles on the use of these non-federal funds. The only way a program and its donors can free themselves from federal restrictions is by diverting non-federal funds into a separate program—with separate staff members, offices and equipment. This is burdensome and wasteful.

Whatever one thinks of placing conditions on the receipt of federal funds, states, cities and private donors should have the ability to determine for themselves how best to spend their money to ensure access to justice for their citizens. It is one thing to attach conditions on the use of the federal funds, but to impose conditions on the use of non-federal funds is wrong.

Fourth, in addition to providing further tools and support for LSC grantees, better corporate governance—something that is critically needed—is a central feature of this legislation. Last year, the Government Accountability Office, GAO, reported on troubling management practices and lack of oversight by LSC. The reports found that there had been questionable expenditures by LSC management and that LSC lacked a ''properly implemented governance and accountability structure'' needed to prevent problems. GAO included in its report a series of recommendations as to how LSC should address these shortcomings and prevent similar problems in the future.

No one was more upset about the GAO reports than I. That is why I personally made it clear to LSC management, in no uncertain terms, that they needed to act immediately to address the GAO recommendations, and why a central feature of this bill is provisions to ensure better corporate governance. LSC acted quickly to address the issues GAO raised, and both LSC management and its Board of Directors have publicly accepted all of GAO's recommendations and have worked diligently to implement them. Nevertheless, I believe it is important to lock the recommendations into statute.

Finally, the bill authorizes a grant program from the Department of Education to expand law school clinics. A recent study found that students in law school clinics serve approximately 90,000 civil clients every school year, excluding summer semesters, and provide over 1.8 million hours of legal service. These legal clinics are a significant resource for legal services. But they are much more. For many students, these programs are stepping stones towards careers in legal service and public interest law following graduation. Recent studies demonstrate that law students who participate in law school clinics are more likely to work in public service jobs and do more pro bono than their peers who do not.

We need to do all we can to encourage young lawyers to make legal aid a career. One important way of doing this is by exposing them to the challenges, and more importantly the rewards, of representing people who otherwise would not have the legal assistance they deserve.

Our promise of ''equal justice under law'' rings hollow if those who are most vulnerable are denied access to representation. As former Justice Lewis Powell said, ''[e]qual justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society . . . it is fundamental that justice should be the same,

in substance and availability, without regard to economic status.'' Legal aid attorneys across the country protect the safety, security, and health of low-income citizens. When a senior citizen is the victim of a financial scam, when a family faces the loss of their home, or, all too often, when a woman seeks protection from abuse, legal aid can help—but only if it has the funds and the tools needed to do so.

As our former colleague Senator Domenici once declared: ''I do not know what is wrong with the United States of America saying to the needy people of this country that the judicial system is not only for the rich. What is wrong with that? . . . That is what America is all about.''

That is the aim of this bill. After years of grossly underfunding this essential program, denying legal representation to millions of low-income citizens, and denying legal aid lawyers the full panoply of tools they need to represent their clients effectively, this bill will fulfill the promise of our Constitution. ''Equal Justice Under Law'' will be more than an ideal chiseled on a marble façade, it will be a concrete reality for millions of our citizens, who, today, are denied it. I urge my colleagues to support this important bill.

I am proud to join Senator HARKIN, along with Senator KENNEDY, SENATOR KERRY, Senator MIKULSKI, Senator DURBIN, Senator LAUTENBERG, Senator MCCASKILL, and Senator MERKLEY on this important legislation to reauthorize the Legal Services Corporation, LSC. I thank Senator HARKIN for his hard work and dedication to this issue. Along with reauthorizing the funding for the LSC, the bill also removes several restrictions that have encumbered the efforts of legal services providers around the country.

The funding authorization in this legislation will help ensure that in future years, the Legal Services Corporation, and all of the state legal aid organizations it assists, will continue the critical work they do to help lower-income American citizens who need legal assistance. Similar to the Sixth Amendment's requirement that an indigent criminal defendant be provided counsel, the voice that legal aid attorneys give to the less fortunate among us is an indispensable component of a fair justice system. What Justice Hugo Black called the ''noble ideal'' of a fair and impartial trial is extended through the work of those around the country who serve their fellow citizens in our courts. This reauthorization will continue the policy of the Federal Government to provide assistance to those who seek access to the courts in civil matters.

As part of this reauthorization, and in an effort to support the integrity of the LSC, the bill codifies recommendations made by the Government Accountability Office, GAO, related to the LSC's corporate governance. The Senate Judiciary Committee held a hearing in May 2008 in part to shed light on these recommendations, and to give the LSC an opportunity to respond about plans to address the problems identified by the GAO. The LSC's leadership has been open and responsive to making improvements, and including these recommendations in the bill will assist the LSC in strengthening its governance practices for the future.

This legislation also takes the long-overdue step of removing several of the restrictions that have hindered legal aid organizations for too long. But I wish to make clear that the restrictions on both state and Federal funds prohibiting litigation involving reproductive rights remain in place. Several restrictions on Federal funds remain: the use of Federal funds for litigation concerning unlawful immigrants, prison conditions, and certain eviction cases involving the sale of illegal drugs in public housing, will remain prohibited. But many of the restrictions this bill finally lifts are the product of an ideology long since rejected by the American people. It is time for Congress to reconsider the usefulness of these restrictions in providing the services that so many Americans desperately need.

All Americans should understand the effects of these restrictions on the provision of legal services for lower-income citizens. Chief among them is the overarching requirement prohibiting the use of non-Federal funds for enumerated purposes when legal aid organizations accept Federal funding from the LSC. Currently, non-federal funds received by legal aid providers that also accept LSC funding are subject to the same restrictions that Federal funds are. This has resulted in a waste of resources that providers can ill afford. For example, a legal aid provider that wishes to use state, foundation, or other private funding as it sees fit must physically segregate its operations so that funds from the two sources are administered separately through duplicated processes. In this era of economic difficulty, the impact of every Federal and state dollar provided to help Americans must be maximized. This requirement has resulted in little more than wasted resources. Legal aid providers are capable of honoring Federal restrictions without the necessity of such an onerous approach.

The legislation also removes restrictions that currently prohibit legal aid attorneys from receiving attorney's fees, as authorized by law, in cases in which they prevail. Contrary to arguments that claim such a practice would cause legal aid attorneys to act unethically or out of an interest divergent from the legitimate needs of their clients, allowing these fees to be retained would help shift the cost of wrongdoing from the Federal Government to the wrongdoer. Moreover, allowing legal aid attorneys to retain these fees when merited would provide increased assistance to the organizations for which they work. In an effort to monitor the effect of removing this restriction, the legislation requires all fees received to be reported to the LSC.

The bill removes restrictions on class action suits by legal aid providers. Contrary to the popular rhetoric, in some cases class action suits can maximize the benefits provided by legal aid organizations by allowing similarly situated plaintiffs to pursue their rights in a single case. The legislation does restrict class action suits to actions based on established law, and thus is intended to discourage truly frivolous suits. Additionally, the legislation removes the restriction prohibiting legal aid providers from lobbying their elected officials. Allowing legal aid providers to advocate on behalf of those they serve will advance civil justice issues and raise the awareness of lawmakers in matters affecting many Americans. And I would remind those who would disparage this practice on the part of legal aid providers that many of the financial institutions that the American taxpayers have recently bailed out continue to lobby extensively in Washington. If banks that have been bailed out with taxpayer money can freely access their elected officials, so too should those who represent the least politically powerful among us.

I hope all Senators will give serious consideration to reauthorizing the Legal Services Corporation and ending many of the restrictions that have burdened the provision of legal services to so many American citizens. Lawyers across the U.S. have dedicated their lives to helping the least fortunate among us gain access to the courts that serve us all. These lawyers play a critical role in ensuring that justice is carried out in a manner consistent with the Constitution's promise, and when justice is served fairly, it benefits us all. I hope all Senators will join us in support of this legislation.

By Mr. UDALL, of Colorado (for himself and Mr. BENNET):

S. 720. A bill to provide a source of funds to carry out restoration activities on Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, I am today introducing a bill to provide additional resources for use by the Federal land-managing agencies to restore lands damaged as a result of legal violations and to promote public education about the use of the Federal lands. This bill is similar to one I introduced in the U.S. House of Representatives in the 110th Congress, H.R. 1463. I would like to thank Sen. BENNET for joining me as a cosponsor.

The large majority of people who use and enjoy our national public lands respect those lands and facilities and do not deliberately damage them. They abide by our laws and regulations that

are designed to preserve and protect these lands and facilities for future generations to enjoy and appreciate. Unfortunately, there are some who violate those laws and regulations and in so doing damage the lands and facilities. Violators who are caught can face fines and penalties. This bill would direct the Federal public land agencies to apply the funds collected as fines to help restore the lands and facilities that may have been damaged due to the violations.

The purpose of this bill is to assist the land-managing agencies—the Bureau of Land Management, National Park Service, and the Fish and Wildlife Service in the Interior Department as well as the Forest Service in the Agriculture Department—by allowing the money collected as fines to be used for repairing damage caused by the actions that lead to the fines or by similar actions instead of going to the U.S. Treasury. It would also allow them to use the money to increase public awareness of regulations and other requirements regarding use of Federal lands. It provides that any of the money not needed for those purposes would be credited to the Crime Victims Fund in the Treasury.

Allowing these funds to be used in this manner will not likely repair the all of the damage caused by illegal activities in most instances, but it will at least provide some assistance.

The genesis for this bill stemmed from a number of illegal activities that created significant damage to Federal public lands and facilities. Let me highlight just a couple of these.

As many may remember, Colorado experienced one of its worst fires in 2002, the Hayman Fire. This fire torched over 130,000 acres in the watershed of the Denver metropolitan area. It also destroyed 133 homes and forced the evacuation of over 5,000 people. After the fire, which was exceedingly hot and fast moving, a major thunderstorm pummeled the then-barren ground and washed debris and sediment into the Strontia Springs Reservoir, a major drinking water supply for Denver, hampering its capacity. Tragically, one person died of a heart attack during this fire, five firefighters were killed in a car crash on the way to the fire, and two people were killed during the subsequent thunderstorm and flooding. It was later learned that the fire was caused by the illegal actions of a former Forest Service employee. That person was later fined and jailed. This bill would allow the Forest Service to apply those fines collected to help restore the lands damaged by this fire.

Other examples involve off-road vehicles. Throughout the west, and especially in Colorado, increased growth and development has resulted in an increase in recreational use of our public lands. These recreational uses have, in some cases, stressed the capacity of the public land agencies to adequately control and manage such use. As a result, areas of our public lands are being damaged. These impacts can include: damage to wildlife habitat; increased run-off and sediment pollution in rivers and streams,; damage to sensitive high-altitude tundra, desert soils, and wetlands; creation of ruts and other visual impacts on the landscape; loss of quiet and secluded areas of the public lands; and adverse effects on wildlife.

Recreational off-road vehicle use on our public lands should be allowed to continue, but it must be managed to minimize or avoid these problems by appropriate restrictions and putting some sensitive areas off-limits to vehicle use. Again, most vehicle users are responsible—they stay on designated roads and trails, they are respectful of the landscape and they endeavor to tread lightly. However, there are a number of such users who do not obey the rules. Given the nature of this use, large, powerful motorized vehicles that are able to penetrate deeper and deeper into previously secluded areas, even a relatively few who violate management requirements can create serious damage to public land resources.

For example, in the summer of 2000 two recreational off-road vehicle users ignored closure signs while four-wheel driving on Bureau of Land Management land high above Silverton, Colorado. As a result, they got stuck for five days on a 70 percent slope at 12,500 feet along the flanks of Houghton Mountain. At first, they abandoned their vehicles. Then, they returned with other vehicles to pull their vehicles out of the mud and off the mountain. The result was significant damage to the high alpine tundra, a delicate ecosystem that may take thousands of years to recover. As noted in a Denver Post story about this incident, ''alpine plant life has evolved to withstand freezing temperatures, nearly year-round frost, drought, high winds and intense solar radiation, but it is helpless against big tires.'' The violators at this incident were fined. Again, this bill would allow those fines to be applied to address the specific damage that resulted.

These are but two examples. Regrettably, there have been many more such examples not only in Colorado but also throughout the west. These examples underscore the nature of the problem that this bill would address. This bill would give the Federal public land agencies the ability to apply resources to recover damaged lands from illegal activities.

This is a modest bill but an important one. I think it deserves the support of our colleagues and I will do all I can to achieve its enactment into law.

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. 720

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

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Land Restoration, Enhancement, Public Education, and Information Resources Act'' or the ''Federal Land REPAIR Act''.

(b) FINDINGS.—Congress finds that—

(1) violations of laws (including regulations) applicable to the use of Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture often result in damages to the Federal land that require expenditures for restoration activities to mitigate the damages;

(2) increased public information and education regarding the laws (including regulations) applicable to the use of the Federal land can help to reduce the frequency of unintentional violations; and

(3) it is appropriate that fines and other monetary penalties paid as a result of violations of laws (including regulations) applicable to the use of Federal land be used to defray the costs of the restoration activities and to provide public information and education.

SEC. 2. USE OF FINES FROM VIOLATIONS OF LAWS AND REGULATIONS APPLICABLE TO PUBLIC LAND FOR RESTORATION AND INFORMATIONAL ACTIVITIES.

(a) LAND UNDER JURISDICTION OF BUREAU OF LAND MANAGEMENT.—Section 305 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1735) is amended by adding at the end the following:

''(d) USE OF COLLECTED FINES.—

''(1) AVAILABILITY AND AUTHORIZED USE.—Any amounts received by the United States as a result of a fine imposed under section 3571 of title 18, United States Code, for a violation of a regulation prescribed under section 303(a) shall be available to the Secretary, without further appropriation and until expended—

''(A) to cover the cost to the United States of any improvement, protection, or rehabilitation work on public land rendered necessary by the action that led to the fine or by similar actions; and

''(B) to increase public awareness of regulations and other requirements regarding the use of public land.

''(2) TREATMENT OF EXCESS FUNDS.—Amounts referred to in paragraph (1) that the Secretary determines are in excess of the amounts necessary to carry out the purposes specified in that paragraph shall be transferred to the Crime Victims Fund established by section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).''.

(b) NATIONAL PARK SYSTEM LANDS.—Section 3 of the National Park Service Organic Act (16 U.S.C. 3), is amended—

(1) by striking ''That the Secretary'' the first place it appears and inserting ''(a) REGULATIONS FOR USE AND MANAGEMENT OF NATIONAL PARK SYSTEM; ENFORCEMENT.—The Secretary'';

(2) by striking ''He may also'' the first place it appears and inserting the following:

''(b) SPECIAL MANAGEMENT AUTHORITIES.—

''(1) IN GENERAL.—The Secretary of the Interior may'';

(3) by striking ''He may also'' the second place it appears and inserting the following:

''(2) DETRIMENTAL ANIMALS AND PLANTS.—The Secretary may;''.

(4) by striking ''No natural,'' and inserting the following:

''(c) LEASE AND PERMIT AUTHORITIES.—No natural''; and

(5) by adding at the end the following:

''(d) USE OF COLLECTED FINES.—

''(1) AVAILABILITY AND AUTHORIZED USE.—Any amounts received by the United States as a result of a fine imposed under section 3571 of title 18, United States Code, for a violation of a rule or regulation prescribed under this section shall be available to the Secretary of the Interior, without further appropriation and until expended—

''(A) to cover the cost to the United States of any improvement, protection, or rehabilitation work on the National Park System land rendered necessary by the action that led to the fine or by similar actions; and

''(B) to increase public awareness of rules, regulations, and other requirements regarding the use of National Park System land.

''(2) TREATMENT OF EXCESS FUNDS.—Amounts referred to in paragraph (1) that the Secretary determines are in excess of the amounts necessary to carry out the purposes specified in that paragraph shall be transferred to the Crime Victims Fund established by section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).''.

(c) NATIONAL WILDLIFE REFUGE SYSTEM LANDS.—Section 4(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended by adding at the end the following:

''(3) USE OF COLLECTED FINES.—Any amounts received by the United States as a result of a fine imposed under section 3571 of title 18, United States Code, for a violation of this Act (including a regulation issued under this Act) shall be available to the Secretary, without further appropriation and until expended—

''(A) to cover the cost to the United States of any improvement, protection, or rehabilitation work on System land rendered necessary by the action that led to the fine or by similar actions; and

''(B) to increase public awareness of rules, regulations, and other requirements regarding the use of System land.

''(4) TREATMENT OF EXCESS FUNDS.—Amounts referred to in paragraph (3) that the Secretary determines are in excess of the amounts necessary to carry out the purposes specified in that paragraph shall be transferred to the Crime Victims Fund established by section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).''.

(d) NATIONAL FOREST SYSTEM LAND.—The eleventh undesignated paragraph under the heading ''SURVEYING THE PUBLIC LANDS'' of the Act of June 4, 1897 (16 U.S.C. 551), is amended—

(1) by striking ''The Secretary'' and inserting the following:

''SEC. 3. PROTECTION OF NATIONAL FOREST SYSTEM LAND; REGULATIONS.

''(a) REGULATIONS FOR USE AND PROTECTION OF NATIONAL FOREST SYSTEM.—

''(1) IN GENERAL.—The Secretary'';

(2) by striking ''continued; and he may'' and inserting the following: ''continued.

''(2) REGULATIONS.—The Secretary may'';

(3) by striking ''destruction; and any violation'' and inserting the following: ''destruction.

''(b) VIOLATIONS; PENALTIES.—

''(1) IN GENERAL.—Any violation'';

(4) by striking ''Any person'' and inserting the following:

''(2) MAGISTRATE JUDGE.—Any person'';

(5) by adding at the end the following:

''(c) USE OF COLLECTED FINES.—

''(1) AVAILABILITY AND AUTHORIZED USE.—Any amounts received by the United States as a result of a collateral payment in lieu of appearance or a fine imposed under section 3571 of title 18, United States Code, for a violation of a regulation issued under subsection (a) shall be available to the Secretary of Agriculture, without further appropriation and until expended—

''(A) to cover the cost to the United States of any improvement, protection, or rehabilitation work on National Forest System land rendered necessary by the action that led to the fine or payment; and

''(B) to increase public awareness of rules, regulations, and other requirements regarding the use of National Forest System land.

''(2) TREATMENT OF EXCESS FUNDS.—Amounts referred to in paragraph (1) that the Secretary of Agriculture determines are in excess of the amounts necessary to carry out the purposes specified in that paragraph shall be transferred to the Crime Victims Fund established by section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).''; and

(6) by moving section 3 (as designated by paragraph (1)) so as to appear at the end of that Act.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 721. A bill to expand the Alpine Lakes Wilderness in the State of Washington, to designate the Middle Fork Snoqualmie Ricer and Pratt River as wild and scenic rivers, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. MURRAY. 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. 721

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 ''Alpine Lakes Wilderness Additions and Pratt and Middle Fork Snoqualmie Rivers Protection Act''.

SEC. 2. EXPANSION OF ALPINE LAKES WILDERNESS.

(a) IN GENERAL.—There is designated as wilderness and as a component of the National Wilderness Preservation System certain Federal land in the Mount Baker-Snoqualmie National Forest in the State of Washington comprising approximately 22,100 acres, as generally depicted on the map entitled ''Proposed Alpine Lakes Wilderness Additions'' and dated March 23, 2009, which is incorporated in and shall be considered to be a part of the Alpine Lakes Wilderness.

(b) ADMINISTRATION.—

(1) MANAGEMENT.—Subject to valid existing rights, the land designated as wilderness by subsection (a) shall be administered by the Secretary of Agriculture (referred to in this section as the ''Secretary''), in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in that Act to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act.

(2) MAP AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by subsection (a) with—

(i) the Committee on Natural Resources of the House of Representatives; and

(ii) the Committee on Energy and Natural Resources of the Senate.

(B) FORCE OF LAW.—A map and legal description filed under subparagraph (A) shall have the same force and effect as if included in this Act, except that the Secretary may correct errors in the map and legal description.

(C) PUBLIC AVAILABILITY.—Each map and legal description filed under subparagraph (A) shall be filed and made available for public inspection in the appropriate office of the Secretary.

(c) INCORPORATION OF ACQUIRED LAND AND INTEREST.—Any land within the boundary of the land designated as wilderness by subsection (a) that is acquired by the United States shall—

(1) become part of the wilderness area; and

(2) be managed in accordance with subsection (b)(1).

SEC. 3. WILD AND SCENIC RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

''(171) MIDDLE FORK SNOQUALMIE, WASHINGTON.—The 27.4-mile segment from the headwaters of the Middle Fork Snoqualmie River near La Bohn Gap in NE ¼ sec. 20, T. 24 N., R. 13 E., to the northern boundary of sec.11, T. 23 N., R. 9 E., to be administered by the Secretary of Agriculture in the following classifications:

''(A) The approximately 6.4-mile segment from the headwaters of the Middle Fork Snoqualmie River near La Bohn Gap in NE ¼ sec. 20, T. 24 N., R. 13 E., to the west section line of sec. 3, T. 23 N., R. 12 E., as a wild river.

''(B) The approximately 21-mile segment from the west section line of sec. 3, T. 23 N., R. 12 E., to the northern boundary of sec. 11, T. 23 N., R. 9 E., as a scenic river.

''(172) PRATT RIVER, WASHINGTON.—The entirety of the Pratt River in the State of Washington, located in the Mount Baker-Snoqualmie National Forest, to be administered by the Secretary of Agriculture as a wild river.''.

By Mr. BAUCUS (for himself, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 722. A bill to amend the Internal Revenue Code of 1986 to provide for permanent alternative minimum tax relief, middle class tax relief, and estate tax relief, and to permanently extend certain expiring provisions, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, there is a storm brewing. This storm is not an act of God. It is man-made. It is coming to a head next year.

The 2001 tax cut law gave much-needed tax relief to families with children. It gave much-needed tax relief to families with college students. It gave much-needed relief to family-owned businesses.

I worked on those tax cuts. I believed in them.

But the provisions in that bill expire on December 31, 2010.

Since the day that we passed that bill, we have passed others. These other bills expanded and enhanced some of the 2001 provisions that help America's families.

Next year, all that we have done disappears. American families are left in a state of uncertainty. This uncertainty undermines confidence in the Government and the future.

That is why, today, I am introducing the Taxpayer Certainty and Relief Act of 2009.

This bill would make permanent several expiring provisions that help families.

This bill would make permanent the tax cuts for the 10 percent, 15 percent, 25 percent, and 25 percent tax brackets. Without this change, taxpayers would experience up to a $5,000 tax increase. This bill would make permanent the lower capital gains rates for taxpayers in these brackets.

This bill would makes permanent the marriage penalty relief enacted in 2001. This would guaranty that married couples would not be penalized when they take their wedding vows.

This bill would also make permanent the $1,000 child tax credit. It would also make permanent the refundable child tax credit, with a threshold of $3,000, that was recently passed as part of the American Recovery and Reinvestment Act.

This is important because prior to the 2001 bill, this credit was $500 and not refundable.

This bill would make permanent the expansion of the earned income tax credit. As a result, married couples would get more relief and families with three or more children would get a larger credit.

The bill would help working men and women by making permanent the changes to the dependent and child care credit. This credit helps cover the increased expenses of providing child care during a time when everyone is struggling to stay employed and weather this economic downturn.

This bill would also make permanent the increased credit for adoption. Giving a child a home and love is expensive. Families that adopt children have a lot of expenses. This bill would continue to give a $10,000 credit for adoption expenses.

These provisions recognize the increased cost of raising children. Congress values families and wants every family to succeed.

Another problem that Congress has to tackle every year is the Alternative Minimum Tax, or the AMT. This tax creeps up on millions of taxpayers every year. Every year, Congress holds this monster at bay, making sure no new taxpayers pay this horrible tax.

As a result, the number of taxpayers paying the AMT remains at just over 4 million. Without Congress's action, 26 million people would have to pay this tax.

This bill would permanently fix the AMT. It sets the exemption at 2009 levels and indexes it for future years. It also allows the AMT against the nonrefundable credits.

Finally, this bill would offer certainty on the estate tax. This is something that I have tried to get done over and over again. The Finance Committee held several hearings discussing this tax. This bill makes permanent current law. This bill would set the exemption at $3.5 million, or $7 million for married couples. It would also set the tax rate at 45 percent.

We have also made some other needed fixes. This bill would unify the gift and estate taxes. This bill would also allow a decedent spouse to transfer any unused exemption to the surviving spouse. This is known as portability.

I believe that this bill is just the beginning. I realize there are other tax cuts that need to be made permanent. For example, I hope to address education issues later this year.

But today, let us begin to give working families some shelter from the coming storm.

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. 722

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Taxpayer Certainty and Relief Act of 2009''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—PERMANENT ALTERNATIVE MINIMUM TAX RELIEF

Sec. 101. Exemption amounts made permanent.
Sec. 102. Exemption amounts indexed for inflation.
Sec. 103. Alternative minimum tax relief for nonrefundable credits.

TITLE II—PERMANENT MIDDLE CLASS TAX RELIEF

Sec. 201. Permanent reduction in tax rates for lower-income and middle-income individuals.
Sec. 202. Permanent reduction in rates on capital gains for lower-income and middle-income taxpayers.
Sec. 203. Modifications to child tax credit.
Sec. 204. Repeal of sunset on marriage penalty relief.
Sec. 205. Repeal of sunset on expansion of dependent care credit.
Sec. 206. Repeal of sunset on expansion of adoption credit and adoption assistance programs.
Sec. 207. Expansion of earned income tax credit.

TITLE III—PERMANENT ESTATE TAX RELIEF

Sec. 301. Permanent extension of estate tax as in effect in 2009.
Sec. 302. Unified credit increased by unused unified credit of deceased spouse.

TITLE I—PERMANENT ALTERNATIVE MINIMUM TAX RELIEF

SEC. 101. EXEMPTION AMOUNTS MADE PERMANENT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) is amended—

(1) by striking ''$45,000 ($70,950 in the case of taxable years beginning in 2009)'' in subparagraph (A) and inserting ''$70,950 in the case of'',

(2) by striking ''$33,750 ($46,700 in the case of taxable years beginning in 2009)'' in subparagraph (B) and inserting ''$46,700 in the case of an individual who'', and

(3) by striking ''paragraph (1)(A)'' in subparagraph (C) and inserting ''subparagraph (A)''.

(b) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 701 of such Act (relating to increase in alternative minimum tax exemption).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 102. EXEMPTION AMOUNTS INDEXED FOR INFLATION.

(a) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2009, each of the dollar amounts contained in subsection (b)(1)(A)(i) and paragraphs (1)(A), (1)(B), (1)(D), (3)(A), and (3)(B) of this subsection shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2008' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING.—Any increase determined under subparagraph (A) shall be rounded to the nearest multiple of $100.''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 55(b)(1)(A) is amended by striking ''by substituting'' and all that follows through ''appears.'' and inserting ''by substituting 50 percent of the dollar amount otherwise applicable under subclause (I) and subclause (II) thereof''.

(2) Paragraph (3) of section 55(d) is amended—

(A) by striking ''or (2)'' in subparagraph (A),

(B) by striking ''and'' at the end of subparagraph (B), and

(C) by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) 50 percent of the dollar amount applicable under subparagraph (A) in the case of a taxpayer described in subparagraph (C) or (D) of paragraph (1), and

''(D) $150,000 in the case of a taxpayer described in paragraph (2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 103. ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE CREDITS.

(a) IN GENERAL.—Subsection (a) of section 26 is amended to read as follows:

''(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

''(1) the taxpayer's regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27(a), and

''(2) the tax imposed by section 55(a) for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) ADOPTION CREDIT.—

(A) Section 23(b) is amended by striking paragraph (4).

(B) Section 23(c) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 25D and 1400C), such excess shall be carried to the succeeding taxable year and added to the

credit allowable under subsection (a) for such taxable year.''.

(C) Section 23(c) is amended by redesignating paragraph (3) as paragraph (2).

(2) CHILD TAX CREDIT.—

(A) Section 24(b) is amended by striking paragraph (3).

(B) Section 24(d)(1) is amended—

(i) by striking ''section 26(a)(2) or subsection (b)(3), as the case may be,'' each place it appears in subparagraphs (A) and (B) and inserting ''section 26(a)'', and

(ii) by striking ''section 26(a)(2) or subsection (b)(3), as the case may be'' in the second last sentence and inserting ''section 26(a)''.

(3) CREDIT FOR INTEREST ON CERTAIN HOME MORTGAGES.—Section 25(e)(1)(C) is amended to read as follows:

''(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term 'applicable tax limit' means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 25D, and 1400C).''.

(4) SAVERS' CREDIT.—Section 25B is amended by striking subsection (g).

(5) RESIDENTIAL ENERGY EFFICIENT PROPERTY.—Section 25D(c) is amended to read as follows:

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(6) CERTAIN PLUG-IN ELECTRIC VEHICLES.—Section 30(c)(2) is amended to read as follows:

''(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(7) ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(g)(2) is amended to read as follows:

''(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(8) NEW QUALIFIED PLUG-IN ELECTRIC VEHICLE CREDIT.—Section 30D(c)(2) is amended to read as follows:

''(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(9) CROSS REFERENCES.—Section 55(c)(3) is amended by striking ''26(a), 30C(d)(2),'' and inserting ''30C(d)(2)''.

(10) FOREIGN TAX CREDIT.—Section 904 is amended by striking subsection (i) and by redesignating subsections (j) , (k), and (l) as subsections (i), (j), and (k), respectively.

(11) FIRST-TIME HOME BUYER CREDIT FOR THE DISTRICT OF COLUMBIA.—Section 1400C(d) is amended to read as follows:

''(d) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

TITLE II—PERMANENT MIDDLE CLASS TAX RELIEF

SEC. 201. PERMANENT REDUCTION IN TAX RATES FOR LOWER-INCOME AND MIDDLE-INCOME INDIVIDUALS.

(a) IN GENERAL.—Paragraph (2) of section 1(i) is amended to read as follows:

''(2) REDUCTION IN RATES.—The tables under subsections (a), (b), (c), (d), and (e) shall be applied—

''(A) in the case of taxable years beginning after 2008—

''(i) by substituting '25%' for '28%' each place it appears (before the application of clause (ii)), and

''(ii) by substituting '28%' for '31%' each place it appears, and

''(B) in the case of taxable years beginning in 2009 and 2010—

''(i) by substituting '33%' for '36%' each place it appears, and

''(ii) by substituting '35%' for '39.6%' each place it appears.''.

(b) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 101 of such Act (relating to reduction in income tax rates for individuals).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 202. PERMANENT REDUCTION IN RATES ON CAPITAL GAINS FOR LOWER-INCOME AND MIDDLE-INCOME TAXPAYERS.

(a) IN GENERAL.—

(1) REGULAR TAX.—Section 1(h)(1) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by striking subparagraph (C) and inserting the following:

''(C) 15 percent of the lesser of—

''(i) so much of the adjusted net capital gain (or, if less, taxable income) as exceeds the amount on which a tax is determined under subparagraph (B), or

''(ii) the excess (if any) of—

''(I) amount of taxable income which would (without regard to this paragraph) be taxed at a rate below the second highest tax rate, over

''(II) the greater of the amounts determined under clauses (i) and (ii) of subparagraph (B);

''(D) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the sum of the amounts on which tax is determined under subparagraphs (B) and (C);''.

(2) MINIMUM TAX.—Section 55(b)(3) is amended by redesignating subparagraph (D) as subparagraphs (E) and by striking subparagraph (C) and inserting the following:

''(C) 15 percent of the lesser of—

''(i) so much of the adjusted net capital gain (or, if less, taxable excess) as exceeds the amount on which tax is determined under subparagraph (B), or

''(ii) the excess described in section 1(h)(1)(C)(ii), plus

''(D) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the sum of the amounts on which tax is determined under subparagraphs (B) and (C), plus''.

(3) CONFORMING AMENDMENTS.—

(A) The following sections are each amended by striking ''15 percent'' and inserting ''20 percent'':

(i) Section 1445(e)(1).

(ii) The second sentence of section 7518(g)(6)(A).

(iii) Section 53511(f)(2) of title 46, United States Code.

(B) Section 1(h)(1)(B) is amended by striking ''5 percent (0 percent in the case of taxable years beginning after 2007)'' and inserting ''0 percent''.

(C) Section 55(b)(3)(B) is amended by striking ''5 percent (0 percent in the case of taxable years beginning after 2007)'' and inserting ''0 percent''.

(D) Section 1445(e)(6) is amended by striking ''15 percent (20 percent in the case of taxable years beginning after December 31, 2010)'' and inserting ''20 percent''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(2) WITHHOLDING.—The amendment made by subsection (a)(3)(A)(i) shall apply to amounts paid on or after January 1, 2011.

(c) REPEAL OF JGTRRA SUNSET.—Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is repealed.

SEC. 203. MODIFICATIONS TO CHILD TAX CREDIT.

(a) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 201 (relating to modifications to child tax credit) and 203 (relating to refunds disregarded in the administration of federal programs and federally assisted programs) of such Act.

(b) MODIFICATION OF THRESHOLD AMOUNT.—

(1) IN GENERAL.—Clause (i) of section 24(d)(1)(B) is amended by striking ''$10,000'' and inserting ''$3,000''.

(2) REPEAL OF INFLATION ADJUSTMENT TO EARNED INCOME BASE.—Subsection (d) of section 24 (relating to portion of credit refundable) is amended by striking paragraph (3).

(3) CONFORMING AMENDMENT.—Section 24(d) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 204. REPEAL OF SUNSET ON MARRIAGE PENALTY RELIEF.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 301, 302, and 303(a) of such Act (relating to marriage penalty relief).

SEC. 205. REPEAL OF SUNSET ON EXPANSION OF DEPENDENT CARE CREDIT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 204 of such Act (relating to dependent care credit).

SEC. 206. REPEAL OF SUNSET ON EXPANSION OF ADOPTION CREDIT AND ADOPTION ASSISTANCE PROGRAMS.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to section 202 of such Act (relating to expansion of adoption credit and adoption assistance programs).

SEC. 207. EXPANSION OF EARNED INCOME TAX CREDIT.

(a) REPEAL OF EGTRRA SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to subsections (b) through (h) of section 303 of such Act (relating to earned income tax credit).

(b) INCREASE IN CREDIT PERCENTAGE FOR FAMILIES WITH 3 OR MORE CHILDREN.—Paragraph (1) of section 32(b) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

''(B) INCREASED CREDIT PERCENTAGE FOR FAMILIES WITH 3 OR MORE QUALIFYING CHILDREN.—In the case of an eligible individual with 3 or more qualifying children, the table in subparagraph (A) shall be applied by substituting '45' for '40' in the second column thereof.''.

(c) JOINT RETURNS.—

(1) IN GENERAL.—Subparagraph (B) of section 32(b)(2) is amended by striking ''increased by'' and all that follows and inserting ''increased by $5,000.''

(2) INFLATION ADJUSTMENTS.—Clause (ii) of section 32(j)(1)(B) is amended—

(A) by striking ''$3,000'' and inserting ''$5,000'', and

(B) by striking ''calendar year 2007'' and inserting ''calendar year 2008''.

(d) CONFORMING AMENDMENT.—Section 32(b) is amended by striking paragraph (3).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

TITLE III—PERMANENT ESTATE TAX RELIEF

SEC. 301. PERMANENT EXTENSION OF ESTATE TAX AS IN EFFECT IN 2009.

(a) RESTORATION OF UNIFIED CREDIT AGAINST GIFT TAX.—Paragraph (1) of section 2505(a) (relating to general rule for unified credit against gift tax), after the application of subsection (g), is amended by striking ''(determined as if the applicable exclusion amount were $1,000,000)''.

(b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT EQUAL TO $3,500,000.—Subsection (c) of section 2010 (relating to unified credit against estate tax) is amended to read as follows:

''(c) APPLICABLE CREDIT AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable credit amount is the amount of the tentative tax which would be determined under section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount.

''(2) APPLICABLE EXCLUSION AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the applicable exclusion amount is $3,500,000.

''(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2010, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.''.

(c) MAXIMUM ESTATE TAX RATE EQUAL TO 45 PERCENT.—

(1) IN GENERAL.—Subsection (c) of section 2001 (relating to imposition and rate of tax) is amended—

(A) by striking ''but not over $2,000,000'' in the table contained in paragraph (1),

(B) by striking the last 2 items in such table,

(C) by striking ''(1) IN GENERAL.—'', and

(D) by striking paragraph (2).

(2) CONFORMING AMENDMENT.—Paragraphs (1) and (2) of section 2102(b) are amended to read as follows:

''(1) IN GENERAL.—A credit in an amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $60,000 shall be allowed against the tax imposed by section 2101.

''(2) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a 'nonresident not a citizen of the United States' under section 2209, the credit allowed under this subsection shall not be less than the proportion of the amount that would be determined under section 2010 as the applicable credit amount if the applicable exclusion amount were $175,000 which the value of that part of the decedent's gross estate which at the time of the decedent's death is situated in the United States bears to the value of the decedent's entire gross estate, wherever situated.''.

(d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) (relating to computation of tax) is amended by striking ''if the provisions of subsection (c) (as in effect at the decedent's death)'' and inserting ''if the modifications described in subsection (g)''.

(B) MODIFICATIONS.—Section 2001 is amended by adding at the end the following new subsection:

''(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent's death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

''(1) the tax imposed by chapter 12 with respect to such gifts, and

''(2) the credit allowed against such tax under section 2505, including in computing—

''(A) the applicable credit amount under section 2505(a)(1), and

''(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).

For purposes of paragraph (2)(A), the applicable credit amount for any calendar year before 1998 is the amount which would be determined under section 2010(c) if the applicable exclusion amount were the dollar amount under section 6018(a)(1) for such year.''.

(2) GIFT TAX.—Section 2505(a) (relating to unified credit against gift tax) is amended by adding at the end the following new flush sentence:

''For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.''.

(e) INCREASE IN AGGREGATE REDUCTION IN FAIR MARKET VALUE ALLOWED UNDER SPECIAL USE VALUATION.—Section 2032A(a) (relating to value based on use under which property qualifies) is amended—

(1) by striking ''$750,000'' in paragraph (2) and inserting ''$3,500,000,

(2) by striking ''1998'' in paragraph (3) and inserting ''2010'',

(3) by striking ''$750,000'' in paragraph (3) and inserting ''$3,500,000'', and

(4) by striking ''1997'' in paragraph (3) and inserting ''2009''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

(g) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

(1) IN GENERAL.—The following provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, and the amendments made by such provisions, are hereby repealed:

(A) Subtitles A and E of title V.

(B) Subsection (d), and so much of subsection (f)(3) as relates to subsection (d), of section 511.

(C) Paragraph (2) of subsection (b), and paragraph (2) of subsection (e), of section 521. The Internal Revenue Code of 1986 shall be applied as if such provisions and amendments had never been enacted.

(2) SUNSET NOT TO APPLY TO TITLE V OF EGTRRA.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to title V of such Act.

(3) REPEAL OF DEADWOOD.—

(A) Sections 2011, 2057, and 2604 are hereby repealed.

(B) The table of sections for part II of subchapter A of chapter 11 is amended by striking the item relating to section 2011.

(C) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(D) The table of sections for subchapter A of chapter 13 is amended by striking the item relating to section 2604.

SEC. 302. UNIFIED CREDIT INCREASED BY UNUSED UNIFIED CREDIT OF DECEASED SPOUSE.

(a) IN GENERAL.—Section 2010(c), as amended by section 301(b), is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) APPLICABLE EXCLUSION AMOUNT.—For purposes of this subsection, the applicable exclusion amount is the sum of—

''(A) the basic exclusion amount, and

''(B) in the case of a surviving spouse, the aggregate deceased spousal unused exclusion amount.

''(3) BASIC EXCLUSION AMOUNT.—

''(A) IN GENERAL.—For purposes of this subsection, the basic exclusion amount is $3,500,000.

''(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2010, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000.

''(4) AGGREGATE DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—For purposes of this subsection, the term 'aggregate deceased spousal unused exclusion amount' means the lesser of—

''(A) the basic exclusion amount, or

''(B) the sum of the deceased spousal unused exclusion amounts computed with respect to each deceased spouse of the surviving spouse.

''(5) DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—For purposes of this subsection, the term 'deceased spousal unused exclusion amount' means, with respect to the surviving spouse of any deceased spouse dying after December 31, 2009, the excess (if any) of—

''(A) the basic exclusion amount of the deceased spouse, over

''(B) the amount with respect to which the tentative tax is determined under section 2001(b)(1) on the estate of such deceased spouse.

''(6) SPECIAL RULES.—

''(A) ELECTION REQUIRED.—A deceased spousal unused exclusion amount may not be taken into account by a surviving spouse under paragraph (5) unless the executor of the estate of the deceased spouse files an estate tax return on which such amount is computed and makes an election on such return that such amount may be so taken into account. Such election, once made, shall be irrevocable. No election may be made under this subparagraph if such return is filed after the time prescribed by law (including extensions) for filing such return.

''(B) EXAMINATION OF PRIOR RETURNS AFTER EXPIRATION OF PERIOD OF LIMITATIONS WITH

RESPECT TO DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—Notwithstanding any period of limitation in section 6501, after the time has expired under section 6501 within which a tax may be assessed under chapter 11 or 12 with respect to a deceased spousal unused exclusion amount, the Secretary may examine a return of the deceased spouse to make determinations with respect to such amount for purposes of carrying out this subsection.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 2505(a), as amended by section 301(a), is amended to read as follows:

''(1) the applicable credit amount in effect under section 2010(c) which would apply if the donor died as of the end of the calendar year, reduced by''.

(2) Section 2631(c) is amended by striking ''the applicable exclusion amount'' and inserting ''the basic exclusion amount''.

(3) Section 6018(a)(1) is amended by striking ''applicable exclusion amount'' and inserting ''basic exclusion amount''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

By Mr. WYDEN (for himself, Ms. COLLINS, Mr. DODD, and Mr. CARPER):

S. 723. A bill to prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, today, I am joining my colleagues from Maine, Connecticut, and Delaware, in introducing the Protect Children from Dangerous Lighters Act, a ban on novelty cigarette lighters.

Novelty lighters, also known as toy-like lighters, are cigarette lighters that look like small children's toys or regular household items. In the hands of small children they can be very dangerous. Because they are so well disguised as toys, a child could easily pick one up to play with it without realizing that it could be very hazardous.

The result of this mistake can be deadly: In Oregon, two boys were playing with a novelty lighter disguised as a toy dolphin and accidently started a serious fire, causing the death of one boy and the permanent brain damage of the other. Also in Oregon, a mother suffered third degree burns on her foot when her child was playing with a novelty lighter shaped like a small toy Christmas tree and set a bed on fire.

Incidents like these happen all over the country. In Maine, a young boy took a miniature baseball bat off a shelf at a convenience store, accidentally ignited a flame and seared his eyebrow. In North Carolina, a boy sustained second degree burns after playing with a novelty lighter that looked like a toy cell phone. In one of the most tragic examples, a 2-year-old and a 15-month-old from Arkansas were killed in a fire they accidently started while playing with a novelty lighter shaped like a toy motorcycle.

These injuries and deaths cry out to us to take action and remove these dangerous lighters from shelves everywhere.

A ban on novelty lighters would require the Consumer Product Safety Commission to treat novelty lighters as a banned hazardous substance. That means novelty lighters will not be manufactured, imported, sold, or given away as promotional gifts anywhere in this country. This measure will keep novelty lighters out of the hands of children and prevent injuries like those that have already brought tragedy to too many families.

A number of states and cities have taken it upon themselves to ban these dangerous lighters. Oregon and four other States have already enacted such bans, and thirteen other states are currently considering similar measures. It is clear that this is an important safety issue, and it is time for the Federal Government to pass this bill so that children in all states will be protected.

A Federal ban on novelty lighters has widespread, nationwide support. Along with the Oregon Fire Marshal, the National Association of Fire Marshals supports a federal ban on these lighters and has been active in promoting public awareness on this issue. I want to thank the Congressional Fire Services Institute for their leadership in building support for this bill. The cigarette lighter industry, represented by the Lighter Association, is a partner in supporting a ban on novelty lighters. Finally, consumer groups, such as Safe Kids USA and others have endorsed this approach.

Congress should act now to avoid the suffering caused by the senseless deaths and serious injuries that result from novelty lighters being mistaken for toys. Dangerous tools containing flammable fuel should not be dressed up in packages that are attractive to children; especially when young children do not have the capacity to differentiate these lighters from common toys. Please join me in banning dangerous novelty lighters by cosponsoring the Protect Children from Dangerous Lighters Act.

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. 723

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 ''Protect Children from Dangerous Lighters Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Lighters are inherently dangerous products containing flammable fuel.

(2) If lighters are used incorrectly or used by children, dangerous and damaging consequences may result.

(3) Novelty lighters are easily mistaken by children and adults as children's toys or as common household items.

(4) Novelty lighters have been the cause of many personal injuries to children and adults and property damage throughout the United States.

SEC. 3. NOVELTY LIGHTER DEFINED.

(a) IN GENERAL.—In this Act, the term ''novelty lighter'' means a device typically used for the igniting or lighting of cigarettes, cigars, or pipes that has a toy-like appearance, has entertaining audio or visual effects, or resembles in any way in form or function an item that is commonly recognized as appealing, attractive, or intended for use by children of 10 years of age or younger, including such a device that takes toy-like physical forms, including toy animals, cartoon characters, cars, boats, airplanes, common household items, weapons, cell phones, batteries, food, beverages, musical instruments, and watches.

(b) EXCLUSION.—Such term does not include standard disposable and refillable lighters that are printed or decorated with logos, labels, decals, artwork, or heat shrinkable sleeves.

SEC. 4. BAN ON NOVELTY LIGHTERS.

(a) BANNED HAZARDOUS SUBSTANCE.—A novelty lighter shall be treated as a banned hazardous substance as defined in section 2 of the Federal Hazardous Substances Act (15 U.S.C. 1261) and the prohibitions set out in section 4 of such Act (15 U.S.C. 1263) shall apply to novelty lighters.

(b) APPLICATION.—Subsection (a) applies to a novelty lighter—

(1) manufactured on or after January 1, 1980; and

(2) that is not considered by the Consumer Product Safety Commission to be an antique or an item with significant artistic value.

Ms. COLLINS. Mr. President, I rise to join Senator WYDEN in introducing a bill that will ban the sale of certain novelty lighters that children can mistake for toys, often with tragic consequences for themselves and their families.

In Arkansas in 2007, two boys, ages 15 months and 2 years, died when the toddler accidentally started a fire with a lighter shaped like a motorcycle. In Oregon, in 2000, a fire started with a dolphin-shaped lighter left one child dead and another brain-damaged. In North Carolina, a 6-year-old boy was badly burned by a lighter shaped like a cell phone.

Sadly, the U.S. Fire Administration has other stories of the hazards presented by novelty lighters. When you learn that one looks like a rubber duck toy, and actually quacks, you can imagine the potential for harm.

As a co-chair of the Congressional Fire Services Caucus, I am proud to note that last year, my home State of Maine became the first State to outlaw the sale of novelty lighters.

Maine's pioneering law stems from a tragic 2007 incident in a Livermore, Maine, grocery store. While his mother was buying sandwiches, 6-year-old Shane St. Pierre picked up what appeared to be a toy flashlight in the form of a baseball bat. When he flicked the switch, a flame shot out and burned his face. Shane's dad, Norm St. Pierre, a fire chief in nearby West Paris, began advocating for the novelty-lighter ban that became Maine law in March 2008.

The Maine State Fire Marshal's office supported that legislation, and a

national ban has the support of the Congressional Fire Services Institute, the National State Fire Marshals Association, and the National Volunteer Fire Council.

The bill is straightforward. It treats novelty lighters manufactured after January 1, 1980, as banned hazardous substances unless the Consumer Product Safety Commission determines a particular lighter has antique or significant artistic value. Otherwise, sale of lighters with toy-like appearance, special audio or visual features, or other attributes that would appeal to children under 10 would be banned.

The novelty lighters targeted in this legislation serve no functional need. But they are liable to attract the notice and curiosity of children, whose play can too easily turn into a scene of horror and death. The sale of lighters that look like animals, cartoon characters, food, toys, or other objects is simply irresponsible and an invitation to tragedy.

I urge all of my colleagues to join me in supporting this simple measure that can save children from disfigurement and death.

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

S. 725. A bill to amend the Internal Revenue Code of 1986 to allow self-employed individuals to deduct health insurance costs in computing self-employment taxes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today along with Senator HATCH to reintroduce the Equity for Our Nation's Self-Employed Act of 2009. This important legislation corrects an inequity that currently exists in our tax code that forces the self-employed to pay payroll taxes on the funds used to purchase their health insurance while larger businesses do not. Because of this inequity, health insurance is more expensive for the self-employed. At a time when the number of people uninsured is growing at an alarming rate, we need to find ways to reduce the cost of health insurance. This legislation is a first logical step.

Under current law, corporations and other business entities are able to deduct health insurance premiums as a business expense and to forego payroll taxes on these costs. However, sole-proprietors are not allowed this same deduction and thus, are required to pay self-employment tax, their payroll tax, on health insurance premiums. The self-employed are the only segment of the business population that is additionally taxed on health insurance. The legislation we are introducing today would stop this inequitable tax treatment and allow sole proprietors to deduct the amount they pay for health insurance from their calculation of payroll taxes, leveling the playing field for the over 20 million self-employed in our Nation.

This problem affects all self-employed who provide health insurance to their families. According to the IRS, there are almost 130,000 sole-proprietors in New Mexico. While we do not know how many of these people in New Mexico have health insurance, we do know that roughly 3.8 million working families in the U.S. paid self-employment tax on their health insurance premiums. Estimates indicate that roughly 60 percent of our Nation's uninsured are either self-employed or work for a small business. According to the Kaiser Family Foundation, self-employed workers spent upwards of $12,000 per year in 2006 to provide health insurance for their families. Because they cannot deduct this as an ordinary business expense, those that spend this amount will pay a 15.3 percent payroll tax on their premiums, resulting in over $1,800 of taxes annually.

This problem was identified by the National Taxpayer Advocate in several of her annual reports to Congress and our legislation to correct it is supported by over 40 national and State organizations including the National Association for the Self-Employed, the National Small Business Association, the National Federation of Independent Business, National Association of Realtors, the U.S. Chamber of Commerce, and the U.S. Hispanic Chamber of Commerce. I look forward to working with my colleagues to get this important legislation passed.

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. 725

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 ''Equity for Our Nation's Self Employed Act of 2009''.

SEC. 2. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES.

(a) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Ms. LANDRIEU (for herself, Mr. ENSIGN, Mr. CARDIN, Mrs. BOXER, Mr. GRAHAM, Ms. COLLINS, Mr. MCCAIN, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. LEVIN, Mr. CARPER, Mr. LIEBERMAN, Mr. BYRD, Mr. KERRY, and Mr. LEAHY):

S. 727. A bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption; to the Committee on the Judiciary.

Ms. LANDRIEU. I rise today to introduce a piece of legislation that this body has seen before, and actually we have passed a version of it by an overwhelming majority. But we have had difficulty as this bill has left this body and moved across the Capitol, and the efforts to pass this bill have actually been thwarted—not so much on the floors of the Congress or the Senate, but in committee rooms and conference committees—sometimes out of full public view. It has become an issue that must be dealt with on its substance, but also the way that sometimes bills find themselves coming to dead ends, in my view in inappropriate ways.

The record of this subject has been long discussed on the floor. But the bill attempts to end the transport of horses for slaughter to Canada and to Mexico.

This Congress, both Democrats and Republicans, a majority, has gone on record saying that the practice of inhumane slaughter of these majestic and very noble animals has no place in America. We do not use their meat for human consumption. It is no longer used even in our pet foods. This is not true in other parts of the world but it is true here in America. So we want to have a better system to handle the breeding, the raising, and the disposal of horses that are old, infirm, and sick. But taking a perfectly healthy animal and slitting its throat and then cutting it up with hatchets and saws and moving equipment while it is still alive is not what people in America would like to believe is going on. In fact it is—or was until a few years ago, until some of us got together with a great coalition and ended the practice of slaughter in the United States.

There were only three plants operating—two in Texas, one in Illinois. Those State legislators and the leaders in those States stepped up and closed down those plants. But the problem is now the 100,000 or so horses out of 900,000 that die naturally every year. We have about 9 million horses in America, 900,000 die, approximately, every year. And the great part of this story is that 95 percent of all horses die a natural and humane death because the owners are very good, they are very responsible.

Most people do what is right. That is what happens in most places, on most subjects. But there is always that small group that, for whatever reason, proceeds down a path that is wholly inappropriate, although right now legal—we hope to solve that problem—and inhumanely slaughters horses.

The USDA and our own investigation show that 98 percent of the horses that are inhumanely transported over our borders now to places that are, of course, unregulated by our Government and very modestly regulated, if at all, by the Governments of Canada and Mexico, 94 percent of these animals—92, I am sorry, 92.3 percent of those horses being sent to slaughter are healthy. They are not sick and they are not infirm and they are not old.

People say to me: Well, Senator, do you not think we have to find a way to

get rid of horses that are sick or too old? I say: Absolutely. There are humane ways to get rid of horses. But the myth and the lie and the shame of this slaughtering that is going on is that 92 percent of those animals are healthy. Many of them are young. Many of them have a great future. But because there is a loophole in our law right now, they are being treated in this way.

So I am introducing this bill with my good friend and colleague JOHN ENSIGN, Senator ENSIGN from Nevada, the leading cosponsor, also with Senators CARDIN, BOXER, GRAHAM, COLLINS, MCCAIN, LAUTENBERG, MENENDEZ, LEVIN, CARPER, LIEBERMAN, BYRD, KERRY, and LEAHY as cosponsors, original cosponsors of this legislation, entitled the Prevention of Equine Cruelty Act.

The way this bill would be put into place, should it be passed and signed by the President into law, is if a person is found in violation of this act, they are found to knowingly transport or sell or purchase a horse with the intent to slaughter it for human consumption, they will be fined, and there will be criminal penalties associated with this practice. If a defendant is found guilty, he or she could be sentenced up to 1 year of prison if he or she has no prior convictions. If he or she does have prior convictions, the penalty will be increased.

As I have said, although U.S. slaughterhouses have been closed, thousands of horses are inhumanely, every day, 1,500 a week, transported across our borders to this deplorable fate. Sometime horses are shipped as many as 600 miles with limited food and water. I could show you dozens of pictures. I will spare those who are on the floor and those watching from the horror of some of these pictures. But if you want to see them, there are ample pictures and evidence on the Internet available for what is a mindless and barbaric practice we want to stop.

When people say to me: Senator, how are farmers and ranchers going to afford it? It is expensive to put down a horse. It costs about $225 to humanely euthanize a horse. It costs $225 to feed a horse for 1 month. So if you can afford to purchase an animal, if you can afford to maintain an animal, you most certainly can afford the price of putting it down humanely, for the work that is done on your behalf, for the pleasure it has provided you or the transportation it has provided you.

Horses are used in our country for many different and very necessary purposes. I want to say this has been a long battle. It started many years ago. But in September of 2007, the U.S. Court of Appeals upheld the Illinois statute that banned the slaughterhouse from continuing.

In April of that same year, the Senate Commerce Committee voted 15 to 7 to ban slaughter. In 2007, in January, the U.S. Court of Appeals for the Fifth Circuit declared the slaughter of horses for food illegal in Texas, upholding a law that dated back to 1949. And on September 7—you might have still been there—the House passed H.R. 503, the American Horse Slaughter Prevention Act. Unfortunately, that Congress adjourned before the Senate could take it up, and the Senate did, in October, take up this matter in the agriculture appropriations bill, only to have it scuttled again.

So I submit to you that there is a broad base of bipartisan support for this legislation. I submit to you that the practice is cruel and inhumane. I submit to you that I have every court, both at the district and appellate level, that has weighed in has weighed in on the side of our efforts here today. And it is my intention, working with Senator JOHN ENSIGN from Nevada, to finally get this bill passed, so we will have, once and for all, ended inhumane slaughter and created a way for horses to be put down or to die naturally and to be disposed of properly in this country, which we think will be a great testimony to the rising awareness of animal care in this Nation.

Now, when people say: She has gone too far and we are going to do the same thing for cows and goats and chickens—horses are not raised for the same purpose as cows and goats and chickens. They are never raised for slaughter. They are raised for companionship, for partnership, and that is where the line, I hope, will be drawn.

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. 727

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 ''Prevention of Equine Cruelty Act of 2009''.

SEC. 2. SLAUGHTER OF HORSES FOR HUMAN CONSUMPTION.

(a) IN GENERAL.—Chapter 3 of title 18, United States Code, is amended by adding at the end the following:

''§ 50. Slaughter of horses for human consumption

''(a) Except as provided in subsection (b), whoever knowingly—

''(1) possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse with the intent that it is to be slaughtered for human consumption; or

''(2) possesses, ships, transports, purchases, sells, delivers, or receives, in or affecting interstate commerce or foreign commerce, any horse flesh or carcass or part of a carcass, with the intent that it is to be used for human consumption;

shall be fined under this title or imprisoned not more than three years or both.

''(b) If—

''(1) the defendant engages in conduct that would otherwise constitute an offense under subsection (a);

''(2) the defendant has no prior conviction under this section; and

''(3) the conduct involves less than five horses or less than 2000 pounds of horse flesh or carcass or part of a carcass;

the defendant shall, instead of being punished under that subsection, be fined under this title or imprisoned not more than one year, or both.

''(c) As used in this section, the term 'horse' means any member of the family Equidae.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 18, United States Code, is amended by adding at the end the following new item:

''50. Slaughter of horses for human consumption.''.

By Mr. AKAKA:

S. 728. A bill to amend title 38, United States Code, to enhance veterans' insurance benefits, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I am pleased to introduce the Veterans' Insurance and Benefits Enhancement Act of 2009. This comprehensive legislation, much of which was considered and passed by the Senate in the last Congress, would improve benefits and services for veterans both young and old.

This legislation would make several important improvements in insurance programs for disabled veterans. It would establish a new program of insurance for service-connected disabled veterans that would provide up to a maximum of $50,000 in level premium term life insurance coverage. This new program would be available to service-connected disabled veterans who are less than 65 years of age at the time of application. More importantly, unlike VA's Service-Disabled Veterans Insurance program, the premium rates for this program would be based on an updated mortality table, meaning that premiums under this program would be fairer to veterans.

This legislation would also expand eligibility for retroactive benefits from traumatic injury protection coverage under the Servicemembers' Group Life Insurance program. This insurance program went into effect on December 1, 2005. All insured servicemembers under SGLI from that point forward are covered by traumatic injury protection regardless of where their injuries occur. However, individuals sustaining traumatic injuries between October 7, 2001, and November 30, 2005, that were not incurred as a direct result of Operations Enduring or Iraqi Freedom are not eligible for a retroactive payment under the traumatic injury protection program. This legislation would expand eligibility to these individuals.

This bill would also increase the maximum amount of Veterans' Mortgage Life Insurance that a service-connected disabled veteran may purchase from the current maximum of $90,000 up to $200,000. In the event of the veteran's death, the veteran's family is protected because VA will pay the balance of the mortgage owed up to the maximum amount of insurance purchased. The need for this increase is obvious in today's housing market.

In addition, this legislation would increase the amount of supplemental life

insurance available to totally disabled veterans from $20,000 to $30,000. Many totally disabled veterans find it difficult to obtain commercial life insurance. This legislation would provide these veterans with a reasonable amount of life insurance coverage.

This bill would also increase certain benefits for veterans and their survivors that have not been updated for many years. The minimum benefit rate for low-income parents of children who have died during military service, or as the result of a service-connected disability, has remained at only $5.00 per month since 1975. This is unacceptable. Therefore, this bill would increase the minimum Parent's DIC benefit to $100 per month, and also increase the basic benefit for a parent with no income to the same level as that provided to low-income spouses of wartime veterans. In addition, this bill would increase the amount of pension paid to VA pensioners who receive Medicaid benefits from $90.00 per month, which was set in 1989, to $100 per month. In addition, all of these benefits and benefits for surviving spouses with children would be adjusted by cost-of-living allowances so that these VA benefits would never again become so outdated.

Another provision included in this bill would reaffirm Congress's intent with regard to who should be eligible for a special monthly pension. Low income, nondisabled wartime veterans 65 and older qualify for a VA service pension benefit. Those who are totally and permanently disabled are eligible to receive a disability pension with additional monies if they are housebound, blind, or need help in everyday living activities. In a 2006 decision, the U.S. Court of Appeals for Veterans Claims ruled that an older veteran no longer had to have a disability rated permanent and total in order to receive housebound benefits. The legislative history is clear that Congress intended that only those veterans with a permanent and total disability would qualify for housebound benefits. This provision would require VA to provide this benefit as Congress originally intended.

This is not a comprehensive recitation of all the provisions within this important veterans' legislation. However, I hope that I have provided an appropriate overview of the benefits this legislation would provide for America's veterans and servicemembers. I urge our colleagues to support the 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 placed in the RECORD, as follows:

S. 728

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 ''Veterans' Insurance and Benefits Enhancement Act of 2009''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Reference to title 38, United States Code.

TITLE I—INSURANCE MATTERS

Sec. 101. Level-premium term life insurance for veterans with service-connected disabilities.
Sec. 102. Supplemental insurance for totally disabled veterans.
Sec. 103. Expansion of individuals qualifying for retroactive benefits from traumatic injury protection coverage under Servicemembers' Group Life Insurance.
Sec. 104. Enhancement of veterans' mortgage life insurance.
Sec. 105. Adjustment of coverage of dependents under Servicemembers' Group Life Insurance.

TITLE II—COMPENSATION AND PENSION MATTERS

Sec. 201. Cost-of-living increase for temporary dependency and indemnity compensation payable for surviving spouses with dependent children under the age of 18.
Sec. 202. Eligibility of veterans 65 years of age or older for service pension for a period of war.
Sec. 203. Adjustments in amounts of dependency and indemnity compensation payable to disabled surviving spouses and to parents of deceased veterans.
Sec. 204. Increase and annual adjustment in limitation on pension payable to hospitalized veterans and others.

TITLE III—BURIAL AND MEMORIAL MATTERS

Sec. 301. Supplemental benefits for veterans for funeral and burial expenses.
Sec. 302. Supplemental plot allowances.

TITLE IV—OTHER MATTERS

Sec. 401. Eligibility of disabled veterans and members of the Armed Forces with severe burn injuries for automobiles and adaptive equipment.
Sec. 402. Supplemental assistance for providing automobiles or other conveyances to certain disabled veterans.

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—INSURANCE MATTERS

SEC. 101. LEVEL-PREMIUM TERM LIFE INSURANCE FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) IN GENERAL.—Chapter 19 is amended by inserting after section 1922A the following new section:

''§ 1922B. Level-premium term life insurance for veterans with service-connected disabilities

''(a) IN GENERAL.—In accordance with the provisions of this section, the Secretary shall grant insurance to each eligible veteran who seeks such insurance against the death of such veteran occurring while such insurance is in force.

''(b) ELIGIBLE VETERANS.—For purposes of this section, an eligible veteran is any veteran less than 65 years of age who has a service-connected disability.

''(c) AMOUNT OF INSURANCE.—(1) Subject to paragraph (2), the amount of insurance granted an eligible veteran under this section shall be $50,000 or such lesser amount as the veteran shall elect. The amount of insurance so elected shall be evenly divisible by $10,000.

''(2) The aggregate amount of insurance of an eligible veteran under this section, section 1922 of this title, and section 1922A of this title may not exceed $50,000.

''(d) REDUCED AMOUNT FOR VETERANS AGE 70 OR OLDER.—In the case of a veteran insured under this section who turns age 70, the amount of insurance of such veteran under this section after the date such veteran turns age 70 shall be the amount equal to 20 percent of the amount of insurance of the veteran under this section as of the day before such date.

''(e) PREMIUMS.—(1) Premium rates for insurance under this section shall be based on the 2001 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 4.5 per centum per annum.

''(2) The amount of the premium charged a veteran for insurance under this section may not increase while such insurance is in force for such veteran.

''(3) The Secretary may not charge a premium for insurance under this section for a veteran as follows:

''(A) A veteran who has a service-connected disability rated as total and is eligible for a waiver of premiums under section 1912 of this title.

''(B) A veteran who is 70 years of age or older.

''(4) Insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized.

''(5) Administrative costs to the Government for the costs of the program of insurance under this section shall be paid from premiums credited to the fund under paragraph (4), and payments for claims against the fund under paragraph (4) for amounts in excess of amounts credited to such fund under that paragraph (after such administrative costs have been paid) shall be paid from appropriations to the fund.

''(f) APPLICATION REQUIRED.—An eligible veteran seeking insurance under this section shall file with the Secretary an application therefor. Such application shall be filed not later than the earlier of—

''(1) the end of the two-year period beginning on the date on which the Secretary notifies the veteran that the veteran has a service-connected disability; and

''(2) the end of the 10-year period beginning on the date of the separation of the veteran from the Armed Forces, whichever is earlier.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item related to section 1922A the following new item:

''1922B. Level-premium term life insurance for veterans with service-connected disabilities.''.

(c) EXCHANGE OF SERVICE DISABLED VETERANS' INSURANCE.—During the one-year period beginning on the effective date of this section under subsection (d), any veteran insured under section 1922 of title 38, United States Code, who is eligible for insurance under section 1922B of such title (as added by subsection (a)), may exchange insurance coverage under such section 1922 for insurance coverage under such section 1922B.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on April 1, 2010.

SEC. 102. SUPPLEMENTAL INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Section 1922A(a) is amended by striking ''$20,000'' and inserting ''$30,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2010.

SEC. 103. EXPANSION OF INDIVIDUALS QUALIFYING FOR RETROACTIVE BENEFITS FROM TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) IN GENERAL.—Paragraph (1) of section 501(b) of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006 (Public Law 109–233; 120 Stat. 414; 38 U.S.C. 1980A note) is amended by striking '', if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom''.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by striking ''IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2010.

SEC. 104. ENHANCEMENT OF VETERANS' MORTGAGE LIFE INSURANCE.

Section 2106(b) is amended by striking ''$90,000'' and inserting ''$150,000, or $200,000 after January 1, 2012,''.

SEC. 105. ADJUSTMENT OF COVERAGE OF DEPENDENTS UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

Clause (ii) of section 1968(a)(5)(B) is amended to read as follows:

''(ii) 120 days after the date of the member's separation or release from the uniformed services; or''.

TITLE II—COMPENSATION AND PENSION MATTERS

SEC. 201. COST-OF-LIVING INCREASE FOR TEMPORARY DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN UNDER THE AGE OF 18.

Section 1311(f) is amended by adding at the end the following new paragraph:

''(5) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.''.

SEC. 202. ELIGIBILITY OF VETERANS 65 YEARS OF AGE OR OLDER FOR SERVICE PENSION FOR A PERIOD OF WAR.

(a) IN GENERAL.—Section 1513 is amended—

(1) in subsection (a), by striking ''by section 1521'' and all that follows and inserting ''by subsection (b), (c), (f)(1), (f)(5), or (g) of that section, as the case may be and as increased from time to time under section 5312 of this title.'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

''(b) The conditions in subsections (h) and (i) of section 1521 of this title shall apply to determinations of income and maximum payments of pension for purposes of this section.''.

(b) APPLICATION.—The amendments made by this section shall apply with respect to claims for pensions filed on or after the date of the enactment of this Act.

SEC. 203. ADJUSTMENTS IN AMOUNTS OF DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE TO DISABLED SURVIVING SPOUSES AND TO PARENTS OF DECEASED VETERANS.

(a) INCREASE IN DIC PAYABLE TO DISABLED SURVIVING SPOUSES.—Section 1311 is amended—

(1) in subsection (c), by striking ''$271'' and inserting ''$325''; and

(2) in subsection (d), by striking ''$128'' and inserting ''$146''.

(b) INCREASE IN CERTAIN DIC AMOUNTS PAYABLE TO PARENTS.—

(1) IN GENERAL.—Section 1315 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by striking ''$163'' and inserting ''$661''; and

(ii) in paragraph (2), by striking ''$5 monthly'' and inserting ''$100 monthly, as increased from time to time under section 5312 of this title''; and

(B) in subsection (c)(2), by striking ''$5 monthly'' and inserting ''$100 monthly, as increased from time to time under section 5312 of this title'';

(C) in subsection (d)(2), by striking ''$5 monthly'' and inserting ''$100 monthly, as increased from time to time under section 5312 of this title''; and

(D) in subsection (g), by striking ''$85'' and inserting ''$395''.

(2) ADDITIONAL AMOUNT PAYABLE TO HOUSEBOUND PARENTS.—Such section is further amended by adding at the end the following new subsection:

''(h) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $146, as increased from time to time under section 5312 of this title, if such parent—

''(1) is, by reason of disability, permanently housebound; and

''(2) does not qualify for an increase in dependency and indemnity compensation under subsection (g) of this section.''.

(c) CODIFICATION OF INCREASE IN RATES OF DIC PAYABLE TO PARENTS.—Section 1315 is further amended—

(1) in subsection (b)(3), by striking ''$4,038'' and inserting ''$13,456'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''$115'' and inserting ''$412''; and

(B) in paragraph (3), by striking ''$4,038'' and inserting ''$13,456''; and

(3) in subsection (d)—

(A) in paragraph (1), by striking ''$109'' and inserting ''$387''; and

(B) in paragraph (3), by striking ''$5,430'' and inserting ''$18,087''.

(d) TECHNICAL AMENDMENT.—Subsection (f)(1)(A) of such section 1315 is amended by striking ''the six-months' death gratuity'' and inserting ''death gratuity payments by the Secretary concerned under sections 1475 through 1480 of title 10 (including payments under section 307 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 82; 10 U.S.C. 1478 note))''.

(e) COST-OF-LIVING ADJUSTMENTS.—Section 5312(b)(1) is amended by striking ''the monthly rate provided in subsection (g), of section 1315 of this title'' and inserting ''the monthly rates provided in subsections (g) and (h), of section 1315 of this title, the minimum monthly amounts of dependency and indemnity compensation payable to parents under subsections (b)(2), (c)(2), and (d)(2) of such section,''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 2009, and shall apply with respect to dependency and indemnity compensation payable for months beginning on or after that date.

(2) PROHIBITION ON COLA IN FISCAL YEAR 2010.—No increase shall be made under section 5312(b)(1) of title 38, United States Code, in the minimum monthly amounts of dependency and indemnity compensation payable under subsections (b)(2), (c)(2), and (d)(2) of section 1315 of such title (as amended by subsection (b)(1) of this section) during fiscal year 2010.

SEC. 204. INCREASE AND ANNUAL ADJUSTMENT IN LIMITATION ON PENSION PAYABLE TO HOSPITALIZED VETERANS AND OTHERS.

(a) INCREASE AND ANNUAL ADJUSTMENT.—

(1) IN GENERAL.—Section 5503 is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A), by striking ''$90 per month'' and inserting ''$100 per month, as increased from time to time under section 5312 of this title,''; and

(ii) in subparagraphs (B) and (C), by striking ''$90 per month'' each place it appears and inserting ''$100 per month, as so increased,''; and

(B) in subsection (d)(2), by striking ''$90 per month'' and inserting ''$100 per month, as increased from time to time under section 5312 of this title,''.

(2) ANNUAL ADJUSTMENT.—Section 5312(b)(1) is amended by striking ''5507(c)(2)(D) and'' and inserting ''5503, 5507(c)(2)(D), and''.

(b) APPLICABILITY OF LIMITATION TO PENSION PAYABLE TO CERTAIN CHILDREN OF VETERANS OF A PERIOD OF WAR.—Section 5503(d)(5) is amended—

(1) by inserting ''(A)'' after ''(5)''; and

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

''(B) The provisions of this subsection shall also apply with respect to a child entitled to pension under section 1542 of this title in the same manner as they apply to a veteran having neither spouse nor child.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 2009. However no adjustment shall be made during fiscal year 2010 under section 5312(b)(1) of title 38, United States Code (as amended by subsection (a)(2)), in the limitation under section 5503 of title 38, United States Code (as amended by subsections (a)(1) and (b)), on amounts of pension payable to veterans and others.

TITLE III—BURIAL AND MEMORIAL MATTERS

SEC. 301. SUPPLEMENTAL BENEFITS FOR VETERANS FOR FUNERAL AND BURIAL EXPENSES.

(a) FUNERAL EXPENSES.—

(1) IN GENERAL.—Chapter 23 is amended by inserting after section 2302 the following new section:

''§ 2302A. Funeral expenses: supplemental benefits

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2302(a) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $900 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year

2009, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2302(a) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2302 the following new item:

''2302A. Funeral expenses: supplemental benefits.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2302A of title 38, United States Code (as added by this subsection).

(b) DEATH FROM SERVICE-CONNECTED DISABILITY.—

(1) IN GENERAL.—Chapter 23 is amended by inserting after section 2307 the following new section:

''§ 2307A. Death from service-connected disability: supplemental benefits for burial and funeral expenses

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2307(1) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $2,100 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2009, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2307(1) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2307 the following new item:

''2307A. Death from service-connected disability: supplemental benefits for burial and funeral expenses.''.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2307A of title 38, United States Code (as added by this subsection).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009, and shall apply with respect to deaths occurring on or after that date.

SEC. 302. SUPPLEMENTAL PLOT ALLOWANCES.

(a) IN GENERAL.—Chapter 23 is amended by inserting after section 2303 the following new section:

''§ 2303A. Supplemental plot allowance

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the burial and funeral of a veteran under section 2303(a)(1)(A) of this title, or for the burial of a veteran under paragraph (1) or (2) of section 2303(b) of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such burial and funeral or burial, as applicable.

''(2) No supplemental plot allowance payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT.—The amount of the supplemental payment required by subsection (a) for any death is $445 (as adjusted from time to time under subsection (c)).

''(c) ADJUSTMENT.—With respect to deaths that occur in any fiscal year after fiscal year 2009, the supplemental payment described in subsection (b) shall be equal to the sum of—

''(1) the supplemental payment in effect under subsection (b) for the preceding fiscal year (determined after application of this subsection), plus

''(2) the sum of the amount described in section 2303(a)(1)(A) of this title and the amount under paragraph (1), multiplied by the percentage by which—

''(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

''(d) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental plot allowance payments under this section to all eligible recipients for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide all eligible recipients with supplemental plot allowance payments under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2303 the following new item:

''2303A. Supplemental plot allowance.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009, and shall apply with respect to deaths occurring on or after that date.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 2303A of title 38, United States Code (as added by subsection (a)).

TITLE IV—OTHER MATTERS

SEC. 401. ELIGIBILITY OF DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES WITH SEVERE BURN INJURIES FOR AUTOMOBILES AND ADAPTIVE EQUIPMENT.

(a) ELIGIBILITY.—Paragraph (1) of section 3901 is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''or (iii) below'' and inserting ''(iii), or (iv)''; and

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

''(iv) A severe burn injury (as determined pursuant to regulations prescribed by the Secretary).''; and

(2) in subparagraph (B), by striking ''or (iii)'' and inserting ''(iii), or (iv)''.

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in the matter preceding paragraph (1), by striking ''chapter—'' and inserting ''chapter:'';

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''means—'' and inserting ''means the following:'';

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking ''any veteran'' and inserting ''Any veteran'';

(ii) in clauses (i) and (ii), by striking the semicolon at the end and inserting a period; and

(iii) in clause (iii), by striking ''or'' and inserting a period; and

(C) in subparagraph (B), by striking ''any member'' and inserting ''Any member''.

SEC. 402. SUPPLEMENTAL ASSISTANCE FOR PROVIDING AUTOMOBILES OR OTHER CONVEYANCES TO CERTAIN DISABLED VETERANS.

(a) IN GENERAL.—Chapter 39 is amended by inserting after section 3902 the following new section:

''§ 3902A. Supplemental assistance for providing automobiles or other conveyances

''(a) IN GENERAL.—(1) Subject to the availability of funds specifically provided for purposes of this subsection in advance in an appropriations Act, whenever the Secretary makes a payment for the purchase of an automobile or other conveyance for an eligible person under section 3902 of this title, the Secretary is also authorized and directed to pay the recipient of such payment a supplemental payment under this section for the cost of such purchase.

''(2) No supplemental payment shall be made under this subsection if the Secretary has expended all funds that were specifically provided for purposes of this subsection in an appropriations Act.

''(b) AMOUNT OF SUPPLEMENTAL PAYMENT.—Supplemental payment required by subsection (a) is equal to the excess of—

''(1) the payment which would be determined under section 3902 of this title if the amount described in section 3902 of this title were increased to the adjusted amount described in subsection (c), over

''(2) the payment determined under section 3902 of this title without regard to this section.

''(c) ADJUSTED AMOUNT.—The adjusted amount is $22,484 (as adjusted from time to time under subsection (d)).

''(d) ADJUSTMENT.—(1) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the adjusted amount described in subsection (c) to an amount equal to 80 percent of the average retail cost of new automobiles for the preceding calendar year.

''(2) The Secretary shall establish the method for determining the average retail cost of new automobiles for purposes of this subsection. The Secretary may use data developed in the private sector if the Secretary determines the data is appropriate for purposes of this subsection.

''(e) ESTIMATES.—(1) From time to time, the Secretary shall make an estimate of—

''(A) the amount of funding that would be necessary to provide supplemental payment under this section for every eligible person for the remainder of the fiscal year in which such an estimate is made; and

''(B) the amount that Congress would need to appropriate to provide every eligible person with supplemental payment under this section in the next fiscal year.

''(2) On the dates described in paragraph (3), the Secretary shall submit to the appropriate committees of Congress the estimates described in paragraph (1).

''(3) The dates described in this paragraph are the following:

''(A) April 1 of each year.

''(B) July 1 of each year.

''(C) September 1 of each year.

''(D) The date that is 60 days before the date estimated by the Secretary on which amounts appropriated for the purposes of this section for a fiscal year will be exhausted.

''(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committee on Appropriations and the Committee on Veterans' Affairs of the Senate; and

''(2) the Committee on Appropriations and the Committee on Veterans' Affairs of the House of Representatives.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 3902 the following new item:

''3902A. Supplemental assistance for providing automobiles or other conveyances.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Veterans Affairs such sums as may be necessary to carry out the provisions of section 3902A of title 38, United States Code (as added by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2009, and shall apply with respect to payments made in accordance with section 3902 of title 38, United States Code, on or after that date.

By Mr. DURBIN (for himself, Mr. LUGAR, Mr. REID, Mr. MARTINEZ, Mr. LEAHY, Mr. LIEBERMAN, Mr. KENNEDY, and Mr. FEINGOLD):

S. 729. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes; to the Committee on the Judiciary.

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 placed in the RECORD, as follows:

S. 729

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 ''Development, Relief, and Education for Alien Minors Act of 2009'' or the ''DREAM Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 3. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–546).

SEC. 4. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 5, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(E), or (10)(C) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); and

(ii) is not deportable under paragraph (1)(E), (2), or (4) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States;

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such order was issued; or

(ii) received the order before attaining the age of 16 years; and

(F) the alien had not yet reached the age of 35 years on the date of the enactment of this Act.

(2) WAIVER.—Notwithstanding paragraph (1), the Secretary of Homeland Security may waive the ground of ineligibility under section 212(a)(6)(E) of the Immigration and Nationality Act and the ground of deportability under paragraph (1)(E) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary of Homeland Security may not remove any alien who has a pending application for conditional status under this Act.

SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 6, an alien whose status has been adjusted under section 4 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary of Homeland Security to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this Act with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien who obtained such status under this Act, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 4(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this Act.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary of Homeland Security, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary of Homeland Security in accordance with this Act. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 4(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of each secondary school (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary of Homeland Security may extend the period of conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 6. RETROACTIVE BENEFITS UNDER THIS ACT.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 4(a)(1) and section 5(d)(1)(D), the Secretary of Homeland Security may adjust the status of the alien to that of a conditional resident in accordance with section 4. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 5(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 5(d)(1) during the entire period of conditional residence.

SEC. 7. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this Act, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume

all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this Act.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 4(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 8. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this Act and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 9. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—Except as provided in subsection (b), no officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this Act to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this Act with a designated entity, that designated entity, to examine applications filed under this Act.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 10. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this Act shall provide that applications under this Act will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 11. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this Act shall be eligible only for the following assistance under such title:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 12. GAO REPORT.

Not later than seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives setting forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 4(a);

(2) the number of aliens who applied for adjustment of status under section 4(a);

(3) the number of aliens who were granted adjustment of status under section 4(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 5.

Mr. LEAHY. Mr. President, I am pleased to join Senator DURBIN once again to introduce the Development, Relief, and Education for Alien Minors Act, DREAM. This legislation has the potential to change the lives of many young people in an extraordinary and positive way and is an investment in America's future.

The Senate has attempted several times to pass the DREAM Act, but the bitter politics of immigration have stalled our best efforts in the past. I appreciate Senator DURBIN's persistence, and I share his commitment to the young people whose lives this bill would profoundly improve. Those who came to the U.S. as minors under the care of their parents are not guilty of their parents' transgressions. For many, the U.S. is the only home they know. We will further the Federal policy that supports educational opportunity and military service if we exercise the forbearance to defer rigid application of our laws upon those who have the potential to be citizens that will move our country forward. We all recognize the value of higher education and service to our country. To serve these Federal policy interests by giving legal stability and opportunity to young people caught in the limbo of our laws through no fault of their own is the right thing to do.

As Congress and the administration work through the immediate challenges that lie ahead, and begin to restore the faith of Americans in our economy and our government, I hope Congress will not shy away from other important issues such as immigration reform. When our Federal Government confronts the issue of immigration, I hope we will see not only the opportunity to correct what is wrong, but also to improve and build upon what is good and just about the traditions of welcoming and refuge that define our immigration system. The promise this bill holds for so many young people will reinforce the spirit that underlies the history of American immigration and the diversity that has moved us so far.

I thank Senator DURBIN and hope all Senators will join us in support of this legislation.

By Mr. AKAKA (for himself, Mr. SPECTER, Mr. CARDIN, Mr. SCHUMER, Mr. VOINOVICH, Mr. BROWN, and Mr. CASEY):

S. 732. A bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams; to the Committee on Environment and Public Works.

Mr. SPECTER. Mr. President, I seek recognition to comment on my cosponsorship of the Dam Rehabilitation and Repair Act of 2009 and clarify my intent with respect to Davis-Bacon prevailing wage requirements under this bill.

This bill would establish a grant program within the Federal Emergency Management Agency to provide assistance to states for the rehabilitation of publicly-owned dams that fail to meet minimum safety standards. I am cosponsoring this bill because it is my understanding that there are at least 3,040 deficient dams in the United States, including 369 in Pennsylvania. These dams pose an unacceptable level of risk to the public and should be rehabilitated expeditiously.

I cosponsored similar legislation in the 110th Congress, however, I am advised that it was not considered by the Committee on Environment and Public Works due to concerns over language in the bill which would have required that dam repair work funded under the act adhere to Davis-Bacon locally prevailing wage requirements. As a result, this year's version of the bill, as introduced, does not contain Davis-Bacon prevailing wage requirements out of deference to the Ranking Member of the Committee. However, I am a strong supporter of Davis-Bacon, having voted in favor of preserving it 23 separate times on the Senate floor since 1982. Accordingly, it is my intention to work to reinsert Davis-Bacon requirements into the bill either in committee or on the Senate floor.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 86—DESIGNATING APIRL 18, 2009, AS ''NATIONAL AUCTIONEERS DAY''

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