S. 1300

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1300, a bill to amend title XVIII of the Social Security Act to clarify intent regarding the counting of residents in a nonhospital setting under the Medicare program.

S. 1304

At the request of Mr. GRASSLEY, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from North Carolina (Mr. BURR) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1348

At the request of Mr. CHAMBLISS, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 1348, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

S. 1361

At the request of Mr. LEAHY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1361, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 1380

At the request of Mr. ROCKEFELLER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1380, a bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy.

S. 1415

At the request of Mr. SCHUMER, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S.J. RES. 15

At the request of Mr. VITTER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S.J. Res. 15, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 17

At the request of Mr. MCCONNELL, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

AMENDMENT NO. 1428

At the request of Mr. HATCH, the names of the Senator from Texas (Mr. CORNYN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mr. SCHUMER) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of amendment No. 1428 proposed to H.R. 2892, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes.

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 1428 proposed to H.R. 2892, supra.

AMENDMENT NO. 1430

At the request of Mr. SANDERS, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 1430 proposed to H.R. 2892, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes.

AMENDMENT NO. 1447

At the request of Mr. PRYOR, his name and the name of the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 1447 proposed to H.R. 2892, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes.

At the request of Mr. HATCH, his name was added as a cosponsor of amendment No. 1447 proposed to H.R. 2892, supra.

At the request of Mr. CORNYN, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from South Dakota (Mr. THUNE), the Senator from Utah (Mr. BENNETT) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 1447 proposed to H.R. 2892, supra.

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 1447 proposed to H.R. 2892, supra.

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of amendment No. 1447 proposed to H.R. 2892, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. VOINOVICH, Mr. SCHUMER, Mr. FEINGOLD, Mrs. GILLIBRAND, Mr. DURBIN, and Ms. STABENOW):

S. 1421. A bill to amend section 42 of title 18, United States Code, to prohibit the importation and shipment of certain species of carp; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, today I am introducing the Asian Carp Prevention and Control Act to list bighead carp as injurious under the Lacey Act, along with Senators VOINOVICH, SCHUMER, FEINGOLD, GILLIBRAND, DURBIN and STABENOW.

Asian carp are a significant threat to the Great Lakes because they are large, extremely prolific, and consume vast amounts of food. The Bighead carp grow quickly and can grow to over 50 pounds. In addition to the harmful ecological impact that the Bighead carp has had to native fisheries, these fish pose a considerable hazard to boaters and can cause human and property injuries.

The Bighead carp compete with native fish for food and habitat. The Bighead carp, along with the other species of Asian carp, account for the majority of fish in the Missouri River. These fish have little economic or sport value compared to native fish.

The Bighead carp are used in aquaculture ponds in the South to control algae, and because of flooding in the 1990s, the fish escaped the aquaculture ponds and entered into the Mississippi River. They have spread to most of the Mississippi River watershed and the Missouri River. Because the Mississippi River is connected to the Great Lakes through a man-made sanitary and ship canal, the Asian carp are now close to invading the Great Lakes. Fortunately, the Corps of Engineers is operating an electric dispersal barrier to prevent the carp and other non-native fish from moving between the Mississippi River and the Great Lakes.

I want to make sure that all pathways to introduce the Bighead carp are blocked. The legislation that I am introducing today would list the Bighead carp as injurious under the Lacey Act. Listing the Bighead carp as injurious would minimize the risk of intentional introduction by prohibiting the importation and interstate transportation of live Asian carp without a permit. This legislation would not interfere with existing state regulations of the fish, and permits to transport or purchase live Bighead carp may be issued for research or educational purposes. The Fish and Wildlife Service has already listed three other species of Asian carp as injurious through rulemaking procedures.

I urge my colleagues to support this bill. This country is facing a serious challenge as a result of thousands of invasive species, like the Bighead carp, being introduced into this Nation.

By Mrs. MURRAY (for herself, Mr. WEBB, Mr. DODD, Ms. MURKOWSKI, Ms. COLLINS, and Mr. BOND):

S. 1422. A bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the following colloquy be printed in the RECORD.

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

FLIGHT CREW TECHNICAL CORRECTIONS ACT

Mr. ENZI. Mr. President, I would like to engage my friend, the Senator from Washington and the Chairman of the Subcommittee on Employment and Workplace Safety, with whom I have been pleased to work on many initiatives on behalf of America's workforce, in a conversation about the bill she has just introduced. I would like to take this opportunity to clarify the treatment of workers contained in the Flight Crew Technical Corrections Act before us today that pertains to flight crews. Is it the Senator's understanding that her legislation resolves a problem unique to flight crews—meaning flight attendants and pilots—and that no other group of workers is addressed under this bill?

Mrs. MURRAY. Yes, the Senator is correct. This bill is narrowly constructed to address the unique situation faced by flight attendants and pilots in the calculation of the hours they need to qualify for leave under the Family Medical Leave Act, FLMA. The FMLA eligibility calculation does not include paid vacation, sick, medical or personal leave unless otherwise agreed to in a collective bargaining agreement or the employers manual. This bill reflects the intent of the FMLA's original sponsors to provide an alternative way to include flight crews that addresses the airline industry's unique time-keeping methods. I am proud that the Flight Crew Technical Corrections Act fixes a technical problem that has left many full time flight crew members ineligible for Family Medical Leave for many years due to the unique way their work hours are calculated.

Mr. ENZI. In other words, is it the Senator's understanding that the bill should not be construed to apply to other occupational groups that operate under reserve systems such as health care, railway, and emergency services to seek similar treatment?

Mrs. MURRAY. Correct, this bill narrowly deals with flight crews only. The bill is a technical correction for language that was intended to be in the original Family Medical Leave Act, but for some reason or another was left out. Flight crews were specifically mentioned in the FLMA's legislative history. Thus, I believe that the correction is clearly appropriate for flight crews. If other groups were to attempt an adjustment in their FMLA eligibility requirements, I suggest that their situation and the ramifications of such an adjustment would need to be examined on a case by case basis.

Mr. ENZI. The Senator mentions the FLMA's legislative history. Is it the Senator's further understanding that this is the only group of employees which was intended to be included with an alternative eligibility standard?

Mrs. MURRAY. The Senator is correct. The original authors stated that they did not intend to exclude flight crews in unique circumstances from the bill's protection simply because of the airline industry's ''unusual time keeping methods''. They believed that these workers—flight attendants and pilots—were entitled to family and medical leave under the law based upon the situation they specifically faced.

This legislation received overwhelming bipartisan support in the House of Representatives. I am pleased to present it in the Senate with bipartisan support. This language was drafted through a process that included representatives from large and small airline carriers and carrier associations, and organized labor. I need to recognize the work that Senator Clinton did on this bill when she introduced its precursor in the 110th Congress.

Mr. ENZI. I would like to thank the Senator from Washington and the former Senator from New York for the deliberative process you both utilized while drafting this legislation. As you know I am a frequent advocate for following Senate Committee process so as to create the opportunity for all affected stakeholders to be included in the process. In this case, you have done an admirable job of vetting the legislation with most stakeholders and produced a better product.

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 printed in the RECORD, as follows:

S. 1422

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 ''Airline Flight Crew Technical Corrections Act''.

SEC. 2. LEAVE REQUIREMENT FOR AIRLINE FLIGHT CREWS.

(a) INCLUSION OF AIRLINE FLIGHT CREWS.—Section 101(2) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(2)) is amended by adding at the end the following:

''(D) AIRLINE FLIGHT CREWS.—

''(i) DETERMINATION.—For purposes of determining whether an employee who is a flight attendant or flight crewmember (as such terms are defined in regulations of the Federal Aviation Administration) meets the hours of service requirement specified in subparagraph (A)(ii), the employee will be considered to meet the requirement if—

''(I) the employee has worked or been paid for not less than 60 percent of the applicable total monthly guarantee, or the equivalent, for the previous 12-month period, for or by the employer with respect to whom leave is requested under section 102; and

''(II) the employee has worked or been paid for not less than 504 hours (not counting time spent on vacation leave or medical or sick leave) during the previous 12-month period, for or by that employer.

''(ii) FILE.—Each employer of an employee described in clause (i) shall maintain on file with the Secretary (in accordance with such regulations as the Secretary may prescribe) containing information specifying the applicable monthly guarantee with respect to each category of employee to which such guarantee applies.

''(iii) DEFINITION.—In this subparagraph, the term 'applicable monthly guarantee' means—

''(I) for an employee described in clause (i) other than an employee on reserve status, the minimum number of hours for which an employer has agreed to schedule such employee for any given month; and

''(II) for an employee described in clause (i) who is on reserve status, the number of hours for which an employer has agreed to pay such employee on reserve status for any given month, as established in the applicable collective bargaining agreement or, if none exists, in the employer's policies.''.

(b) CALCULATION OF LEAVE FOR AIRLINE FLIGHT CREWS.—Section 102(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2612(a)) is amended by adding at the end the following:

''(5) CALCULATION OF LEAVE FOR AIRLINE FLIGHT CREWS.—The Secretary may provide, by regulation, a method for calculating the leave described in paragraph (1) with respect to employees described in section 101(2)(D).''.

By Mrs. BOXER (for herself and Mr. BEGICH):

S. 1423. A bill to amend title XIX of the Social Security Act to require coverage under the Medicaid Program for freestanding birth center services; to the Committee on Finance.

Mrs. BOXER. Mr. President, I rise today to introduce the Medicaid Birth Center Reimbursement Act, which would help ensure that birth centers across our country can continue to provide quality and affordable care to thousands of mothers and newborns each year.

There are almost 200 birth centers nationwide that provide quality and cost effective health care services, particularly for low-income families. Since 1987, birth centers have participated in Medicaid, but recently the Centers for Medicare and Medicaid Services, CMS, has begun to cut off access to these providers in several States including Alaska, South Carolina, Texas and Washington State—because the agency lacks clear statutory authority to pay birth centers to care for Medicaid patients.

Although this problem has not yet affected my home State of California, if this policy is not reversed before the State begins to renegotiate its Medicaid plan, the same cuts will be forced on birth centers in California. Without reimbursement from Medicaid, birth centers in all States could be pushed to the brink of closure and thousands of low-income women could lose access to these vital services.

At a time when Congress and the administration are working hard to increase access to health care for all Americans, we cannot afford to close birth centers that provide essential services to thousands of women and newborns every year.

At a time when Congress and the administration are working hard to reduce waste, and cut down on costs in our nation's health care system, we cannot afford to cut off access to such cost-effective maternity care.

The cost of care at birth centers is about $1,900 per birth, compared to an estimated $7,400 at hospitals. Right now as much as 27 percent of hospital charges under Medicaid go towards care for mothers and newborn infants. Just imagine how much unnecessary spending could be saved if more women were given the choice of going to a birth center to have their baby.

Cutting off access to birth centers that provide quality, cost-effective care is a step backward.

Taking away choices from pregnant women trying to get essential health care services is a step backward.

As I work with my colleagues to help push for comprehensive health reform, I urge them to join me in cosponsoring the Medicaid Birth Center Reimbursement Act, and taking an important step forward for mothers and newborns across our nation.

I would also like to thank Reps. SUSAN DAVIS and GUS BILIRAKIS, who have championed this legislation in the House. I hope that this important legislation can be included in the health care reform efforts of the 111th Congress.

By Mr. DURBIN (for himself, Mrs. HUTCHISON, Ms. COLLINS, Ms. LANDRIEU, Mrs. SHAHEEN, Mr. SANDERS, Mr. CASEY, Mr. WHITEHOUSE, Mr. JOHNSON, and Mrs. GILLIBRAND):

S. 1425. A bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries; to the Committee on Foreign Relations.

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

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

S. 1425

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 ''Global Resources and Opportunities for Women To Thrive Act of 2009'' or the ''GROWTH Act of 2009''.

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

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Women around the world are especially vulnerable to poverty. They tend to work longer hours, are compensated less, and have less income stability and fewer economic opportunities than men.

(2) Women's share of the labor force is increasing in almost all regions of the world. Women comprise more than 40 percent of the global labor force as well as 40 percent of the labor force in eastern and southeastern Asia, sub-Saharan Africa, and the Caribbean. Women comprise a third of the labor force in Central America and nearly a third of total employment in South Asia. About 250,000,000 young women will enter the labor force worldwide before 2015.

(3) Women are more likely to work in informal employment relationships in poor countries compared to men. In sub-Saharan Africa, 84 percent of women are employed informally compared to 71 percent of men. In the Middle East, 44 percent of women are employed informally compared to 29 percent of men. Informal employment is characterized by lower wages and greater variability of earnings, less stability, absence of labor organization, and fewer social protections than formal employment.

(4) Changes in the economy of a poor country affect women and men differently. Women are disproportionately affected by long-term recessions, crises, and economic restructuring and they often miss out on many of the benefits of growth.

(5) International trade can be an important tool for economic development and poverty reduction. The benefits of international trade should extend to all members of society, particularly the world's poor women.

(6) Policies that promote fair labor practices for women, and access to information, education, land, credit, physical capital, and social services can be a means of reducing poverty, ensuring food security, and boosting productivity and earnings for the economies of developing countries.

(7) Expanding economic opportunity for women in developing countries can have a positive effect on child nutrition, health, and education, as women often invest their income in their families. Increasing women's income can also decrease women's vulnerability to HIV/AIDS, gender-based violence, and trafficking, and make women more resistant to the impact of natural disasters.

(8) Policies that promote economic opportunities for women, including microfinance and microenterprise development and the promotion of women's small- and medium-sized businesses, can be a means of generating gainful, safe, and dignified employment for the poor.

(9) Women play a vital, but often unrecognized, role in averting violence, resolving conflict, and rebuilding economies in postconflict societies. Women in conflict-affected areas face even greater challenges than men do in accessing employment, training, property rights, credit, and financial and nonfinancial resources for business development. Policies designed to ensure economic opportunity for women in conflict-affected areas play a significant role in economic rehabilitation and consolidation of peace.

(10) Given the important role of women in the economies of poor countries, poverty alleviation programs funded by the United States in poor countries should seek to enhance the level of economic opportunity available to women in those countries.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to ensure that the policies of the United States actively promote development and economic opportunities for women, including programs and policies that—

(1) promote women's ability to start micro-, small-, or medium-sized business enterprises, and enable women to grow such enterprises, particularly from micro- to small-sized enterprises and from small- to medium-sized enterprises, or sustain current business capacity;

(2) promote the rights of women to own, manage, and inherit property, including land, encourage the adoption of laws and policies that support women in their efforts to enforce those rights in administrative and judicial tribunals, and address conflicts with country-specific legal regimes or practices (often known as ''customary law'') to increase the ability of women to inherit and own real property;

(3) increase women's access to employment, enable women to access higher quality jobs with better remuneration and working conditions in both informal and formal employment, and improve the quality of jobs in sectors dominated by women by improving the remuneration and working conditions for those jobs; and

(4) bring the benefits of international trade policy to women in developing countries and continue to ensure that trade policies and agreements adequately reflect the respective needs of poor women and men.

SEC. 3. MICROFINANCE AND MICROENTERPRISE DEVELOPMENT ASSISTANCE FOR WOMEN IN DEVELOPING COUNTRIES.

(a) AUTHORIZATION; IMPLEMENTATION; TARGETED ASSISTANCE.—

(1) AUTHORIZATION.—Section 252(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a(a)) is amended—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(B) by striking ''The President is'' and inserting the following:

''(1) IN GENERAL.—The President is''; and

(C) by adding at the end the following:

''(2) ASSISTANCE FOR WOMEN IN DEVELOPING COUNTRIES.—In providing assistance under paragraph (1), the President shall pay special attention to the needs of women in developing countries, including by—

''(A) carrying out specific activities to enhance the empowerment of women in developing countries, such as providing leadership training, basic health and HIV/AIDS education, and assistance with the development of literacy skills;

''(B) carrying out initiatives to eliminate legal and institutional barriers to women's ownership of assets, access to credit, access to information and communication technologies, and engagement in business activities within or outside of the home;

''(C) providing assistance for capacity building for microfinance and microenterprise institutions to enable such institutions to better meet the credit, savings, insurance, and training needs of women who are microfinance and microenterprise clients; and

''(D) carrying out microfinance and microenterprise development programs that—

''(i) specifically target women with respect to outreach and marketing;

''(ii) provide products specifically designed to address women's assets and needs and the barriers women encounter with respect to participating in enterprise and financial services; and

''(iii) promote women's ability to grow micro-enterprises to small- and medium-sized enterprises.''.

(2) IMPLEMENTATION.—Section 252(b)(2)(C) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a(b)(2)(C)) is amended—

(A) in clause (ii)—

(i) by striking ''microenterprise development field'' and inserting ''microfinance and microenterprise development field''; and

(ii) by striking ''and'' at the end;

(B) in clause (iii)—

(i) by inserting after ''competitive'' the following: '', take into consideration the anticipated impact of the proposals on the empowerment of women and men,''; and

(ii) by striking the period at the end and inserting ''; and''; and

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

''(iv) give preference to proposals from providers of assistance that demonstrate the greatest knowledge of clients' needs and capabilities, including proposals that ensure that women are involved in the design and implementation of services and programs.''.

(3) TARGETED ASSISTANCE.—Section 252(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211a(c)) is amended—

(A) in the first sentence, by inserting before the period the following: ''and an effort shall be made to target such resources to women''; and

(B) in the second sentence, by striking ''2006'' and inserting ''2011''.

(b) MONITORING SYSTEM.—Section 253(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2211b(b)(1)) is amended to read as follows:

''(1) The monitoring system shall include performance goals for the assistance and shall express such goals, to the extent feasible—

''(A) in an objective and quantifiable form;

''(B) in a manner that describes the effects of such goals on women and men, respectively; and

''(C) in a manner that describes the number of women and the number of men benefiting from the assistance.''.

(c) MICROENTERPRISE DEVELOPMENT CREDITS.—Section 256(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2212(b)(2)) is amended by inserting before the semicolon the following: '', especially the needs of clients who are women''.

(d) ADDITIONAL REPORT REQUIREMENTS.—Section 258 of the Foreign Assistance Act of 1961 (22 U.S.C. 2214) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

''(12) An estimate of the potential global demand for microfinance and microenterprise development for women, determined in collaboration with practitioners in a cost-effective manner, and a description of the Agency's plan to help meet such demand.'';

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

''(c) ADDITIONAL REQUIREMENT.—All information in the report required by this section relating to beneficiaries of assistance authorized by this title shall be disaggregated by sex to the maximum extent practicable.''.

SEC. 4. SUPPORT FOR WOMEN'S SMALL- AND MEDIUM-SIZED ENTERPRISES IN DEVELOPING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall—

(1) where appropriate, carry out programs, projects, and activities that meet the requirements described in subsection (b) for enterprise development for women in developing countries; and

(2) ensure that any programs, projects, and activities for enterprise development for women in developing countries that are carried out pursuant to assistance provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) meet the requirements described in subsection (b).

(b) REQUIREMENTS.—A program, project, or activity described in subsection (a) meets the requirements described in this subsection if the program, project, or activity—

(1) in coordination with the governments of developing countries and interested individuals and organizations, promotes the development or enhancement of laws, regulations, or practices (including practices with respect to the enforcement of such laws or regulations) that improve access to banking and financial services for women-owned small- and medium-sized enterprises;

(2) promotes access to information and communication technologies by providing training with respect to such technologies for women-owned small- and medium-sized enterprises;

(3) provides training, through local associations of women-owned enterprises or nongovernmental organizations, with respect to recordkeeping, financial and personnel management, international trade, business planning, marketing, policy advocacy, leadership development, and other areas relevant to running enterprises;

(4) provides resources to establish and enhance local, national, and international networks and associations of women-owned small- and medium-sized enterprises;

(5) provides incentives for nongovernmental organizations and financial service providers to develop products, services, and marketing and outreach strategies specifically designed to facilitate and promote women's participation in development programs for small- and medium-sized businesses by addressing women's assets and needs and the barriers women face to participating in enterprise and financial services; and

(6) seeks to award contracts to qualified small- and medium-sized enterprises owned by women, particularly indigenous women, including—

(A) for postconflict reconstruction; and

(B) to facilitate employment of women, particularly indigenous women in jobs not traditionally undertaken by women.

SEC. 5. SUPPORT FOR PRIVATE PROPERTY RIGHTS AND LAND TENURE SECURITY FOR WOMEN IN DEVELOPING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall—

(1) where appropriate, carry out programs, projects, and activities to promote private property rights and land tenure security for women in developing countries that—

(A) are implemented by local, indigenous, nongovernmental, and community-based organizations, especially women's organizations, that are dedicated to addressing the needs of women; and

(B) otherwise meet the requirements described in subsection (b); and

(2) ensure that any programs, projects, and activities to promote private property rights and land tenure security for women in developing countries that are carried out pursuant to assistance provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.)—

(A) are implemented by local, indigenous, nongovernmental, and community-based organizations, especially women's organizations, that are dedicated to addressing the needs of women; and

(B) otherwise meet the requirements described in subsection (b).

(b) REQUIREMENTS.—A program, project, or activity described in subsection (a) meets the requirements described in this subsection if the program, project, or activity—

(1) advocates to amend and harmonize statutory and other country-specific legal regimes or practices to give women equal rights to own, use, and inherit property;

(2) promotes legal literacy among women and men about property rights for women and how to exercise such rights;

(3) assists women in making land claims and protecting existing land claims; and

(4) advocates for equitable land titling and registration for women.

(c) AMENDMENT.—Section 103(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a(b)(1)) is amended by inserting '', especially for women'' after ''establishment of more equitable and more secure land tenure arrangements''.

SEC. 6. SUPPORT FOR WOMEN'S ACCESS TO EMPLOYMENT IN DEVELOPING COUNTRIES.

The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall, where appropriate—

(1) support activities to increase the access of women in developing countries to employment and to higher quality employment, in informal and formal employment, with better remuneration, working conditions, and benefits (including health insurance and other social safety nets) in accordance with the core labor standards of the International Labour Organization, including—

(A) public education efforts to inform poor women and men of women's legal rights related to employment;

(B) education and vocational training tailored to enable poor women to access job opportunities, whether for formal or informal employment, in—

(i) sectors in their local economies with the potential for growth; and

(ii) sectors in which women are not traditionally highly represented;

(C) efforts to support self-employed poor women or wage workers to form or join independent unions or other labor associations to increase their incomes and improve their working conditions; and

(D) advocacy efforts to protect the rights of women in the workplace, including—

(i) developing programs with the participation of civil society to eliminate gender-based violence; and

(ii) providing capacity-building assistance to women's organizations to effectively research and monitor labor rights conditions; and

(2) provide assistance to governments and nongovernmental organizations in developing countries seeking to design and implement laws, regulations, and programs to improve working conditions for women and to facilitate the entry into, and advancement in, the workplace by women.

SEC. 7. TRADE BENEFITS FOR WOMEN IN DEVELOPING COUNTRIES.

In order to ensure that poor women in developing countries are able to benefit from international trade, the President, acting through the Secretary of State (acting through the Administrator of the United States Agency for International Development) and the heads of other appropriate departments and agencies of the United States, shall, where appropriate, provide the following training and education in developing countries:

(1) Training women in civil society organizations, including those organizations representing poor women, and women-owned enterprises and associations of such enterprises, on how to respond to economic opportunities created by trade preference programs, trade agreements, or other policies that create or facilitate market access. The training shall include information with respect to requirements and procedures for accessing the United States market.

(2) Training women entrepreneurs, including microentrepreneurs, with respect to production strategies, quality standards, formation of cooperatives, market research, and market development.

(3) Teaching women, including poor women, to promote diversification of products and value-added processing.

(4) Instructing negotiators officially representing the governments of developing

countries in international trade negotiations in order to enhance the ability of the negotiators to formulate trade policy and negotiate agreements that take into account the respective needs and priorities of poor women and men in developing countries.

(5) Educating local groups representing indigenous women in developing countries in order to enhance the ability of those groups to collect information and data, formulate proposals, and inform and impact negotiators described in paragraph (4) with respect to the respective needs and priorities of poor women and men in developing countries.

SEC. 8. EXCHANGES BETWEEN UNITED STATES ENTREPRENEURS AND WOMEN ENTREPRENEURS IN DEVELOPING COUNTRIES.

(a) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall, where appropriate, encourage representatives of United States businesses on trade missions to developing countries to—

(1) meet with representatives of women-owned small- and medium-sized enterprises in such countries; and

(2) promote internship opportunities for women owners of small- and medium-sized enterprises in such countries with United States businesses.

(b) DEPARTMENT OF STATE.—The Secretary of State shall promote exchange programs that offer representatives of women-owned small- and medium-sized enterprises in developing countries an opportunity to learn skills appropriate for promoting entrepreneurship by working with representatives of businesses in the United States.

SEC. 9. ASSISTANCE UNDER THE MILLENNIUM CHALLENGE ACCOUNT.

The Chief Executive Officer of the Millennium Challenge Corporation shall seek to ensure that contracts and employment opportunities resulting from assistance provided by the Corporation to the governments of developing countries are fairly and equitably distributed to qualified women-owned small- and medium-sized enterprises and other civil society organizations led by women, including nongovernmental and community-based organizations, for projects, including for infrastructure projects, that facilitate employment of women in jobs not traditionally undertaken by women.

SEC. 10. GROWTH FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall establish the Global Resources and Opportunities for Women to Thrive (GROWTH) Fund (in this section referred to as the ''Fund'') for the purpose of enhancing economic opportunities for very poor, poor, and low-income women in developing countries with a focus on—

(A) increasing the development of women-owned enterprises;

(B) increasing property rights for women;

(C) increasing women's access to financial services;

(D) increasing the number of women in leadership in implementing partner organizations (as defined in section 259(6) of the Foreign Assistance Act of 1961 (22 U.S.C. 2214a(6))), as well as financial service providers;

(E) improving the employment benefits and conditions available to women; and

(F) increasing the benefits of international trade available to women.

(2) APPLICATION FOR FUNDS BY USAID MISSIONS.—

(A) IN GENERAL.—A mission of the United States Agency for International Development may apply for funds from the Fund to support specific activities, in addition to activities already carried out by that mission, that are described in subsection (b) and enhance economic opportunities for women in developing countries or integrate gender into economic opportunity programs.

(B) SUPPLEMENT NOT SUPPLANT.—Funds provided to a mission of the United States Agency for International Development pursuant to subparagraph (A) shall supplement and not supplant other funds available to that mission.

(b) ACTIVITIES SUPPORTED.—The activities described in this subsection are—

(1) activities described in title VI of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2211 et seq.), as amended by section 3 of this Act;

(2) activities described in sections 4 through 7 of this Act; and

(3) technical assistance to, and capacity building for, civil society organizations, particularly to carry out activities described in paragraphs (1) and (2), for—

(A) local and indigenous women's organizations to the maximum extent practicable; and

(B) local, indigenous, nongovernmental, and community-based organizations and financial service providers that demonstrate a commitment to gender equity in the leadership of such organizations and intermediaries either through current practice or through specific programs to increase the representation of women in the governance and management of such organizations and intermediaries.

SEC. 11. DATA COLLECTION.

The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall—

(1) provide support for tracking indicators on women's employment, property rights for women, women's access to financial services, and women's enterprise development, including microenterprises, in developing countries;

(2) to the extent practicable, track all foreign assistance funds provided by the United States to local, indigenous, nongovernmental, community-based organizations, and financial service providers in developing countries, including through subcontractors and grantees, disaggregated by the sex of the head of the organization, senior management, and composition of the boards of directors;

(3) encourage agencies of the United States that collect statistical data to provide support to agencies in developing countries that collect statistical data to collect data on the share of women in wage work and self-employment, disaggregated by type of employment; and

(4) provide funding to the International Labour Organization—

(A) to carry out technical assistance activities in developing countries; and

(B) to consolidate data indicators collected in different developing countries into cross-country data sets.

SEC. 12. SUPPORT FOR WOMEN'S ORGANIZATIONS IN DEVELOPING COUNTRIES.

(a) AMENDMENTS.—Section 102 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1) is amended—

(1) in subsection (a), by inserting after the ninth sentence the following new sentences: ''Because men and women generally occupy different economic niches in poor countries, activities must address those differences in ways that enable both women and men to contribute to and benefit from development. Throughout the world, indigenous, local, nongovernmental and community-based organizations, as well as financial service providers, are essential to addressing many of the development challenges facing countries and to creating stable, functioning democracies. Investing in the capacity of such organizations, including women's organizations, and in their roles in the development process shall be an important, cross-cutting objective of United States bilateral development assistance.''; and

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following new sentence: ''The principles described in this paragraph shall, among other strategies, be accomplished through partnerships with local, indigenous, nongovernmental, and community-based organizations, as well as financial service providers, that represent the interests of women.''; and

(B) in paragraph (6), by adding at the end the following new sentence: ''Such participation and improvement shall be encouraged and promoted by, among other strategies, investing in the capacity of and participation in local, indigenous, nongovernmental, and community-based organizations, especially women's organizations, dedicated to addressing the needs of women.''.

(b) ASSISTANCE.—The Secretary of State, acting through the Administrator of the United States Agency for International Development, shall, where appropriate—

(1) ensure project proposals include capacity building and technical assistance for local, indigenous, nongovernmental, organizations and community-based organizations dedicated to addressing the needs of women, especially women's organizations, to promote the long-term sustainability of projects;

(2) provide information and training to local, indigenous, nongovernmental, and community-based organizations, especially women's organizations, focused on women's empowerment in countries in which missions of the United States Agency for International Development are located in order to—

(A) provide technical assistance with respect to United States foreign assistance procurement procedures; and

(B) undertake culturally appropriate outreach measures to contact such organizations;

(3) encourage recipients of United States technical and financial aid to the maximum extent practicable, to provide financial support to local, indigenous, nongovernmental, and community-based organizations that focus on women's empowerment, including women's organizations and other organizations that may not have previously worked with the United States or a partner of the United States, in fulfilling project objectives;

(4) work with local governments to conduct outreach campaigns to register, as required by local laws and regulations, unofficial local, indigenous, nongovernmental, and community-based organizations, especially women's organizations; and

(5) support efforts of indigenous organizations, especially women's organizations, focused on women's empowerment to network with other indigenous women's groups to collectively access funding opportunities to implement United States foreign assistance programs.

SEC. 13. REPORT.

(a) REPORT REQUIRED.—Not later than June 30, 2011, the Secretary of State, acting through the Administrator of the United States Agency for International Development, shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) UPDATE.—Not later than June 30, 2012, the Secretary of State, acting through the

Administrator of the United States Agency for International Development, shall submit to Congress an update of the report required by subsection (a).

(c) AVAILABILITY TO PUBLIC.—The report required by subsection (a) and the update required by subsection (b) shall be made available to the public on the Internet websites of the Department of State and the United States Agency for International Development.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of State to carry out sections 10 and 11—

(1) $40,000,000 for fiscal year 2011; and

(2) such sums as may be necessary for each of the fiscal years 2012 and 2013.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a)—

(1) are authorized to remain available until expended; and

(2) shall supplement and not supplant any other amounts available for the purposes described in sections 10 and 11.

By Ms. MURKOWSKI:

S. 1430. A bill to amend the Elementary and Secondary Education Act of 1965 regarding highly qualified teachers, growth models, adequate yearly progress, Native American language programs, and parental involvement, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. MURKOWSKI. Mr. President, I rise today to introduce the School Accountability Improvements Act.

As you know, the 2001 reauthorization of the Elementary and Secondary Education Act, also known as the No Child Left Behind Act, or NCLB, made significant changes to Federal requirements for schools, school districts, and States. Many of these changes have been good, and were necessary.

Because of NCLB, there is more national attention being paid to ensuring that schools, districts, and States are held accountable for the achievement of students with disabilities, those who are economically disadvantaged, and minority students. In my own State of Alaska this has meant, for example, that our more urban school districts are paying more attention than ever to Alaska Native students' needs.

People across the nation are also more aware that a teacher's knowledge of the subject matter and his or her ability to teach that subject are the most important factors in ensuring a child's achievement in school.

Teachers, parents, administrators, and communities have more data than ever about the achievement of individual students, subgroups of students, and schools. With that data, changes are being made to school policies and procedures and more students are getting the help they need to succeed in schools.

While these are just a few of the positive effects of the No Child Left Behind Act, there have been problems. This is not surprising, as it is difficult to write one law that will work well for both New York City and Nuiqsut, AK.

My bill, the School Accountability Improvements Act is meant to address 6 issues that are of particular concern in Alaska and in other States around the nation.

First, my legislation would give flexibility to states regarding NCLB's ''Highly Qualified Teacher'' requirements. In very small, rural schools, it is common for one teacher to teach multiple core academic subjects in the middle and high school grades. NCLB requires that this teacher be ''Highly Qualified'' in each of those subjects.

While it is vital that teachers know the subjects they teach, it is also unreasonable to expect teachers in very tiny schools to meet the current requirements in every single subject. It is almost impossible for tiny, remote school districts to find and hire such teachers. Yet, students deserve to have teachers who know the subjects they teach.

My legislation would provide flexibility by allowing instruction to be provided by Highly Qualified teachers by distance delivery if they are assisted by teachers on site who are Highly Qualified in a different subject. This provision is offered as a compromise in those limited situations.

Second, my legislation would give credit to schools, rather than punish them, if students are improving but have not yet reached the State's proficiency goals by requiring the U.S. Department of Education to allow States to determine schools' success based on individual students' growth in proficiency. While it can be useful to teachers and administrators to know how one group of third graders compares to the next year's class, it is much more useful for educators, students, and parents to know how each child is progressing—is the child proficient, on track to be proficient, or falling behind? Many States now have the robust data systems that will allow them to track this information; NCLB should allow them to use the statistical model that will be most useful.

My bill also improves NCLB's requirements for school choice and tutoring. No Child Left Behind gave parents an opportunity to move their children out of dysfunctional schools. I support that. But the law requires school districts offer school choice, and to set aside funds to pay for transportation, in Year Two of Improvement Status. Schools do not have to tutor the students until the following year. This is backwards logic. Schools should be given the opportunity to help students learn first before transporting them all over town. I think most parents agree, and that is one reason why we are seeing fewer than 2 percent of parents choose to transfer their children to another school. My bill would require schools to offer tutoring first before providing school choice.

Mr. President, NCLB also requires schools to tutor and offer choice to students who are doing well at their neighborhood school. Schools should not be forced to set aside desperately needed funds to serve students who don't need those services. My bill would require schools to provide tutoring and choice only to those students who are not proficient. In addition, it would allow school districts to provide tutoring to students even if the district is in Improvement Status. While school districts may need improvement overall, those same districts employ teachers who are fully capable of providing effective tutoring.

Many educators and parents also have concerns about NCLB's requirements for Corrective Action and Restructuring. These are very significant requirements that can include firing staff and closing schools that don't meet the law's AYP requirements. They are even more significant if the actions are not based on reliable information.

As you know, assessing whether a child is proficient on state standards in a reliable and valid way is difficult. It is even more difficult when the child has a disability or has limited English proficiency. Some question whether or not the tests we are giving these two groups of students are valid and reliable. Yet, NCLB requires districts and States to impose significant corrective actions or restructure a school completely if a school or district does not make AYP for any subgroup repeatedly. For truly dysfunctional schools and districts, that may be appropriate.

But, how do we justify taking over a school, firing its teachers, turning its governance over to another entity, or other drastic measures if the students are learning but have not yet met the State's proficiency benchmarks? We can not.

That is why my bill would not allow a school or school district to be restructured if the school missed AYP for one or both of those subgroups alone and the school can show through a growth model that the students in those two subgroups are on track to be proficient in a reasonable amount of time. Schools that are improving student learning should not be dismantled based on potentially invalid test results.

In Alaska, Hawaii, and several other States, Native Americans are working hard to keep their indigenous languages and cultures alive. Teachers will tell you, and research supports them, that Alaska Native, Native Hawaiian, and American Indian students learn better when their heritage is a respected and vibrant part of their education. This is true of any child, but particularly true for these groups of Americans.

Many schools around the country that serve these students have incorporated indigenous language programs into their curriculum. The problem is that in many instances, there is no valid and reliable way to assess whether or not the students have learned the state standards in that language. Neither is it valid to test what a student knows in a language they do not speak

well. Research also tells us that students who are learning in a full language immersion program do not test well initially, but by 7th grade they do as well or better on State tests and they can speak two languages.

My legislation would allow schools with Native American language programs in States where there is no assessment in that language to calculate Adequate Yearly Progress for third graders by participation rate only. It would then allow the school to make AYP if those students are proficient or on track to be proficient in grades 4 through 7.

Finally, I know as a parent how important it is to my boys that their father and I have always been involved in their education. NCLB recognizes, in many ways, how important parents are in a child's education, but improvements can still be made. My bill would amend Title II of NCLB—which authorizes subgrants for preparing, training, and recruiting teachers and principals—to allow, but not mandate, more parental involvement in our schools. This section of my bill would allow parent-teacher associations and organizations to be members of federally funded partnerships formed to improve low-performing schools and to provide training to teachers and principals to improve parental engagement and school-parent communication.

I can tell you that as wonderful as our Nation's teachers are, very few of them graduate from college having had a course in how to effectively communicate with parents. Teachers are very busy people, and when a parent shows up at the classroom door and says, ''Hi, I'm here to help'' teachers often do not know how to react. Many teachers have difficulty communicating with parents who may be working two jobs, or who have a different cultural background or language. In my view, parents should be a part of improving their children's schools, and have insights into how communication between school and home can be improved.

I know that these 6 issues are not the only issues that my colleagues, Alaskans, and Americans may have with the No Child Left Behind Act. I have been talking with Alaskans about NCLB since I came to the Senate, and I look forward to working hard on the reauthorization of the law this year.

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. 1430

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 ''School Accountability Improvements Act''.

SEC. 2. HIGHLY QUALIFIED TEACHERS IN SMALL, RURAL, OR REMOTE SCHOOLS.

(a) PURPOSES.—The purposes of this section are—

(1) to ensure that local educational agencies have flexibility in the ways in which the local educational agencies may provide instruction in core academic subjects;

(2) to provide relief to teachers who are assigned to teach more than two core academic subjects in small, rural, or remote schools; and

(3) to provide assurances to students that their instructors will have appropriate knowledge of the core academic subjects the instructors teach.

(b) HIGHLY QUALIFIED TEACHERS OF MULTIPLE CORE ACADEMIC SUBJECTS IN SMALL SCHOOLS.—Section 1119(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(a)) is amended by adding at the end the following:

''(4) SPECIAL RULE FOR SMALL, RURAL, OR REMOTE SCHOOLS.—In the case of a local educational agency that is unable to provide a highly qualified teacher to serve as an on-site classroom teacher for a core academic subject in a small, rural, or remote school, the local educational agency may meet the requirements of this section by using distance learning to provide such instruction by a teacher who is highly qualified in the core academic subject, as long as—

''(A) the teacher who is highly qualified in the core academic subject—

''(i) is responsible for providing at least 50 percent of the direct instruction in the core academic subject through distance learning;

''(ii) is responsible for monitoring student progress; and

''(iii) is the teacher who assigns the students their grades; and

''(B) an on-site teacher who is highly qualified in a subject other the core academic subject taught through distance learning is present in the classroom throughout the period of distance learning and provides supporting instruction and assistance to the students.''.

(c) SMALL, RURAL, OR REMOTE SCHOOLS.—Section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) is amended—

(1) by redesignating paragraphs (41) through (43) as paragraphs (42) through (44), respectively;

(2) in the undesignated paragraph following paragraph (39), by striking ''STATE.—The'' and inserting the following

''(41) STATE.—The''; and

(3) by inserting after paragraph (39) the following:

''(40) SMALL, RURAL, OR REMOTE SCHOOL.—The term 'small, rural, or remote school' means a school that—

''(A)(i) is served by a local educational agency that meets the eligibility requirements of section 6211(b) or 6221(b)(1)(B);

''(ii) has an average daily student membership of fewer than 500 students for grades kindergarten through grade 12, inclusive, for the full school year preceding the school year for which the determination is being made under this paragraph; or

''(iii) has an average daily membership of fewer than 100 students in grades 7 through 12, inclusive, for such preceding full school year; and

''(B) has been unable, despite reasonable efforts to do so, to recruit, hire, or retain a sufficient number of teachers who are highly qualified in the core academic subjects for the school year for which the determination is being made under this paragraph.''.

SEC. 3. GROWTH MODELS.

Section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)) is amended by adding at the end the following:

''(L) GROWTH MODELS.—

''(i) IN GENERAL.—In the case of a State that desires to satisfy the requirements of a single, statewide State accountability system under subparagraph (A) through the use of a growth model, the Secretary shall approve such State's use of the growth model if—

''(I) the State plan ensures that 100 percent of students in each group described in subparagraph (C)(v)—

''(aa) meet or exceed the State's proficient level of academic achievement on the State assessments under paragraph (3) by the 2013–2014 school year; or

''(bb) are making sufficient progress to enable each student to meet or exceed the State's proficient level on such assessments for the student's corresponding grade level not later than the student's final year in secondary school;

''(II) the State plan complies with all of the requirements of this paragraph, except as provided in clause (ii);

''(III) the growth model is based on a fully approved assessment system;

''(IV) the growth model calculates growth in student proficiency for the purposes of determining adequate yearly progress either by individual students or by cohorts of students, and may use methodologies, such as confidence intervals and the State-approved minimum designations, that will yield statistically reliable data;

''(V) the growth model includes all students; and

''(VI) the State has the capacity to track and manage the data for the growth model efficiently and effectively.

''(ii) SPECIAL RULE.—Notwithstanding any other provision of law, for purposes of any provision that requires the calculation of a number or percentage of students who meet or exceed the proficient level of academic achievement on a State assessment under paragraph (3), a State using a growth model approved under clause (i) shall calculate such number or percentage by counting—

''(I) the students who meet or exceed the proficient level of academic achievement on the State assessment; and

''(II) the students who, as demonstrated through the growth model, are making sufficient progress to enable each student to meet or exceed the proficient level on the State assessment for the student's corresponding grade level not later than the student's final year in secondary school.''.

SEC. 4. SCHOOL CHOICE AND SUPPLEMENTAL EDUCATIONAL SERVICES.

(a) SCHOOL CHOICE AND SUPPLEMENTAL EDUCATIONAL SERVICES.—Section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (E) and inserting the following:

''(E) SUPPLEMENTAL EDUCATIONAL SERVICES.—In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, make supplemental educational services available consistent with subsection (e).''; and

(B) by striking subparagraph (F);

(2) by striking paragraph (5) and inserting the following:

''(5) FAILURE TO MAKE ADEQUATE YEARLY PROGRESS AFTER IDENTIFICATION.—

''(A) IN GENERAL.—In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State's plan under section 1111(b)(2), not later than the first day of the second school year following identification under paragraph (1), the local educational agency serving such school shall—

''(i) provide students in grades 3 through 12 who are enrolled in the school and who did not meet or exceed the proficient level on

the most recent State assessment in mathematics or in reading or language arts with the option to transfer to another public school served by the local educational agency in accordance with subparagraph (B);

''(ii) continue to make supplemental educational services available consistent with subsection (e)(1); and

''(iii) continue to provide technical assistance.

''(B) PUBLIC SCHOOL CHOICE.—In carrying out subparagraph (A)(i) with respect to a school, the local educational agency serving such school shall, not later than the first day of the school year following such identification, provide all students described in subparagraph (A)(i) with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

''(C) TRANSFER.—Students who use the option to transfer under subparagraph (A)(i), paragraph (7)(C)(i) or (8)(A)(i), or subsection (c)(10)(C)(vii), shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.'';

(3) in paragraph (7)(C)(i), by striking ''all''; and

(4) in paragraph (8)(A)(i), by striking ''all''.

(b) SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDERS.—Section 1116(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)) is amended—

(1) by redesignating paragraph (12) as paragraph (13);

(2) by inserting after paragraph (11) the following:

''(12) RULE REGARDING PROVIDERS.—Notwithstanding paragraph (13)(B), a local educational agency identified under subsection (c) that is required to arrange for the provision of supplemental educational services under this subsection may serve as a provider of such services in accordance with this subsection.''; and

(3) in paragraph (13)(A) (as redesignated by paragraph (1)), by inserting '', who is in any of grades 3 through 12 and who did not meet or exceed the proficient level on the most recent State assessment in mathematics or in reading or language arts'' before the semicolon.

SEC. 5. CALCULATING ADEQUATE YEARLY PROGRESS FOR STUDENTS WITH DISABILITIES AND STUDENTS WITH LIMITED ENGLISH PROFICIENCY.

Section 1116 of the Elementary and Secondary Education Act of 1965 (as amended by section 4) (20 U.S.C. 6316) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

''(h) PARTIAL SATISFACTION OF AYP.—

''(1) SCHOOLS.—Notwithstanding this section or any other provision of law, in the case of a school that failed to make adequate yearly progress under section 1111(b)(2) solely because the school did not meet or exceed 1 or more annual measurable objectives set by the State under section 1111(b)(2)(G) for the subgroup of students with disabilities or students with limited English proficiency, or both such subgroups—

''(A) if such school is identified for school improvement under subsection (b)(1), such school shall only be required to develop or revise and implement a school plan under subsection (b)(3) with respect to each such subgroup that did not meet or exceed each annual measurable objective; and

''(B) if such school is identified for corrective action or restructuring under paragraph (7) or (8) of subsection (b), respectively, the local educational agency serving such school shall not be required to implement subsection (b)(7)(C)(iv) or subsection (b)(8)(B), respectively, if the local educational agency demonstrates to the State educational agency that the school would have made adequate yearly progress for each assessment and for each such subgroup for the most recent school year if the percentage of students who met or exceeded the proficient level of academic achievement on the State assessment was calculated by counting—

''(i) the students who met or exceeded such proficient level; and

''(ii) the students who are making sufficient progress to enable each such student to meet or exceed the proficient level on the assessment for the student's corresponding grade level not later than the student's final year in secondary school, as demonstrated through a growth model that meets the requirements described in subclauses (III) through (VI) of section 1111(b)(2)(L)(i).

''(2) LOCAL EDUCATIONAL AGENCIES.—Notwithstanding this section or any other provision of law, in the case of a local educational agency that failed to make adequately yearly progress under subsection (c)(1) solely because the local educational agency did not meet or exceed 1 or more annual measurable objectives set by the State under section 1111(b)(2)(G) for the subgroup of students with disabilities or students with limited English proficiency, or both such subgroups—

''(A) if the local educational agency is identified for improvement under subsection (c)(3), the local educational agency shall only be required to develop or revise and implement a local educational agency plan under subsection (c)(7) with respect to each such subgroup that did not meet or exceed each annual measurable objective; and

''(B) if the local educational agency is identified for corrective action under subsection (c)(10), the State educational agency shall not be required to implement such subsection if the State educational agency demonstrates to the Secretary that the local educational agency would have made adequate yearly progress for each assessment and for each such subgroup if the percentage of students who met or exceeded the proficient level of academic achievement on the State assessment was calculated by counting—

''(i) the students who meet or exceed such proficient level; and

''(ii) the students who are making sufficient progress to enable each such student to meet or exceed the proficient level on the assessment for the student's corresponding grade level not later than the student's final year in secondary school, as demonstrated through a growth model that meets the requirements described in subclauses (III) through (VI) of section 1111(b)(2)(L)(i).''.

SEC. 6. NATIVE AMERICAN LANGUAGE PROGRAMS.

Section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (as amended by section 3) (20 U.S.C. 6311(b)(2)) is further amended by adding at the end the following:

''(M) NATIVE AMERICAN LANGUAGE PROGRAMS.—Notwithstanding subparagraph (I) or any other provision of law—

''(i) a school serving students who receive not less than a half day of daily Native language instruction in an American Indian language, an Alaska Native language, or Hawaiian in at least grades kindergarten through grade 2 for a school year that does not have State assessments under paragraph (3) available in the Native American language taught at the school as provided for in paragraph (3)(C)(ix)(III)—

''(I) shall assess students in grade 3 as required under paragraph (3), and such students shall be included in determining if the school met the participation requirements for all groups of students as required under subparagraph (I)(ii) for such school year; and

''(II) shall not include such assessment results for students in grade 3 in determining if the school met or exceeded the annual measurable objectives for all groups of students as required under subparagraph (I)(i) for such school year; and

''(ii) in the case of a school serving students in any of grades 4 through 8 who received such Native American language instruction, such school shall count for purposes of calculating the percentage of students who met or exceeded the proficient level of academic achievement on the State assessment—

''(I) the students who met or exceeded such proficient level; and

''(II) the students who are making sufficient progress to enable each such student to meet or exceed such proficient level on the assessment for the student's corresponding grade level by the time the student enters grade 7, as demonstrated through a growth model that meets the requirements described in subclauses (III) through (VI) of subparagraph (L)(i).''.

SEC. 7. IMPROVING EFFECTIVE PARENTAL INVOLVEMENT.

Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended—

(1) in section 2131(1)(B) (20 U.S.C. 6631(1)(B)), by inserting ''one or more parent teacher associations or organizations,'' after ''another local educational agency,''; and

(2) in section 2134 (20 U.S.C. 6634)—

(A) in subsection (a)(2)(C), by inserting ''one or more parent teacher associations or organizations,'' after ''such local educational agencies,'';

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

''(b) OPTIONAL USE OF FUNDS.—An eligible partnership that receives a subgrant under this section may use subgrant funds remaining after carrying out all of the activities described in subsection (a) for—

''(1) developing parental engagement strategies, with accountability goals, as a key part of the ongoing school improvement plan under section 1116(b)(3)(A) for a school identified for improvement under section 1116(b)(1); or

''(2) providing training to teachers, principals, and parents in skills that will enhance effective communication, which training shall—

''(A) include the research-based standards and methodologies of effective parent or family involvement programs; and

''(B) to the greatest extent possible, involve the members of the local and State parent teacher association or organization in such training activities and in the implementation of school improvement plans under section 1116(b)(3)(A).''.

SEC. 8. CONFORMING AMENDMENTS.

Section 1116 of the Elementary and Secondary Education Act of 1965 (as amended by sections 4 and 5) (20 U.S.C. 6316) is further amended—

(1) in subsection (b)—

(A) in paragraph (6)(F), by striking ''(1)(E),'';

(B) in paragraph (7)(C)(i), by striking ''paragraph (1)(E) and (F)'' and inserting ''subparagraphs (B) and (C) of paragraph (5)'';

(C) in paragraph (8)(A)(i), by striking ''paragraph (1)(E) and (F)'' and inserting ''subparagraphs (B) and (C) of paragraph (5)'';

(D) in paragraph (9)—

(i) by striking ''paragraph (1)(E)'' and inserting ''paragraph (5)(B)''; and

(ii) by striking ''(1)(A), (5),'' and inserting ''(5)(A),''; and

(E) in paragraph (11), by striking ''(1)(E),'';

(2) in subsection (c)(10)(C)(vii), by striking ''subsections (b)(1)(E) and (F),'' and inserting ''subparagraphs (B) and (C) of subsection (b)(5)'';

(3) in subsection (e)(1), by inserting ''(1),'' after ''described in paragraph'';

(4) in subsection (f)(1)(A)(ii), by inserting ''(A)'' after ''(b)(5)''; and

(5) in subsection (g)(3)(A), by striking ''subsection (b)(1)(E)'' and inserting ''subsection (b)(5)(B)''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1448. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1450. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1451. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1452. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1453. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1454. Mr. SANDERS (for himself, Mr. LEAHY, Mr. SCHUMER, Mrs. GILLIBRAND, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1455. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1456. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1457. Mr. BENNET submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1458. Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1459. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1460. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1461. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1462. Mr. COCHRAN (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 1461 submitted by Ms. MURKOWSKI and intended to be proposed to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1463. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1464. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1465. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1466. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1467. Mr. VITTER proposed an amendment to amendment SA 1458 submitted by Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1468. Mrs. MURRAY proposed an amendment to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

TEXT OF AMENDMENTS

SA 1448. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUYE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION AND OPEN FREEDOM OF INFORMATION ACT.

(a) DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.—

(1) SHORT TITLE.—This subsection may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(2) DEFINITIONS.—In this subsection:

(A) COVERED RECORD.—The term ''covered record'' means any record—

(i) that is a photograph that—

(I) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(II) relates to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(ii) for which a certification by the Secretary of Defense under paragraph (3) is in effect.

(B) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(3) CERTIFICATION.—

(A) IN GENERAL.—For any photograph described under paragraph (2)(A)(i), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(i) citizens of the United States; or

(ii) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(B) CERTIFICATION EXPIRATION.—A certification submitted under subparagraph (A) and a renewal of a certification submitted under subparagraph (C) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(C) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(i) a renewal of a certification in accordance with subparagraph (A) at any time; and

(ii) more than 1 renewal of a certification.

(D) NOTICE TO CONGRESS.—A timely notice of the Secretary's certification shall be submitted to Congress.

(4) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(A) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(B) disclosure under any proceeding under that section.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the voluntary disclosure of a covered record.

(6) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

(b) OPEN FREEDOM OF INFORMATION ACT.—

(1) SHORT TITLE.—This subsection may be cited as the ''OPEN FOIA Act of 2009''.

(2) SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.—Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

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

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

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

''(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.''.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, using