S. 244

At the request of Mr. BOND, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 244, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 249

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 249, a bill to amend the Internal Revenue Code of 1986 to qualify formerly homeless youth who are students for purposes of low income tax credit.

S. 250

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 250, a bill to amend the Internal Revenue Code of 1986 to provide a higher education opportunity credit in place of existing education tax incentives.

S. 292

At the request of Mr. SPECTER, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL:

S. 313. A bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, today I am pleased to introduce the White Mountain Apache Tribe Water Rights Quantification Act of 2009. The legislation would authorize and confirm the tribe's water settlement and authorize funding for a key drinking water project on the tribe's reservation in northern Arizona—the Miner Flat Dam and Reservoir. The legislation is the product of nearly 3 years of negotiation and the tremendous work of the settlement parties.

On behalf of the tribe, the United States filed substantial claims to water in the Gila River and Little Colorado River General Stream adjudications in Arizona. The settlement of these claims would, among other things, resolve the tribe's claims to water by allocating to it a total annual water right of 52,000 acre-feet per year through a combination of surface water and Central Arizona Project water sources. Without a settlement, resolution of the tribe's claims would take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all of the parties to the settlement.

Late last year, the representatives of the non-federal water settlement parties indicated that a settlement was nearly finalized. The parties' representatives expressed their written support for the settlement and indicated that they will be submitting the settlement to their respective governing bodies for review and action. A number of the parties, including the White Mountain Apache Tribe, have already formally approved the settlement.

A major factor driving the settlement is the drinking water needs of the White Mountain Apache Tribe. Currently, a relatively small well field serves the drinking water needs of the majority of the residents on the tribe's reservation, but production from the wells has declined significantly over the last few years. As a result, the tribe has experienced summer drinking water shortages. The tribe is planning to construct a relatively small diversion project on the North Fork of the White River on its reservation this year. It indicates that when the project is completed it will replace most of the lost production from the existing well field, but will not produce enough water to meet the demand of the tribe's growing population. The Miner Flat Project would provide a longterm solution for the tribe's drinking water shortages.

A significant percentage of the water and funding for the White Mountain Apache settlement has already been set aside in legislation I sponsored, the Arizona Water Settlements Act. The Arizona Water Settlements Act, which became law in 2004, settled expensive and lengthy litigation concerning the Gila River Indian Community's rights to Gila River water and other water supplies, and the claims of the Tohono O'odham Nation for damages from groundwater pumping in southern Arizona. It also set aside 67,300 acre-feet of Central Arizona Project, CAP, water per year to resolve Indian water claims in Arizona and established a $250 million fund for future Arizona Indian water settlements.

Under the White Mountain Apache Tribe's settlement legislation, a portion of the CAP water set aside in the Arizona Water Settlements Act will be used to settle the White Mountain Apache Tribe's claims and a portion of the $250 million will be used to construct the Miner Flat Project. While a potential scoring issue exists relating to the use of these funds, I am confident that these issues will be resolved as the legislation progresses.

In sum, not only would the legislation I have introduced today provide certainty to water users in the State of Arizona regarding their future water supplies, it would provide the tribe with a long-term reliable source of drinking water. Therefore, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed int he RECORD.

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

S. 313

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 ''White Mountain Apache Tribe Water Rights Quantification Act of 2009''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) proceedings to determine the nature and extent of the water rights of the White Mountain Apache Tribe, members of the Tribe, the United States, and other claimants are pending in—

(A) the consolidated civil action in the Superior Court of the State of Arizona for the County of Maricopa styled In re the General Adjudication of All Rights To Use Water In The Gila River System and Source, W–1 (Salt), W–2 (Verde), W–3 (Upper Gila), W–4 (San Pedro); and

(B) the civil action pending in the Superior Court of the State of Arizona for the County of Apache styled In re the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source and numbered CIV–6417;

(2) a final resolution of those proceedings might—

(A) take many years;

(B) entail great expense;

(C) prolong uncertainty concerning the availability of water supplies; and

(D) seriously impair the long-term economic well-being of all parties to the proceedings;

(3) the Tribe, non-Indian communities located near the reservation of the Tribe, and other Arizona water users have agreed—

(A) to permanently quantify the water rights of the Tribe, members of the Tribe, and the United States in its capacity as trustee for the Tribe and members in accordance with the Agreement; and

(B) to seek funding, in accordance with applicable law, for the implementation of the Agreement;

(4) it is the policy of the United States to quantify, to the maximum extent practicable, water rights claims of Indian tribes without lengthy and costly litigation;

(5) as of the date of enactment of this Act, the tribal water rights are unquantified vested property rights held in trust by the United States for the benefit of the Tribe; and

(6) in keeping with the trust responsibility of the United States to Indian tribes, and to promote tribal sovereignty and economic self-sufficiency, it is appropriate that the United States participate in and contribute funds for the implementation of the Agreement.

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

(1) to authorize, ratify, and confirm the Agreement;

(2) to authorize and direct the Secretary to execute the Agreement and carry out all obligations of the Secretary under the Agreement;

(3) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act; and

(4) to permanently resolve certain damage claims and all water rights claims among—

(A) the Tribe and its members;

(B) the United States in its capacity as trustee for the Tribe and its members;

(C) the parties to the Agreement; and

(D) all other claimants in the proceedings referred to in subsection (a)(1).

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The ''Agreement'' means—

(A) the WMAT Water Rights Quantification Agreement dated January 13, 2009; and

(B) any amendment or exhibit (including exhibit amendments) to that agreement that are—

(i) made in accordance with this Act; or

(ii) otherwise approved by the Secretary.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Reclamation.

(3) CAP.—The term ''CAP'' means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

(4) CAP CONTRACTOR.—The term ''CAP contractor'' means an individual or entity that has entered into a long-term contract (as that term is used in the repayment stipulation) with the United States for delivery of water through the CAP system.

(5) CAP FIXED OM&R CHARGE.—The term ''CAP fixed OM&R charge'' has the meaning given the term in the repayment stipulation.

(6) CAP M&I PRIORITY WATER.—The term ''CAP M&I priority water'' means the CAP water having a municipal and industrial delivery priority under the repayment contract.

(7) CAP SUBCONTRACTOR.—The term ''CAP subcontractor'' means an individual or entity that has entered into a long-term subcontract (as that term is used in the repayment stipulation) with the United States and the District for the delivery of water through the CAP system.

(8) CAP SYSTEM.—The term ''CAP system'' means—

(A) the Mark Wilmer Pumping Plant;

(B) the Hayden-Rhodes Aqueduct;

(C) the Fannin-McFarland Aqueduct;

(D) the Tucson Aqueduct;

(E) any pumping plant or appurtenant works of a feature described in any of subparagraphs (A) through (D); and

(F) any extension of, addition to, or replacement for a feature described in any of subparagraphs (A) through (E).

(9) CAP WATER.—The term ''CAP water'' means ''Project Water'' (as that term is defined in the repayment stipulation).

(10) CONTRACT.—The term ''Contract'' means—

(A) the contract between the Tribe and the United States attached as exhibit 7.1 to the Agreement and numbered 08–XX–30–W0529 and dated [_____]; and

(B) any amendments to that contract.

(11) DISTRICT.—The term ''District'' means the Central Arizona Water Conservation District, a political subdivision of the State that is the contractor under the repayment contract.

(12) ENFORCEABILITY DATE.—The term ''enforceability date'' means the date described in section 12(c)(1).

(13) INJURY TO WATER RIGHTS.—

(A) IN GENERAL.—The term ''injury to water rights'' means an interference with, diminution of, or deprivation of, a water right under Federal, State, or other law.

(B) INCLUSIONS.—The term ''injury to water rights'' includes—

(i) a change in the groundwater table; and

(ii) any effect of such a change.

(C) EXCLUSION.—The term ''injury to water rights'' does not include any injury to water quality.

(14) OFF-RESERVATION TRUST LAND.—The term ''off-reservation trust land'' means land—

(A) located outside the exterior boundaries of the reservation that is held in trust by the United States for the benefit of the Tribe as of the enforceability date; and

(B) depicted on the map attached to the Agreement as exhibit 2.57.

(15) OPERATING AGENCY.—The term ''Operating Agency'' means the 1 or more entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP system.

(16) REPAYMENT CONTRACT.—The term ''repayment contract'' means—

(A) the contract between the United States and the District for delivery of water and repayment of the costs of the CAP, numbered 14–06–W–245 (Amendment No. 1), and dated December 1, 1988; and

(B) any amendment to, or revision of, that contract.

(17) REPAYMENT STIPULATION.—The term ''repayment stipulation'' means the stipulated judgment and the stipulation for judgment (including any exhibits to those documents) entered on November 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled Central Arizona Water Conservation District v. United States, et al., and numbered CIV 95–625–TUC–WDB (EHC) and CIV 95–1720–PHX–EHC.

(18) RESERVATION.—

(A) IN GENERAL.—The term ''reservation'' means the land within the exterior boundary of the White Mountain Indian Reservation established by the Executive order dated November 9, 1871, as modified by subsequent Executive orders and Acts of Congress—

(i) known on the date of enactment of this Act as the ''Fort Apache Reservation'' pursuant to the Act of June 7, 1897 (30 Stat. 62, chapter 3); and

(ii) generally depicted on the map attached to the Agreement as exhibit 2.81.

(B) NO EFFECT ON DISPUTE OR AS ADMISSION.—The depiction of the reservation described in subparagraph (A)(ii) shall not—

(i) be used to affect any dispute between the Tribe and the United States concerning the legal boundary of the reservation; and

(ii) constitute an admission by the Tribe with regard to any dispute between the Tribe and the United States concerning the legal boundary of the reservation.

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

(20) STATE.—The term ''State'' means the State of Arizona.

(21) TRIBAL CAP WATER.—The term ''tribal CAP water'' means the CAP water to which the Tribe is entitled pursuant to the Contract.

(22) TRIBAL WATER RIGHTS.—The term ''tribal water rights'' means the water rights of the Tribe described in paragraph 4.0 of the Agreement.

(23) TRIBE.—The term ''Tribe'' means the White Mountain Apache Tribe organized under section 16 of the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 476).

(24) WATER RIGHT.—The term ''water right'' means any right in or to groundwater, surface water, or effluent under Federal, State, or other law.

(25) WMAT RURAL WATER SYSTEM.—The term ''WMAT rural water system'' means the municipal, rural, and industrial water diversion, storage, and delivery system described in section 7.

(26) YEAR.—The term ''year'' means a calendar year.

SEC. 4. APPROVAL OF AGREEMENT.

(a) APPROVAL.—

(1) IN GENERAL.—Except to the extent that any provision of the Agreement conflicts with a provision of this Act, the Agreement is authorized, ratified, and confirmed.

(2) AMENDMENTS.—Any amendment to the Agreement is authorized, ratified, and confirmed, to the extent that such an amendment is executed to make the Agreement consistent with this Act.

(b) EXECUTION OF AGREEMENT.—To the extent that the Agreement does not conflict with this Act, the Secretary shall—

(1) execute the Agreement (including signing any exhibit to the Agreement requiring the signature of the Secretary); and

(2) execute any amendment to the Agreement necessary to make the Agreement consistent with this Act.

(c) NATIONAL ENVIRONMENTAL POLICY ACT.—

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Agreement, the Secretary shall promptly comply with all applicable requirements of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(C) all other applicable Federal environmental laws; and

(D) all regulations promulgated under the laws described in subparagraphs (A) through (C).

(2) EXECUTION OF AGREEMENT.—

(A) IN GENERAL.—Execution of the Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ENVIRONMENTAL COMPLIANCE.—The Secretary shall carry out all necessary environmental compliance required by Federal law in implementing the Agreement.

(3) LEAD AGENCY.—The Bureau shall serve as the lead agency with respect to ensuring environmental compliance associated with the WMAT rural water system.

SEC. 5. WATER RIGHTS.

(a) RIGHTS HELD IN TRUST.—The tribal water rights shall be held in trust by the United States on behalf of Tribe.

(b) REALLOCATION.—

(1) IN GENERAL.—In accordance with this Act and the Agreement, the Secretary shall reallocate to the Tribe, and offer to enter into a contract with the Tribe for the delivery in accordance with this section of—

(A) an annual entitlement to 23,782 acre-feet per year of CAP water that has a non-Indian agricultural delivery priority (as defined in the Contract) in accordance with section 104(a)(1)(A)(iii) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3488), of which—

(i) 3,750 acre-feet per year shall be firmed by the United States for the benefit of the Tribe for the 100-year period beginning on January 1, 2008, with priority equivalent to CAP M&I priority water, in accordance with section 105(b)(1)(B) of that Act (118 Stat. 3492); and

(ii) 3,750 acre-feet per year shall be firmed by the State for the benefit of the Tribe for the 100-year period beginning on January 1, 2008, with priority equivalent to CAP M&I priority water, in accordance with section 105(b)(2)(B) of that Act (118 Stat. 3492); and

(B) an annual entitlement to 1,218 acre-feet per year of the water—

(i) acquired by the Secretary through the permanent relinquishment of the Harquahala Valley Irrigation District CAP subcontract entitlement in accordance with the contract numbered 3–07–30–W0290 among the District, Harquahala Valley Irrigation District, and the United States; and

(ii) converted to CAP Indian Priority water (as defined in the Contract) pursuant to the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101–628; 104 Stat. 4480).

(2) AUTHORITY OF TRIBE.—Subject to approval by the Secretary under section 6(a)(1), the Tribe shall have the sole authority to lease, distribute, exchange, or allocate the tribal CAP water described in paragraph (1).

(c) WATER SERVICE CAPITAL CHARGES.—The Tribe shall not be responsible for any water service capital charge for tribal CAP water.

(d) ALLOCATION AND REPAYMENT.—For the purpose of determining the allocation and repayment of costs of any stages of the CAP constructed after November 21, 2007, the costs associated with the delivery of water described in subsection (b), regardless of whether the water is delivered for use by the Tribe or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by Tribe, shall be—

(1) nonreimbursable; and

(2) excluded from the repayment obligation of the District.

(e) WATER CODE.—Not later than 18 months after the enforceability date, the Tribe shall enact a water code that—

(1) governs the tribal water rights; and

(2) includes, at a minimum—

(A) provisions requiring the measurement, calculation, and recording of all diversions and depletions of water on the reservation and on off-reservation trust land;

(B) terms of a water conservation plan, including objectives, conservation measures, and an implementation timeline;

(C) provisions requiring the approval of the Tribe for the severance and transfer of rights to the use of water from historically irrigated land identified in paragraph 11.3.2.1 of the Agreement to diversions and depletions on other non-historically irrigated land not located on the watershed of the same water source; and

(D) provisions requiring the authorization of the Tribe for all diversions of water on the reservation and on off-reservation trust land by any individual or entity other than the Tribe.

SEC. 6. CONTRACT.

(a) IN GENERAL.—The Secretary shall enter into the Contract, in accordance with the Agreement, to provide, among other things, that—

(1) the Tribe, on approval of the Secretary, may—

(A) enter into contracts or options to lease, contracts to exchange, or options to exchange tribal CAP water in Maricopa, Pinal, Pima, and Yavapai Counties in the State providing for the temporary delivery to any individual or entity of any portion of the tribal CAP water, subject to the condition that—

(i) the term of the contract or option to lease shall not be longer than 100 years;

(ii) the contracts or options to exchange shall be for the term provided in the contract or option; and

(iii) a lease or option to lease providing for the temporary delivery of tribal CAP water shall require the lessee to pay to the Operating Agency all CAP fixed OM&R charges and all CAP pumping energy charges (as defined in the repayment stipulation) associated with the leased water; and

(B) renegotiate any lease at any time during the term of the lease, subject to the condition that the term of the renegotiated lease shall not exceed 100 years;

(2) no portion of the tribal CAP water may be permanently alienated;

(3)(A) the Tribe (and not the United States in any capacity) shall be entitled to all consideration due to the Tribe under any contract or option to lease or exchange tribal CAP water entered into by the Tribe; and

(B) the United States (in any capacity) has no trust or other obligation to monitor, administer, or account for, in any manner—

(i) any funds received by the Tribe as consideration under a contract or option to lease or exchange tribal CAP water; or

(ii) the expenditure of those funds;

(4)(A) all tribal CAP water shall be delivered through the CAP system; and

(B) if the delivery capacity of the CAP system is significantly reduced or anticipated to be significantly reduced for an extended period of time, the Tribe shall have the same CAP delivery rights as a CAP contractor or CAP subcontractor that is allowed to take delivery of water other than through the CAP system;

(5) the Tribe may use tribal CAP water on or off the reservation for any purpose;

(6) as authorized by subsection (f)(2)(A) of section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by subsection (a) of that section, the United States shall pay to the Operating Agency the CAP fixed OM&R charges associated with the delivery of tribal CAP water (except in the case of tribal CAP water leased by any individual or entity);

(7) the Secretary shall waive the right of the Secretary to capture all return flow from project exchange water flowing from the exterior boundary of the reservation; and

(8) no CAP water service capital charge shall be due or payable for the tribal CAP water, regardless of whether the water is delivered for use by the Tribe or pursuant to a contract or option to lease or exchange tribal CAP water entered into by the Tribe.

(b) REQUIREMENTS.—The Contract shall be—

(1) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)); and

(2) without limit as to term.

(c) RATIFICATION.—

(1) IN GENERAL.—Except to the extent that any provision of the Contract conflicts with a provision of this Act, the Contract is authorized, ratified, and confirmed.

(2) AMENDMENTS.—Any amendment to the Contract is authorized, ratified, and confirmed, to the extent that such an amendment is executed to make the Contract consistent with this Act.

(d) EXECUTION OF CONTRACT.—To the extent that the Contract does not conflict with this Act, the Secretary shall execute the Contract.

(e) PAYMENT OF CHARGES.—The Tribe, and any recipient of tribal CAP water through a contract or option to lease or exchange, shall not be obligated to pay a water service capital charge or any other charge, payment, or fee for CAP water, except as provided in an applicable lease or exchange agreement.

(f) PROHIBITIONS.—

(1) USE OUTSIDE STATE.—No tribal CAP water may be leased, exchanged, forborne, or otherwise transferred by the Tribe in any way for use directly or indirectly outside the State.

(2) USE OFF RESERVATION.—Except as authorized by this section and paragraph 4.7 of the Agreement, no tribal water rights under this Act may be sold, leased, transferred, or used outside the boundaries of the reservation or off-reservation trust land other than pursuant to an exchange.

(3) AGREEMENTS WITH ARIZONA WATER BANKING AUTHORITY.—Nothing in this Act or the Agreement limits the right of the Tribe to enter into an agreement with the Arizona Water Banking Authority established by section 45–2421 of the Arizona Revised Statutes (or any successor entity), in accordance with State law.

(g) LEASES.—

(1) IN GENERAL.—To the extent the leases of tribal CAP Water by the Tribe to the District and to any of the cities, attached as exhibits to the Agreement, are not in conflict with the provisions of this Act—

(A) those leases are authorized, ratified, and confirmed; and

(B) the Secretary shall execute the leases.

(2) AMENDMENTS.—To the extent that amendments are executed to make the leases described in paragraph (1) consistent with this Act, those amendments are authorized, ratified, and confirmed.

SEC. 7. AUTHORIZATION OF THE RURAL WATER SYSTEM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary, acting through the Bureau, shall plan, design, construct, operate, maintain, replace, and rehabilitate the WMAT rural water system as generally described in the project extension report dated February 2007.

(b) COMPONENTS.—The WMAT rural water system under subsection (a) shall consist of—

(1) a dam and storage reservoir, pumping plant, and treatment facilities located along the North Fork White River near the community of Whiteriver;

(2) pipelines extending from the water treatment plants to existing water distribution systems serving the Whiteriver, Carrizo, and Cibecue areas, together with other communities along the pipeline;

(3) connections to existing distribution facilities, including public and private water systems in existence on the date of enactment of this Act;

(4) appurtenant buildings and access roads;

(5) electrical power transmission and distribution facilities necessary for services to rural water system facilities;

(6) all property and property rights necessary for the facilities described in this subsection; and

(7) such other project components as the Secretary determines to be appropriate to meet the water supply, economic, public health, and environmental needs of the portions of the reservation served by the WMAT rural water system, including water storage tanks, water lines, and other facilities for the Tribe and the villages and towns on the reservation.

(c) SERVICE AREA.—The service area of the WMAT rural water system shall be as described in the Project Extension report dated February 2007.

(d) CONSTRUCTION REQUIREMENTS.—The components of the WMAT rural water system shall be planned and constructed to a size that is sufficient to meet the municipal, rural, and industrial water supply requirements of the WMAT rural water system service area during the period beginning on the date of enactment of this Act and ending not earlier than December 31, 2040.

(e) TITLE.—Title to the WMAT rural water system shall be held in trust by the United States in its capacity as trustee for the Tribe.

(f) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as is necessary to enable the Tribe to plan, design, construct, operate, maintain, and replace the WMAT rural water system, including operation and management training.

(g) APPLICABILITY OF ISDEAA.—Planning, design, construction, operation, maintenance, rehabilitation, and replacement of the WMAT rural water system on the reservation shall be subject to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(h) CONDITION.—As a condition of construction of the facilities authorized by this section, the Tribe shall provide, at no cost to the Secretary, all land or interests in land, as appropriate, that the Secretary identifies as being necessary for those facilities.

SEC. 8. OUTDOOR RECREATION FACILITIES, NATIONAL FISH HATCHERIES, AND EXISTING IRRIGATION SYSTEMS.

(a) IN GENERAL.—Subject to the availability of appropriations, on request of the Tribe, the Secretary shall provide financial and technical assistance to complete the Hawley Lake, Horseshoe Lake, Reservation Lake, Sunrise Lake, and Big and Little Bear Lake reconstruction projects and facilities improvements, as generally described in the Bureau report entitled ''White Mountain Apache Tribe Recreation Planning Study—April 2003''.

(b) ALCHESAY WILLIAMS CREEK NATIONAL FISH HATCHERY COMPLEX.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall operate, maintain, rehabilitate, and upgrade the Alchesay-Williams Creek National Fish Hatchery Complex on the reservation for the continued general and primary benefit of the Tribe and the White Mountain region.

(2) COMPLEX REHABILITATION.—The rehabilitation of, and upgrades to, the complex described in paragraph (1) shall include—

(A) raceway construction and rehabilitation, water quality improvements, a water recirculation system, supplemental water treatment capability, equipment acquisition, and building rehabilitation; and

(B) capital improvement and deferred maintenance facility needs identified in the reports of the United States Fish and Wildlife Service entitled ''Facilities Needs Assessment'' and ''Merrick Report'' and dated September 2000, as updated through 2008.

(c) TRIBE FISHERY CENTER.—Subject to the availability of appropriations, the Secretary shall plan, design, construct, operate, maintain, rehabilitate, and replace a fish grow-out facility, to be known as the ''WMAT Fishery Center'', on the west side of the reservation for the benefit of the Tribe, consisting of—

(1) a 10,000-square foot indoor facility;

(2) circular fiberglass tanks;

(3) plumbing and required equipment;

(4) collection and conveyance water systems; and

(5) raceways and ponds.

(d) SUNRISE SKI PARK SNOW-MAKING INFRASTRUCTURE.—Subject to the availability of appropriations, the Secretary shall plan, design, and construct snow-making capacity and infrastructure for Sunrise Ski Park, consisting of—

(1) enlargement of Ono Lake;

(2) replacement of snow-making infrastructure, as necessary; and

(3) expansion of snow-making infrastructure and capacity to all ski runs on Sunrise Peak, Apache Peak, and Cyclone Peak.

(e) EXISTING IRRIGATION SYSTEM REHABILITATION.—Subject to the availability of appropriations, the Secretary shall operate, maintain, rehabilitate, and upgrade the Canyon Day and other historic irrigation systems on the reservation for the continued general and primary benefit of the Tribe.

(f) APPLICABILITY OF ISDEAA.—Planning, design, construction, operation, maintenance, rehabilitation, replacement, and upgrade of the projects identified in this section shall be subject to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 9. FEASIBILITY STUDY OF NEEDED FOREST PRODUCTS IMPROVEMENTS.

(a) FEASIBILITY STUDY.—Subject to the availability of appropriations and pursuant to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), on receipt of a request by the Tribe, the Secretary shall conduct a feasibility study of options for—

(1) improving the manufacture and use of timber products derived from commercial forests on the reservation; and

(2) improving forest management practices, consistent with sustained yield principles for multipurpose forest uses, healthy forest initiatives, and other applicable law to supply raw materials for future manufacture and use.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary, with concurrence of the tribal council of the Tribe, shall submit to Congress a report describing the results of the feasibility study under subsection (a), including recommendations of the Secretary, if any, for the improvements described in that subsection.

(c) IMPLEMENTATION.—Subject to the availability of appropriations, the Secretary shall plan, design, and construct the improvements recommended under subsection (b).

SEC. 10. RECREATION IMPOUNDMENTS AND RELATED FACILITIES.

Subject to the availability of appropriations, on receipt of a request by the Tribe and pursuant to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall—

(1) conduct a feasibility study of recreation impoundments throughout the reservation;

(2) develop recommendations for the implementation, by not later than 1 year after the date of enactment of this Act, of feasible recreation impoundments; and

(3) plan, design, and construct any recommended recreation impoundments and related recreation facilities.

SEC. 11. SATISFACTION OF CLAIMS.

(a) IN GENERAL.—The benefits realized by the Tribe and its members under this Act shall be in full satisfaction of all claims of the Tribe and its members for water rights and injury to water rights, except as set forth in the Agreement, under Federal, State, or other law with respect to the reservation and off-reservation trust land.

(b) USES OF WATER.—All uses of water on lands outside of the reservation, if and when such lands are subsequently and finally determined to be part of the reservation through resolution of any dispute between the Tribe and the United States over the location of the reservation boundary, and any fee lands within the reservation put into trust and made part of the reservation, shall be subject to the maximum annual diversion amounts and the maximum annual depletion amounts specified in the Agreement.

(c) NO RECOGNITION OF WATER RIGHTS.—Notwithstanding subsection (a), nothing in this Act has the effect of recognizing or establishing any right of a member of the Tribe to water on the reservation.

SEC. 12. WAIVER AND RELEASE OF CLAIMS.

(a) IN GENERAL.—

(1) CLAIMS AGAINST THE STATE AND OTHERS.—Except as provided in subparagraph 12.6 of the Agreement, the Tribe, on behalf of itself and its members, and the United States, acting in its capacity of trustee for the Tribe and its members as part of the performance of their obligations under the Agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State), or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for all—

(A)(i) past, present, and future claims for water rights for the reservation and off-reservation trust land arising from time immemorial and, thereafter, forever; and

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based upon aboriginal occupancy of land by the Tribe, its members, or their predecessors;

(B)(i) past and present claims for injury to water rights for the reservation and off-reservation trust land arising from time immemorial through the enforceability date;

(ii) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based upon aboriginal occupancy of land by the Tribe and its members, or their predecessors; and

(iii) claims for injury to water rights arising after the enforceability date for the reservation and off-reservation trust land resulting from off-reservation diversion or use of water in a manner not in violation of the Agreement or State law; and

(C) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Agreement or the negotiation or enactment of this Act.

(2) CLAIMS AGAINST TRIBE.—Except as provided in subparagraph 12.8 of the Agreement, the United States, in all its capacities (except as trustee for an Indian tribe other than the Tribe), as part of the performance of its obligations under the Agreement, is authorized to execute a waiver and release of any and all claims against the Tribe, its members, or any agency, official, or employee of the Tribe, under Federal, State, or any other law for all—

(A) past and present claims for injury to water rights resulting from the diversion or use of water on the reservation and on off-reservation trust land arising from time immemorial through the enforceability date;

(B) claims for injury to water rights arising after the enforceability date resulting from the diversion or use of water on the reservation and on off-reservation trust land in a manner not in violation of the Agreement; and

(C) past, present, and future claims arising out of or related in any manner to the negotiation or execution of the Agreement or the negotiation or enactment of this Act.

(3) CLAIMS AGAINST THE UNITED STATES.—Except as provided in subparagraph 12.7 of the Agreement, the Tribe, on behalf of itself and its members, as part of the performance of its obligations under the Agreement, is authorized to execute a waiver and release of any claim against the United States, including agencies, officials, or employees thereof (except in the United States capacity as trustee for other tribes), under Federal, State, or other law for any and all—

(A)(i) past, present, and future claims for water rights for the reservation and off-reservation trust land arising from time immemorial and, thereafter, forever; and

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Tribe and its members, or their predecessors;

(B)(i) past and present claims relating in any manner to damages, losses, or injuries to water, water rights, land, or other resources due to loss of water or water rights (including but not limited to damages, losses or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water; or claims relating to failure to protect, acquire, or develop water, water rights or water infrastructure) within the reservation and off-reservation trust land that first accrued at any time prior to the enforceability date;

(ii) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Tribe and its members, or their predecessors; and

(iii) claims for injury to water rights arising after the enforceability date for the reservation and off-reservation trust land resulting from the off-reservation diversion or use of water in a manner not in violation of the Agreement or applicable law;

(C) past, present, and future claims arising out of or relating in any manner to the negotiation, execution, or adoption of the Agreement, an applicable settlement judgment or decree, or this Act;

(D) past and present claims relating in any manner to pending litigation of claims relating to the Tribe's water rights for the reservation and off-reservation trust land;

(E) past and present claims relating to the operation, maintenance, and replacement of existing irrigation systems on the reservation constructed prior to the enforceability date that first accrued at any time prior to the enforceability date, which waiver shall only become effective upon the full appropriation and payment of such funds authorized by section 16(c)(4) to the Tribe;

(F) future claims relating to operation, maintenance, and replacement of the WMAT rural water system, which waiver shall only become effective upon the full appropriation of funds authorized by section 16(b) and their deposit into the Rural Water System OM&R Fund; and

(G) past, present, and future breach of trust and negligence claims for damage to the natural resources of the Tribe caused by riparian and other vegetative manipulation, including over-cutting of forest resources by the United States for the purpose of increasing water runoff from the reservation.

(4) NO WAIVER OF CLAIMS.—Nothing in this subsection waives any claim of the Tribe against the United States for future takings by the United States of reservation land or off-reservation trust land or property rights appurtenant to those lands, including any water rights set forth in paragraph 4.0 of the Agreement.

(b) EFFECTIVENESS OF WAIVER AND RELEASES.—Except where otherwise specifically provided in subparagraphs (E) and (F) of subsection (a)(3), the waivers and releases under subsection (a) shall become effective on the enforceability date.

(c) ENFORCEABILITY DATE.—

(1) IN GENERAL.—This section takes effect on the date on which the Secretary publishes in the Federal Register a statement of findings that—

(A) to the extent the Agreement conflicts with this Act, the Agreement has been revised through an amendment to eliminate the conflict and the Agreement, so revised, has been executed by the Secretary, the Tribe and the Governor of the State;

(B) the Secretary has fulfilled the requirements of sections 5 and 6;

(C)(i) the funds authorized in sections 13 and 16(a), have been appropriated and deposited in the Rural Water System Construction Fund; and

(ii) if applicable, the funds described in section 16(i) have been deposited in the Rural Water System Construction Fund;

(D) the State funds described in subparagraph 13.3 of the Agreement have been deposited in the Rural Water System Construction Fund;

(E) the Secretary has issued a record of decision approving the construction of the WMAT rural water system in a configuration substantially similar to that described in section 7; and

(F) the judgments and decrees substantially in the form of those attached to the Agreement as exhibits 12.9.6.1 and 12.9.6.2 have been approved by the respective trial courts.

(2) FAILURE OF ENFORCEABILITY DATE TO OCCUR.—If, because of the failure of the enforceability date to occur by October 31, 2013, this section does not become effective, the Tribe and its members, and the United States, acting in the capacity of trustee for the Tribe and its members, shall retain the right to assert past, present, and future water rights claims and claims for injury to water rights for the reservation and off-reservation trust land.

(3) NO RIGHTS TO WATER.—Upon the occurrence of the enforceability date, all land held by the United States in trust for the Tribe and its members shall have no rights to water other than those specifically quantified for the Tribe and the United States, acting in the capacity of trustee for the Tribe and its members for the reservation and off-reservation trust land pursuant to paragraph 4.0 of the Agreement.

(d) UNITED STATES ENFORCEMENT AUTHORITY.—Nothing in this Act or the Agreement affects any right of the United States to take any action, including environmental actions, under any laws (including regulations and the common law) relating to human health, safety, or the environment.

SEC. 13. USE OF LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.

(a) USE OF AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), up to $100,000,000 of amounts in the Lower Colorado River Basin Development Fund made available under section 403(f)(2)(D)(vi) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(vi)) may be used, without further appropriation, for the planning, engineering, design, and construction of the WMAT rural water system.

(2) REQUIREMENT.—If a loan is made to the Tribe pursuant to the White Mountain Apache Tribe Rural Water System Loan Authorization Act (Public Law 110–390; 122 Stat. 4191), the Tribe shall use such amounts made available under paragraph (1) as are necessary to repay that loan.

(b) OFFSET.—To the extent necessary, the Secretary shall offset amounts expended pursuant to subsection (a) using such additional amounts as may be made available to the Secretary for the applicable fiscal year.

SEC. 14. TRUST FUNDS.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States—

(1) a fund to be known as the ''Rural Water System Construction Fund'', consisting of—

(A) the funds made available under section 13;

(B) the amounts appropriated to the fund pursuant to subsections (a) and (i) of section 16, as applicable; and

(C) the funds provided in subparagraph 13.3 of the Agreement; and

(2) a fund to be known as the ''Rural Water System OM&R Fund'', consisting of amounts appropriated to the fund pursuant to section 16(b).

(b) MANAGEMENT.—The Secretary shall manage the Rural Water System Construction Fund and the Rural Water System OM&R Fund, including by—

(1) making investments from the funds; and

(2) distributing amounts from the funds to the Tribe, in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(c) INVESTMENT OF FUNDS.—The Secretary shall invest amounts in the funds in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a);

(3) subsection (b);

(4) the obligations of Federal corporations and Federal Government-sponsored entities the charter documents of which provide that the obligations of the entities are lawful investments for federally managed funds, including—

(A) the obligations of the United States Postal Service described in section 2005 of title 39, United States Code;

(B) bonds and other obligations of the Tennessee Valley Authority described in section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4);

(C) mortgages, obligations, and other securities of the Federal Home Loan Mortgage Corporation described in section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452); and

(D) bonds, notes, and debentures of the Commodity Credit Corporation described in section 4 of the Act of March 8, 1938 (15 U.S.C. 713a–4); and

(5) the obligations referred to in section 201 of the Social Security Act (42 U.S.C. 401).

(d) EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLANS.—

(A) IN GENERAL.—The Tribe may withdraw any portion of the Rural Water System Construction Fund or the Rural Water System OM&R Fund on approval by the Secretary of a tribal management plan under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(B) REQUIREMENTS.—In addition to the requirements under that Act (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe shall—

(i) use amounts in the Rural Water System Construction Fund only for the planning, design, and construction of the rural water system, including such sums as are necessary—

(I) for the Bureau to carry out oversight of the planning, design, and construction of the rural water system; and

(II) to carry out all required environmental compliance activities associated with the planning, design, and construction of the rural water system; and

(ii) use amounts in the Rural Water System OM&R Fund only for the operation, maintenance, and replacement costs associated with the delivery of water through the rural water system.

(2) ENFORCEMENT.—The Secretary may pursue such judicial remedies and carry out such administrative actions as are necessary to enforce the tribal management plan to ensure that amounts in the Rural Water System Construction Fund and the Rural Water System OM&R Fund are used in accordance with this section.

(3) LIABILITY.—On withdrawal by the Tribe of amounts in the Rural Water System Construction Fund or the Rural Water System OM&R Fund, the Secretary and the Secretary of the Treasury shall not retain liability for the expenditure or investment of those amounts.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the funds under this section that the Tribe does not withdraw pursuant to this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, the amounts remaining in the funds will be used.

(C) APPROVAL.—The Secretary shall approve an expenditure plan under this paragraph if the Secretary determines that the plan is—

(i) reasonable; and

(ii) consistent with this Act.

(5) ANNUAL REPORTS.—The Tribe shall submit to the Secretary an annual report that describes each expenditure from the Rural Water System Construction Fund and the Rural Water System OM&R Fund during the year covered by the report.

(e) PROHIBITION ON PER CAPITA DISTRIBUTIONS.—No amount of the principal, or the

interest or income accruing on the principal, of the Rural Water System Construction Fund or the Rural Water System OM&R Fund shall be distributed to any member of the Tribe on a per capita basis.

(f) FUNDS NOT AVAILABLE UNTIL ENFORCEABILITY DATE.—Amounts in the Rural Water System Construction Fund and the Rural Water System OM&R Fund shall not be available for expenditure or withdrawal by the Tribe until the enforceability date.

SEC. 15. MISCELLANEOUS PROVISIONS.

(a) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—

(1) IN GENERAL.—In the case of a civil action described in paragraph (2)—

(A) the United States or the Tribe, or both, may be joined in the civil action; and

(B) any claim by the United States or the Tribe to sovereign immunity from the civil action is waived for the sole purpose of resolving any issue regarding the interpretation or enforcement of this Act or the Agreement.

(2) DESCRIPTION OF CIVIL ACTION.—A civil action referred to in paragraph (1) is a civil action filed—

(A) by any party to the Agreement or signatory to an exhibit to the Agreement in a United States or State court that—

(i) relates solely and directly to the interpretation or enforcement of this Act or the Agreement; and

(ii) names as a party the United States or the Tribe; or

(B) by a landowner or water user in the Gila River basin or Little Colorado River basin in the State that—

(i) relates solely and directly to the interpretation or enforcement of paragraph 12.0 of the Agreement; and

(ii) names as a party the United States or the Tribe.

(b) EFFECT OF ACT.—Nothing in this Act quantifies or otherwise affects any water right or claim or entitlement to water of any Indian tribe, band, or community other than the Tribe.

(c) LIMITATION ON LIABILITY OF UNITED STATES.—

(1) IN GENERAL.—The United States shall have no trust or other obligation—

(A) to monitor, administer, or account for, in any manner, any amount paid to the Tribe by any party to the Agreement other than the United States; or

(B) to review or approve the expenditure of those funds.

(2) INDEMNIFICATION.—The Tribe shall indemnify the United States, and hold the United States harmless, with respect to any claim (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).

(d) APPLICABILITY OF RECLAMATION REFORM ACT.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any other acreage limitation or full-cost pricing provision under Federal law shall not apply to any individual, entity, or land solely on the basis of—

(1) receipt of any benefit under this Act;

(2) the execution of this Act; or

(3) the use, storage, delivery, lease, or exchange of CAP water.

(e) TREATMENT OF TRIBAL WATER RIGHTS.—The tribal water rights—

(1) shall be held in trust by the United States in perpetuity; and

(2) shall not be subject to forfeiture or abandonment.

(f) SECRETARIAL POWER SITES.—The portions of the following named secretarial power site reserves that are located on the reservation shall be transferred and restored into the name of the Tribe:

(1) Lower Black River (T. 3 N., R. 26 E.; T. 3 N., R. 27 E.).

(2) Black River Pumps (T. 2 N., R. 25 E.; T. 2 N., R. 26 E.; T. 3 N., R. 26 E.).

(3) Carrizo (T. 4 N., R. 20 E.; T. 4 N., R. 21 E.; T. 4½ N., R. 19 E.; T. 4½ N., R. 20 E.; T. 4½ N., R. 21 E.; T. 5 N., R. 19 E.).

(4) Knob (T. 5 N., R. 18 E.; T. 5 N., R. 19 E.).

(5) Walnut Canyon (T. 5 N., R. 17 E.; T. 5 N., R. 18 E.).

(6) Gleason Flat (T. 4½ N., R. 16 E.; T. 5 N., R. 16 E.).

(g) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of tribal CAP water under this Act shall not affect any future allocation or reallocation of CAP water by the Secretary.

(h) AFTER-ACQUIRED TRUST LANDS.—

(1) REQUIREMENT OF ACT OF CONGRESS.—

(A) LEGAL TITLE.—After the enforceability date, if the Tribe seeks to have legal title to additional land in the State of Arizona located outside the exterior boundaries of the reservation taken into trust by the United States for its benefit, the Tribe may do so only pursuant to an Act of Congress specifically authorizing the transfer for the benefit of the Tribe.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

(i) restoration of land to the reservation subsequently and finally determined to be part of the reservation through resolution of any dispute between the Tribe and the United States over the location of the reservation boundary unless required by Federal law; or

(ii) off-reservation trust land acquired prior to January 1, 2008.

(2) WATER RIGHTS.—

(A) IN GENERAL.—Under this section, after-acquired trust land outside the reservation shall not include federally reserved rights to surface water or groundwater.

(B) RESTORED LAND.—Land restored to the reservation as the result of resolution of any reservation boundary dispute between the Tribe and the United States, or any fee simple land within the reservation that are placed into trust, shall have water rights pursuant to section 11(b).

(3) ACCEPTANCE OF LAND IN TRUST STATUS.—

(A) IN GENERAL.—If the Tribe acquires legal fee title to land that is located within the exterior boundaries of the reservation, the Secretary shall accept the land in trust status for the benefit of the Tribe in accordance with applicable Federal law (including regulations) for such real estate acquisitions.

(B) RESERVATION STATUS.—Land taken or held in trust by the Secretary under paragraph (3), or restored to the reservation as a result of resolution of a boundary dispute between the Tribe and the United States, shall be deemed to be part of the reservation.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) RURAL WATER SYSTEM.—

(1) PLANNING, ENGINEERING, DESIGN, AND CONSTRUCTION.—

(A) IN GENERAL.—There is authorized to be appropriated for the planning, engineering, design, and construction of the WMAT rural water system $126,193,000, as adjusted in accordance with subparagraph (B), less—

(i) the amount of funding applied toward the planning, engineering, design, and construction of the WMAT rural water system under section 13; and

(ii) the funds to be provided under subparagraph 13.3 of the Agreement.

(B) ADJUSTMENTS AND INCLUSIONS.—The amount authorized to be appropriated under subparagraph (A) shall—

(i) be adjusted as may be required due to changes in construction costs of the rural water system, as indicated by engineering cost indices applicable to the types of planning, engineering, design, and construction occurring after October 1, 2007; and

(ii) include such sums as are necessary for the Bureau to carry out oversight of activities for planning, design, and construction of the rural water system.

(2) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out all required Federal environmental compliance activities associated with the planning, engineering, design, and construction of the rural water system.

(b) RURAL WATER SYSTEM OM&R.—There is authorized to be appropriated $50,000,000 for the operation, maintenance, and replacement costs of the rural water system.

(c) REHABILITATION OF RECREATION FACILITIES, NATIONAL FISH HATCHERIES, AND EXISTING IRRIGATION SYSTEMS.—There are authorized to be appropriated, for use in accordance with section 8—

(1) $23,675,000 to complete the Hawley Lake, Horseshoe Lake, Reservation Lake, Sunrise Lake, and Big and Little Bear Lake reconstruction projects and facilities improvements;

(2) $7,472,000 to the United States Fish and Wildlife Service for the rehabilitation and improvement of the Alchesay-Williams Creek National Fish Hatchery Complex;

(3) $5,000,000 to the Bureau of Indian Affairs for the planning, design, and construction of the WMAT Fishery Center; and

(4) for the rehabilitation of existing irrigation systems—

(A) $950,000 for the Canyon Day irrigation system; and

(B) $4,000,000 for the Historic irrigation system.

(d) FEASIBILITY STUDY OF NEEDED FOREST PRODUCTS IMPROVEMENTS.—There are authorized to be appropriated—

(1) to the Bureau of Indian Affairs $1,000,000 to conduct a feasibility study of the rehabilitation and improvement of forest products manufacturing and forest management on the reservation in accordance with section 9; and

(2) $24,000,000 to implement the recommendations developed under the study.

(e) SUNRISE SKI PARK SNOW-MAKING INFRASTRUCTURE.—There is authorized to be appropriated $25,000,000 for the planning, design, and construction of snow-making infrastructure, repairs, and expansion at Sunrise Ski Park in accordance with section 8.

(f) RECREATION IMPOUNDMENTS AND RELATED FACILITIES.—There is authorized to be appropriated $25,000,000 to carry out section 10.

(g) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out all required environmental compliance activities associated with the Agreement and this Act.

(h) COST INDEXING.—The amounts authorized to be appropriated under this section shall be adjusted as appropriate, based on ordinary fluctuations in engineering cost indices applicable for the relevant types of construction, if any, during the period beginning on October 1, 2007, and ending on the date on which the amounts are made available.

(i) EMERGENCY FUND FOR INDIAN SAFETY AND HEALTH.—Effective beginning on January 1, 2010, if the Secretary determines that, on an annual basis, the deadline described in section 12(c)(2) is not likely to be met because the funds authorized in sections 13 and 16(a) have not been appropriated and deposited in the Rural Water System Construction Fund, not more than $100,000,000 of the amounts in the Emergency Fund for Indian Safety and Health established by section 601(a) of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (22 U.S.C. 7601 et seq.)

shall be transferred to the Rural Water System Construction Fund, as necessary to complete the WMAT rural water system project.

SEC. 17. ANTIDEFICIENCY.

The United States shall not be liable for failure to carry out any obligation or activity authorized to be carried out, subject to appropriations, under this Act (including any such obligation or activity under the Agreement) if adequate appropriations for that purpose are not provided by Congress.

SEC. 18. REPEAL ON FAILURE OF ENFORCEABILITY DATE.

If the Secretary fails to publish in the Federal Register a statement of findings as required under section 12(c) by not later than October 31, 2013—

(1) effective beginning on November 1, 2013—

(A) this Act is repealed; and

(B) any action carried out by the Secretary, and any contract entered into, pursuant to this Act shall be void;

(2) any amounts appropriated under sections 13 and subsections (a) and (b) of section 16, together with any interest accrued on those amounts, shall immediately revert to the general fund of the Treasury; and

(3) any amounts paid by the State in accordance with the Agreement, together with any interest accrued on those amounts, shall immediately be returned to the State.

SEC. 19. COMPLIANCE WITH ENVIRONMENTAL LAWS.

In carrying out this Act, the Secretary shall promptly comply with all applicable requirements of—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) all other applicable Federal environmental laws; and

(4) all regulations promulgated under the laws described in paragraphs (1) through (3).

AUGUST 29, 2008.

Senator JON KYL,
Phoenix, AZ.

DEAR SENATOR KYL: We the undersigned representatives of parties to the White Mountain Apache Tribe Quantification Agreement have reviewed the attached Quantification Agreement, Exhibits, and accompanying draft legislation (''Settlement Documents''). Based upon our participation in the negotiations and/or our review of the attached Settlement Documents, we, at this time, intend to express our support for the Settlement Documents and plan to submit them for our governing bodies' review and action. As of the date of this letter, we are not aware of any reason why our governing bodies would not support the Settlement Documents. The governing bodies, however, must conduct a final review of the Settlement Documents and make a decision.

The Settlement Documents may be revised as agreed upon by the parties. We understand that authorizations for appropriations included within the draft legislation are still subject to agreement between you and the White Mountain Apache Tribe.

Robert Brauchli, White Mountain Apache Tribe; John Weldon, Salt River Project; Frederic Beeson, Salt River Project; Lauren Caster, Arizona Water Company; David Brown, City of Show Low; Michael J. Pearce, Buckeye Irrigation Company/Buckeye Water Conservation and Drainage District; William Staudenmaier, Roosevelt Water Conservation District; Eric Kamienski, City of Tempe; Stephen Burg, City of Peoria; Elizabeth Miller, City of Scottsdale; Doug Toy, City of Chandler; Kathryn Rall, Town Gilbert; Kathryn Sorensen, City of Mesa; Robin Stinnett, City of Avondale; Tom Buschatzke, City of Phoenix; Stephen Rot, City of Glendale; Gregg Houtz, Arizona Department of Water Resources.

CENTRAL ARIZONA PROJECT,
Phoenix, AZ, September 4, 2008.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: I am writing as counsel for the Central Arizona Water Conservation District regarding legislation to authorize a settlement of the water rights claims of the White Mountain Apache Tribe. As you know, my staff and I have been personally involved in the negotiations to settle the water rights claims of the Tribe. My staff and I have had the opportunity to review the most recent drafts of the authorizing legislation and the settlement agreement and we intend to recommend approval of the settlement to our governing Board. In our judgment, the proposed settlement is consistent with the Arizona Water Settlements Act and represents an important step forward in Arizona's efforts to resolve outstanding Indian water rights claims. We look forward to continuing to work with you and the other members of the Arizona congressional delegation in bringing this important settlement to fruition.

Sincerely,

DOUGLAS K. MILLER,
General Counsel, CAWCD.

By Mr. FEINGOLD (for himself and Mr. SANDERS):

S. 315. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, Senator SANDERS and I are introducing the Veterans Outreach Improvement Act which will help to ensure that all of our veterans know about Federal benefits to which they may be entitled by improving outreach programs. I introduced similar legislation in the 108, 109, and 110 Congresses. I am also pleased to note that there is a companion bill in the House, H.R. 32, sponsored by Representative MCINTYRE. Last year, the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs approved the bill by a voice vote.

I would like to thank the junior Senator from Hawaii for working with me to improve outreach to veterans. This year, he has introduced an omnibus veterans health care bill, S. 252, which includes a provision creating a grant program for organizations that, among other things, perform outreach to veterans. At my request, this grant program was extended to include State and local agencies that conduct outreach to veterans, consistent with provisions of my outreach bill. I greatly appreciate the Chairman's willingness to consider the key role these agencies play in ensuring that veterans receive the benefits they have more than earned. I would also like to thank Senator SANDERS for working with me to expand the scope of this grant program.

Based on Senator AKAKA's recommendations, I have made a few changes to my outreach bill this year. He has informed me of the special need to increase outreach to veterans in rural areas. I have modified my outreach bill to reflect this important need.

I was extremely troubled by revelations of gaps in care as servicemembers transition to the VA that emerged as a result of investigations of the Walter Reed Army Medical Center. I appreciate the Department of Defense and Department of Veterans Affairs' attempts to remedy these gaps, but more work remains to be done. It can be extremely difficult for veterans to navigate the VA's health care and benefits systems. This bill will increase congressional oversight of the VA's outreach activities and authorize the Secretary of Veterans Affairs to work with State, local and community-based organizations to perform outreach.

Several years ago, the Wisconsin Department of Veterans Affairs, WDVA, launched a statewide program called ''I Owe You.'' The program encourages veterans to apply, or to re-apply, for benefits that they earned from their service in the U.S. military.

As part of this program, WDVA has sponsored several events around Wisconsin called ''Supermarkets of Veterans Benefits'' at which veterans can begin the process of learning whether they qualify for Federal benefits from the Department of Veterans Affairs, VA. These events, which are based on a similar program in Georgia, supplement the work of Wisconsin's County Veterans Service Officers and veterans service organizations by helping our veterans to reconnect with the VA and to learn more about services and benefits for which they may be eligible. More than 11,000 veterans and their families have attended the supermarkets, which include information booths with representatives from WDVA, VA, and veterans service organizations, as well as a variety of Federal, State, and local agencies. I was proud to have members of my staff speak with veterans and their families at a number of these events. These events have helped veterans and their families to learn about numerous topics, including health care, how to file a disability claim, and preregistration for internment in veterans cemeteries.

The Institute for Government Innovation at Harvard University's Kennedy School of Government recognized the ''I Owe You'' program by naming it a semi-finalist for the 2002 Innovations in American Government Award. The program was also featured in the March/April 2003 issue of Disabled American Veterans Magazine.

In order to help to facilitate consistent implementation of VA's outreach responsibilities around the country, my bill would help to improve outreach activities performed by the VA in three ways. First, it would create separate funding line items for outreach activities within the budgets of

the VA and its agencies, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration to ensure oversight of the VA's outreach activities. Secondly, the bill would create an intra-agency structure to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. By working more closely together, the VA components would be able to consolidate their efforts, share proven outreach mechanisms, and avoid duplication of effort that could waste scarce funding. Finally, the bill would give the VA grantmaking authority to award funds to State, local and community-based organizations to conduct outreach activities such as the WDVA's ''I Owe You Program.''

I look forward to working with Chairman AKAKA and the members of the Senate Veteran Affairs Committee to make the veteran outreach grant program a success. As we continue to deploy members of the Armed Services overseas at a staggering pace, it is essential that we ensure a smooth transition into the VA for all veterans in need of care. It is the least we can do.

By Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. ALEXANDER, Mr. PRYOR, Mr. CORNYN, Ms. CANTWELL, Ms. LANDRIEU, Mrs. MURRAY, and Mr. VITTER):

S. 316. A bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am very pleased to rise today to introduce the Timber Revitalization and Economic Enhancement Act II of 2009 with my good friend, Senator CRAPO of Idaho. I also want to say a special thanks to our cosponsors, Senators ALEXANDER, PRYOR, CORNYN, CANTWELL, LANDRIEU, MURRAY, and VITTER.

This legislation has commonly been referred to as the TREE Act. I appreciate that Congress understood the importance of the TREE Act with its inclusion and enactment in the Farm Bill last year. But, unfortunately, this tax policy is already set to expire in May. So today, my colleagues and I introduce the TREE Act II to make this important forest policy permanent.

In my home State of Arkansas, the forest products industry is a foundation of our economy and culture. More than 50 percent of Arkansas land is forested. Much of this is sustainably managed to create products we use every day. In addition, there are jobs associated with the growing of these forests and manufacture of these great products. More than 32,000 Arkansas men and women work in our woods, at our sawmills and in our paper mills. These are good jobs located in our small rural towns.

However, these jobs and this industry continue to face many challenges. During this economic crisis, the forest products industry has suffered greater dislocation than many others, and since 2006 has lost more than 181,000 jobs or roughly 14 percent of our workforce. The wood products industry has been particularly hard hit with 20 percent drops in employment. In Arkansas the impact is even greater, with a predicted 24 percent job loss in the wood products industry.

The TREE Act II helps address these challenges. Just as it is important to have diversity in our forests, it is also important to maintain diversity in our forestry industry, and we must ensure that all business forms have the necessary tools so they can be successful in the global marketplace. Timber companies that are organized as corporations continue to be under intensifying pressure to reorganize. In that case, a corporation that owns substantial manufacturing facilities would be forced to sell some of those facilities and to make other structural changes in order to comply with the relevant tax rules that it would newly become subject to. This would likely cause disruptions in many of these communities and would also make it harder for U.S. companies to compete internationally.

In Arkansas, like so many other States across our Nation, a strong forest product industry is essential to having a strong economy. A permanent solution to the TREE Act II is imperative for this industry and supporting the jobs it provides. I look forward to working with my colleagues on the Senate Finance Committee to ensure this important tax policy is made permanent.

By Mr. FEINGOLD.

S. 317. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation that would put an end to automatic pay raises for Members of Congress.

As I have noted when I raised this issue in past years, because Congress has the authority to raise its own pay, something that most of our constituents cannot do, it ought to exercise that authority openly, and subject to regular procedures including debate, amendment, and a vote on the record.

Regrettably, current law allows Congress to avoid that open debate and public vote. All that is necessary for Congress to get a pay raise is that nothing be done to stop it. The annual pay raise takes effect unless Congress acts to prevent it.

This stealth system of pay raises began with a change Congress enacted in the Ethics Reform Act of 1989. On occasion, Congress has voted to deny itself the raise, and the traditional vehicle for the pay raise vote is the Treasury or more recently the Financial Services Appropriations bill. But as I have noted before, that vehicle is not always made available to those who want a public debate and vote on the matter. Last year, for example, Congress enacted a consolidated appropriations bill in which all but three appropriations bills were included. The traditional vehicle for the pay raise vote, the Financial Services Appropriations bill, was included in the massive consolidated appropriations bill, along with funding for eight other appropriations bills. Amendments to that consolidated appropriations bill were effectively shut off, thus, in particular, preventing any amendment that would have stopped the automatic pay raise from going into effect three months later in January of 2009. I voted against the consolidated appropriations bill in part because it did not permit an up or down vote on the Member pay raise.

Sadly this is not an uncommon situation. As I have noted in the past, getting a vote on the annual congressional pay raise is a haphazard affair at best, and it should not be that way. The burden should not be on those who seek a public debate and recorded vote on the Member pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end.

This issue is not a new question. It was something that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for 2 centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by ¾ of the States.

The 27th Amendment to the Constitution now states: ''No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.''

I honor that limitation. Throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. At the very least, the stealth pay raises like the one that Congress allowed for 2009 certainly violate the spirit of that amendment.

This practice must end and this bill will end it. Senators and Congressmen should have to vote up-or-down to raise their pay, and my bill would require just that. We owe our constituents nothing less.

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. 317

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

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2011.

By Mr. GRASSLEY:

S. 318. A bill to amend title XVIII of the Social Security Act to improve access to health care under the Medicare program for beneficiaries residing in rural areas; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to introduce the Medicare Rural Health Access Improvement Act of 2009.

The purpose of this legislation is to continue ongoing efforts to ensure that Americans in rural areas have access to health care services. Much has been done in the past to improve access to rural providers such as hospitals and doctors. Much more still needs to be done. And it is even more important in light of the economic challenges we face.

I hold town meetings in each of the 99 counties in the great state of Iowa every year. As many know, Iowa is largely a rural state, and a significant concern that I consistently hear during these meetings is the difficulty my constituents experience in accessing health care services. As the former Chairman and currently the Ranking Member of the Finance Committee, it has therefore been a priority for me to improve the availability of health care in rural areas.

In Iowa, as in many rural areas across the country, hospitals are often not only the sole provider of health care in rural areas, but also employers and purchasers in the community. Moreover, the presence of a hospital is essential for purposes of economic development because businesses check to see if a hospital is in the community in which they might set up shop. As you can see, it is vital that these institutions are able to keep their doors open.

In previous legislation, Congress has been able to improve the financial viability of rural hospitals. For instance, the creation and subsequent improvements to the Critical Access Hospital designation have greatly improved the financial health of certain small rural hospitals and ensured that community residents have access to health care.

However, there are still a group of rural hospitals that need help. I am referring to what are known as ''tweener'' hospitals, which are too large to be Critical Access Hospitals, but too small to be financially viable under the Medicare hospital prospective payment systems. These facilities are struggling to stay afloat despite their tireless efforts. Like in many communities in across the country, the staff of tweener hospitals and their community residents take great pride in the quality of care at these facilities. I have heard countless stories of the exemplary work tweener hospitals in Iowa perform not only as providers of essential health care, but also as responsible members of their communities. It is for this reason that many provisions in this bill are intended to improve the financial health of tweener hospitals and ensure that people have access to health care.

Most tweener hospitals are currently designated as Medicare Dependent Hospitals and Sole Community Hospitals under the Medicare program. There are provisions, both temporary and permanent, included in this bill that would improve Medicare payments for both types of hospitals. This includes improvements to the payment methodologies so that inpatient payments to Medicare Dependent Hospitals would better reflect the costs they incur in providing care. Improvements are also proposed in this bill to Medicare hospital outpatient payments for both Medicare Dependent Hospitals and Sole Community Hospitals so they would both share the benefit of hold harmless payments and add-on payments.

Also, a major driver of the financial difficulties that tweener hospitals face is the fact that many have relatively low volumes of inpatient admissions. This bill would improve the existing low-volume add-on payment for hospitals so that more rural facilities with low volumes would receive the assistance they desperately need.

Over the years, many have commented that it is simply unfair for many rural hospitals to receive only a limited amount of Medicare Disproportionate Share Hospital, or DSH, payments while many urban hospitals are not subject to such a cap. This bill would eliminate the cap for DSH payments for those rural hospitals for a two-year period.

There are also other provisions that would continue to help rural hospitals. The rural flexibility program would be extended for an additional year. This essential program provides valuable resources for rural hospitals.

This legislation also seeks to improve incentives for physicians located in rural areas and increase beneficiaries' access to rural health care providers. It includes provisions designed to reduce inequitable disparities in physician payment resulting from the Geographic Practice Cost Indices, or adjusters, known as GPCIs. Medicare payment for physician services varies from one area to another based on the geographic adjustments for a particular area. Geographic adjustments are intended to reflect cost differences in a given area compared to a national average of 1.0 so that an area with costs above the national average would have an index greater than 1.0, and an area below the national average would have an index less than 1.0. There are currently three geographic adjustments: for physician work, practice expense, and malpractice expense.

Unfortunately, the existing geographic adjusters result in significant disparities in physician reimbursement which penalize, rather than equalize, physician payment in Iowa and other rural States. These geographic disparities in payment lead to rural states experiencing significant difficulties in recruiting and retaining physicians and other health care professionals due to their significantly lower reimbursement rates.

These disparities have perverse effects when it comes to realigning Medicare payment to reward quality of care. Let me put that into context. Iowa is widely recognized as providing some of the highest quality health care in the country yet Iowa physicians receive some of the lowest Medicare reimbursement due to these inequitable geographic adjustments. Medicare reimbursement for some procedures is at least 30 percent lower in Iowa than payment for those very procedures in other parts of the country. That is a significant disincentive for Iowa physicians who are providing some of the best quality care in the country, and it is fundamentally unfair. Congress needs to reduce these disparities in payment and focus on rewarding physicians who provide high quality care.

The inequitable geographic payment formulas have also exacerbated the problems that rural areas face in terms of access to health care. Rural America today has far fewer physicians per capita than urban areas. The GPCI formulas are a dismal failure in promoting an adequate supply of physicians in states like Iowa, and more severe physician shortages in rural areas are predicted in the future.

The legislation I am introducing today makes changes in the GPCI formulas for work and practice expense to reverse this trend. It recognizes the equality of physician work in all geographic areas and establishes a national value of 1.0 for the physician work adjustment. It establishes a practice expense floor of 1.0 floor and revises the calculation of the practice expense formula to reduce payment differences and more accurately compensate physicians in rural areas for

their true practice costs. These changes are needed to help rural states recruit and retain more physicians so that beneficiaries will continue to have access to needed health care.

Last year Congress enacted a number of other provisions to improve Medicare payment for health care professionals and providers in rural areas that will expire at the end of 2009. This bill extends the existing payment arrangements which allow independent laboratories to bill Medicare directly for certain physician pathology services through 2010. It extends and improves the rural ambulance payments enacted in the Medicare Improvements for Providers and Patients Act of 2008 by increasing payments from three to five percent and extending them an additional year, through 2010. The bill also includes several new provisions to improve beneficiary access to health care services. It permanently increases the payment limits for rural health clinics. It also allows physician assistants to order post-hospital extended care services and to serve hospice patients.

Finally, the bill would protect rural areas from being adversely affected by the new Medicare competitive bidding program for durable medical equipment. It would ensure that home medical equipment suppliers who provide equipment and services in rural areas and small metropolitan statistical areas, MSAs, with a population of 600,000 or less can continue to serve the Medicare program by exempting these areas from competitive bidding. We must ensure that rural areas continue to have medical equipment suppliers available to serve beneficiaries in these areas.

As you can see, we still have much to do when it comes to ensuring access to health care in rural America. I look forward to working with my colleagues on this important matter.

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

S. 319. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the Community Health Workers Act of 2009, will help improve access to health education and outreach services to women and children in medically underserved areas, including the U.S. border region along New Mexico.

Lack of access to adequate health care and health education is a significant problem on the southern New Mexico border. While the problem of access is in part due to a lack of insurance, it is also attributable to non-financial barriers such as a shortage of physicians, hospitals, and other health professionals; inadequate transportation; a lack of bilingual health information and health providers; and a culturally insensitive system of care.

This legislation would help overcome these impediments by providing $15 million in grants annually for a 3 year period to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Factors such as poverty, language, and cultural differences impede access to health care in medically underserved populations; hence, community health workers are in a unique position to improve health outcomes and quality of care for groups that have traditionally lacked access to adequate services. They often serve as ''community specialists'' and are members of the communities in which they work. As such they can effectively serve hard-to-reach populations.

In a shining example of how community health workers serve their communities, a group of so-called ''Promotoras'', community health workers, in Dona Ana County were quickly mobilized during a recent flood emergency in rural New Mexico. These community health workers assisted in the disaster recovery efforts by partnering with the Federal Emergency Management Agency, FEMA, to find, inform and register flood victims for Federal disaster assistance. Their personal networks and knowledge of the local culture, language, needs, assets, and barriers greatly enhanced FEMA's community outreach efforts. The Promotoras of Dona Ana County demonstrate the important role community health workers could play in communities across the Nation, including increasing the effectiveness of new initiatives in homeland security and emergency preparedness, and in implementing risk communication strategies.

The positive benefits of the community health worker model also have been documented in research studies. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure and improving enrollment in publicly funded health insurance programs. In the case of uninsured children, a study by Dr. Glenn Flores, ''Community-Based Case Management in Insuring Uninsured Latino Children,'' published in the December 2005 issue of Pediatrics found that uninsured children who received community-based case management were eight times more likely to obtain health insurance coverage than other children involved in the study because case workers were employed to address typical barriers to access, including insufficient knowledge about application processes and eligibility criteria, language barriers and family mobility issues, among others. This study confirms that community health workers could be highly effective in reducing the numbers of uninsured children, especially those who are at greatest risk for being uninsured. Preliminary investigation of a community health workers project in New Mexico similarly suggests that community health workers could be useful in improving enrollment in Medicaid and the State Children's Health Insurance Program.

According to a 2003 Institute of Medicine, IOM, report entitled, ''Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare,'' community health workers offer promise as a community-based resource to increase racial and ethnic minorities' access to health care and to serve as a liaison between healthcare providers and the communities they serve.

Although the community health worker model is valued in the New Mexico border region as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations, these programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also noted that ''programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated.''

I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities.

Mr. President, I ask unanimous consent that this statement and 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. 319

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 ''Community Health Workers Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Chronic diseases, defined as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Hispanic, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the health risk behaviors that most often lead to disease, premature death, and disability, and

are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and over 30 percent are classified as obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care contribute to racial and ethnic disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of illnesses.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention services provided within the community and the home may lessen the impact of chronic outcomes, while strengthening families and communities.

(9) Community health workers, who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved populations.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing health insurance coverage, screening and medical follow-up visits among residents with limited access or underutilization of health care services.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations: border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended—

(1) by redesignating the second section 399R (relating to the amyotrophic lateral sclerosis registry (42 U.S.C. 280g-7)) and the third section 399R (relating to support for patients receiving a positive diagnosis of down syndrome or other prenatally or postnatally diagnosed conditions (42 U.S.C. 280g-8)) as sections 399S and 399T respectively; and

(2) by adding at the end the following:

"SEC. 399U. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

''(a) GRANTS AUTHORIZED.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women and children in target populations, especially racial and ethnic minority women and children in medically underserved communities.

''(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to support community health workers—

''(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and children and especially among racial and ethnic minority women and children;

''(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

''(A) poor nutrition;

''(B) physical inactivity;

''(C) being overweight or obese;

''(D) tobacco use;

''(E) alcohol and substance use;

''(F) injury and violence;

''(G) risky sexual behavior; and

''(H) mental health problems;

''(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

''(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, Medicare under title XVIII of such Act and Medicaid under title XIX of such Act;

''(5) to promote community wellness and awareness; and

''(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

''(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

''(A) describe the activities for which assistance under this section is sought;

''(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

''(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

''(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

''(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

''(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

''(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

''(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

''(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

''(1) who propose to target geographic areas—

''(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

''(B) with a high percentage of families for whom English is not their primary language; and

''(C) that encompass the United States-Mexico border region;

''(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

''(3) with documented community activity and experience with community health workers.

''(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

''(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

''(g) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (f).

''(h) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

''(i) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

''(2) CONTENTS.—The report required under paragraph (1) shall include the following:

''(A) A description of the programs for which grant funds were used.

''(B) The number of individuals served.

''(C) An evaluation of—

''(i) the effectiveness of these programs;

''(ii) the cost of these programs; and

''(iii) the impact of the project on the health outcomes of the community residents.

''(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

''(E) Recommendations regarding training to enhance career opportunities for community health workers.

''(j) DEFINITIONS.—In this section:

''(1) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(2) COMMUNITY SETTING.—The term 'community setting' means a home or a community organization located in the neighborhood in which a participant resides.

''(3) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means a community identified by a State—

''(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

''(B) a significant portion of which is a health professional shortage area as designated under section 332.

''(4) SUPPORT.—The term 'support' means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

''(5) TARGET POPULATION.—The term 'target population' means women of reproductive age, regardless of their current childbearing status and children under 21 years of age.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2010, 2011, and 2012.''.

By Mr. VOINOVICH (for himself and Mr. TESTER, and Ms. KLOBUCHAR):

S. 321. A bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at air ports of entry and for other purposes; to the Committee on the Judiciary.

Mr. VOINOVICH. Mr. President, I rise today with Senators TESTER and KLOBUCHAR to introduce the Passport Card Travel Enhancement Act of 2009 in order to allow United States citizens to use passport cards for air travel between the United States and Canada, Mexico, Bermuda and the Caribbean.

Over the past several years, the Departments of State, State, and Homeland Security, DHS, have worked hard to implement the Western Hemisphere Travel Initiative, WHTI, as recommended by the National Commission on Terrorist Attacks Upon the United States. As part of those efforts, State has developed the United States passport card as a cheaper, more portable alternative to a United States passport book. The passport card is adjudicated to the exact same standards as the passport book and allows United States citizens to enter United States land and sea ports-of-entry from Canada, Mexico, the Caribbean and Bermuda, but the card does not allow for any air travel. In my mind, this discrepancy makes no sense, and the passport card should allow for air travel between the United States and Canada, Mexico, Bermuda and the Caribbean for several reasons.

First, prior to 2007, United States citizens rarely needed a passport to enter the United States by air from Canada, Mexico, Bermuda or the Caribbean. Rather, United States citizens were only required to satisfy inspecting officers of their identities and citizenship. This practice changed in 2007, when WHTI went into effect for air travel. I think we all recall the events that occurred following WHTI air implementation, when State was deluged with passport applications, the time necessary to get a passport expanded from the typical four to six weeks to several months, and some Americans were forced to cancel trips. We need to avoid problems like that in the future by providing United States citizens with more documents that comply with WHTI.

Further, State's ''Card Format Passport; Changes to Passport Fee Schedule'' final rule states that the passport card ''is not intended to be a globally interoperable travel document,'' and ''will not be designed to meet the International Civil Aviation Organization, ICAO, standards and recommendations for globally interoperable passports,'' but I do not believe that these facts mean that the passport card cannot be used for limited, western hemisphere air travel. In fact, I question whether globally interoperable passport standards and recommendations need be met in order to use passport cards for the limited flights allowed by the Passport Card Travel Enhancement Act of 2009 because DHS's NEXUS card, which does not meet ICAO standards, is currently accepted as an alternative to a passport for some air travel between the United States and Canada.

Lastly, in today's current economic climate, I believe we must foster secure, legitimate trade and tourism between the United States and our allies. Providing additional, less expensive ways for our constituents to comply with WHTI is good government and makes sense for our Nation's security and economic prosperity.

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. 321

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 ''Passport Card Travel Enhancement Act of 2009''.

SEC. 2. PASSPORT CARD DEFINED.

In this Act, the term ''passport card'' means the document—

(1) known as a passport card that is issued to a national of the United States on the same basis as a regular passport; and

(2) that the Secretary of State began issuing during 2008.

SEC. 3. PASSPORT CARDS FOR AIR TRAVEL.

(a) REQUIREMENT TO ACCEPT PASSPORT CARDS FOR AIR TRAVEL.—Notwithstanding any regulation issued by the Secretary of Homeland Security or the Secretary of State, the Secretary of Homeland Security and the Secretary of State shall permit a passport card issued to a citizen of the United States to serve as proof of identify and citizenship of such citizen if such citizen is departing from or entering the United States through an air port of entry for travel that terminates or originates in—

(1) Bermuda;

(2) Canada;

(3) a foreign country located in the Caribbean; or

(4) Mexico.

(b) FEES FOR PASSPORT CARDS.—Neither the Secretary of State or the Secretary of Homeland Security may increase, or propose an increase to, the fee for issuance of a passport card as a result of the requirements of subsection (a).

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Homeland shall issue final regulations to implement this Act.

By Mr. MCCONNELL (for himself, Mr. KYL, Mr. VITTER, Mr. CHAMBLISS, Mr. BUNNING, Mr. GREGG, Mr. COBURN, Mr. BURR, Mr. ISAKSON, Mr. GRAHAM, Mr. INHOFE, Mr. CORNYN, Mr. BROWNBACK, Mr. COCHRAN, Mr. ENSIGN, Mr. THUNE, Mr. DEMINT, Mr. BENNETT, and Mr. BARRASSO):

S. 326. A bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program through fiscal year 2013, and for other purposes; to the Committee on Finance.

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

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

S. 326

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 ''Kids First Act''.

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

SEC. 2. REAUTHORIZATION THROUGH FISCAL YEAR 2013.

(a) INCREASE IN NATIONAL ALLOTMENT.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

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

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

''(12) for fiscal year 2009, $7,780,000,000;

''(13) for fiscal year 2010, $8,044,000,000;

''(14) for fiscal year 2011, $8,568,000,000;

''(15) for fiscal year 2012, $9,032,000,000; and

''(16) for fiscal year 2013, $9,505,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2008, $62,000,000 for fiscal year 2009, $64,000,000 for fiscal year 2010, $68,000,000 for fiscal year 2011, $72,000,000 for fiscal year 2012, and $75,000,000 for fiscal year 2013''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDING FOR FISCAL YEARS 2008 AND 2009.—Section 201 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(1) in subsection (a), by striking paragraph (2) and redesignating paragraphs (3) and (4), as paragraphs (2) and (3) respectively; and

(2) in subsection (b), by striking paragraph (2).

SEC. 3. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA BASED ON EXPENDITURES AND NUMBERS OF LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(m) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this subsection and subject to paragraph (3), the Secretary shall allot to each subsection (b) State for each of fiscal years 2009 through 2013, the amount determined for the fiscal year that is equal to the product of—

''(A) the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of allotments made under subsection (c) (determined without regard to paragraph (4) thereof) for the fiscal year; and

''(B) the sum of the State allotment factors determined under paragraph (2) with respect to the State and weighted in accordance with subparagraph (B) of that paragraph for the fiscal year.

''(2) STATE ALLOTMENT FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the State allotment factors are the following:

''(i) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the fiscal year to the sum of such projected expenditures for all States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) The ratio of the number of low-income children who have not attained age 19 with no health insurance coverage in the State, as determined by the Secretary on the basis of the arithmetic average of the number of such children for the 3 most recent Annual Social and Economic Supplements to the Current Population Survey of the Bureau of the Census available before the beginning of the calendar year before such fiscal year begins, to the sum of the number of such children determined for all States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the preceding fiscal year to the sum of such projected expenditures for all States for such preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) The ratio of the actual expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the second preceding fiscal year to the sum of such actual expenditures for all States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2009 through 2013, the following percentage weights shall be applied to the ratios determined under subparagraph (A) for each such fiscal year:

''(i) 40 percent for the ratio determined under subparagraph (A)(i).

''(ii) 5 percent for the ratio determined under subparagraph (A)(ii).

''(iii) 50 percent for the ratio determined under subparagraph (A)(iii).

''(iv) 5 percent for the ratio determined under subparagraph (A)(iv).

''(C) DETERMINATION OF PROJECTED AND ACTUAL EXPENDITURES.—For purposes of subparagraph (A):

''(i) PROJECTED EXPENDITURES.—The projected expenditures described in clauses (i) and (iii) of such subparagraph with respect to a fiscal year shall be determined on the basis of amounts reported by States to the Secretary on the May 15th submission of Form CMS–37 and Form CMS–21B submitted not later than June 30th of the fiscal year preceding such year.

''(ii) ACTUAL EXPENDITURES.—The actual expenditures described in clause (iv) of such subparagraph with respect to a second preceding fiscal year shall be determined on the basis of amounts reported by States to the Secretary on Form CMS–64 and Form CMS–21 submitted not later than November 30 of the preceding fiscal year.''.

(b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS.—Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in the succeeding paragraphs of this subsection, amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2009 through 2013, shall remain available for expenditure by the State only through the end of the fiscal year succeeding the fiscal year for which such amounts are allotted.

''(2) ELIMINATION OF REDISTRIBUTION OF ALLOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Notwithstanding subsection (f), amounts allotted to a State under this section for fiscal years beginning with fiscal year 2009 that remain unexpended as of the end of the fiscal year succeeding the fiscal year for which the amounts are allotted shall not be redistributed to other States and shall revert to the Treasury on October 1 of the third succeeding fiscal year.

''(3) RULE FOR COUNTING EXPENDITURES AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures under the State child health plan made on or after April 1, 2009, shall be counted against allotments for the earliest fiscal year for which funds are available for expenditure under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2104(b)(1) of the Social Security Act (42 U.S.C. 1397dd(b)(1)) is amended by striking ''subsection (d)'' and inserting ''the succeeding subsections of this section''.

(2) Section 2104(f) of such Act (42 U.S.C. 1397dd(f)) is amended by striking ''The'' and inserting ''Subject to subsection (e)(2), the''.

SEC. 4. LIMITATIONS ON MATCHING RATES FOR POPULATIONS OTHER THAN LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.

(a) LIMITATION ON PAYMENTS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATIONS ON MATCHING RATE FOR POPULATIONS OTHER THAN TARGETED LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.—For child health assistance or health benefits coverage furnished in any fiscal year beginning with fiscal year 2010:

''(A) FMAP APPLIED TO PAYMENTS FOR COVERAGE OF CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER ENROLLED IN THE STATE CHILD HEALTH PLAN ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT AND WHOSE GROSS FAMILY INCOME IS DETERMINED TO EXCEED THE INCOME ELIGIBILITY LEVEL SPECIFIED FOR A TARGETED LOW-INCOME CHILD.—Notwithstanding subsections (b)(1)(B) and (d) of section 2110, in the case of any individual described in subsection (c) of section 105 of the Kids First Act who the State elects to continue to provide child health assistance for under the State child health plan in accordance with the requirements of such subsection, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to such assistance.

''(B) FMAP APPLIED TO PAYMENTS ONLY FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS AND CARETAKER RELATIVES ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—The Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to payments for child health assistance or health benefits coverage provided under the State child health plan for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES ENROLLED UNDER A WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(ii) NONPREGNANT CHILDLESS ADULTS ENROLLED UNDER A WAIVER ON SUCH DATE.—A nonpregnant childless adult enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project described in section 6102(c)(3) of the Deficit Reduction Act of 2005 (42 U.S.C. 1397gg note) on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(iii) NO REPLACEMENT ENROLLEES.—Nothing in clauses (i) or (ii) shall be construed as authorizing a State to provide child health assistance or health benefits coverage under a waiver described in either such clause to a nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income

child, or a nonpregnant childless adult, who is not enrolled under the waiver on the date of enactment of the Kids First Act.

''(C) NO FEDERAL PAYMENT FOR ANY NEW NONPREGNANT ADULT ENROLLEES OR FOR SUCH ENROLLEES WHO NO LONGER SATISFY INCOME ELIGIBILITY REQUIREMENTS.—Payment shall not be made under this section for child health assistance or other health benefits coverage provided under the State child health plan or under a waiver under section 1115 for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES UNDER A SECTION 1115 WAIVER APPROVED AFTER THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child under a waiver, experimental, pilot, or demonstration project that is approved on or after the date of enactment of the Kids First Act.

''(ii) PARENTS, CARETAKER RELATIVES, AND NONPREGNANT CHILDLESS ADULTS WHOSE FAMILY INCOME EXCEEDS THE INCOME ELIGIBILITY LEVEL SPECIFIED UNDER A SECTION 1115 WAIVER APPROVED PRIOR TO THE KIDS FIRST ACT.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child whose family income exceeds the income eligibility level referred to in subparagraph (B)(i), and any nonpregnant childless adult whose family income exceeds the income eligibility level referred to in subparagraph (B)(ii).

''(iii) NONPREGNANT CHILDLESS ADULTS, PARENTS, OR CARETAKER RELATIVES NOT ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(i) on the date of enactment of the Kids First Act, and any nonpregnant childless adult who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(ii)(I) on such date.

''(D) DEFINITION OF CARETAKER RELATIVE.—In this subparagraph, the term 'caretaker relative' has the meaning given that term for purposes of carrying out section 1931.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as implying that payments for coverage of populations for which the Federal medical assistance percentage (as so determined) is to be substituted for the enhanced FMAP under subsection (a)(1) in accordance with this paragraph are to be made from funds other than the allotments determined for a State under section 2104.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 5. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR COVERAGE OF ADULTS OTHER THAN PREGNANT WOMEN.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg(f)) is amended—

(1) by striking '', the Secretary'' and inserting '':

''(1) The Secretary''; and

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

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman whose family income does not exceed the income eligibility level specified for a targeted low-income child in that State under a waiver or project approved as of such date.

''(3) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2105(c)(8).''.

(b) CLARIFICATION OF AUTHORITY FOR COVERAGE OF PREGNANT WOMEN.—Section 2106 of the Social Security Act (42 U.S.C. 1397ff) is amended by adding at the end the following new subsection:

''(f) NO AUTHORITY TO COVER PREGNANT WOMEN THROUGH STATE PLAN.—For purposes of this title, a State may provide assistance to a pregnant woman under the State child health plan only—

''(1) by virtue of a waiver under section 1115; or

''(2) through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect on the date of enactment of the Kids First Act).''.

(c) ASSURANCE OF NOTICE TO AFFECTED ENROLLEES.—The Secretary of Health and Human Services shall establish procedures to ensure that States provide adequate public notice for parents, caretaker relatives, and nonpregnant childless adults whose eligibility for child health assistance or health benefits coverage under a waiver under section 1115 of the Social Security Act will be terminated as a result of the amendments made by subsection (a), and that States otherwise adhere to regulations of the Secretary relating to procedures for terminating waivers under section 1115 of the Social Security Act.

SEC. 6. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME FOR TARGETED LOW-INCOME CHILDREN UNDER TITLE XXI AND OPTIONAL TARGETED LOW-INCOME CHILDREN UNDER TITLE XIX.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 of the Social Security Act (42 U.S.C. 1397jj) is amended—

(A) in subsection (b)(1)(A), by inserting ''in accordance with subsection (d)'' after ''State plan''; and

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

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 5(a), is amended by adding at the end the following new paragraph:

''(4) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(c)(8)(A) of the Social Security Act (as added by section 4(a)), to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2008, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SEC. 7. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

''(b) AWARD OF GRANTS.—

''(1) PRIORITY FOR AWARDING.—

''(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(i) propose to target geographic areas with high rates of—

''(I) eligible but unenrolled children, including such children who reside in rural areas; or

''(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments;

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A State, national, local, or community-based public or nonprofit private organization.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(G) An elementary or secondary school.

''(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(f) APPROPRIATION.—

''(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section—

''(A) $100,000,000 for each of fiscal years 2009 and 2010;

''(B) $75,000,000 for each of fiscal years 2011 and 2012; and

''(C) $50,000,000 for fiscal year 2013.

''(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 8. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE OF CHILDREN THROUGH PRIVATE PLANS UNDER SCHIP AND MEDICAID.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)), as amended by section 4(a) is amended by adding at the end the following:

''(9) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED COVERAGE.—In this paragraph, the term 'qualified coverage' means the following:

''(i) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(I) IN GENERAL.—A group health plan or health insurance coverage offered through an employer that is—

''(aa) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(bb) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(cc) cost-effective, as determined under subclause (II).

''(II) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(aa) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(bb) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(ii) QUALIFIED NON-GROUP COVERAGE.—Health insurance coverage offered to individuals in the non-group health insurance market that is substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2).

''(iii) HIGH DEDUCTIBLE HEALTH PLAN.—A high deductible health plan (as defined in

section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON-APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on February 1, 2009.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 9. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SEC. 10. 50 PERCENT MATCHING RATE FOR ALL MEDICAID ADMINISTRATIVE COSTS.

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3)(E) as paragraph (2) and re-locating and indenting it appropriately;

(3) in paragraph (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), and indenting them appropriately;

(4) by striking paragraphs (3) and (4);

(5) in paragraph (5), by striking ''which are attributable to the offering, arranging, and furnishing'' and inserting ''which are for the medical assistance costs of furnishing'';

(6) by striking paragraph (6);

(7) in paragraph (7), by striking ''subject to section 1919(g)(3)(B),''; and

(8) by redesignating paragraphs (5) and (7) as paragraphs (3) and (4), respectively.

SEC. 11. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 12. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 13. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SEC. 14. EFFECTIVE DATE; COORDINATION OF FUNDING FOR FISCAL YEAR 2009.

(a) IN GENERAL.—Unless otherwise specified, subject to subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State child health plan under title XXI of the Social Security Act or a waiver of such plan under section 1115 of such Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan or waiver to meet the additional requirements imposed by the amendments made by this Act, the State child health plan or waiver shall not be regarded as failing to comply with the requirements of such title XXI solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

By Mr. LEAHY:

S. 327. A bill to amend the Violence Against Women Act of 1994 and the Omnibus Crime Control and Safe Streets Act of 1968 to improve assistance to domestic and sexual violence victims and provide for technical corrections; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009 to make urgently needed improvements to the Violence Against Women Act, VAWA. The bill makes corrections and improvements so that this law, a law that has helped so many, can continue to serve as a powerful tool to combat domestic violence and other crimes perpetrated against women and families.

In introducing this measure, I recognize the leadership shown on these issues by Senator JOE BIDEN who now serves as our Vice President. Since 1994, the Violence Against Women Act has been the centerpiece of the Federal government's commitment to combating domestic violence and other violent crimes against women. Its passage and reauthorization made a strong statement in support of the rights of women in America. This landmark law filled a void in Federal law that had left too many victims of domestic violence and sexual assault without the help they needed.

Since the bill's passage, there has been a 27 to 51 percent increase in domestic violence reporting rates by women and a 37 percent increase in reporting rates by men. The number of individuals killed by an intimate partner has decreased by 24 percent for women and 48 percent for men. I have been proud to work with then-Senator BIDEN on these matters for the more than 15 years. I look forward to working with the Obama-Biden administration to ensure that this law remains a vital resource for prosecutors, social workers, and all of those committed to ending crimes against women and alleviating the terrible harms that result from these crimes.

I crafted the legislation I introduce today with the assistance of advocates and those in the field who work with the Violence Against Women Act every day. It contains changes to VAWA that will improve the law's operation and implementation. I want to thank the National Network to End Domestic Violence, Legal Momentum, and the National Center for Victims of Crime for their assistance with and support for this legislation, and for their tireless work on behalf of women and families in the United States. These groups and others across the country play a crucial role in fulfilling the promise that Congress made with the enactment of the Violence Against Women Act.

Among several other fixes, the bill strengthens privacy protections for victims of domestic violence. It contains provisions to ease the burden on victims of domestic violence to obtain public housing benefits. It eliminates an existing loophole that often results in the inappropriate administration of polygraph examinations to victims of terrible crimes. The legislation also contains provisions to strengthen protections in existing law for battered immigrant women. With these important changes to the Violence Against Women Act, Congress will ensure that the law is as effective and strong as it was intended to be and that it can meet the needs of those it seeks to protect as we move forward. I hope all Senators will join in support of this effort.

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

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

S. 327

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 ''Improving Assistance to Domestic and Sexual Violence Victims Act of 2009''.

SEC. 2. DEFINITIONS AND UNIVERSAL GRANT CONDITIONS UNDER VAWA.

(a) YOUTH DEFINITION.—Section 40002(a)(37) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(37)) is amended to read as follows:

''(37) YOUTH.—The term 'youth' means individuals who are between the ages of 12 and 24.''.

(b) EXPERTISE REQUIREMENT.—Section 40002(b)(11) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(11)) is amended by adding at the end the following: ''The Director of the Office on Violence Against Women shall ensure that training or technical assistance will be developed and provided by entities having demonstrated expertise in the purposes, uses of funds, and other aspects of the grant program for which such training or technical assistance is provided.''.

(c) MATCHING REQUIREMENT.—Section 40002(b)(1) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(1)) is amended to read as follows:

''(1) MATCH.—No matching funds shall be required for a grant or subgrant made under this title for—

''(A) any tribe, territory, or victim service provider; or

''(B) any other entity, including a State, that the Attorney General determines has adequately demonstrated financial need.''.

(d) TREATMENT OF CONFIDENTIAL INFORMATION.—Section 40002(b)(2) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(2)) is amended—

(1) in subparagraph (A), by inserting ''privacy and'' before ''safety'';

(2) in subparagraph (B)—

(A) by striking ''and (D)'' and inserting '', (D), (E), (F), (G), and (H)'';

(B) in clause (i)—

(i) by inserting '', reveal, or release'' after ''disclose''; and

(ii) by inserting '', regardless of whether the information is encoded, encrypted, hashed, or otherwise protected,'' after ''individual information''; and

(C) in clause (ii)—

(i) by striking ''reveal'' and inserting ''disclose, reveal, or release'';

(ii) by striking each place it appears ''consent'' and inserting ''consent or authorization'';

(iii) by striking ''persons with disabilities'' and inserting ''a person with a court-appointed guardian''; and

(iv) by striking ''person with disabilities'' and inserting ''person with a court-appointed guardian'';

(3) in subparagraph (C)—

(A) by inserting ''disclosure, revelation, or'' after ''If'';

(B) in clause (i), by inserting '', revelation, or release'' after ''disclosure''; and

(C) in clause (ii), by inserting ''disclosure, revelation, or'' after ''affected by the''; and

(4) by designating subparagraph (E) as subparagraph (H) and inserting after subparagraph (D) the following:

''(E) STATUTORILY PERMITTED REPORTS OF ABUSE OR NEGLECT.—Nothing in this paragraph shall prohibit a grantee or subgrantee from reporting abuse and neglect, as those terms are defined by law, and where mandated or expressly permitted by the State, tribe, or territory involved.

''(F) PREEMPTION.—The provisions of this paragraph shall not supersede any other provision of Federal, State, tribal, territorial, or local law relating to the privacy or confidentiality of information to the extent to which such other provision provides greater

privacy or confidentiality protection than this paragraph for victims of domestic violence, dating violence, sexual assault, or stalking.

''(G) CERTAIN MINORS AND PERSONS WITH GUARDIANS.—If a minor or a person with a court-appointed guardian is permitted by law to receive services without the parent's or guardian's consent or authorization, the minor or person with a court-appointed guardian may consent to a disclosure, revelation, or release of information. In no case may consent or authorization for release of information be given by the abuser of the minor, or person with a court-appointed guardian, or the abuser of the other parent of the minor.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to grants awarded for periods beginning on or after October 1, 2009.

SEC. 3. CRIMINAL JUSTICE.

(a) APPLICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 2007(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(d)) is amended—

(A) in paragraph (3) by striking ''and'' after the semicolon;

(B) in paragraph (4), by striking the period and inserting ''and''; and

(C) by inserting at the end the following:

''(5) proof of compliance with the requirements prohibiting the publication of protection order information on the Internet provided in section 2013A.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to grants awarded for periods beginning on or after October 1, 2009.

(b) STATE AND FEDERAL OBLIGATIONS.—Section 2007(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(f)) is amended to read as follows:

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

''(2) EXEMPTION FROM MATCHING FUNDS.—No matching funds shall be required for that portion of a grant that is subgranted to any tribe or for victims services.''.

(c) LIMITS ON INTERNET PUBLICATION OF PROTECTION ORDER INFORMATION.—Section 2265(d) of title 18, United States Code, is amended by striking paragraph (3).

(d) STATE CERTIFICATION.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by inserting after section 2013 the following:

''SEC. 2013A. LIMITS ON INTERNET PUBLICATION OF PROTECTION ORDER INFORMATION.

''(a) IN GENERAL.—A State, Indian tribal government, or unit of local government shall not be eligible to receive funds under this part unless the State, Indian tribal government, or unit of local government certifies that it does not make available publicly on the Internet any information regarding the filing for or issuance, modification, registration, extension, or enforcement of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal, or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order.

''(b) EXCEPTION.—A State, Indian tribe, or territory may share court-generated and law enforcement-generated information about an order or injunction described in subsection (a) if such information is contained in secure, governmental registries for purposes of enforcing orders and injunctions described in subsection (a).

''(c) EFFECTIVE DATE.—A State, Indian tribal government, or unit of local government must meet the requirements of subsection (a) and (b) by the later of—

''(1) 2 years from the date of enactment of the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009; or

''(2) the period ending on the date on which the next session of the State legislature ends.''.

(e) HEALTH CARE PROFESSIONALS.—Section 2010(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) is amended by striking ''trained examiners for'' and inserting ''health care professionals for adult and youth''.

(f) RURAL STATE.—Section 40002 (a)(22) of the Violence Against Women Act of 1994 (42 U.S.C. 13925 (a)(22)) is amended by striking ''150,000 people, based on the most recent decennial census'' and inserting ''200,000 people, based on the decennial census of 2000''.

(g) COSTS FOR CRIMINAL CHARGES AND PROTECTION ORDERS.—Section 2011(a)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–5 (a)(1)) is amended by inserting ''dating violence,'' before ''stalking''.

(h) GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS.—Section 2101(c)(4) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(c)(4)) is amended by inserting ''dating violence,'' before ''stalking''.

SEC. 4. FAMILIES.

(a) IN GENERAL.—Section 41304 of the Violence Against Women Act of 1994 (42 U.S.C. 14043d–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services'' and inserting ''Secretary of Health and Human Services (in this section referred to as the 'Secretary'), through the Administration for Children, Youth and Families'';

(B) in paragraph (2), by striking ''Director'' and inserting ''Secretary''; and

(C) in paragraph (3), by striking ''Director'' and inserting ''Secretary''; and

(2) in subsection (d)(1), by striking both places it appears ''Director'' and inserting ''Secretary''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to grants issued on or after October 1, 2009.

SEC. 5. HOUSING.

(a) SECTION 6.—Section 6(u)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting '', as described in subparagraph (C),'' after ''HUD approved certification form''.

(b) SECTION 8.—Section 8(ee)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting '', as described in subparagraph (C),'' after ''HUD approved certification form''.

SEC. 6. ECONOMIC SECURITY.

(a) AUTHORITY.—Section 41501(a) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(a)) is amended—

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

''(1) IN GENERAL.—The Attorney General''; and

(2) by striking the last sentence and inserting the following:

''(2) INFORMATION AND ASSISTANCE.—The resource center shall provide information and assistance to—

''(A) employers and labor organizations to aid in their efforts to develop and implement responses to such violence; and

''(B) victim service providers, including community-based organizations, State domestic violence coalitions, State sexual assault coalitions, and tribal coalitions, to enable to them to provide resource materials or other assistance to employers, labor organizations, or employees.''.

(b) ENTITIES PROVIDING ASSISTANCE.—Section 41501 (c)(1) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(c)(1)) is amended by striking ''and labor organizations'' and inserting '', labor organizations, victim service providers, community-based organizations, State domestic violence coalitions, State sexual assault coalitions, and tribal coalitions''.

SEC. 7. TRIBAL ISSUES.

(a) CONSULTATION.—Section 903 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by inserting at the end the following:

''(c) REPORTS TO CONGRESS.—Not later than 3 months after the date of each of the annual consultations, beginning with the first consultation following the date of the enactment of this subsection, the Attorney General shall submit to the Committee on Indian Affairs and the Committee on the Judiciary of the Senate and the Committee on the Judiciary and the Committee on Natural Resources of the House of Representatives a report summarizing the annual consultations involved, any request of Indian tribes made pursuant to such consultations for enhancing the safety of Indian women, and the investigative efforts of the Federal Bureau of Investigation and prosecutorial efforts of the United States Attorneys on cases of domestic violence, sexual assault, dating violence, and stalking, involving adult Indian women. The first of such reports shall include the total number of investigations, indictments, declinations, and convictions of cases described in the previous sentence for the 3 years preceding the annual consultation involved and each subsequent report shall include the total number of investigations, indictments, declination, and convictions of such cases for the year preceding the annual consultation involved.''.

(b) GRANTS TO INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10) is amended by adding at the end the following:

''(c) AVAILABILITY.—Funds appropriated under this section shall remain available until expended and may only be used for the activities described in this section.

''(d) DURATION.—Grants made under this section shall be for a period of 24 months. Upon request of a grantee, the tribal deputy director may extend the grant period involved for purposes of enabling the grantee to complete the activities agreed to under the terms of the grant provided that no additional funds may be provided under this section pursuant to such extension.

''(e) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Not later than 6 months after the date of receipt of funding for this program, the Director of the Office on Violence Against Women shall set aside and disperse not less than 6 percent of the total amount of the funds made available under this section for the purpose of entering into cooperative agreements with qualified tribal organizations to provide technical assistance and training to Indian tribes to address violence against Indian women. Such training and technical experience shall be specifically designed to address the unique legal status and geographic circumstances of the Indian tribes receiving funds under this section.

''(2) QUALIFIED TRIBAL ORGANIZATION.—For purposes of paragraph (1), a qualified tribal organization is a tribal organization with

demonstrated experience in providing training and technical experience to Indian tribes in addressing violence against Indian women.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 2009.

SEC. 8. POLYGRAPH PROCEDURES.

(a) STOP GRANTS.—Section 2013(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–8(a)) is amended by striking ''as a condition for proceeding with the investigation of such an offense''.

(b) GRANTS TO ENCOURAGE ARREST.—Section 2101(c)(5)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(c)(5)(A)) is amended by striking ''as a condition for proceeding with the investigation of such an offense''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to grants made on or after the latter of the following dates:

(1) The date that is 2 years after the date of the enactment of this Act.

(2) The date on which the next session of the State legislature of the State involved ends.

SEC. 9. SEXUAL ASSAULT NURSE EXAMINERS.

Section 2101(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)) is amended by adding at the end the following new paragraph:

''(14) To provide for sexual assault forensic medical personnel examiners in the collection and preservation of evidence, expert testimony, and treatment of trauma related to sexual assault.''.

SEC. 10. SEXUALLY TRANSMITTED INFECTION TESTING AND TREATMENT.

Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (b), as amended by section 9, by adding at the end the following new paragraph:

''(15) To develop human immunodeficiency virus (HIV), Hepatitis B, Hepatitis C, and sexually transmitted infection testing and treatment programs for sexual assault victims that include notification, treatment, counseling, and confidentiality protocols.''; and

(2) in subsection (d)—

(A) by inserting ''OR TREATMENT'' after ''NOTICE''; and

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

''(2) certifies it has a law that requires the State or unit of local government, respectively, to provide at the request of a victim or the parent or guardian of a victim—

''(A) anonymous and confidential free testing for the victim for the human immunodeficiency virus (HIV), Hepatitis B, Hepatitis C, and other sexually transmitted infections as medically appropriate;

''(B) as soon as practicable, notification to the victim, or parent or guardian of a victim, of the testing results;

''(C) anonymous and confidential free follow-up testing for the victim as medically appropriate;

''(D) free prophylaxis and treatment as necessary for the victim;

''(E) free counseling and support to the victim regarding any health care concerns of the victim with respect to the human immunodeficiency virus (HIV), Hepatitis B, Hepatitis C, and other sexually transmitted infections; and

''(F) assurances that the test results of the victim shall remain confidential unless otherwise provided by law; and

''(3) provides assurances to the satisfaction of the Attorney General that its laws will be in compliance with the requirements of paragraph (1) or (2) by a date that is not later than the latter of the following dates:

''(A) The date that is 2 years after the date of the enactment of the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009.

''(B) The date on which the next session of the State legislature ends.''.

SEC. 11. CLARIFICATION OF THE TERM CULTURALLY AND LINGUISTICALLY SPECIFIC.

(a) DEFINITIONS.—Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)) is amended—

(1) by striking paragraph (17) and redesignating the subsequent paragraphs accordingly; and

(2) by inserting after paragraph (5) the following new paragraphs and redesignating the subsequent paragraphs (as redesignated by paragraph (1)) accordingly:

''(6) CULTURALLY SPECIFIC.—The terms 'culturally specific' and 'culturally and linguistically specific' mean specific to racial and ethnic minority groups (as defined in section 1707(g) of the Public Health Service Act (42 U.S.C. 300u–6(g))).

''(7) CULTURALLY AND LINGUISTICALLY SPECIFIC SERVICES.—The terms 'culturally and linguistically specific services' and 'culturally specific services' mean community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward culturally specific communities.''.

(b) COLLABORATIVE GRANTS TO INCREASE THE LONG-TERM STABILITY OF VICTIMS.—Section 41404 of the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended in subsection (f)(1) by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''.

(c) GRANTS TO COMBAT VIOLENCE AGAINST WOMEN IN PUBLIC AND ASSISTED HOUSING.—Section 41405 of the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended in subsection (c)(2)(D) by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''.

(d) STATE GRANTS.—Section 2007(e)(2)(D) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(e)(2)(D)) is amended by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''.

(e) SEXUAL ASSAULT SERVICES.—Section 2014 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 14043g) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and other programs and projects'';

(B) in paragraph (2)(B)—

(i) by striking ''and other nonprofit, nongovernmental organizations for programs and activities''; and

(ii) by inserting ''to sexual assault victims'' after ''that provide direct intervention and related assistance''; and

(C) in paragraph (2)(C)(v), by striking ''linguistically and culturally'' and inserting ''culturally and linguistically'';

(2) in subsection (c)(2)(A) by striking ''that focuses primarily on'' and inserting ''whose primary mission is to address one or more'';

(3) in subsection (c)(2)(C) by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''; and

(4) in subsection (c)(4)(B) by deleting ''underserved''.

(f) ENHANCING CULTURALLY AND LINGUISTICALLY SPECIFIC SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.—Section 121 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 14045a) is amended—

(1) in subsection (b)(1)(A) by inserting ''for culturally and linguistically specific populations'' after ''resources'';

(2) in subsection (b)(1)(B) by inserting ''culturally and linguistically specific'' before ''resources for''; and

(3) in subsection (g) by striking ''linguistic and culturally'' and inserting ''culturally and linguistically''.

SEC. 12. NATIONAL RESOURCE CENTER GRANTS TECHNICAL AMENDMENT.

Section 41501(b)(3) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(b)(3)) is amended by striking ''for materials''.

SEC. 13. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST INDIAN WOMEN.

Section 904(a)(1) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3796gg–10(a)(1) note) is amended by striking ''in Indian country'' and inserting ''on land owned or held in trust for the benefit of an Indian tribe included on the list published under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1)''.

SEC. 14. MOTIONS TO REOPEN.

(a) IN GENERAL.—Section 240(c)(7)(C)(iv)(I) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)(C)(iv)(I)) is amended to read as follows:

''(I) if the basis for the motion is to apply for relief under subparagraph (T) or (U) of section 101(a)(15), clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 240A(b)(2), section 244(a)(3) (as in effect on March 31, 1997), or subsection (l) or (m) of section 245;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 15. EXTENSION OF T NONIMMIGRANT STATUS.

(a) IN GENERAL.—Section 214(o)(7) of the Immigration and Nationality Act (8 U.S.C. 1184(o)(7)) is amended by adding at the end the following:

''(D) An alien may apply for extension of status under subparagraph (B) retroactively after the expiration of nonimmigrant status under subparagraph 101(a)(15)(T).''.

(b) EFFECTIVE DATE.—The amendments made by under subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 16. T AND U NONIMMIGRANT PROTECTIONS.

(a) IN GENERAL.—Section 107(b)(1)(E)(i)(II)(aa) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)(i)(II)(aa)) is amended by striking ''bona fide'' and inserting ''prima facie''.

(b) CONFORMING AMENDMENT.—Section 214(p)(6) of the Immigration and Nationality Act (8 U.S.C. 1184(p)(6)) is amended by striking ''bona fide'' and inserting ''prima facie''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 17. U NONIMMIGRANT ADJUSTMENT OF STATUS.

(a) IN GENERAL.—Section 245(m)(3) of the Immigration and Nationality Act (8 U.S.C. 1255(m)(3)) is amended by inserting ''or an unmarried sibling under 18 years of age on the date of such application for adjustment of status under paragraph (1),'' after ''a parent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 18. CONFORMING AMENDMENT CONFIRMING HOUSING ASSISTANCE FOR QUALIFIED ALIENS.

(a) IN GENERAL.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''or'' at the end;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

''(7) a qualified alien described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641); or''; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking ''(6)'' and inserting ''(7)''; and

(B) in paragraph (2)(A), in the matter preceding clause (i), by inserting ''(other than a qualified alien described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641)'' after ''any alien''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for public benefits and public benefits provided on or after the date of the enactment of this Act without regard to whether regulations to carry out such amendments have been implemented.

SEC. 19. PROCESSING OF CERTAIN VISAS.

(a) IN GENERAL.—Section 238(b)(5) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457; 122 Stat 5085) is amended to read as follows:

''(5) Measures taken to ensure that—

''(A) the Office of Policy and Strategy at United States Citizenship and Immigration Services leads policy and program development with regard to Violence Against Women Act confidentiality-protected victims and their derivative family members; and

''(B) there is routine consultation with the Office on Policy and Strategy during the development of any other Department of Homeland Security regulation or operational policy that impacts Violence Against Women Act confidentiality-protected victims and their derivative family members.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

By Mr. LEAHY.

S. 329. A bill to amend the Internal Revenue Code of 1986 to extend the nonbusiness energy property credit for property placed in service during 2008; to the Committee on Finance.

Mr. LEAHY. 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. 329

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

SECTION 1. EXTENSION OF NONBUSINESS ENERGY PROPERTY CREDIT FOR PROPERTY PLACED IN SERVICE DURING 2008.

(a) IN GENERAL.—Subsection (g) of section 25C of the Internal Revenue Code of 1986 is amended to read as follows:

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2009.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 20—CELEBRATING THE 60TH ANNIVERSARY OF THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. VOINOVICH (for himself and Mr. CASEY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 20

Whereas the North Atlantic Treaty Organization (NATO) will celebrate its 60th anniversary at a summit to be held on April 4, 2009, in Kehl, Germany, and Strasbourg, France;

Whereas this summit will be held along the border of France and Germany to commemorate the historic post-war reconciliation in Europe that NATO has done so much to facilitate;

Whereas for 60 years, NATO has served as the preeminent organization to defend the territory of its member states against all external security threats;

Whereas the security of the United States is inseparably linked to the peace and stability of the European continent by the participation of the United States in NATO;

Whereas the security of the United States has been significantly enhanced by the integration of security and military structures in the United States and Europe achieved by NATO;

Whereas NATO continues to promote a Europe that is whole, undivided, free, and at peace;

Whereas NATO continues to support an open–door policy of admitting states that can contribute to the promotion and protection of freedom, democracy, stability, and peace throughout Europe;

Whereas, since the end of the Cold War, NATO has continued to redefine and transform itself and to take on new missions, in order to ensure that each NATO member state can defend itself against emerging threats such as terrorism, the spread of weapons of mass destruction, instability caused by failed states, cyber attacks, piracy, and threats to global energy security;

Whereas NATO continues to help stabilize the Balkans through the deployment of troops to Kosovo;

Whereas NATO has deployed naval assets to the Gulf of Aden to address the growing threat of piracy in the region and to help protect the delivery of United Nations food assistance to Somalia;

Whereas after the 2001 terrorist attacks on the United States, Article 5 of the North Atlantic Treaty, signed at Washington April 4, 1949 (TIAS 1964), was invoked for the first time in the history of the organization, and NATO deployed 50,000 troops from all 26 NATO member states to Afghanistan to respond to a dangerous insurgency and terrorist threat and to help re-build a shattered country;

Whereas the challenges that continue to be posed by the resurgence of the Taliban and the illicit drug trade in Afghanistan highlight the need for a sustained and strengthened NATO presence in Afghanistan;

Whereas NATO continues to enhance the security of Europe and the world by strengthening partnerships with countries around the world; and

Whereas Congress continues to support NATO, the leadership role of the United States Government in European security affairs, and the continued enlargement of NATO: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the 60th anniversary of the North Atlantic Treaty Organization;

(2) reaffirms that the North Atlantic Treaty Organization is strong, enduring, and oriented for the challenges of the future; and

(3) expresses appreciation for—

(A) the steadfast partnership between the North Atlantic Treaty Organization and the United States Government; and

(B) the work of the North Atlantic Treaty Organization to ensure peace, security, and stability in Europe and throughout the world.

SENATE RESOLUTION 21—TO AUTHORIZE TESTIMONY IN UNITED STATES OF AMERICA V. VINCENT J. FUMO, ET AL

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 21

Whereas, in the case of United States of America v. Vincent J. Fumo, et al, Cr. No. 06–319, pending in the United States District Court for the Eastern District of Pennsylvania, testimony has been subpoenaed from David Urban, a former employee of the office of Senator Arlen Specter;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved* that David Urban is authorized to testify in United States of America v. Vincent J. Fumo, et al., except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED AND PROPOSED

SA 38. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. KERRY, Ms. KLOBUCHAR, Mr. PRYOR, Mr. SCHUMER, Mr. HARKIN, Mr. KOHL, Mr. CASEY, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 328, to postpone the DTV transition date.

TEXT OF AMENDMENTS

SA 38. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. KERRY, Ms. KLOBUCHAR, Mr. PRYOR, Mr. SCHUMER, Mr. HARKIN, Mr. KOHL, Mr. CASEY, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 328, to postpone the DTV transition date; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—