AMENDMENT NO. 3377

At the request of Mr. BEGICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 3377 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3380

At the request of Mr. NELSON of Florida, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from New Mexico (Mr. UDALL) were added as cosponsors of amendment No. 3380 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3391

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of amendment No. 3391 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3393

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of amendment No. 3393 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3395

At the request of Mrs. LINCOLN, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Georgia (Mr. ISAKSON) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of amendment No. 3395 intended to be proposed to H. R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3396

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of amendment No. 3396 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3397

At the request of Mr. ROCKEFELLER, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 3397 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. VOINOVICH, Ms. KLOBUCHAR, Mr. BROWN, of Ohio, Mr. FRANKEN, Ms. STABENOW, and Mr. DURBIN):

S. 3073. A bill to amend the Federal Water Pollution Control Act to protect and restore the Great Lakes; to the Committee on Environment and Public Works.

Mr. LEVIN. Today, I introduced the Great Lakes Ecosystem Protection Act as co-chair of the Great Lakes Task Force with Senator GEORGE VOINOVICH and several of our colleagues here in the Senate and in the House. This bill is important for our efforts to protect and restore the Great Lakes now and for future generations. The Great Lakes are vital not only to Michigan but to the nation. Roughly 1/10 of the U.S. population lives in the Great Lakes basin and depends daily on the lakes. The Great Lakes provide drinking water to 40 million people in the U.S. and Canada. They provide the largest recreational resource for their 8 neighboring States. They form the largest body of freshwater in the world, containing roughly 18 percent of the world's total. Only the polar ice caps contain more freshwater. They are critical for our economy by helping move natural resources to the factory and to move products to market.

While the environmental protections that were put in place in the early 1970s have helped the Great Lakes make strides toward recovery, a 2003 GAO report made clear that there is much work still to do. That report stated: ''Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats.'' More recently, many scientists reported that the Great Lakes are exhibiting signs of stress due to a combination of sources, including toxic contaminants, invasive species, nutrient loading, shoreline and upland land use changes, and hydrologic modifications. A 2005 report from a group of Great Lakes scientific experts states that ''historical sources of stress have combined with new ones to reach a tipping point, the point at which ecosystem-level changes occur rapidly and unexpectedly, confounding the traditional relationships between sources of stress and the expected ecosystem response.''

Asian carp represents a massive threat and a number of important actions are required to deal with it. The zebra mussel, an aquatic invasive species, caused $3 billion in economic damage to the Great Lakes from 1993 to 2003. In 2000, 7 people died after pathogens entered the Walkerton, Ontario drinking water supply from the lakes. In May of 2004, more than 10 billion gallons of raw sewage and storm water were dumped into the Great Lakes. In that same year, more than 1,850 beach closures in the Great Lakes. Each summer, Lake Erie develops a 6,300 square mile dead zone. There is no appreciable natural reproduction of lake trout in the lower four lakes. More than half of the Great Lakes region's original wetlands have been lost, along with 60 percent of the native forests. Wildlife habitat has been destroyed, diminishing opportunities necessary for fishing, hunting and other forms of outdoor recreation.

These problems have been well known for several years, and this bill is an effort to address those problems. First, the bill authorizes the President's Great Lakes Restoration Initiative, a multi-agency effort, which provides the needed federal funds to federal programs as well as non-federal partners through grants.

Building on past success, there are a number of programs that need to be authorized and reauthorized in federal law. For instance, the bill authorizes the Great Lakes Interagency Task Force, established by Executive Order in 2004, so that the many federal agencies operating in the Great Lakes will coordinate with each other. Restoring the Great Lakes involves many stakeholders including the Federal Government, states, cities, tribes and others, and Congress needs to be sure that the Federal agency efforts are in order.

The bill also reauthorizes and expands the Great Lakes Legacy program which has been extremely successful and has cleaned up about 900,000 cubic yards of contaminated sediments at Areas of Concern throughout the Great Lakes. This is a partnership program which requires a non-federal cost-share to address the legacy of contaminated sediment in our region. The Legacy program expires at the end of 2010.

The bill reauthorizes the EPA's Great Lakes National Program Office which has been and will continue to be a key to moving forward with Great Lakes protection and restoration. This office has been the lead in renegotiating the Great Lakes Water Quality Agreement, implementing the Great Lakes Legacy program, and implementing its own grant program.

Finally, the Great Lakes region needs a process for advising the EPA and other Federal agencies on Great Lakes matters. While there have been various advisory groups that have been pulled together over the years, there has never been a standing advisory entity, and that has been a gap in the governance and management of the Great Lakes. This bill authorizes a new advisory group to provide expertise to the EPA on goals and priorities for Great Lakes restoration and protection.

The Great Lakes are a unique American treasure. We are but their temporary stewards. We must be good stewards by doing all we can to ensure that the Federal Government meets its ongoing obligation to protect and restore the Great Lakes.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 3075. A bill to withdraw certain Federal land and interests in that land from location, entry, and patent under

the mining laws and disposition under the mineral and geothermal leasing laws; to the Committee on Energy and Natural Resources.

Mr. BAUCUS. Mr. President, today I rise to talk about one of the most magnificent, the most inspiring places on Earth, the Flathead region of Montana. The landscape in this area is so vast, so unique, it is hard to put into words. But let me feebly attempt to describe the aura of colors you see as the Sun rises over the deep blue of Lake McDonald. Words cannot capture the joyful screams of families shooting down the Middle Fork of the Flathead through rapids with names like ''Bone Crusher'' and ''Could be Trouble.''

Words cannot do justice to the awe that comes from almost touching Montana's legendary Big Sky at the top of Heavens Peak. The Flathead region, there is nothing like it. It is the crown of the continent. It is God's country. It is Montana.

There is one particular area of this region that holds a special place in my heart; that is, the North Fork of the Flathead River. When I was a freshman Member of the House of Representatives, I took a hike with my friends, Jack Stanford and Ric Hauer, to the top of Mount Harding.

Mount Harding is a little ways from the Flathead River, but this hike captured the feelings I have for the area. Thirty-five years ago, I still remember that hike, and I am not alone.

Similar to everyone who ventures into the Flathead, every Montanan, every American, every Canadian, everyone who happens to be touched by the beauty of this place could not help but be stunned by the beauty of a place carved by glaciers a millennia ago and still untouched by modern development.

That day on the Flathead, each of us knew we must do everything we could to protect this one-of-a-kind landscape for our children and our children' children. I would say, at that time, 35 years ago as a Member of the House, very proudly enacted the first multiyear environmental impact statement baseline study so we could assess what future impacts might be in the area, whether it was Federal, State, private or from British Columbia, just north, whatever it might be, so we knew what we had to do to protect the area.

That promise has not always been easy to keep. Back then, I was so determined to protect this area, I flew up to Toronto and met with a fellow named Ron Sadler. Rod Sadler was president of Sage Creek.

I was like a young lawyer, armed with tons of questions and depositions, and kept asking him—I kept asking him all these questions: What is your intention here? What is your intention there? This is such a special place. He is like: Why are you asking me all those questions?

I explained: This is so special, I am going to do everything I can to protect it. The reason is because of the potential mining across the border, the place where all the water and the pollution would flow south into the North Fork of the Flathead. All the environmental degradation from that flowed south, but all the economic benefit would flow north. So, for me, I will not let this happen. I said to myself: I am going to protect this as much as I possibly can.

For decades, the Flathead has been threatened by mining proposals in British Columbia. Over the years, coal mining, coalbed methane extraction, and gold mining have all been successfully beaten back. It has been a coordinated effort, one I am very proud to be a part of, to help protect the area. We have been working so hard.

Finally, the Premier of British Columbia made a historic decision. He persuaded his Parliament to pass a resolution to protect and prevent any mining development in the North Fork. He made that on the eve of the Olympics. The Olympics—Mount Whistler and that part, the southern part of British Columbia, he made that decision just before the Olympics. I was overjoyed. I called him up, and I said: Mr. Premier, I cannot tell you how happy I am that you have done this. It means so much to Montanans, and we will do our part too.

That is when I told him my plan. My plan, the legislation Senator TESTER and I introduced today, will ban future mining, oil and gas, and coalbed methane development on the American side of the border; that is, in the Flathead National Forest, a portion of the North Fork watershed which is over 90 percent federally owned. Senator TESTER and I have also pledged to work to retire the existing leases to protect this area once and for all.

Many folks know about a book written by Norman McLean. Norman McLean wrote a story about Montana entitled ''A River Runs Through It.'' Though McLean's story focuses on another Montana river, the Blackfoot, also very special, I think the final line from his book resonantes here as well. This is what McLean wrote:

> Eventually, all things merge into one, and a river runs through it. The river was cut by the world's great flood, and runs over rocks from the basement of time. . . . I am haunted by waters.

I am very proud to be here today to introduce the North Fork Watershed Protect Act and ask my colleagues to join me in preserving these waters and the land that surrounds them so that every generation across the country, across the world, has the privilege of being so haunted by Montana's waters.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. WHITEHOUSE, Mr. REED, and Mr. SANDERS):

S. 3078. A bill to provide for the establishment of a Health Insurance Rate Authority to establish limits on premium rating, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, I rise to introduce legislation to create a Health Insurance Rate Authority and rate review process to protect American consumers from unfair health insurance rate increases.

This legislation is based on an amendment I filed during the health reform debate. While it was not included in the reform legislation that passed the Senate, I strongly believe consumers need additional protections from insurance company abuses now.

I am pleased that President Obama has included it in his health reform proposal, and I look forward to continuing to work with the administration to see that this bill becomes law.

This bill ensures that all American consumers are protected by a rate review process, not just those in states with aggressive laws.

This legislation requires companies to submit justifications for unreasonable increases in premiums, using a process that will be established by the Secretary, in conjunction with States.

The bill gives the Secretary of HHS authority to deny or modify premium increases or other rate increases, like deductibles, that are found to be unjustified. State Insurance Commissioners will retain this power in states in which they have sufficient authority and capability.

To help the Secretary with this process, the legislation establishes a Health Insurance Rate Authority as an advisory body for all the Secretary's rate review responsibilities.

Health insurance companies continue to demonstrate their willingness to slap consumers with astronomical increases in their health insurance rates.

Anthem Blue Cross has notified thousands of Californians that they will face rate increases of as much as 39 percent. Meanwhile, WellPoint, the corporate parent of Anthem Blue Cross, earned a $4.7 billion profit in 2009.

I find this unbelievable. Imagine the typical family, or individual, trying to find the money to pay 39 percent more for health care coverage. Especially during these difficult economic times, with so much uncertainty. Meanwhile, the health insurance company is doing better than ever.

I would like to share a few of the letters and comments I have received from Californians that vividly describe what these increases mean to them.

Arthur Hirsch, 63, and his wife Eileen have had Blue Cross for 30 years. They live in Laguna Beach and own a small business. They recently received notice that their monthly premiums would increase from $787 per month to $1,035 per month. Arthur said he was told that he could raise his annual deductible to $5,000 or higher to keep the premium increases down. But he said he fears he is stuck with the policy. He said: ''I can't leave my assets and my family uncovered. If something happens . . . well that's what insurance is about.''

A Monterey, CA couple recently found out their premiums with Anthem

Blue Cross will increase 36 percent—from $734 a month to $998 a month. They own an antique print business. The economy has hurt sales—their 2008 gross household income was $42,000, and they don't expect their income will increase much in 2009 or 2010. More than 25 percent of their household income goes toward premiums—far more than their mortgage. They are wondering if they should go into debt, use the equity in their home or withdraw money from their retirement accounts to pay for the rate hikes. Because of pre-existing conditions, the woman is a breast cancer survivor, they don't believe they can get a more affordable policy elsewhere.

A family of four from Pacific Palisades, California, has a $5,000 per person deductible. They pay $917 per month premiums for the family—$11,000 per year. Their insurance plus out of pocket expenses were more than 25 percent of the family's gross income for each of the past 2 years and no member of the family ever satisfied the deductible. They just received notice that their premium will go up 38 percent, to $1,263 per month. Anthem offered this family another deal: increase premium payments just 10 percent to $1,011 a month if the family agrees to an increased deductible of $7,500 per person. The father in the family hasn't had a checkup in 6 years. He's 56 years old.

This is not how our system should function.

In some States, insurance commissioners have the authority to review health insurance rates and increases, and block the rates that are found to be unjustified. According to a 2008 Families USA report, 33 States have some form of a prior approval process for premium increases.

The same report describes several notable successes among states that use this process, including: Regulators in North Dakota were able to reduce 37 percent of the proposed rate increases filed by insurers.

Maryland used their State laws to block a 46 percent premium increase after a company charged artificially low rates for 2 years. The decision was upheld in court.

New Hampshire regulators were able to reduce a proposed 100 percent rate increase to 12.5 percent.

But in other States, including California, insurance commissioners do not have this ability. Instead, my State's insurance commissioner has had to ask Anthem/Blue Cross to delay its proposed increase in premiums. He has no authority to order this delay.

Some States have laws like this on the books, but do not have sufficient resources to review all the rate changes that insurance companies propose.

Consumers deserve full protection from unfair rate increases, no matter where they live.

This legislation ensures that all Americans have some level of basic protection. The bill is based in part on a provision included in the Senate's version of health reform legislation, which required insurance companies to submit justifications and explain increases in premiums. They must submit these justifications to the Secretary of Health and Human Services, and they must make these justifications available on their website.

The bill asks the National Association of Insurance Commissioners to produce a report, detailing the rate review laws and capabilities in all 50 States. The Secretary of HHS will then use these findings to determine which States have the authority and capability to undertake sufficient rate reviews to protect consumers.

In States where Insurance Commissioners have authority to review rates, they will continue to do so.

In States without sufficient authority or resources, the Secretary of HHS will review rates, and take any appropriate action to deny unfair requests.

This could mean blocking unjustified rate increases, or requiring rebates, if an unfair increase is already in effect.

This will provide all American consumers with another layer of protection from an unfair premium increase.

The amendment would also require the Secretary of Health and Human Services to establish a Health Insurance Rate Authority as part of the process in the bill that enables her to monitor premium costs.

The Rate Authority would advise the Secretary on insurance rate review and would be composed of seven officials that represent the full scope of the health care system including: at least two consumers; at least one medical professional; and one representative of the medical insurance industry.

The remaining members would be experts in health economics, actuarial science, or other sectors of the health care system.

The Rate Authority will also issue an annual report, providing American consumers with basic information about how insurance companies are behaving in the market. It will examine premium increases by State, as well as medical loss ratios, reserves and solvency of companies, and other relevant behaviors.

This data will give consumers better information, enabling them to make better choices and avoid purchasing plans from companies that do not provide them the best value for their dollar.

This concern about premium increases stems from the fact that we are the only industrialized nation that relies heavily on a for-profit medical insurance industry to provide basic health care. I believe, fundamentally, that all medical insurance should be not for profit.

The industry is focused on profits, not patients. It is heavily concentrated, leaving consumers with few alternatives when their premiums do increase.

As of 2007, just two carriers—WellPoint and UnitedHealth Group—had gained control of 36 percent of the national market for commercial health insurance.

Since 1998, there have been more than 400 mergers of health insurance companies, as larger carriers have purchased, absorbed, and enveloped smaller competitors.

In 2004 and 2005 alone, this industry had 28 mergers, valued at more than $53 billion. That is more merger activity in health insurance than in the 8 previous years combined.

Today, according to a study by the American Medical Association, more than 94 percent of American health insurance markets are highly concentrated, as characterized by U.S. Department of Justice guidelines. This means these companies could raise premiums or reduce benefits with little fear that consumers will end their contracts and move to a more competitive carrier.

In my State of California just two companies, WellPoint and Kaiser Permanente, control more than 58 percent of the market. In Los Angeles, the top two carriers controlled 62 percent of the market as of 2008.

Record levels of market concentration have helped generate a record level of profit increases.

Between 2000 and 2007, profits at 10 of the largest publicly-traded health insurance companies soared 428 percent—from $2.4 billion in 2000 to $12.9 billion in 2007.

The CEOs at these companies took in record earnings. In 2007, these 10 CEOs made a combined $118.6 million.

The CEO of CIGNA took home $25.8 million.

The CEO of Aetna took home $23 million.

The CEO of UnitedHealth took home $13.2 million and the CEO of WellPoint took home $9.1 million.

Even last year, a time of enormous economic distress for average Americans, was a good year for the health insurance industry. According to Health Care for America Now!, the 5 largest health insurers—WellPoint, United Health, Humana, Cigna, Aetna—saw profits increase 56 percent from 2008 to 2009, from $7.7 billion to $12.1 billion. Only Aetna saw their profits decrease.

Yet we see insurance companies like Anthem/Blue Cross, owned by Well Point, increasing consumer premiums.

Frankly, I would go further than this legislation if I could: I believe the health insurance industry should be non-profit. There is no reason that any company or shareholder should make a penny off of basic health care coverage for our citizens.

But we do have a system that heavily relies on for-profit insurance companies. Regardless of the outcome of the broader debate on health care reform, that is unlikely to change.

So this bill becomes very necessary. Premiums are increasing every day, and people in many states have no recourse, and no way to know if a particular increase is unfair.

This cannot continue. I urge my colleagues to join me in supporting this legislation.

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

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

S. 3078

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 ''Health Insurance Rate Authority Act of 2010''.

SEC. 2. ENSURING THAT CONSUMERS GET VALUE FOR THEIR DOLLARS.

(a) IN GENERAL.—Part C of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–91 et seq.) is amended by adding at the end the following:

''SEC. 2793. ENSURING THAT CONSUMERS GET VALUE FOR THEIR DOLLARS.

''(a) INITIAL RATE REVIEW PROCESS.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT.—The Secretary, in conjunction with States, shall establish a uniform process for the review, beginning with the 2011 plan year, of potentially unreasonable increases in rates for health insurance coverage, which shall include premiums.

''(B) ELECTRONIC REPORTING.—The process established under subparagraph (A) shall include an electronic reporting system established by the Secretary through which health insurance issuers shall—

''(i) report to the Secretary and State insurance commissioners the information requested by the Secretary pursuant to this subsection; and

''(ii) submit data to the uniform data collection system in accordance with paragraph (6)(A).

''(C) AUTHORITY OF STATES.—Nothing in subparagraph (A) or (B) shall be construed to prohibit a State from imposing additional requirements on health insurance issuers with respect to increases in rates for health insurance coverage, including with respect to reporting information to a State.

''(2) JUSTIFICATION AND DISCLOSURE.—The process established under paragraph (1) shall require health insurance issuers to submit to the Secretary and the relevant State a justification for a potentially unreasonable rate increase prior to the implementation of the increase. Such issuers shall prominently post such information on their Internet websites. The Secretary shall ensure the public disclosure of information on such increases and justifications for all health insurance issuers.

''(3) HEALTH INSURANCE RATE AUTHORITY.—

''(A) IN GENERAL.—The Secretary shall establish a Health Insurance Rate Authority (referred to in this paragraph as the 'Authority') to be composed of 7 members to be appointed by the Secretary, of which—

''(i) at least 2 members shall be a consumer advocate with expertise in the insurance industry;

''(ii) at least 1 member shall be an individual who is a medical professional;

''(iii) at least 1 member shall be a representative of health insurance issuers; and

''(iv) such remaining members shall be individuals who are recognized for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, and other related fields, who provide broad geographic representation and a balance between urban and rural members.

''(B) ROLE.—In addition to the other duties of the Authority set forth in this subsection, the Authority shall advise and make recommendations to the Secretary concerning the Secretary's duties under this subsection.

''(4) CORRECTIVE ACTION FOR UNREASONABLE RATE INCREASES.—

''(A) IN GENERAL.—Pursuant to the procedures set forth in this paragraph, the Secretary or the relevant State insurance commissioner shall—

''(i) in accordance with the process established under paragraph (1), review potentially unreasonable increases in rates and determine whether such increases are unreasonable; and

''(ii) take action to ensure that any rate increase found to be unreasonable under clause (i) is corrected, through mechanisms including—

''(I) denial of the rate increase;

''(II) modification of the rate increase;

''(III) ordering rebates to consumers; or

''(IV) any other actions that correct for the unreasonable increase.

''(B) REQUIRED REPORT; DEFINITION.—The Secretary shall ensure that, not later than 6 months after the date of enactment of this section, the National Association of Insurance Commissioners (referred to in this section as the 'Association'), in conjunction with States, or other appropriate body, will provide to the Secretary and the Authority—

''(i) a report on—

''(I) State authority to review rates and take corrective action in each insurance market, and methodologies used in such reviews;

''(II) rating requests received by the State in the previous 12 months and subsequent actions taken by States to approve, deny, or modify such requests; and

''(III) justifications by insurance issuers for rate requests; and

''(ii)(I) a recommended definition of unreasonable rate increase, which shall consider a lack of actuarial justification for such increase; and

''(II) other recommended definitions for the purposes of carrying out this subsection.

''(C) DETERMINATION OF WHO CONDUCTS REVIEWS FOR EACH STATE.—Using the report submitted pursuant to subparagraph (B), the Secretary shall determine not later than 1 year after the date of enactment of this section and periodically thereafter—

''(i) for which States the State insurance commissioner shall undertake the actions described in subparagraph (A)—

''(I) based on the Secretary's determination that the State has sufficient authority and capability to deny rates, modify rates, provide rebates, or take other corrective actions; and

''(II) as a condition of receiving a grant under subsection (c)(1); and

''(ii) for which States the Secretary shall undertake the actions described in subparagraph (A), in consultation with the relevant State insurance commissioner, based on the Secretary's determination that such States lack the authority and capability described in clause (i).

''(D) TRANSITION PERIOD.—Until the Secretary makes the determinations described in subparagraph (C), the relevant State insurance commissioner shall, as a condition of receiving a grant under subsection (c)(1), carry out the actions described in subparagraph (A) to the extent permissible under State law.

''(5) PRIORITIZING POTENTIALLY UNREASONABLE RATE INCREASES FOR REVIEW.—The Secretary or the relevant State insurance commissioner may prioritize—

''(A) rate increases that will impact large numbers of consumers;

''(B) rate reviews requested from States, if applicable; and

''(C) rate reviews in the individual and small group markets.

''(6) ANNUAL REPORT.—

''(A) UNIFORM DATA COLLECTION SYSTEM.—The Secretary, in consultation with the Association and the Authority, shall develop, and may contract with the Association to operate, a uniform data collection system for new and increased rate information, which shall include information on rates, medical loss ratios, consumer complaints, solvency, reserves, and any other relevant factors of market conduct.

''(B) PREPARATION OF ANNUAL REPORT.—Using the data obtained in accordance with subparagraph (A), the Authority shall annually produce a single, aggregate report on insurance market behavior, which includes at least State-by-State information on rate increases from one year to the next, including by health insurance issuer and by market and including medical trends, benefit changes, and relevant demographic changes.

''(C) DISTRIBUTION.—The Authority shall share the annual report described in subparagraph (B) with States, and include such report in the information disclosed to the public.

''(b) CONTINUING RATE REVIEW PROCESS.—As a condition of receiving a grant under subsection (c)(1), a State, through the applicable State insurance commissioner, shall provide the Secretary with information about trends in rate increases in health insurance coverage in premium rating areas in the State, in accordance with the uniform data collection system established under subsection (a)(6)(A).

''(c) GRANTS IN SUPPORT OF PROCESS.—

''(1) RATE REVIEW GRANTS.—The Secretary shall carry out a program to award grants to States beginning with fiscal year 2010 to assist such States in carrying out subsection (a), including—

''(A) in reviewing and, if appropriate under State law, approving or taking corrective action with respect to rate increases for health insurance coverage; and

''(B) in providing information to the Secretary under subsection (b).

''(2) FUNDING.—

''(A) IN GENERAL.—There is authorized to be appropriated to the Secretary $250,000,000, to be available for expenditure for grants under paragraph (1).

''(B) ALLOCATION.—The Secretary shall establish a formula for determining the amount of any grant to a State under this subsection. Under such formula—

''(i) the Secretary shall consider the number of plans of health insurance coverage offered in each State and the population of the State; and

''(ii) no State qualifying for a grant under paragraph (1) shall receive more than $5,000,000 for a grant year.

''(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount authorized under subsection (c)(2), there are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2010 and such sums as may be necessary for each subsequent fiscal year.''.

(b) ENFORCEMENT.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended—

(1) in section 2722—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''and section 2793'' after ''this part''; and

(ii) in paragraph (2), by inserting ''or section 2793'' after ''this part''; and

(B) in subsection (b)—

(i) in paragraph (1), by inserting ''and section 2793'' after ''this part''; and

(ii) in paragraph (2), by inserting ''or section 2793'' after ''this part'' each place such term appears; and

(2) in section 2761—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''and section 2793'' after ''this part''; and

(ii) in paragraph (2)—

(I) by inserting ''or section 2793'' after ''set forth in this part''; and

(II) by inserting ''and section 2793'' after ''the requirements of this part''; and

(B) in subsection (b)—

(i) by inserting ''and section 2793'' after ''this part''; and

(ii) by inserting ''and section 2793'' after ''part A''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

By Mr. MERKLEY (for himself, Mr. PRYOR, Mr. BROWN of Ohio, Ms. STABENOW, Mr. SANDERS, and Mr. CARDIN):

S. 3079. A bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MERKLEY. Mr. President, I rise today to introduce legislation to help create jobs and lower energy bills for businesses and multi-family residences. This bill would create a program called Building Star, designed to promote energy-saving commercial building renovations through rebates and low-cost financing options.

I believe, as do many of my colleagues, that energy efficiency should be a central component of our national energy policy because energy efficiency creates jobs, reduces our dependence on foreign oil, and reduces the pollution of our air and water. Central to the program we are proposing today is its ability to help businesses afford the upfront costs of energy-efficient renovations by helping state and local programs offer low-interest loans that can be paid back through savings on energy bills.

As we take action to put Americans back to work, we need to set our sights on programs that provide the biggest bang for our buck in terms of immediate job creation and set our economy up for future growth. Clean energy is not only the next great growth industry, but it's an engine for job creation today. Energy-efficiency programs like Building Star will put Americans to work in construction and manufacturing and save small businesses money as we strive for American energy independence.

I would like to thank Senator PRYOR for his leadership on this bill as well as Senators STABENOW, BROWN, and SANDERS in joining the push for a commonsense idea that can create jobs right away and pave the way for future growth in America's clean energy industry.

I would also like to recognize Senator WARNER's great leadership in developing Home Star, a parallel program that offers energy-efficiency assistance to homeowners. I am proud to stand with my forward-thinking colleagues, Senator BINGAMAN and Senator SANDERS in supporting Home Star and I look forward to continued discussions about how we can maximize the economic benefits of these valuable programs.

I would like to focus for a moment on the immediate positive impact that Building Star will have on our economy.

Building Star would begin creating jobs immediately and is projected to create as many as 150,000 jobs in some of the economy's hardest-hit sectors including construction, manufacturing, and distribution over the next 2 years.

Building Star will stimulate new jobs in the 55,000 construction and manufacturing firms that deal in building, mechanical and low-slope roof insulation, windows, and window films. Eighty-six percent of these firms are small businesses employing less than 20 people.

Building Star will maximize Federal investment by leveraging $2 to $3 in private investment for every Federal dollar spent, making it an excellent model for a public-private partnership and maximizing resource efficacy.

In addition, Building Star is expected to save building owners more than $3 billion annually on their energy bills by reducing enough peak electricity demand to avoid the need for 33 300-Megawatt power plants.

It will also reduce the pollution that contributes to climate change by 21 million metric tons each year, or the equivalent of nearly 4 million cars' emissions, according to the American Council for an Energy-Efficient Economy.

I urge my colleagues to recognize the outstanding opportunity that energy-efficiency renovations offer in putting Americans back to work, saving money for our working families, and moving us toward energy independence.

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. 3079

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 ''Building Star Energy Efficiency Act of 2010''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ASHRAE.—The term ''ASHRAE'' means the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

(2) BUILDING ENVELOPE INSULATION.—The term ''building envelope insulation'' means thermal insulation for a building envelope (other than a low slope roof), as defined in ASHRAE Standard 90.1–2007 or 2009 IECC, as appropriate.

(3) CHILLER TONNAGE DOWNSIZING.—The term ''chiller tonnage downsizing'' means the quantity by which the tonnage rating of a replaced chiller exceeds the tonnage rating of a qualified replacement chiller.

(4) CLIMATE ZONE.—The term ''climate zone'' means a climate zone specified in ASHRAE Standard 90.1–2007.

(5) COMMERCIAL BUILDING.—

(A) IN GENERAL.—The term ''commercial building'' means a building that—

(i) is located in the United States; and

(ii) was in existence on December 31, 2009.

(B) EXCLUSIONS.—The term ''commercial building'' does not include—

(i) a federally owned building; or

(ii) a residential building.

(6) DUCT.—The term ''duct'' means HVAC ducts with respect to which pressure testing has been performed and, if necessary, leakage remediated, in accordance with sections 503.2.7.1.2 and 503.2.7.1.3 of the 2009 IECC.

(7) DUCT INSULATION.—The term ''duct insulation'' means thermal insulation of a HVAC duct.

(8) HVAC.—The term ''HVAC'' means heating, ventilation, and air conditioning.

(9) IECC.—The term ''IECC'' means the International Energy Conservation Code.

(10) MECHANICAL INSULATION.—The term ''mechanical insulation'' means thermal insulation installed, in accordance with applicable Federal, State, and local law, on mechanical piping and mechanical equipment.

(11) MULTIFAMILY RESIDENTIAL BUILDING.—

(A) IN GENERAL.—The term ''multifamily residential building'' means a structure of 5 or more dwelling units that—

(i) is located in the United States; and

(ii) was in existence on December 31, 2009.

(B) EXCLUSION.—The term ''multifamily residential building'' does not include a federally owned building.

(12) NFRC.—The term ''NFRC'' means the National Fenestration Rating Council.

(13) PROGRAM.—The term ''program'' means the Building Star Energy Efficiency Rebate Program of 2010 established under section 3.

(14) QUALIFIED BOILER.—The term ''qualified boiler'' means a new natural gas-fired, oil-fired, or wood or wood pellet boiler that—

(A) has a capacity of not less than 300,000, and not more than 5,000,000, Btu per hour;

(B) replaces an operational boiler in a commercial building or multifamily residential building; and

(C) meets or exceeds—

(i) in the case of a natural gas-fired boiler, 90 percent thermal efficiency;

(ii) in the case of an oil-fired boiler, 85 percent thermal efficiency; and

(iii) in the case of a wood or wood pellet boiler, 75 percent thermal efficiency.

(15) QUALIFIED BUILDING ENVELOPE INSULATION.—The term ''qualified building envelope insulation'' means the installation or repair of building envelope insulation to meet or exceed ASHRAE Standard 90.1–2007 or 2009 IECC in a commercial building or multifamily residential building.

(16) QUALIFIED ENERGY AUDIT.—The term ''qualified energy audit'' means an ASHRAE Level II energy audit or equivalent of a commercial building or multifamily residential building that is designed to identify all cost-effective energy efficiency measures.

(17) QUALIFIED ENERGY-EFFICIENT BUILDING OPERATION AND MAINTENANCE TRAINING.—The term ''qualified energy-efficient building operation and maintenance training'' means—

(A) the training of a superintendent or operator of a commercial building or multifamily residential building; and

(B) resultant—

(i) Level 1 or Level 2 Building Operator Certification for commercial building operators; or

(ii) certification as a Multifamily Building Operator by the Building Performance Institute for residential building operators.

(18) QUALIFIED ENERGY MONITORING AND MANAGEMENT SYSTEM.—The term ''qualified energy monitoring and management system'' means a system that—

(A) is installed in a commercial building or multifamily residential building;

(B) uses a combination of computers, computer software, control equipment, and instrumentation to monitor and manage or submeter the energy use of a building, such as heating, ventilation, air conditioning, and lighting;

(C) provides reporting of information to the building owner or operator to enable refinement of building operation and energy usage; and

(D) is covered by a service contract with a duration of not less than 1 year for system monitoring or maintenance, including all maintenance recommended by the equipment manufacturer.

(19) QUALIFIED EXTERIOR LIGHTING.—The term ''qualified exterior lighting'' means exterior lighting that—

(A) replaces operational exterior lighting at a commercial building or multifamily residential building; and

(B) achieves a reduction of 20 percent or more in annual energy use as compared to the lighting that was replaced, as determined in accordance with section 3(c)(7)(B).

(20) QUALIFIED FURNACE.—The term ''qualified furnace'' means a new natural gas furnace or a wood or wood pellet furnace that—

(A) replaces an operational furnace in a commercial building or multifamily residential building;

(B) in the case of natural gas, meets or exceeds 90 percent thermal efficiency; and

(C) in the case of a wood or wood pellet furnace, meets or exceeds 75 percent thermal efficiency.

(21) QUALIFIED HIGH-EFFICIENCY WINDOW FILMS AND SCREENS.—The term ''qualified high-efficiency window films and screens'' means window films and screens that—

(A) are permanently affixed to windows or window frames in a commercial building or multifamily residential building;

(B) have a Luminous Efficacy (which is Visible Light Transmittance, as certified to NRFC standards divided by SHGC) of 1.1 or greater; and

(C) have a SHGC that meets or is better than the applicable requirements of the following table (as certified to NFRC standards):

Climate Zones	1	2	3	4	5	6	7	8
SHGC	.25	.25	.25	.40	.40	.40	.45	.45

(22) QUALIFIED HVAC TESTING, BALANCING, AND DUCT SEALING.—The term ''qualified HVAC testing, balancing, and duct sealing'' means work performed in a commercial building or multifamily residential building by individuals with an ANSI-accredited certification in HVAC testing—

(A) to pressure-test HVAC ducts;

(B) to balance air flow; and

(C) to identify all leaking ducts and remediate the leakage to the appropriate leakage class, in accordance with sections 503.2.7.1.2 and 503.2.7.1.3 of the 2009 IECC.

(23) QUALIFIED INTERIOR LIGHTING.—The term ''qualified interior lighting'' means new interior lighting that—

(A) replaces operational interior lighting in a commercial building or multifamily residential building; and

(B) achieves an installed power reduction of 25 percent or more as compared to the installed power of the lighting that was replaced, as determined in accordance with section 3(c)(6)(B).

(24) QUALIFIED LOW SLOPE ROOF INSULATION.—The term ''qualified low slope roof insulation'' means a retrofit that—

(A) adds new insulation to a roof on a commercial building or multifamily residential building if the roof insulation is entirely above deck, as defined in ASHRAE Standard 90.1–2007 or 2009 IECC; and

(B) meets or exceeds the R-values for the applicable climate zone in the following table:

Climate Zones	1	2	3	4	5	6	7	8
R-Value	20	25	25	25	25	30	35	35

(25) QUALIFIED MECHANICAL INSULATION.—The term ''qualified mechanical insulation'' means the installation or repair of mechanical or duct insulation to meet or exceed ASHRAE Standard 90.1–2007 or 2009 IECC in a commercial building or multifamily residential building.

(26) QUALIFIED REPLACEMENT CHILLER.—The term ''qualified replacement chiller'' means a water-cooled chiller that—

(A) is certified to meet efficiency standards effective on January 1, 2010, as defined in table 6.8.1c in Addendum M to Standard 90.1–2007 of ASHRAE; and

(B) replaces a chiller that—

(i) was installed before January 1, 1993;

(ii) uses chlorofluorocarbon refrigerant; and

(iii) until replaced by a new chiller, has remained in operation and used for cooling a commercial building.

(27) QUALIFIED RETRO COMMISSIONING STUDY.—The term ''qualified retro commissioning study'' means a commissioning study of building energy systems that is—

(A) conducted consistent with the guidelines in the Retro Commissioning Guide for Building Owners prepared for—

(i) the Environmental Protection Agency; or

(ii) the document entitled ''California Commissioning Guide: Existing Buildings'' published by the California Commissioning Collaborative; and

(B) performed by a service provider with—

(i) an ASHRAE Commissioning Process Management Professional certification; or

(ii) a Building Commissioning Association Certified Commissioning Professional certification.

(28) QUALIFIED SERVICE ON COOLING SYSTEMS.—

(A) IN GENERAL.—The term ''qualified service on cooling systems'' means periodic maintenance service on a central air conditioner that—

(i) is located in a commercial building or multifamily residential building; and

(ii) has a capacity of not less than 2 tons.

(B) INCLUSIONS.—The term ''qualified service on cooling systems'' includes—

(i) a cleaning of a condenser coil;

(ii) a check of system pressure;

(iii) an inspection and replacement of a filter;

(iv) an inspection and replacement of a belt;

(v) an inspection and repair of an economizer;

(vi) an inspection of a contractor;

(vii) an inspection of an evaporator;

(viii) an evaluation of a compressor ampere draw;

(ix) an evaluation of supply motor amp draw;

(x) an evaluation of a condenser fan amp draw;

(xi) an evaluation of liquid line temperature;

(xii) an evaluation of suction pressure and temperature;

(xiii) an evaluation of oil level and pressure;

(xiv) an inspection of low pressure controls and high pressure controls;

(xv) an evaluation of crankcase heater operation;

(xvi) a cleaning of chiller condenser tubes;

(xvii) a cleaning of chiller evaporator tubes; or

(xviii) a check, and if necessary, correction of a refrigerant charge and system airflow to conform to manufacturer specifications.

(29) QUALIFIED SERVICE ON SPACE HEATING EQUIPMENT.—

(A) IN GENERAL.—The term ''qualified service on space heating equipment'' means the periodic maintenance service on a boiler, unit heaters make-up air unit, heat pump, furnace, or industrial space heating equipment with forced or induced draft combustion that is located in a commercial or multifamily residential building.

(B) INCLUSIONS.—The term ''qualified service on space heating equipment'' includes—

(i) cleaning all heat exchange surfaces and checking and calibrating all system controls; and

(ii) combustion efficiency tests and stack temperature measurements conducted before and after the service.

(30) QUALIFIED UNITARY AIR CONDITIONER.—The term ''qualified unitary air conditioner'' means a new 3 phase unitary air conditioner that—

(A) replaces an operational air conditioner or heat pump in a commercial building or multifamily residential building; and

(B) meets or exceeds Consortium for Energy Efficiency Tier 1 efficiency standards as in effect on January 1, 2010.

(31) QUALIFIED UNITARY HEAT PUMP.—The term ''qualified unitary heat pump'' means a new 3 phase unitary heat pump that—

(A) replaces an operational air conditioner or heat pump in a commercial building or multifamily residential building; and

(B) meets or exceeds Consortium for Energy Efficiency Tier 1 level of efficiency as in effect on January 1, 2010.

(32) QUALIFIED VARIABLE SPEED DRIVE.—The term ''qualified variable speed drive'' means a new electronic variable speed drive that—

(A) is added to an operational motor in a—

(i) chilled water pump;

(ii) cooling tower fan;

(iii) fume hood exhaust or makeup fan;

(iv) hot water pump;

(v) exhaust fan;
(vi) chiller compressor; or
(vii) supply, return, or exhaust fan on a variable-air volume unit that is located in a commercial building or multifamily residential building and operates not less than 2,000 hours annually;
(B) is controlled automatically by a building automation system, process control system, or local controller driven by differential pressure, flow, temperature, or another variable signal; and
(C) incorporates a series reactor for power factor correction.
(33) QUALIFIED WATER HEATER.—The term ''qualified water heater'' means a new natural gas or electric storage water heater with a capacity of 75,000 Btu/hour or greater, or a tankless water heater with a capacity of 200,000 Btu/hour or greater, that replaces an operational water heater in a commercial building or multifamily residential building and meets or exceeds—
(A) in the case of a natural gas water heater, 90 percent thermal efficiency;
(B) in the case of an electric water heater—
(i) a 2.5 Coefficient of Performance; or
(ii) a 2.0 Energy Factor; and
(C) in the case of a wood or wood pellet water heater, 75 percent thermal efficiency.
(34) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.
(35) SHGC.—The term ''SHGC'' means the Solar Heat Gain Coefficient.
(36) TIER 1 QUALIFIED WINDOW.—The term ''tier 1 qualified window'' means a new window that—
(A) replaces an existing window in a commercial building or multifamily residential building; and
(B) meets or is better than—
(i) the applicable U-factor and SHGC requirements (both certified to NFRC standards) in the following table:

Climate Zones	1	2	3	4	5	6	7	8
U-Factor	.57	.57	.40	.35	.35	.35	.35	.35
SHGC	.25	.25	.25	.40	.40	.40	.45	.45

; and
(ii) in the case of a window with impact-rated glazing in climate zone 1, a U-factor of 1.20.
(37) TIER 2 QUALIFIED WINDOW.—The term ''tier 2 qualified window'' means a new window that—
(A) replaces an existing window in a commercial building or multifamily residential building; and
(B) meets or is better than—
(i) the applicable U-factor and SHGC requirements (both certified to NFRC standards) in the following table:

Climate Zones	1	2	3	4	5	6	7	8
U-Factor	.32	.32	.30	.30	.30	.30	.30	.30
SHGC	.25	.25	.25	.26	.26	.35	.45	.45

; and
(ii) in the case of a window with impact-rated glazing in climate zone 1, a U-factor of 1.20.

SEC. 3. BUILDING STAR PROGRAM.

(a) ESTABLISHMENT.—There is established in the Department of Energy a program to be known as the ''Building Star Energy Efficiency Rebate Program of 2010'' under which the Secretary, in accordance with this section, shall issue rebates to building owners to offset a portion of the cost of purchasing and installing qualifying equipment or materials or undertaking qualifying services to enhance the energy efficiency of existing commercial buildings and multifamily residential buildings.
(b) REBATES FOR BUILDING ENVELOPE ENERGY EFFICIENCY MEASURES.—Rebates for the purchase and installation of qualifying insulation, windows, and qualified high-efficiency window films and screens in commercial or multifamily residential buildings shall be available in the following amounts:
(1) BUILDING ENVELOPE INSULATION.—For qualified building envelope insulation, a rebate of $0.60 per square foot of insulated area.
(2) LOW SLOPE ROOFING INSULATION.—For qualified low slope roofing insulation, a rebate of $0.80 per square foot of insulated roof area over conditioned space.
(3) MECHANICAL INSULATION.—For qualified mechanical insulation, rebates shall be the amounts specified in the following table:

Piping and Equipment Applications	Rebate
2″ Iron Pipe Size and below	$2.50 per equivalent lineal foot
2″ to 12″ Iron Pipe Size	$5.00 per equivalent lineal foot
Above 12″ Iron Pipe Size and equipment	$5.00 per square foot
HVAC Duct Applications	$1.00 per square foot

(4) WINDOWS.—
(A) TIER 1 QUALIFIED WINDOWS.—For Tier 1 qualified windows, a rebate of $150 per window.
(B) TIER 2 QUALIFIED WINDOWS.—For Tier 2 qualified windows, a rebate of $300 per window.
(5) HIGH-EFFICIENCY WINDOW FILMS AND SCREENS.—For qualified high-efficiency window films and screens, a rebate of $1.00 per square foot of treated glass enclosing a mechanically conditioned space.
(c) REBATES FOR ELIGIBLE EQUIPMENT INSTALLATION.—Rebates for the purchase and installation of qualifying new energy efficient equipment in commercial buildings or multifamily residential buildings shall be available in the following amounts:
(1) BOILERS.—For qualified boilers, rebates shall be the amounts specified in the following table:

Boiler Fuel	Rebate
Natural Gas-fired	$10 per thousand Btu per hour capacity
Oil-fired	$3 per thousand Btu per hour capacity
Wood or wood pellet boiler	$____ per thousand Btu per hour capacity

(2) FURNACES.—For qualified furnaces, rebates of $5 per thousand Btu per hour of capacity.
(3) WATER HEATERS.—For qualified water heaters, rebates shall be the amounts specified in the following table:

Energy Source	Rebate
Natural Gas	$8 per thousand Btu per hour capacity
Electricity	$20 per thousand Btu per hour of heat pump capacity
Wood or wood pellet water heater	$____ per thousand Btu per hour capacity

(4) UNITARY AIR CONDITIONERS AND HEAT PUMPS.—For qualified unitary air conditioners and qualified unitary heat pumps, rebates shall be the amounts specified in the following table:

Efficiency Level	Rebate
Consortium on Energy Efficiency Tier 1 efficiency standards (as in effect on January 1, 2010).	$100 per ton cooling capacity
Consortium of Energy Efficiency Tier 2 efficiency standards (as in effect on January 1, 2010).	$200 per ton cooling capacity

(5) VARIABLE SPEED DRIVES FOR MOTORS.—For qualified variable speed drives, rebates shall be the amounts specified in the following table:

Power Controlled (horsepower)	Rebate Level
<10 hp	$120/hp
10–100 hp	$80/hp
>100 hp	$40/hp

(6) INTERIOR LIGHTING.—

(A) IN GENERAL.—For qualified interior lighting, subject to subparagraphs (B) and (C), rebates based on reduced lighting power shall be the amounts specified in the following table:

25% or greater reduction in installed lighting power (as adjusted)	$0.25 per square foot of illuminated floor area affected
40% or greater reduction in installed lighting power (as adjusted)	$0.50 per square foot of illuminated floor area affected

(B) CALCULATION.—Reductions in installed lighting power resulting from installation of qualified interior lighting shall be calculated by determining the difference between—

(i) the product obtained by multiplying—

(I) the quantity of installed power (kW) for existing interior lighting; and

(II) the applicable control factor; and

(ii) the product obtained by multiplying—

(I) the quantity of installed power (kW) of the replacement interior lighting system; and

(II) the applicable control factor.

(C) CONTROL FACTORS.—For purposes of subparagraph (B), control factors for installed lighting controls shall be—

(i) for manual dimming controls, 0.9;

(ii) for occupancy sensors, 0.9;

(iii) for programmable multilevel dimming controls, 0.9;

(iv) for programmable multilevel dimming controls with programmable time scheduling, 0.85; and

(v) for daylight dimming controls, 0.75.

(7) EXTERIOR LIGHTING.—

(A) IN GENERAL.—For qualified exterior lighting, subject to subparagraphs (B) and (C), rebates based on reduced energy usage shall be the amounts specified in the following table:

20% or greater reduction in calculated annual energy usage	$0.40 per kWh reduction in calculated annual energy usage
40% or greater reduction in calculated annual energy usage	$1.00 per kWh reduction in calculated annual energy usage

(B) CALCULATION.—Reductions in annual energy usage resulting from installation of qualified exterior lighting shall be calculated by determining the difference between—

(i) the product obtained by multiplying—

(I) the quantity of installed power (kW) for existing exterior lighting;

(II) 4,000 operating hours per year; and

(III) the applicable control factor; and

(ii) the product obtained by multiplying—

(I) the quantity of installed power (kW) of the replacement exterior lighting system;

(II) 4,000 operating hours per year; and

(III) the applicable control factor.

(C) CONTROL FACTORS.—For purposes of subparagraph (B), control factors for installed lighting controls shall be—

(i) for 7-day time controls (with a provision for holiday schedule) if lighting is switched off a minimum of 4 hours per night, 0.75;

(ii) for motion sensors if lighting power is reduced by at least 40 percent after no activity has been detected for at least 20 minutes, 0.75; and

(iii) for remote monitoring and multilevel lighting controls, 0.60.

(8) QUALIFIED REPLACEMENT CHILLERS.—

(A) IN GENERAL.—For qualified replacement chillers, rebates shall be the sum of—

(i) the product obtained by multiplying—

(I) $150; and

(II) the tonnage rating of the replaced chiller; and

(ii) if all chilled water distribution pumps connected to the qualified replacement chiller include variable frequency drives, the product obtained by multiplying—

(I) $100; and

(II) any chiller tonnage downsizing.

(B) AUDITS.—As a condition of receiving a rebate for a qualified replacement chiller, an audit with requirements determined by the Secretary (not later than 45 days after the date of enactment of this Act) shall be performed on a building prior to installation of the qualified replacement chiller that identifies cost-effective energy-saving measures, particularly measures that could contribute to chiller tonnage downsizing.

(d) REBATES FOR ELIGIBLE ENERGY EFFICIENCY SERVICES.—Rebates for qualifying services to enhance the energy efficiency of commercial or multifamily residential buildings shall be available in the following amounts:

(1) ENERGY AUDIT AND RETRO COMMISSIONING STUDY.—

(A) IN GENERAL.—For qualified energy audits or qualified retro commissioning studies, subject to subparagraph (B), a rebate equal to the lesser of—

(i) $0.05 per square foot of audited or commissioned building space; or

(ii) 50 percent of the cost of the audit or study.

(B) AVOIDANCE OF DUPLICATION.—Rebates shall not be made for energy audits and retro commissioning studies under subparagraph (A) for the same building.

(2) ENERGY-EFFICIENT BUILDING OPERATIONS AND MAINTENANCE TRAINING.—For qualified energy-efficient building operation and maintenance training, a rebate of $2,000 per individual trained and certified.

(3) SERVICE ON SPACE HEATING EQUIPMENT.—For qualified service on space heating equipment, a rebate of $100 per unit serviced.

(4) SERVICE ON COOLING SYSTEMS.—For qualified service on cooling systems, a rebate equal to the lesser of—

(A) $2 per ton of nameplate capacity of the serviced cooling system; and

(B) 50 percent of the total service cost.

(5) ENERGY MONITORING AND MANAGEMENT SYSTEMS.—

(A) INSTALLATION.—For qualified energy monitoring and management systems installed in a commercial building or multifamily residential building that have analog controls (pneumatic or electronic), or if no control system exists, a rebate equal to the lesser of—

(i) $0.45 per square foot of building space covered by the qualified energy monitoring and management system; or

(ii) 50 percent of the total installation and commissioning costs.

(B) UPGRADING.—For upgrading an existing energy monitoring and management system in a commercial building or multifamily residential building to add submetering to all major individual loads, such as heating, ventilation, air conditioning, and lighting, a rebate equal to the lesser of—

(i) $0.15 per square foot of building space covered by the energy management system, or

(ii) 50 percent of the total installation cost.

(6) HVAC TESTING, BALANCING, AND DUCT SEALING.—For qualified HVAC testing, balancing, and duct sealing, a rebate of $0.75 per square foot of duct surface tested, balanced, and if necessary, sealed.

(e) ADMINISTRATION.—

(1) ELIGIBILITY PERIOD.—A rebate issued under the program shall be provided only in connection with qualifying equipment installations or services provided during the period beginning on the date of enactment of this Act and ending on December 31, 2011.

(2) COMBINATION WITH OTHER INCENTIVES.—The availability or use of a Federal, State, local, utility, or other incentive for any qualifying equipment installation or service shall not affect eligibility for rebates under the program.

(3) ADDITIONAL FEES.—A dealer, equipment installer, or service provider may not charge a person purchasing goods or services any additional fees associated with applying for a rebate under the program.

(4) LIMITATION ON TOTAL REBATES ISSUED.—The total value of rebates issued under the program may not exceed the amounts made available for the program.

(5) MAXIMUM REBATE.—The amount of any rebate paid to an applicant for any qualified measure under this section shall be the lesser of—

(A) the amount determined under subsection (b), (c), or (d); or

(B) ½ of the cost actually incurred by the applicant building owner to complete the measure that is eligible for the rebate.

(f) IMPLEMENTATION.—Notwithstanding section 553 of title 5, United States Code, not later than 30 days after the date of enactment of this Act, the Secretary shall, in consultation with the Secretary of the Treasury, establish rules and procedures to implement the program, including rules and procedures for—

(1) building owners or designees to submit applications (including forms) that—

(A) specify the proposed measures that qualify for a rebate and the total rebate requested; and

(B) require that the work be completed by licensed contractors or service providers in compliance with all applicable Federal, State and local building codes and standards;

(2) the Secretary—

(A) to consider applications; and

(B) to the extent that the Secretary determines that proposed measures will qualify for rebates under this section if undertaken and that there are sufficient uncommitted

funds to carry out the program, to issue confirmations to applicants that rebates will be made if proposed measures are completed;

(3) an applicant—

(A) to certify, following completion of the measures identified in the application, that the measures undertaken qualify for rebate under this section; and

(B) to complete the measures described in the application, and submit a certification, not later than—

(i) 180 days after the date of receipt of a confirmation; or

(ii) in the case of a qualified replacement chiller, 360 days after the date of receipt of a confirmation;

(4) appropriate verification by the Secretary of eligibility for a rebate prior to payment;

(5) verification and payment of rebates by electronic transfer of funds or other means that ensure that the payment occurs not later than 30 days after the date of submission of certification that measures described in the application have been completed;

(6) certification by the installer, as part of the certification under paragraph (3), that any refrigerants, toxic materials, and other hazards have been removed and disposed of in accordance with all applicable Federal, State, and local laws;

(7) field inspections by the Federal Government of at least 10 percent of the projects for which rebates are received under the program; and

(8) compliance monitoring and enforcement.

(g) CIVIL PENALTIES.—

(1) IN GENERAL.—Any person who knowingly makes a false or misleading statement in an application or certification under this section shall be liable to the United States for a civil penalty in an amount equal to not more than the higher of—

(A) $15,000 for each violation; or

(B) the amount that is equal to 3 times the value of any associated rebate received under this section.

(2) ADMINISTRATION.—In carrying out this subsection, the Secretary—

(A) may assess and compromise penalties described in paragraph (1);

(B) may require from any entity the records and inspections necessary to carry out the program; and

(C) shall consider the severity of the violation and the intent and history of the person committing a violation in determining the amount of a penalty.

(h) INFORMATION TO BUILDING OWNERS, SERVICE PROVIDERS, AND EQUIPMENT INSTALLERS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall make available on an Internet website and through other means determined by the Secretary, information about the program, including information on—

(A) how to determine whether particular efficiency measures are eligible for a rebate;

(B) how to participate in the program, including how to apply for rebates; and

(C) the equipment and services meeting the requirements of the program.

(2) UPDATING.—The Secretary shall update, as appropriate, the information required under paragraph (1).

(i) REPORT TO CONGRESS.—Not later than 60 days after the termination date described in subsection (e)(1), the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the efficacy of the program, including—

(1) a description of program results, including—

(A) the total number and value of rebates issued for installation of new energy efficient equipment by category of equipment;

(B) the total number and value of rebates issued for services rendered by category of service; and

(C) the geographic distribution of activities for which rebates were issued;

(2) an estimate of the overall increase in energy efficiency as a result of the program, expressed in terms of percentage improvement by—

(A) type of equipment;

(B) total annual energy savings; and

(C) total annual greenhouse gas reductions; and

(3) an estimate of the overall jobs created and economic growth achieved as a result of the program.

SEC. 4. STATE-BASED FINANCING ASSISTANCE FOR COMMERCIAL BUILDING RETROFITS.

(a) DEFINITIONS.—In this section:

(1) BUILDING STAR ENERGY RETROFIT PROGRAM.—The term ''Building Star energy retrofit program'' means the Building Star energy retrofit program established under section 3.

(2) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means a building owner, apartment complex owner, residential cooperative association, or condominium association that—

(A) meets the eligibility requirements established by a qualified loan program delivery entity designated by the building owner; and

(B) receives financial assistance from the qualified loan program delivery entity to carry out energy efficiency or renewable energy improvements to an existing building in accordance with the Building Star energy retrofit program established under section 3.

(3) PROGRAM.—The term ''program'' means the Building Star Energy Efficiency Loan Program established under subsection (b).

(4) QUALIFIED LOAN PROGRAM MECHANISM.—The term ''qualified loan program mechanism'' means a loan program that is—

(A) administered by a qualified program delivery entity; and

(B) principally funded—

(i) by funds provided by or overseen by a State; or

(ii) through the energy loan program of the Federal National Mortgage Association.

(5) QUALIFIED PROGRAM DELIVERY ENTITY.—The term ''qualified program delivery entity'' means a State, political subdivision of a State, tribal government, energy utility, natural gas utility, nonprofit or community-based organization, energy service company, retailer, or any other qualified entity that—

(A) meets the eligibility requirements of this section; and

(B) is approved by the State that administers the program in the State.

(b) ESTABLISHMENT.—The Secretary shall establish a Building Star Energy Efficiency Loan Program under which the Secretary shall make grants to States to support financial assistance provided by qualified program delivery entities for making, to existing buildings, energy efficiency and renewable energy improvements that qualify under the Building Star energy retrofit program.

(c) ELIGIBILITY OF QUALIFIED PROGRAM DELIVERY ENTITIES.—To be eligible to participate in the program, a qualified program delivery entity shall—

(1) offer a financing product under which eligible participants may pay over time for the cost to the eligible participant (after all applicable Federal, State, local, and other rebates or incentives are applied) of making improvements described in section 3;

(2) require all financed improvements to be performed by contractors in a manner that meets minimum standards that are at least as stringent as the standards established under section 3; and

(3) establish standard underwriting criteria to determine the eligibility of program applicants, which criteria shall be consistent with commercially recognized best practices applicable to the form of financial assistance being provided (as determined by the designated entity administering the program in the State).

(d) ALLOCATION.—In making funds available to States for each fiscal year under this section, the Secretary shall use the formula used to allocate funds to States to carry out State energy conservation plans established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

(e) QUALIFIED PROGRAM DELIVERY ENTITIES.—Before making a grant to a State under this section, the Secretary shall require the Governor of the State to provide to the Secretary a letter of assurance that the State—

(1) has 1 or more qualified program delivery entities that meet the requirements of this section;

(2) has established a qualified loan program mechanism that—

(A) includes a methodology to ensure credible energy savings or renewable energy generation;

(B) incorporates an effective repayment mechanism, which may include—

(i) on-utility-bill repayment;

(ii) tax assessment or other form of property assessment financing;

(iii) municipal service charges;

(iv) energy or energy efficiency services contracts;

(v) energy efficiency power purchase agreements; or

(vi) alternative contractual repayment mechanisms that have been demonstrated to have appropriate risk mitigation features; and

(3) will provide, in a timely manner, all information regarding the administration of the program as the Secretary may require to permit the Secretary to meet the reporting requirements of subsection (h).

(f) USE OF GRANT FUNDS.—Grant funds made available to States under the program may be used to support financing products offered by qualified program delivery entities to eligible participants, by providing——

(1) interest rate reductions;

(2) loan loss reserves or other forms of credit enhancement;

(3) revolving loan funds from which qualified program delivery entities may offer direct loans; or

(4) other debt instruments or financial products necessary—

(A) to maximize leverage provided through available funds; and

(B) to support widespread deployment of energy efficiency and renewable energy finance programs.

(g) USE OF REPAYMENT FUNDS.—In the case of a revolving loan fund established by a State described in subsection (f)(3), a qualified program delivery entity may use funds repaid by eligible participants under the program to provide financial assistance for additional eligible participants to make improvements described in subsection (b) in a manner that is consistent with this section or other such criteria as are prescribed by the State.

(h) PROGRAM EVALUATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a program evaluation that describes—

(1) how many eligible participants have participated in the program;

(2) how many jobs have been created through the program, directly and indirectly;

(3) what steps could be taken to promote further deployment of energy efficiency and renewable energy retrofits;

(4) the quantity of verifiable energy savings, renewable energy deployment, homeowner energy bill savings, and other benefits of the program; and

(5) the performance of the programs carried out by qualified program delivery entities under this section, including information on the rate of default and repayment.

SEC. 5. FEDERAL FINANCING ASSISTANCE FOR COMMERCIAL BUILDING RETROFITS.

(a) IN GENERAL.—Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment, including financing programs that finance the retrofitting of residential, commercial, and industrial buildings, facilities, and equipment.''.

(b) CREDIT SUPPORT FOR FINANCING PROGRAMS.—Section 1705 of the Energy Policy Act of 2005 (42 U.S.C. 16516) is amended—

(1) by redesignating subsection (e) as subsection (f); and

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

''(e) CREDIT SUPPORT FOR FINANCING PROGRAMS.—

''(1) IN GENERAL.—In the case of programs that finance the retrofitting of residential, commercial, and industrial buildings, facilities, and equipment described in subsection (a)(4), the Secretary may—

''(A) offer loan guarantees for portfolios of debt obligations; and

''(B) purchase or make commitments to purchase portfolios of debt obligations.

''(2) TERM.—Notwithstanding section 1702(f), the term of any debt obligation that receives credit support under this subsection shall require full repayment over a period not to exceed the lesser of—

''(A) 30 years; and

''(B) the projected weighted average useful life of the measure or system financed by the debt obligation or portfolio of debt obligations (as determined by the Secretary).

''(3) UNDERWRITING.—The Secretary may—

''(A) delegate underwriting responsibility for portfolios of debt obligations under the subsection to financial institutions that meet qualifications determined by the Secretary; and

''(B) determine an appropriate percentage of loans in a portfolio to review in order to confirm sound underwriting.

''(4) ADMINISTRATION.—Subsections (c) and (d)(3) of section 1702 shall not apply to loan guarantees made under this subsection.''.

(c) TERMINATION OF EFFECTIVENESS.—The authority provided by this section and the amendments made by this section terminates effective on the date that is 2 years after the date of enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this Act and the amendments made by this Act $6,000,000,000 for the period of fiscal years 2010 and 2011, to remain available until expended, of which—

(1) not less than $600,000,000 or 10 percent of the amount made available for a fiscal year (whichever is less) shall be used to carry out the financing program established under section 4; and

(2) not more than $360,000,000 or 6 percent of the amount made available for a fiscal year (whichever is less) shall be used to administer this Act and the amendments made by this Act.

By Mr. SPECTER (for himself, Mr. CASEY, and Mr. BROWN, of Ohio):

S. 3080. A bill to provide for judicial determination of injury in certain cases involving dumped and subsidized merchandise imported into the United States, and for other purposes; to the Committee on Finance.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Unfair Foreign Competition Act of 2010. This legislation provides a private right of action for domestic manufacturers injured by illegal subsidization and dumping of foreign products into U.S. markets. These anticompetitive, predatory trade practices steal jobs from our workers, profits from our companies, and growth from our economy.

Job creation and job retention in this country depend in large part on our ability to enforce existing trade laws. At a time when unemployment remains at nearly 10 percent and our economic future is at stake, it becomes even more important that we focus on trade priorities which too long have been sacrificed for foreign policy and defense interests.

The latest trade numbers demonstrate that the U.S. trade deficit with China in November 2009 was $20.2 billion. Over the years, imports from China have exceeded our imports by a staggering $208.6 billion. This is not evidence that American manufacturers cannot produce goods efficiently or compete with foreign markets; rather, it is evidence of unlawful behavior on the part of China. Such behavior is tantamount to international banditry, and it must not be tolerated.

In the current environment, I believe it is necessary for an injured industry to have an opportunity to go into Federal court and seek enforcement of our country's trade laws.

My legislation addresses two specific types of illegal trade practices: dumping, which occurs when a foreign producer sells a product in the United States at a price that is below the producer's sales price in its home market or at a price which is lower than its cost of production, and subsidizing, which occurs when a foreign government provides financial assistance to benefit the production, manufacture, or exportation of a good.

Under current law, the International Trade Commission and the Department of Commerce conduct antidumping and countervailing duty investigations and 5-year reviews under title VII of the Tariff Act of 1930. U.S. industries may petition the ITC and Commerce for relief from dumped and subsidized imports. If Commerce finds that an imported product is dumped or subsidized and the ITC finds that the petitioning industry is materially injured or threatened with material injury, an antidumping duty order or countervailing duty order will be imposed to offset the dumping or subsidies.

Because current administrative remedies have not been consistently and effectively enforced, I am introducing private right of action legislation to enforce the law. My legislation would allow petitioners to choose between the ITC and their local U.S. district court for the injury determination phase of their investigation. Doing so gives injured domestic producers the opportunity as private plaintiffs to control the litigation in seeking enforcement of our trade laws. If injury is found, U.S. Customs and Border Protection would then assess duties on future importation of the article in question. The legal standard for determining dumping margins, established by the Commerce Department, would remain unchanged.

This legislation is similar to legislation I have introduced as far back as 1982 when I originally sought injunctive relief. But this bill has been modified to comply with World Trade Organization rules.

In December 2004, the United States took action to comply with WTO rulings on the Antidumping Act of 1916 which provided a private cause of action and criminal penalties for dumping by prospectively repealing the act. The United States also took action in February 2006 to comply with WTO rulings on the Continued Dumping and Subsidy Offset Act which requires the distribution of collected antidumping and countervailing duties to petitioners and interested parties in the underlying trade proceedings. In both cases, the WTO panel found that U.S. law allowed an impermissible specific action against dumping and subsidization.

The legislation I introduce today has been adapted to these changes in law and allows for a determination of injury in accordance with our international obligations. Aggressive policy measures, such as this legislation, are necessary to prevent foreign producers—China in particular—from causing a major crisis for our domestic producers.

In testimony before the ITC earlier this year, I noted that we have a complicated relationship with China. I was one of 15 Senators who opposed China's entrance into the WTO in 2000. With China's economy still widely under state direction and characterized by dubious trade practices, I believed Chinese membership in the WTO would present a likelihood of trade distortion and market disruption. And that is why I voted against it in 2000.

Congress heeded some of the concerns which I and others expressed and inserted a China-specific safeguard provision under section 421 of the Trade Act. But such a safeguard is only as effective as the President's willingness to enforce it. Seven petitions have been filed under section 421 since its inception. Of these, the ITC has made an affirmative determination of injury in five cases. Yet only one determination, handed down in the most recent Chinese tires case, has been upheld by the President. Despite overwhelming evidence to support the ITC's findings of

injury, President Bush rejected all four previous petitions for relief on the ground that providing import relief was not in the economic interest of the United States. Since President Bush's decision, countless jobs in my State and across the country have been lost and the trade deficit has widened. It is difficult to understand how providing import relief was not in our economic interest.

President Obama's decision to uphold the ITC rulings in the Chinese tires case last year is a step in the right direction, but much more needs to be done to ensure that domestic industries enjoy the protection afforded to them by existing trade laws.

While it is my hope that this administration and future administrations will evaluate trade remedies objectively in terms of economic consequences, this act will provide a valuable tool for the domestic industry. I ask my colleagues on both sides of the aisle to join me in supporting this legislation.

The enforcement of trade laws should not be a partisan issue. To those who decry our enforcement mechanisms as unabashedly protectionist, let me be clear. I believe in free trade. International trade and open markets are crucial to the economic prosperity of this country. But the essence of free trade is selling goods at a price equal to the cost of production and a reasonable profit. When one country engages in dumping or subsidization at the expense of other countries, it is the antithesis of free trade.

Let me remind those who criticize our domestic safeguards that President Ronald Reagan, a staunch advocate of open markets, signed into law agreements limiting the imports of autos and steel and pushed for the Plaza Accord in 1985 which raised the value of the yen and made Japanese imports more expensive. President Reagan understood that free trade did not mean wholly unfettered, unregulated trade. Free trade does not mean turning a blind eye to illegal and unsavory practices committed by our trading partners.

I have argued that enforcement of our trade laws is critical to ensuring that our domestic manufacturers have a fair opportunity of competing with foreign producers. But even the most stringent enforcement will be insufficient to fully counter the effects of substandard labor, trade, and environmental practices, particularly those practiced by China. The safeguard measures the United States negotiated in advance of China's entry into the WTO were designed to limit the destructive effects of surging Chinese imports on domestic producers. As a result, China's succession to the WTO accelerated a ''race to the bottom'' in wages and environmental quality.

Given these factors, in addition to China's mixed record on providing market access to the United States and its failure to provide protection of U.S. intellectual property rights, I urge that the Congress reexamine our trade agreement the United States signed with China and, if necessary, seek to withdraw permanent normal trade relations status from China. Such a withdrawal would be a serious measure, but we must be willing to demonstrate that we are serious about holding China to its international commitments.

When the United States granted most-favored-nation status to China in 2000, we lost our ability to demand that China play by the rules. We may have to regain this leverage if we are to maintain an equitable trading relationship with China and keep our domestic industry strong.

As President Obama recently noted in his remarks at the Senate Democratic Conference, the United States is home to some of the most innovative, skilled, and efficient workers in the world. But advances in efficiency and innovation by our producers cannot make up for the unfair advantage held by countries that engage in illegal trade practices. Our industries can compete if the playing field is level, but if foreign exporters are not held accountable, and can freely undercut American producers with dumped goods and government subsidies, this country's economic future will be at risk. We must take a stand and we must do it now.

By Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. INHOFE, Mr. BROWN of Massachusetts, Mr. WICKER, Mr. CHAMBLISS, Mr. LEMIEUX, Mr. SESSIONS, and Mr. VITTER):

S. 3081. A bill to provide for the interrogation and detention of enemy belligerents who commit hostile acts against the United States, to establish certain limitations on the prosecution of such belligerents for such acts, and for other purposes; to the Committee on the Judiciary.

Mr. MCCAIN. Mr. President, I rise to introduce legislation that sets forth a clear, comprehensive policy for the detention, interrogation and trial of enemy belligerents who are suspected of engaging in hostilities against the U.S. This legislation seeks to ensure that the mistakes made during the apprehension of the Christmas Day bomber, such as reading him a Miranda warning, will never happen again and put Americans' security at risk.

Specifically, this bill would require unprivileged enemy belligerents suspected of engaging in hostilities against the U.S. to be held in military custody and interrogated for their intelligence value by a ''high value detainee'' interagency team established by the President. This interagency team of experts in national security, terrorism, intelligence, interrogation and law enforcement will have the protection of U.S. civilians and civilian facilities as their paramount responsibility and experience in gaining actionable intelligence from high value detainees.

These experts must, to the extent it is possible to do so, make a preliminary determination whether the detainee is an unprivileged enemy belligerent within 48 hours of a detainee being taken into custody. The experts then must submit their determination to the Secretary of Defense and the Attorney General after consultation with the Director of National Intelligence, the Director of the Federal Bureau of Investigation, and the Director of the Central Intelligence Agency. The Secretary of Defense and the Attorney General make a final determination and report it to the President and the appropriate committees of Congress. In the case of any disagreement between the Secretary of Defense and the Attorney General, the President will make the final call.

A key provision of this bill is that it would prohibit a suspected enemy belligerent from being provided with a Miranda warning and being told he has a right to a lawyer and a right to refuse to cooperate. I believe that an overwhelming majority of Americans agree that when we capture a terrorist who is suspected of carrying out or planning an attack intended to kill hundreds if not thousands of innocent civilians, our focus must be on gaining all the information possible to prevent that attack or any that may follow from occurring. Under these circumstances, actionable intelligence must be our highest priority and criminal prosecution must be secondary.

Additionally, the legislation would authorize detention of enemy belligerents without criminal charges for the duration of the hostilities consistent with standards under the law of war which have been recognized by the Supreme Court. Importantly, if a decision is made to hold a criminal trial after the necessary intelligence information is obtained, the bill mandates trial by military commission where we are best able to protect U.S. national security interests, including sensitive classified sources and methods, as well as the place and the people involved in the trial itself.

It should come as no comfort to any American that nearly 8½ years after the attacks of 9/11 we still don't have a clear mechanism, legal structure, and implementing policy for dealing with terrorists who we capture in the act of trying to bring about attacks on the U.S. and our national security interests at home and abroad. What we saw with the Christmas Day bomber was a series of missteps and staggering failures in coordination among the most senior members of the administration's national security officials that have continued to be compounded by administration apologists who still don't seem to understand that repeating the same mistakes that were made in 2001 and 2002 is going to lead to the deaths of many more Americans.

The vast majority of Americans understand that what happened with the Christmas Day bomber was a near catastrophe that was only prevented by

sheer luck and the courage of a few of the passengers and crew. A wide majority of Americans also realize that allowing a terrorist to be interrogated for only 50 minutes before he is given a Miranda warning and told he can obtain a lawyer and stop cooperating is not sufficient.

Let me be clear about where I think the fault lies with our current policy. I believe that the local FBI agents who were involved with investigating the Detroit attack are patriotic Americans who are experts in the field of law enforcement. I hold the FBI in the highest regard and believe they set the standard for law enforcement professionalism not only in the U.S., but internationally. But it is impossible for FBI field agents to know all the information that is available to the U.S. intelligence community worldwide during the first 50 minutes of interrogation of a suspected terrorist. We must ensure that the broad range of expertise that is available within our government is brought to bear on such high-value detainees. This bill mandates such coordination and places the proper focus on getting intelligence to stop an attack, rather than allowing law enforcement and preparing a case for a civilian criminal trial to drive our response.

Deliberate mass attacks that intentionally target hundreds of innocent civilians is an act of war and should not be dealt with in the same manner as a robbery. We must recognize the difference. If we don't, our response will be hopelessly inadequate. We should not be providing suspected terrorists with Miranda warnings and defense lawyers. Instead, the priority and focus must be on isolating and neutralizing the immediate threat and collecting intelligence to prevent another attack.

In closing, let me say that I hope that Congress and the administration support this legislation as part of a comprehensive solution for detaining, interrogating and prosecuting suspected enemy belligerents. However, there is a lot more work that must be done. I am continuing to work with Senator GRAHAM, Senator LIEBERMAN, and others to address other crucial aspects of detainee policy.

As part of that effort, I believe we must establish a system for long-term detention of terrorists who are too dangerous to release, but who cannot be tried in a civilian court. While the law of war authorizes detention until the end of hostilities—something the Supreme Court has recognized and which is reinforced in this bill—I believe that a review system for the long-term detention of detainees should be set out in law. Additionally, both the U.S. District Court for the District of Columbia and the D.C. Circuit Court have urged Congress to provide uniform guidelines to apply in the habeas corpus cases that have been brought by detainees. Currently, the outcomes in the Guantanamo detainee habeas cases are inconsistent because of different interpretations of novel questions of law the judges face in applying habeas to wartime prisoners for the first time in our history. I will continue to work on a bipartisan basis to improve this process to obtain better, more uniform results. I do not believe that we will have addressed all the necessary detainee policy challenges until we do so, and my efforts will not stop until we have addressed all the detainee issues in a comprehensive fashion.

While other detainee policy challenges remain, I believe the handling of the Christmas Day bomber—including the law enforcement focus and the decision to read a Miranda warning after only 50 minutes of interrogation—demand that Congress and the administration first address the issue which is most crucial to our national security. For that reason, we must have a clear policy, legal foundation, and mechanism for the detention, interrogation and trial of enemy belligerents who are suspected of engaging in hostilities against the U.S. I hope my colleagues will join me in supporting this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 434—EXPRESSING SUPPORT FOR CHILDREN'S DENTAL HEALTH MONTH AND HONORING THE MEMORY OF DEAMONTE DRIVER

Mr. CARDIN (for himself, Ms. COLLINS, Mr. BINGAMAN, Mr. ROCKEFELLER, and Ms. MIKULSKI) submitted the following resolution, which was considered and agreed to:

S. RES. 434

Whereas several national dental organizations have observed February 2010 as Children's Dental Health Month;

Whereas Deamonte Driver, a 12-year-old Marylander, died on February 25, 2007, of complications resulting from untreated tooth decay;

Whereas the passing of Deamonte Driver has led to increased awareness nationwide about the importance of access to high-quality, affordable preventative care and treatment for dental problems;

Whereas the primary purpose of Children's Dental Health Month is to educate parents, children, and the public about the importance and value of oral health;

Whereas Children's Dental Health Month showcases the overwhelmingly preventable nature of tooth decay and highlights the fact that tooth decay is on the rise among the youngest children in the Nation;

Whereas Children's Dental Health Month educates the public about the treatment of childhood dental caries, cleft-palate, oral facial trauma, and oral cancer through public service announcements, seminars, briefings, and the pro bono initiatives of practitioners and academic dental institutions;

Whereas Children's Dental Health Month was created to raise awareness about the importance of oral health; and

Whereas Children's Dental Health Month is an opportunity for the public and health professionals to take action to prevent childhood dental problems and improve access to high-quality dental care: Now, therefore, be it

Resolved, That the Senate expresses support for Children's Dental Health Month and honors the life of Deamonte Driver.

SENATE RESOLUTION 435—SUPPORTING THE GOALS AND IDEALS OF MULTIPLE SCLEROSIS AWARENESS WEEK

Mr. CASEY (for himself, Ms. SNOWE, Mr. LAUTENBERG, Mr. DORGAN, Mr. SPECTER, Mr. KERRY, Mr. BEGICH, Mr. MENENDEZ, Mr. BAYH, and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 435

Whereas multiple sclerosis can impact men and women of all ages, races, and ethnicities;

Whereas more than 400,000 people in the United States live with multiple sclerosis;

Whereas approximately 2,500,000 people worldwide have been diagnosed with multiple sclerosis;

Whereas it is estimated that between 8,000 and 10,000 children and adolescents are living with multiple sclerosis;

Whereas every hour of every day, someone is newly diagnosed with multiple sclerosis;

Whereas the exact cause of multiple sclerosis is still unknown;

Whereas the symptoms of multiple sclerosis are unpredictable and vary from person to person;

Whereas there is no laboratory test available that definitively defines a diagnosis for multiple sclerosis;

Whereas multiple sclerosis is not genetic, contagious, or directly inherited, but studies show that there are genetic factors that indicate that certain individuals are susceptible to the disease;

Whereas multiple sclerosis symptoms occur when an immune system attack affects the myelin in nerve fibers of the central nervous system, damaging or destroying it and replacing it with scar tissue, thereby interfering with, or preventing the transmission of, nerve signals;

Whereas in rare cases, multiple sclerosis is so progressive that it is fatal;

Whereas there is no known cure for multiple sclerosis;

Whereas the Multiple Sclerosis Coalition, an affiliation of multiple sclerosis organizations dedicated to the enhancement of the quality of life for all those affected by multiple sclerosis, recognizes and celebrates Multiple Sclerosis Awareness Week;

Whereas the mission of the Multiple Sclerosis Coalition is to increase opportunities for cooperation and provide greater opportunity to leverage the effective use of resources for the benefit of the multiple sclerosis community;

Whereas the Multiple Sclerosis Coalition recognizes and celebrates Multiple Sclerosis Awareness Week during 1 week in March every year;

Whereas the goals of Multiple Sclerosis Awareness Week are to invite people to join the movement to end multiple sclerosis, encourage everyone to do something to demonstrate a commitment to moving toward a world free of multiple sclerosis, and to acknowledge those who have dedicated their time and talent to help promote multiple sclerosis research and programs; and

Whereas in 2010, Multiple Sclerosis Awareness Week is recognized during the week of March 8th through March 14th: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of Multiple Sclerosis Awareness Week;