(Mr. MENENDEZ) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 752

At the request of Mr. DURBIN, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Delaware (Mr. CARPER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 843

At the request of Mr. BENNET, his name was added as a cosponsor of S. 843, a bill to establish background check procedures for gun shows.

S. 1153

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1789

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1789, a bill to restore fairness to Federal cocaine sentencing.

S. 2862

At the request of Ms. SNOWE, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2862, a bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes.

S. 2882

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2882, a bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the treatment of individuals as independent contractors or employees, and for other purposes.

S. 3031

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3031, a bill to authorize Drug Free Communities enhancement grants to address major emerging drug issues or local drug crises.

S. 3102

At the request of Mr. MERKLEY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3102, a bill to amend the miscellaneous rural development provisions of the Farm Security and Rural Investment Act of 2002 to authorize the Secretary of Agriculture to make loans to certain entities that will use the funds to make loans to consumers to implement energy efficiency measures involving structural improvements and investments in cost-effective, commercial off-the-shelf technologies to reduce home energy use.

S. 3111

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3111, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 3134

At the request of Mr. SCHUMER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3134, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

S. 3165

At the request of Ms. LANDRIEU, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3165, a bill to authorize the Administrator of the Small Business Administration to waive the non-Federal share requirement under certain programs.

S. 3170

At the request of Mr. BOND, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3170, a bill to provide for preferential duty treatment to certain apparel articles of the Philippines.

S. 3171

At the request of Mrs. LINCOLN, the names of the Senator from Florida (Mr. LEMIEUX), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Vermont (Mr. LEAHY) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 3171, a bill to amend title 38, United States Code, to provide for the approval of certain programs of education for purposes of the Post-9/11 Educational Assistance Program.

S. 3180

At the request of Mr. LEMIEUX, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 3180, a bill to prohibit the use of funds for the termination of the Constellation Program of the National Aeronautics and Space Administration, and for other purposes.

S. 3184

At the request of Mrs. BOXER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 3184, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 3188

At the request of Mrs. SHAHEEN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3188, a bill to amend the Internal Revenue Code of 1986 to provide an investment tax credit for biomass heating property.

S. 3195

At the request of Mr. CARDIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3195, a bill to prohibit air carriers from charging fees for carry-on baggage and to require disclosure of passenger fees, and for other purposes.

S. 3205

At the request of Mr. SCHUMER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3205, a bill to amend the Internal Revenue Code of 1986 to provide that fees charged for baggage carried into the cabin of an aircraft are subject to the excise tax imposed on transportation of persons by air.

S. CON. RES. 55

At the request of Mr. FEINGOLD, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Con. Res. 55, a concurrent resolution commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of the State of Wisconsin.

S. RES. 316

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. Res. 316, a resolution calling upon the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide, and for other purposes.

S. RES. 339

At the request of Mr. LEAHY, his name was added as a cosponsor of S. Res. 339, a resolution to express the sense of the Senate in support of permitting the televising of Supreme Court proceedings.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mrs. HUTCHISON, Mr. VITTER, Ms. STABENOW, Mr. SHELBY, Ms. COLLINS, Mr. BROWN of Ohio, and Ms. LANDRIEU):

S. 3213. A bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, today I am introducing the Harbor Maintenance Act, a bill with bipartisan and multi-regional support that would help ensure that funds deposited into the Harbor Maintenance Trust Fund would be used for their intended purposes: to properly maintain and operate our Federal harbors and ports.

The Harbor Maintenance Trust Fund, also known as the HMTF, was created to collect fees in order to pay for the

maintenance and operation costs of Federal harbors and ports. While nearly ¼ of the U.S. gross domestic product flows through these harbors, over half of these important ports are not maintained to their authorized dimensions. This results in less efficient and more polluting transport, as well as an increased risk of vessel groundings and collisions. One of the ways to ensure a robust and sustainable economic recovery includes strengthening our Nation's infrastructure, which includes our navigational infrastructure.

Every year, hundreds of millions of dollars are collected into the HMTF but never spent, even though there are critical navigation needs. For example, the Army Corps of Engineers estimates a backlog of about 15 million cubic yards of dredging needs at commercial federally-authorized Great Lakes harbors and channels. This dredging backlog has resulted in freighters getting stuck in channels, ships having to carry reduced loads, and some shipments simply stopping altogether.Dredging to proper depths is critical not only for Michigan's economy, but for the Nation's economy, as these shipments include commodities that fuel our Nation's industries, products for construction, fuel for heating and cooling homes and businesses, and agricultural products for export.

Similar navigational infrastructure needs exist throughout our country, and the range of cosponsors from different parts of the country demonstrates this bill would help improve the navigational infrastructure across the Nation. This bill also has the support of a broad coalition called the Realize America's Maritime Promise, which is made up of hundreds of port authorities, vessel operators, port communities, public and private terminal operators, pilot associations, dredging companies, shipbuilders, maritime labor unions, manufacturers, bulk cargo owners and shippers, and other companies and associations dependent on fully accessible navigation channels.

Currently, the HMTF has a surplus that exceeds $5 billion. Beginning in 2003, funds appropriated for harbor and channel maintenance have been significantly below annual HMTF collections. To help ensure these backlogs do not continue to grow, this bill would allow any Member of Congress to make a point of order against an appropriations bill if the total revenue for that fiscal year, as projected in the President's annual budget request, is not fully appropriated for its intended navigational infrastructure purposes. Similar problems with funding backlogs occurred with the Highway Trust Fund and the Airports and Airways Trust Fund. Congress responded by enacting legislation to address these problems. Congress should do the same for the Harbor Maintenance Trust Fund. Our Nation's infrastructure—whether it be roadways, airports, or ports and harbors—should be treated the same way. Shipping by water is the most efficient means of transporting bulk commodities, and we should make sure our Nation's navigational infrastructure can effectively handle these shipments, rather than allowing these ports and harbors to exist in a state of disrepair.

A sustainable economic recovery depends on strong infrastructure. Passing this bill would help us advance our recovery and improve our economic competitiveness. I urge your support.

By Mr. SPECTER (for himself, Mr. FEINGOLD, and Mr. KAUFMAN):

S. 3214. A bill to prohibit any person from engaging in certain video surveillance except under the same conditions authorized under chapter 119 of title 18, United States Code, or as authorized by the Foreign Intelligence Surveillance Act of 1978; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I have sought recognition to introduce the Surreptitious Video Surveillance Act of 2010, on behalf of Senator FEINGOLD, Senator KAUFMAN, and myself.

This is a bill which I submit is necessary to protect our citizens from unwarranted intrusions in their homes. The bill regulates the use of surreptitious video surveillance in private residences where there is a reasonable expectation of privacy.

Earlier this year, in Lower Merion Township, a suburb of Philadelphia, it was discovered that laptops taken home by students could be activated by school officials and thereby see what was going on inside a private residence.

Surprisingly, this kind of surreptitious surveillance is not prohibited under Federal law. The wiretap laws specify it is a violation of law to intercept a telephone conversation or to have a microphone that overhears a private conversation, but if it is visual, there is no prohibition.

This issue has been in the public domain since 1984—more than 25 years ago—when Judge Richard Posner, in the case captioned U.S. v. Torres, said this:

> Electronic interception, being by nature a continuing rather than one-shot invasion, is even less discriminating than a physical search, because it picks up private conversations (most of which will usually have nothing to do with any illegal activity) over a long period of time. . . . [E]lectronic interception is thought to pose a greater potential threat to personal privacy than physical searches. . . . Television surveillance is identical in its indiscriminate character to wiretapping and bugging.

Judge Posner identified the problem a long time ago. Yet it lay dormant until this incident in Lower Merion Township brought it into the public fore.

On March 29, in my capacity as chairman of the Judiciary Subcommittee on Crime and Drugs, we conducted a hearing in Philadelphia. We had an array of experts very forcefully identify the problem and the need for corrective action.

The New York Times editorialized, on April 2, 2010, in favor of this legislation.

I urge my colleagues to take a look at the bill. I think there is likely to be widespread acceptance that in an era of warrantless wiretaps, when privacy is so much at risk, we ought to fill the gap in the law to cover this kind of electronic surveillance.

Mr. President, I ask unanimous consent that a copy of the New York Times editorial dated April 2, 2010, the text of my full statement and the text of the bill be printed in the RECORD.

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

[From the New York Times, Apr. 2, 2010]

EDITORIAL: ABOUT THAT WEBCAM

A Pennsylvania town has been roiled by a local high school using cameras in school-issued laptops to spy on students. Almost as shocking is the fact that the federal wiretap law that should prohibit this kind of surveillance does not cover spying done through photography and video in private settings.

Senator Arlen Specter, a Democrat of Pennsylvania, is proposing to amend the federal wiretap statute to prohibit visual spying that is not approved by a court in advance. Congress should move quickly to make this change.

Lower Merion, outside of Philadelphia, gave students at Harriton High School laptops that they could take home to use to do their work. It did not tell the students, however, that the laptops were equipped with special software that allowed them to observe the students through the computers' built-in cameras. The purpose, the school district later explained, was to protect the laptops from theft or damage.

Using this surveillance capability, school officials found images that led them to believe that Blake Robbins, a 15-year-old student, was using illegal drugs. Mr. Robbins said the ''pills'' he was seen consuming were Mike and Ike candies. His parents filed a lawsuit against the school district, charging that it had illegally spied on their son.

Conducting video surveillance of students in their homes is an enormous invasion of their privacy. If the district was really worried about losing the laptops, it could have used GPS devices to track their whereabouts or other less-intrusive methods. Whatever it did, the school had a responsibility to inform students that if they accepted the laptops, they would also accept monitoring.

The law should also do more. The Wiretap Act prohibits electronic eavesdropping on conversations and intercepting transmitted communications, such as e-mail. It does not cover visual surveillance. That was a mistake when parts of the law were passed in 1986, but it is an even bigger problem today, with the ubiquity of cellphone cameras, and online video services.

The act should be amended to prohibit video and photographic surveillance of people without their consent in their homes, hotels, and any other place in which they have a legitimate expectation of privacy.

FLOOR STATEMENT OF SENATOR ARLEN SPECTER IN SUPPORT OF THE SURREPTITIOUS VIDEO SURVEILLANCE ACT OF 2010

Mr. President, I have sought recognition to introduce the Surreptitious Video Surveillance Act of 2010, a bill needed to protect our citizens from unwarranted intrusions in their homes. This bill regulates the use of surreptitious video surveillance in private

residences where there is a reasonable expectation of privacy.

In February of this year, national and international news stories covered an alleged incident in the Lower Merion School District in Montgomery County, PA. According to a lawsuit filed in Federal court, the Harriton High School administrators in Lower Merion allegedly engaged in surreptitious video surveillance of a student in his bedroom by using a remotely activated webcam on a school laptop. If these allegations are true, the school engaged in a significant invasion of an individual's fundamental right of privacy. Michael and Holly Robbins, parents of the high school student, allege that the school used a webcam, which was part of a theft tracking software program installed in each school-issued laptop, to remotely take photographs of their son in their home. The parents allege that the school district's actions amounted to ''spying'' and conducting unlawful ''surveillance,'' and they claim that they were not given prior notice that the school could remotely activate the embedded webcam at any time.

This is something that could happen almost anywhere and at any time in our country. Many corporations, government agencies and schools loan laptops to employees and students. And many of these laptops have webcams with the ability to take video or still shots that can be operated remotely.

The alleged webcam spying case raises important and fundamental issues concerning the rights of individuals to privacy in their homes for themselves and for their children, and shows how those rights can conflict with important rights that owners of property have to conduct surveillance to protect their property and to maintain safety.

On Monday, March 29, 2010, I chaired a Subcommittee on Crime and Drugs field hearing in Philadelphia, Pennsylvania. At that hearing, we heard from a host of experts that Title III of the Omnibus Crime Control and Safe Streets Act, known as the Federal Wiretap Act, does not forbid video surveillance. Title III creates criminal and civil liability for secretly recording conversations in a room or on the telephone, as well as interceptions of email communications, without a court order. But since the Wiretap Act was passed in 1968, it has never covered silent visual images. This conclusion is supported by a large body of case law and is also bolstered by Congress' clear legislative history. After studying the matter, I announced that I would introduce legislation to close this gap in coverage. On April 2, 2010, the New York Times editorial page noted I would introduce legislation ''to amend the federal wiretap statute to prohibit visual spying that is not approved by a court in advance'' and went on to say, ''Congress should move quickly to make this change.''

Technology is changing fast—faster than our federal laws can keep up. More than 25 years ago, Judge Richard Posner in *United States* v. *Torres*, 751 F.2d 875, 884–885 (7th Cir. 1984), saw the need for Congress to address video surveillance when he wrote:

Electronic interception, being by nature a continuing rather than one-shot invasion, is even less discriminating than a physical search, because it picks up private conversations (most of which will usually have nothing to do with any illegal activity) over a long period of time . . . [E]lectronic interception is thought to pose a greater potential threat to personal privacy than physical searches . . . Television surveillance is identical *in its indiscriminate character* to wiretapping and bugging (emphasis in original).

Holding that Title III did not apply to secret television cameras placed by the government in a safe house to observe members of the FALN terrorist organization build bombs, Judge Posner specifically invited Congress to respond ''to the issues discussed in this opinion by amending Title III to bring television surveillance within its scope.''

The bill I am introducing today, the Surreptitious Video Surveillance Act of 2010, makes that long overdue correction to the law. The bill strikes the necessary and correct balance of protecting important privacy rights without proscribing the visual surveillance needed to protect our property and safety. It does this simply by amending the Federal Wiretap Act to treat video surveillance the same as an interception of an electronic communication. Video surveillance is defined in the bill to mean the intentional recording of visual images of an individual in an area of a residence that is not readily observable from a public location and in which the individual has a reasonable expectation of privacy.

The bill does not regulate video surveillance where another resident or individual present in the residence consents to the surveillance. Thus, the bill does not regulate cameras in the workplace, does not prohibit the use of cameras in undercover operations using confidential informants, and does not include residential security systems that use video cameras.

Many of us expect to be subject to certain kinds of video surveillance when we leave our homes and go out each day—at the ATM machine, at traffic lights, or in stores for example. We expect this and we do not mind because we understand that such surveillance helps to protect us and our property. What we do not expect, however, is to be under visual surveillance in our homes, in our bedrooms, and most especially, we do not expect it for our children in our homes. Today cameras in computers and in cell phones are ubiquitous, making it more urgent that the Federal Wiretap Act be amended to prohibit video surveillance of people without their consent in their homes. I urge the Senate to make this long overdue correction to the law and pass this bill quickly to protect important privacy rights of all Americans.

S. 3214

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 ''Surreptitious Video Surveillance Act of 2010''.

SEC. 2. PROHIBITION ON USE OF VIDEO SURVEILLANCE.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

''§ 2523. Prohibition on use of video surveillance

''(a) DEFINITION.—In this section, the term 'video surveillance' means the intentional acquisition, capture, or recording of a visual image or images of any individual if—

''(1) the individual is in an area of a temporary or permanent residence that is not readily observable from a public location;

''(2) the individual has a reasonable expectation of privacy in the area; and

''(3) the visual image or images—

''(A) are made without the consent of—

''(i) an individual present in the area; or

''(ii) a resident of the temporary or permanent residence; and

''(B) are—

''(i) produced using a device, apparatus, or other item that was mailed, shipped, or transported in or affecting interstate or foreign commerce by any means; or

''(ii) transported or transmitted, in or affecting, or using any means or facility of, interstate or foreign commerce, including by computer.

''(b) PROHIBITION ON VIDEO SURVEILLANCE.—It shall be unlawful for any person to engage in any video surveillance, except—

''(1) as provided in this section; or

''(2) as authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

''(c) TREATMENT AS ELECTRONIC SURVEILLANCE.—

''(1) IN GENERAL.—Subject to paragraph (2)—

''(A) video surveillance shall be considered to be an interception of an electronic communication for the purposes of this chapter; and

''(B) it shall not be unlawful for a person to engage in video surveillance if the video surveillance is conducted in a manner or is of a type authorized under this chapter for the interception of an electronic communication.

''(2) EXCEPTION.—Sections 2511(2)(c), 2511(2)(d), 2512, 2513, and 2518(10)(c) shall not apply to video surveillance.

''(3) PROHIBITION OF USE AS EVIDENCE OF VIDEO SURVEILLANCE.—

''(A) IN GENERAL.—No part of the contents of video surveillance and no evidence derived from video surveillance may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof if the disclosure of the video surveillance would be in violation of this chapter.

''(B) MOTION TO SUPPRESS.—

''(i) IN GENERAL.—Any aggrieved person in any trial, hearing, or proceeding described in subparagraph (A) may move to suppress the contents of any video surveillance conducted under this chapter, or any evidence derived from the video surveillance, on the grounds that—

''(I) the video surveillance was unlawfully conducted;

''(II) the order of authorization or approval under which the video surveillance was conducted was insufficient on its face; or

''(III) the video surveillance was not conducted in conformity with the order of authorization or approval.

''(ii) TIMING OF MOTION.—A motion made under clause (i) shall be made before the trial, hearing, or proceeding unless—

''(I) there was no opportunity to make such motion; or

''(II) the aggrieved person described in clause (i) was not aware of the grounds of the motion.

''(iii) REMEDY.—If the motion made under clause (i) is granted, the contents of the video surveillance, or evidence derived from the video surveillance, shall be treated as having been obtained in violation of this chapter.

''(iv) INSPECTION OF EVIDENCE.—The judge, upon filing of a motion under clause (i), may, in the discretion of the judge, make available to the aggrieved person or counsel for the aggrieved person for inspection such portions of the video surveillance or evidence derived from the video surveillance as the judge determines to be in the interests of justice.

''(v) RIGHT TO APPEAL.—

''(I) IN GENERAL.—In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion made under clause (i), or the denial of an application for an order of approval, if the United States attorney certifies to the judge or other official granting the motion or denying the application that the appeal is not taken for purposes of delay.

''(II) FILING DEADLINE.—An appeal under subclause (I) shall—

''(aa) be taken within 30 days after the date the order was entered; and

''(bb) be diligently prosecuted.''.

(b) CHAPTER ANALYSIS.—The table of sections for chapter 119 of title 18, United States Code, is amended by adding at the end the following:

''2523. Prohibition on use of video surveillance.''.

By Mr. BINGAMAN (for himself, Mr. SCHUMER, Mr. KERRY, Mr. MENENDEZ, Mr. AKAKA, Mr. BROWN of Ohio, Mr. DODD, Mr. DURBIN, Mr. LIEBERMAN, Mr. MERKLEY, Mr. PRYOR, and Mr. UDALL of New Mexico):

S. 3215. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, on this annual Tax Day, I rise to introduce the Taxpayer Protection and Assistance Act of 2007, a robust package of reforms aimed at protecting the rights of all American taxpayers. I am pleased that my colleagues on the Finance Committee, Senators SCHUMER, KERRY, and MENENDEZ, as well as Senators AKAKA, BROWN of Ohio, DODD, DURBIN, LIEBERMAN, MERKLEY, PRYOR, and UDALL of New Mexico, are joining me in introducing this bill.

This act consists of numerous well-vetted provisions, which will ensure our nation's taxpayers are better able to prepare and file their tax returns each year in a fashion that is fair, reasonable, and affordable.

First, the act clarifies taxpayers' rights and responsibilities by requiring Treasury to publish an easy-to-understand Taxpayer Bill of Rights, enumerating taxpayers' rights and obligation, and corresponding Internal Revenue Code citations. As the National Taxpayer Advocate has explained: ''The [Internal Revenue] Code contains no comprehensive Taxpayer Bill of Rights that explicitly and transparently sets out taxpayer rights and obligations. Taxpayers do have rights, but they are scattered throughout the [Internal Revenue] Code and the Internal Revenue Manual and are neither easily accessible nor written in plain language that most taxpayers can understand.'' The act would rectify these shortcomings, without conferring any rights or obligations not already provided for under law.

Second, the act supports programs that assist low-income taxpayers. It authorizes a $35 million grant program for Volunteer Income Tax Assistance, VITA, programs. VITA programs across the country offer free tax assistance to low- to moderate-income individuals who cannot afford professional assistance. More than 75,000 VITA volunteers prepare basic tax returns for these taxpayers; typically VITA programs focus on at least one specific underserved group with special needs—such as persons with disabilities, non-English speaking persons, Native Americans, rural taxpayers, and the elderly. During the 2009 filing season, VITA programs prepared more than 1.2 million tax returns and brought back over $1.6 billion in tax refunds to working families.

I have seen firsthand the impact that free tax-preparation clinics can have on taxpayers and their communities. In fact, New Mexico is fortunate to have one of the nation's leading programs. Tax Help New Mexico began 35 years ago at Central New Mexico Community College, CNM, as a practical means of giving accounting students work experience in tax preparation while serving a community need. But while 70 percent of New Mexicans are eligible for Tax Help New Mexico's services, only 6.5 percent are able to take advantage. To enable community VITA programs like Tax Help New Mexico to reach more underserved low-income taxpayers, the act authorizes a $35 million IRS grant program.

Likewise, the act would strengthen Low-Income Taxpayer Clinics. These clinics, typically operated by community organizations and law schools, provide representation to low-income taxpayers in disputes with the IRS. The act authorizes the Treasury Secretary to refer taxpayers to these clinics. It also increases to $20 million annually the authorization for LITC grant programs. This will provide a substantial boost to clinics that serve this vital function, such as that which the University of New Mexico Law School operates for taxpayers in my state.

Third, the act enhances the regulation of paid tax-return preparers. Nearly all professions—from beauticians to mortuaries to opticians—are regulated at the state level. But with only a handful of exceptions, states do not regulate tax return preparers. Nor does the federal government currently regulate unenrolled tax return preparers, i.e., return preparers who are not CPAs, attorneys, enrolled agents, or enrolled actuaries—all already regulated under IRS Circular 230. A significant percentage of unenrolled preparers are well-trained and maintain high ethical standards. But untrained and unscrupulous tax return preparers can inflict serious harm on taxpayers and significantly undermine tax compliance.

For years, taxpayers, tax professionals, and the National Taxpayer Advocate have been calling for federal regulation of unenrolled preparers. In early 2010, the IRS began taking steps to exercise oversight over these unenrolled preparers. I applaud the IRS's initiative. But it is still unclear that the IRS's program will be sufficiently comprehensive. Moreover, many see a benefit in clarifying the scope of the IRS's regulatory authority.

The act responds to these concerns by codifying a regulatory system for unenrolled preparers. In order for a tax preparer to become registered and authorized by Treasury, the act requires preparers to pass a basic background check and an examination of competency and ethics standards. To remain in good standing, preparers will be required to satisfy continuing education requirements or be reexamined every three years on changes in tax law and common preparation mistakes. The act requires Treasury to maintain and publish for taxpayers a comprehensive list of all authorized tax return preparers, including Circular 230 preparers.

Fourth, the act creates an oversight system for tax refund delivery products. Refund Anticipation Loans, RALs, are high-cost bank loans secured by a taxpayer's expected refund—loans that typically last 7 to 14 days, until the actual IRS refund arrives and is used to repay the loan. RALs are often aggressively marketed by paid income-tax preparers, which advertise ''Instant Refunds'' or ''Quick Cash,'' sometimes disguising that they are selling advance loans on anticipated tax refunds. According to the National Consumer Law Center: ''Tax preparers and their bank partners made approximately 8.7 million RALs during the 2007 tax-filing season. . . .'' In my state of New Mexico, 25 percent of taxpayers eligible for the Earned Income Tax Credit received a RAL in 2005.

RALs might offer quick cash, but they are not a good deal for taxpayers. As the National Consumer Law Center exposed in a 2009 report, the typical RAL of about $3,000 carries an annual percentage rate, APR, from 77 percent to 140 percent. We know that our vulnerable communities are particularly susceptible to RALs. In fact, a recent study by the First Nations Development Institute and Center for Responsible Lending found that RALs drained over $9.1 million from Native American communities in 2005.

I am very troubled by the prevalence of RALs. And to begin addressing problems associated with them, the act requires Treasury to establish a registration program for those involved in the process of facilitating a tax refund delivery product, RDP, including RALs. Additionally, RDP facilitators will be required to disclose in writing and in an easily understandable format the taxpayer's options for receiving tax refunds, listed from least expensive to most expensive, the RDP's loan terms and fee schedule, and any other costs that the taxpayer may incur in filing a tax return. Moreover, the Act would prohibit Treasury from issuing a Refund Indicator, a score on which RDP facilitators rely before issuing a RDP, unless Treasury first determines that the taxpayer's refund would not be prevented by debts the taxpayer owes on student loans, child support, or by other provisions in the Tax Code. This additional screen will minimize the likelihood that a taxpayer will be issued a loan based on a refund claim that will not ultimately materialize

and which the taxpayer would nonetheless be required to repay.

Fifth, the act requires additional protections before the IRS files a federal tax lien. The IRS has a number of enforcement tools at its disposal to ensure tax compliance, but use of these tools must be balanced with the need to ensure taxpayers do not suffer unnecessary long-term harm as a result. One such tool is the filing of a Notice of Federal Tax Lien, NFTL, when a taxpayer owes back taxes. But as the National Taxpayer Advocate explains in her 2009 Report to Congress: ''[The filing of a tax lien can significantly harm the taxpayer's credit and affect his or her ability to obtain financing, find or retain a job, secure affordable housing or insurance, and ultimately pay the outstanding tax debt. For these reasons, the National Taxpayer Advocate believes that the IRS should not automatically file NFTLs but instead should carefully consider and balance these competing interests when determining whether a lien filing is appropriate.'' In my state alone, the IRS filed nearly 5,000 liens against taxpayers last year. The act would require the IRS to make individualized determinations before filing an NFTL, and in doing so to consider several enumerated factors, including the amount due, the taxpayer's compliance history, and any extenuating circumstances.

Sixth, the act establishes a demonstration program to provide accounts to those who currently lack bank accounts. IRS data show that of the 60 million Federal tax refunds that were issued via paper checks in 2005, almost half went to households earning $30,000 or less. These households are most likely to lack access to reasonably-priced financial services—and thus most likely to pay a disproportionate amount of their income to conduct routine financial transactions. Yet the issuance of a refund check presents an important opportunity to bring these low-income taxpayers into the financial mainstream. The act authorizes Treasury to award eligible entities demonstration project grants so that they can establish accounts for individuals who currently lack bank accounts. The act also requires a study on the feasibility of delivering tax refunds on debit, prepaid, and other electronic cards.

Finally, the act requires the IRS to study processing information returns and the effectiveness of collection alternatives. Currently, the IRS processes income tax returns before it processes most information returns, such as W–2s and 1099s. From the taxpayer's perspective, this leads to millions of cases where taxpayers may inadvertently make overclaims that the IRS does not identify until months later, exposing the taxpayer not only to additional tax liability, but to penalties and interest. This sequence also provides opportunities for fraud and requires the IRS to devote resources that should have not been paid and that it often cannot recover. The act also directs Treasury to conduct a study to identify and recommend legislative and administrative changes that would enable the IRS to receive and process information reporting documents before it processes tax returns. This should bring us closer to the goal of voluntary pre-populated returns, which I understand are already available in most OECD countries.

I have long maintained that our tax system depends on taxpayers being able to receive the best advice and assistance possible. We have a responsibility to our nation's taxpayers to make sure that they do receive such advice and assistance. This bill goes a long way toward that goal.

I would be remiss if I did not acknowledge that this bill is the product of considerable collaboration. It draws on many recommendations of our National Taxpayer Advocate, Nina Olson. It also builds on input we have received from national and local taxpayer advocacy organizations, among them the Center for Economic Progress, Tax Help New Mexico, and the Maryland CASH Campaign. I am grateful for these stakeholders' participation.

These are long overdue reforms; I hope that the Senate will consider them in this session.

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. 3215

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Taxpayer Bill of Rights Act of 2010''.

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

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

TITLE I—TAXPAYER RIGHTS AND OBLIGATIONS

SEC. 101. STATEMENT OF TAXPAYER RIGHTS AND OBLIGATIONS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7529. STATEMENT OF TAXPAYER RIGHTS AND OBLIGATIONS.

''(a) IN GENERAL.—The Secretary, in consultation with the National Taxpayer Advocate, shall publish a summary statement of rights and obligations arising under this title. Such statement shall provide citations to the main provisions of this title which provide for the right or obligation (as the case may be). This statement of rights and obligations does not create or confer any rights or obligations not otherwise provided for under this title.

''(b) STATEMENT OF RIGHTS AND OBLIGATIONS.—The statement of rights and obligations is as follows:

''(1) TAXPAYER RIGHTS.—

''(A) Right to be informed (including adequate legal and procedural guidance and information about taxpayer rights).

''(B) Right to be assisted.

''(C) Right to be heard.

''(D) Right to pay no more than the correct amount of tax.

''(E) Right of appeal (administrative and judicial).

''(F) Right to certainty (including guidance, periods of limitation, no second exam, and closing agreements).

''(G) Right to privacy (including due process considerations, least intrusive enforcement action, and search and seizure protections).

''(H) Right to confidentiality.

''(I) Right to appoint a representative in matters before the Internal Revenue Service.

''(J) Right to fair and just tax system (offer in compromise, abatement, assistance from the Office of the Taxpayer Advocate under section 7803(c), apology, and other compensation payments).

''(2) TAXPAYER OBLIGATIONS.—

''(A) Obligation to be honest.

''(B) Obligation to be cooperative.

''(C) Obligation to provide accurate information and documents on time.

''(D) Obligation to keep records.

''(E) Obligation to pay taxes on time.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529. Statement of taxpayer rights and obligations.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

TITLE II—PREPARATION OF TAX RETURNS

SEC. 201. PROGRAMS FOR THE BENEFIT OF LOW-INCOME TAXPAYERS.

(a) VOLUNTEER INCOME TAX ASSISTANCE PLUS.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

''SEC. 7526A. VOLUNTEER INCOME TAX ASSISTANCE PLUS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or

continuation of qualified return preparation programs.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RETURN PREPARATION PROGRAM.—

''(A) IN GENERAL.—The term 'qualified return preparation program' means a program—

''(i) which does not charge taxpayers for its return preparation services,

''(ii) which operates programs which assist low-income taxpayers, including those programs that serve taxpayers for whom English is a second language, in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income, and

''(iii) in which all of the volunteers who assist in the preparation of Federal income tax returns meet the training requirements prescribed by the Secretary.

''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—For purposes of subparagraph (A), a program is treated as assisting low-income taxpayers if at least 90 percent of the taxpayers assisted by the program have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) PROGRAM.—The term 'program' includes—

''(A) a program at an institution of higher education which—

''(i) is described in section 102 (other than subsection (a)(1)(C) thereof) of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and which has not been disqualified from participating in a program under title IV of such Act, and

''(ii) satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing,

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1);

''(C) a regional, State or local coalition (with one lead organization, which meets the eligibility requirements, acting as the applicant organization);

''(D) a county or municipal government agency;

''(E) an Indian tribe, as defined in section 4(12) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12), and includes any tribally designated housing entity (as defined in section 4(21) of such Act (25 U.S.C. 4103(21)), tribal subsidiary, subdivision, or other wholly owned tribal entity;

''(F) a section 501(c)(5) organization;

''(G) a State government agency if no other eligible organization is available to assist the targeted population or community;

''(H) a Cooperative Extension Service office if no other eligible organization is available to assist the targeted population or community; and

''(I) a nonprofit Community Development Financial Institution (CDFI) and federally- and State-charted credit union that qualifies for a tax exemption under sections 501(c)(1) and 501(c)(14), respectively.

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $35,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for overhead expenses that are not directly related to any program or that are incurred by any institution sponsoring such program.

''(3) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (6) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation programs.

''(4) PROMOTION OF PROGRAMS.—The Secretary is authorized to promote the benefits of and encourage the use of qualified VITA Plus through the use of mass communications, referrals, and other means.''.

(b) LOW-INCOME TAXPAYER CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Paragraph (1) of section 7526(c) (relating to aggregate limitation) is amended by striking ''$6,000,000'' and inserting ''$20,000,000''.

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

''(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses that are not directly related to the clinic or that are of any institution sponsoring such clinic.''.

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting ''qualified'' before ''low-income'', and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Subsection (c) of section 7526 (relating to special rules and limitations), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

''(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of qualified low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

(4) IRS REFERRALS TO CLINICS.—Subsection (c) of section 7526 (relating to special rules and limitations), as amended by the preceding provisions of this subsection, is amended by adding at the end the following new paragraph:

''(8) IRS REFERRALS.—The Secretary may refer taxpayers to qualified low-income taxpayer clinics receiving funding under this section.''.

(5) NOTICE OF AVAILABILITY OF CLINICS IN NOTICE OF DEFICIENCY.—Subsection (a) of section 6212 (relating to general rule for notice of deficiency) is amended by inserting '', as well as notice regarding the availability of low-income taxpayer clinics and information about how to contact them'' before the period at the end.

(6) NOTICE OF AVAILABILITY OF CLINICS IN NOTICE OF HEARING UPON FILING OF NOTICE OF LIEN.—Subsection (a) of section 6320 (relating to requirement of notice) is amended by adding at the end the following new sentence: ''Such notice shall include a notice to the taxpayer of the availability of low-income taxpayer clinics and information about how to contact them.''.

(7) NOTICE OF AVAILABILITY OF CLINICS IN NOTICE AND OPPORTUNITY OF HEARING BEFORE LEVY.—Paragraph (3) of section 6330(a) is amended by adding at the end the following flush sentence:

''Such notice shall include a notice to the taxpayer of the availability of low-income taxpayer clinics and information about how to contact them.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

''Sec. 7526A. Volunteer income tax assistance plus.''.

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

SEC. 202. REGULATION OF FEDERAL INCOME TAX RETURN PREPARERS.

(a) IN GENERAL.—Section 330(a)(1) of title 31, United States Code, is amended by inserting ''(including tax return preparers of Federal tax returns, documents, and other submissions)'' after ''representatives''.

(b) PROMULGATION OF REGULATIONS.—The Secretary of the Treasury shall prescribe regulations under section 330 of title 31, United States Code, to regulate any tax return preparers not otherwise regulated by the Secretary.

(c) REQUIREMENTS.—Such regulations shall provide guidance on the following:

(1) EXAMINATION.—

(A) IN GENERAL.—In promulgating the regulations under paragraph (1), the Secretary shall approve and oversee eligibility examinations.

(B) 2 EXAMINATIONS.—One such examination shall be designed to test technical knowledge and competency to prepare individual returns, and the other examination shall be designed to test technical knowledge and competency to prepare business income tax returns.

(C) EITC.—The examination relating to individual returns shall test knowledge and competency regarding properly claiming the earned income tax credit under section 32 of the Internal Revenue Code of 1986.

(D) ETHICS.—Both examinations under subparagraph (B) shall test knowledge regarding such ethical standards for the preparation of such returns as determined appropriate by the Secretary.

(E) GRANDFATHER.—The Secretary is authorized to accept an individual as meeting the eligibility examination requirement of this section if, in lieu of the eligibility examination under this section, the individual passed a State licensing or State registration program eligibility examination that the Secretary determines is comparable to either of the eligibility examinations described in subparagraph (B) if such exam is administered within 5 years after the date of the issuance of the regulations under this section.

(2) SUITABILITY STANDARDS.—The Secretary shall provide suitability standards for practicing as a tax return preparer, including tax compliance with the requirements of the Internal Revenue Code of 1986.

(3) CONTINUING ELIGIBILITY.—

(A) IN GENERAL.—The regulations under paragraph (1) shall require a renewal of eligibility every 3 years and shall set forth the manner in which a tax return preparer must renew such eligibility.

(B) CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS.—As part of the renewal of eligibility, such regulations shall require that each such tax return preparer show evidence of completion of such continuing education or testing requirements as specified by the Secretary.

(C) NONMONETARY SANCTIONS.—

(i) The regulations under this section shall provide for the denial, suspension or termination of such eligibility in the event of any failure to comply with the requirements promulgated hereunder.

(ii) Under such regulations, the Secretary shall establish procedures for the appeal of any determination under this paragraph.

(d) PENALTY FOR UNAUTHORIZED PREPARATION OF RETURNS.—

(1) IN GENERAL.—In promulgating the regulations pursuant to subsection (b), the Secretary shall impose a penalty of $1,000 for each Federal tax return, document, or other submission prepared by a tax return preparer

who is not in compliance with the regulations promulgated under this section or who is suspended or disbarred from practice before the Department of the Treasury under such regulations. Such penalty shall be in addition to any other penalty which may be imposed.

(2) EXCEPTION.—No penalty may be imposed under paragraph (1) with respect to any failure if it is shown that such failure is due to reasonable cause.

(e) DEFINITIONS.—For purposes of this section—

(1) TAX RETURN PREPARER.—The term ''tax return preparer'' has the meaning given by section 7701(a)(36) of the Internal Revenue Code of 1986, and includes any person requiring the purchase of services, a financial product or goods in lieu of or in addition to direct monetary payment.

(2) SECRETARY.—The terms ''Secretary of the Treasury'' and ''Secretary'' mean the Secretary of the Treasury or the delegate of the Secretary.

(f) PUBLIC AWARENESS CAMPAIGN.—The Secretary shall conduct a public information and consumer education campaign, utilizing paid advertising—

(1) to encourage taxpayers to use for Federal tax matters only professionals who establish their competency under the regulations promulgated under section 330 of title 31, United States Code, and

(2) to inform the public of the requirements that any compensated preparer of tax returns, documents, and submissions subject to the requirements under the regulations promulgated under such section must sign the return, document, or submission prepared for a fee and display notice of such preparer's compliance under such regulations.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall take effect on the date of the enactment of the Act.

(2) REGULATIONS.—The regulations required by section 330(d) of title 31, United States Code, shall be prescribed not later than 2 years after the date of the enactment of this Act.

(3) FULL IMPLEMENTATION.—The Secretary, taking into consideration the complexity and magnitude of the requirements set forth under this Act, may delay full implementation of the regulations promulgated herein not later than the fifth filing season after the enactment of this Act.

SEC. 203. REFUND DELIVERY PRODUCTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by section 101, is amended by adding at the end the following new section:

''SEC. 7530. REFUND DELIVERY PRODUCTS.

''(a) REGISTRATION.—

''(1) IN GENERAL.—The Secretary shall by regulation require each refund delivery product facilitator to register annually with the Secretary.

''(2) REGISTRATION REQUIREMENTS.—A registration shall under paragraph (1) shall include—

''(A) the name, address, and TIN of the refund delivery product facilitator, and

''(B) the fee schedule of the facilitator for the year.

''(3) DISPLAY OF REGISTRATION CERTIFICATE.—The certificate of registration under paragraph (1) shall be displayed in the facility of the refund delivery product facilitator in the manner required by the Secretary.

''(b) DISCLOSURE REQUIREMENTS.—

''(1) IN GENERAL.—Each refund delivery product facilitator registered with the Secretary shall be subject to the requirements of paragraphs (2) through (5).

''(2) TAXPAYER EDUCATION.—The requirements of this paragraph are that the refund delivery product facilitator makes available to consumers an informational pamphlet that—

''(A) sets forth options available for receiving tax refunds, presented from least expensive to most expensive, and

''(B) discusses short-term credit alternatives to utilizing refund delivery products.

''(3) NATURE OF THE TRANSACTION.—The requirements of this paragraph are that, at the time of application for the refund delivery product, the refund delivery product facilitator specifically state in writing—

''(A) in the case of a refund delivery product which is a refund loan—

''(i) that the applicant is applying for a loan based on the applicant's anticipated income tax refund,

''(ii) the expected time within which the loan will be paid to the applicant if such loan is approved, and

''(iii) that there is no guarantee that a refund will be paid in full or received within a specified time period, and that the applicant is responsible for the repayment of the loan even if the refund is not paid in full or has been delayed,

''(B) the time within which income tax refunds are typically paid based upon the different filing options available to the applicant, and

''(C) that the applicant may file an electronic return without applying for a refund delivery product and the fee for filing such an electronic return.

''(4) FEES, INTEREST AND AMOUNTS RECEIVED.—The requirements of this paragraph are that, at the time of application for the refund delivery product, the refund delivery product facilitator discloses to the applicant all amounts to be received in connection with a refund delivery product. Such disclosure shall include—

''(A) a copy of the fee schedule of the refund delivery product facilitator,

''(B) in the case of a refund delivery product which is a refund loan—

''(i) the typical fees and interest rates (using annual percentage rates as defined by section 107 of the Truth in Lending Act (15 U.S.C. 1606)) for several typical amounts of such loans and of other types of consumer credit, and

''(ii) that the loan may have substantial fees and interest charges that may exceed those of other sources of credit, and the applicant should carefully consider—

''(I) whether such a loan is appropriate for the applicant, and

''(II) other sources of credit,

''(C) typical fees and interest charges if a refund is not paid or delayed,

''(D) the amount of a fee (if any) that will be charged if the refund delivery product is not approved, and

''(E) administrative costs and any other amounts.

''(5) OTHER INFORMATION.—The requirements of this paragraph are that the refund delivery product facilitator discloses any other information required to be disclosed by the Secretary.

''(6) DISCLOSURE REQUIREMENT.—A disclosure under any of the preceding paragraphs of this subsection shall not be treated as meeting the requirements of the respective paragraph unless the disclosure is written in a manner calculated to be understood by the average consumer of refund delivery products and provides sufficient information (as determined in accordance with regulations prescribed by the Secretary) to allow the consumer to understand such options and credit alternatives.

''(c) PENALTY.—

''(1) IN GENERAL.—There is hereby imposed a penalty on any refund delivery product facilitator who fails to register with the Secretary pursuant to subsection (a) or fails to meet a disclosure requirement under subsection (b).

''(2) AMOUNT OF PENALTY.—The amount of the penalty imposed by paragraph (1) shall be the greater of—

''(A) $1,000, and

''(B) three times the amount of the refund loan, if applicable, and refund delivery product facilitator-determined fees charged with respect to each refund delivery product provided by the refund delivery product facilitator during the period in which the failure described in paragraph (1) occurred.

''(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty imposed by paragraph (1) to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the failure involved.

''(d) CONDUCT.—

''(1) RULES OF CONDUCT.—The Secretary shall prescribed rules of conduct for refund delivery product facilitators which are similar to the rules applicable to federally authorized tax practitioners (as defined by section 7525(a)(3)(A)) under part 10 of title 31, Code of Federal Regulations.

''(2) LIMITATION ON APPROVAL AS REFUND DELIVERY PRODUCT FACILITATOR.—For such period as the Secretary (in his discretion) determines reasonable, the Secretary may not register any person as a refund delivery product facilitator under subsection (a) who the Secretary determines has engaged in any conduct that would warrant disciplinary action under the rules of conduct prescribed under paragraph (1) or under part 10 of title 31, Code of Federal Regulations.

''(e) OTHER LIMITATIONS RELATING TO REFUND DELIVERY PRODUCTS.—In any case in which a taxpayer has consented to the release of the taxpayer's refund indicator to a refund delivery product facilitator, the Secretary may only provide information related to the refund indicator to a refund delivery product facilitator who is registered under subsection (a). For purposes of the preceding sentence, the term 'refund indicator' means a notification provided through a tax return's acknowledgment file regarding whether a refund will be paid. The Secretary may issue a refund indicator only after the Secretary determines that the taxpayer's refund would not be prevented by any provision of this title, including any provision relating to refund offset to repay debts for delinquent Federal or State taxes, student loans, child support, or other Federal agency debt, whether the taxpayer is claiming ineligible children for purposes of certain tax benefits, and whether the refund will be held pending a fraud investigation.

''(f) DEFINITIONS.—For purposes of this section—

''(1) REFUND DELIVERY PRODUCT FACILITATOR.—

''(A) IN GENERAL.—The term 'refund delivery product facilitator' includes any electronic filing service provider who—

''(i) solicits for, processes, receives, or accepts delivery of an application for a refund delivery product, or

''(ii) facilitates the making of a refund delivery product in any other manner.

''(B) ELECTRONIC FILING SERVICE PROVIDER.—The term 'electronic filing service provider' includes any person who is an electronic return originator, intermediate service provider, or transmitter.

''(C) ELECTRONIC RETURN ORIGINATOR.—The term 'electronic return originator' includes a person who originates the electronic submission of income tax returns for another person.

''(D) INTERMEDIATE SERVICE PROVIDER.—The term 'intermediate service provider' includes a person who assists with processing return information between an electronic return originator (or the taxpayer in the case of online filing) and a transmitter.

''(E) TRANSMITTER.—The term 'transmitter' includes a person who sends the electronic return data directly to the Internal Revenue Service.

''(2) REFUND DELIVERY PRODUCT.—The term 'refund delivery product' includes a refund loan and any other product sold to a taxpayer for a fee or any other thing of value for the purpose of receiving the taxpayer's anticipated federal tax refund.

''(3) REFUND LOAN.—The term 'refund loan' includes any loan of money or any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund. Such term includes a loan secured by the tax refund or an arrangement to repay a loan from the tax refund.

''(g) REGULATIONS.—

''(1) IN GENERAL.—The Secretary may prescribe such regulations as necessary to carry out this subchapter.

''(2) BURDEN OF REGISTRATION.—In promulgating such regulations, the Secretary shall minimize the burden and cost on the registrant.''.

(b) PUBLIC AWARENESS CAMPAIGN.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to educate the public on making sound financial decisions with respect to refund delivery products (as defined by section 7530 of the Internal Revenue Code of 1986), including—

(1) the need to compare the rates and fees of refund loans with the rates and fees of conventional loans,

(2) the need to compare the amount of money received under a refund delivery product after taking into consideration such costs and fees with the total amount of the refund, and

(3) where and how taxpayers may lodge complaints concerning refund delivery product facilitators.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7530. Refund delivery products.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of the Act.

(2) REGULATIONS.—The regulations required by section 7530(g) of the Internal Revenue Code of 1986 shall be prescribed not later than 2 years after the date of the enactment of this Act.

(3) FULL IMPLEMENTATION.—The Secretary of the Treasury, taking into consideration the complexity and magnitude of the requirements set forth under this Act, may delay full implementation of the regulations promulgated under such section not later than 5 years after the enactment of this Act.

SEC. 204. PREPARER PENALTIES WITH RESPECT TO PREPARATION OF RETURNS AND OTHER SUBMISSIONS.

(a) INCLUSION OF OTHER SUBMISSIONS IN PENALTY PROVISIONS.—

(1) UNDERSTATEMENT OF TAXPAYER'S LIABILITY.—

(A) IN GENERAL.—Section 6694 (relating to understatement of taxpayer's liability by tax return preparer) is amended by striking ''return or claim of refund'' each place it appears and inserting ''return, claim of refund, or other submission''.

(B) CONFORMING AMENDMENTS.—Section 6694, as amended by paragraph (1), is amended by striking ''return or claim'' each place it appears and inserting ''return, claim, or other submission''.

(2) OTHER ASSESSABLE PENALTIES.—

(A) IN GENERAL.—Section 6695 (relating to other assessable penalties with respect to the preparation of tax returns for other persons) is amended by striking ''return or claim of refund'' each place it appears and inserting ''return, claim of refund, or other submission''.

(B) CONFORMING AMENDMENTS.—Section 6695, as amended by paragraph (1), is amended by striking ''return or claim'' each place it appears and inserting ''return, claim, or other submission''.

(b) INCREASE IN CERTAIN OTHER ASSESSABLE PENALTY AMOUNTS.—

(1) IN GENERAL.—Subsections (a), (b), and (c) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) are each amended by striking ''$50'' and inserting ''$1,000''.

(2) REMOVAL OF ANNUAL LIMITATION.—Subsections (a), (b), and (c) of section 6695 are each amended by striking the last sentence thereof.

(c) REVIEW BY THE TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION.—Subparagraph (A) of section 7803(d)(2) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) a summary of the penalties assessed and collected during the reporting period under sections 6694 and 6695 and under the regulations promulgated under section 330 of title 31, United States Code, and a review of the procedures by which violations are identified and penalties are assessed under those sections,''.

(d) ADDITIONAL CERTIFICATION ON DOCUMENTS OTHER THAN RETURNS.—

(1) IDENTIFYING NUMBER REQUIRED FOR ALL SUBMISSIONS TO THE IRS BY TAX RETURN PREPARERS.—The first sentence of paragraph (4) of section 6109(a) is amended by striking ''return or claim for refund'' and inserting ''return, claim for refund, or other document''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to documents filed after the date of the enactment of this Act.

(e) COORDINATION WITH SECTION 6060(a).—The Secretary of the Treasury shall coordinate the requirements under the regulations promulgated under section 330 of title 31, United States Code, with the return requirements of section 6060 of the Internal Revenue Code of 1986.

(f) EFFECTIVE DATE.—The regulations required by this section shall be prescribed not later than one year after the date of the enactment of this Act.

SEC. 205. CLARIFICATION OF ENROLLED AGENT CREDENTIALS.

Section 330 of title 31, United States Code, as amended by section 202, is amended—

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

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

''(e) Any enrolled agents properly licensed to practice as required under rules promulgated under subsection (a) shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

TITLE III—IMPROVING TAXPAYER SERVICES

SEC. 301. INDIVIDUALIZED LIEN DETERMINATION REQUIRED BEFORE FILING NOTICE OF LIEN.

(a) IN GENERAL.—Section 6323 is amended by adding at the end the following new subsection:

''(k) LIEN DETERMINATION BEFORE FILING.—

''(1) IN GENERAL.—The Secretary shall not file a notice of lien before making an individualized lien determination.

''(2) LIEN DETERMINATION.—In making an individualized lien determination with respect to a taxpayer, the Secretary shall consider factors, including—

''(A) the amount due,

''(B) the lien filing fee,

''(C) the value of the taxpayer's equity in the property or right to property,

''(D) the taxpayer's tax compliance history,

''(E) extenuating circumstances, if any, that explain the delinquency, and

''(F) the effect of the filing on the taxpayer's ability to obtain financing, generate future income, and pay current and future tax liabilities.

''(3) SUPERVISORY REVIEW.—In any case in which—

''(A) collecting a liability through a lien imposed under section 6321 would create an economic hardship (within the meaning of section 6343(a)(1)(D)), or

''(B) the taxpayer does not have significant equity in property or right to property,

the Secretary shall not file a notice of lien unless the supervisor of the employee making the lien determination referenced in paragraph (2) also determines that the filing is necessary.

''(4) WITHDRAWAL OF LIEN.—A lien filed in violation of this subsection shall be withdrawn under subsection (j).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to liens filed after the date of the enactment of this Act.

SEC. 302. BAN ON AUDIT INSURANCE.

Section 330 of title 31, United States Code, as amended by sections 202 and 205, is amended by adding at the end the following new subsection:

''(g) BAN ON AUDIT INSURANCE.—No person admitted to practice before the Department of the Treasury may directly or indirectly offer or provide insurance or other form of indemnification or reimbursement to cover a taxpayers' assessment of federal tax, penalties, or interest.''.

SEC. 303. PUBLIC AWARENESS.

(a) IN GENERAL.—Section 6103(k) (relating to disclosure of certain returns and return information for tax administration purposes) is amended by adding at the end the following new paragraph:

''(10) DISCLOSURE OF RECOGNIZED, CERTIFIED, OR REGISTERED PERSONS; REVOCATION OF REGISTRATION.—The Secretary shall furnish to the public—

''(A) the identity of any person who—

''(i) is an enrolled agent or is an attorney or certified public accountant who either has a power of attorney on file with the Internal Revenue Service or notifies the Internal Revenue Service of their status as a preparer of Federal tax returns,

''(ii) is certified under section 330(d) of title 31, United States Code, as a tax return preparer, or

''(iii) is registered as a refund delivery product facilitator pursuant to section 7530, and

''(B) information as to whether or not any person who is otherwise suspended or disbarred is no longer so recognized, certified, or registered (as the case may be).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect not later than two years after the date of enactment of this Act.

SEC. 304. CLARIFICATION OF TAXPAYER ASSISTANCE ORDER AUTHORITY.

(a) IN GENERAL.—Paragraph (2) of section 7811(b) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and

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

''(C) chapter 74 (relating to closing agreements and compromises),''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to orders issued after the date of the enactment of this Act.

SEC. 305. TAXPAYER ADVOCATE DIRECTIVES.

(a) IN GENERAL.—Subchapter A of chapter 80 is amended by inserting after section 7811 the following new section:

''SEC. 7811A. TAXPAYER ADVOCATE DIRECTIVES.

''(a) AUTHORITY TO ISSUE.—The National Taxpayer Advocate may issue a Taxpayer Advocate Directive to mandate administrative or procedural changes to improve the operation of a functional process or to grant relief to groups of taxpayers (or all taxpayers) if its implementation will protect the rights of taxpayers, prevent undue burden, ensure equitable treatment, or provide an essential service to taxpayers. A Taxpayer Advocate Directive may only be issued by the National Taxpayer Advocate. The terms of a Taxpayer Advocate Directive may require the Commissioner to implement it within a specified period of time.

''(b) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Advocate Directive may be modified or rescinded—

''(1) only by the National Taxpayer Advocate, the Commissioner of Internal Revenue, or the Deputy Commissioner of Internal Revenue, and

''(2) only if a written explanation of the reasons for the modification or rescission is provided to the National Taxpayer Advocate.''.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—Clause (ii) of section 7803(c)(2)(B) is amended by redesignating subclauses (III) through (XI) as subclauses (IV) through (XII), respectively, and by inserting after subclause (II) the following new subclause:

''(III) contain Taxpayer Advocate Directives issued under section 7811A;''.

(2) CONFORMING AMENDMENTS.—Clause (ii) of section 7803(c)(2)(B), as amended by paragraph (1), is amended—

(A) by striking ''subclauses (I), (II), and (III)'' in subclauses (V), (VI), and (VII) thereof and inserting ''subclauses (I), (II), (III), and (IV)'', and

(B) in subclause (VIII)—

(i) by inserting ''or Taxpayer Advocate Directive'' after ''Taxpayer Assistance Order'', and

(ii) by inserting ''or 7811A(a)'' after ''section 7811(b)''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by inserting after the item relating to section 7811 the following new item:

''Sec. 7811A. Taxpayer advocate directives.''.

SEC. 306. IMPROVED SERVICES FOR TAXPAYERS.

(a) IN GENERAL.—It is the sense of Congress that the Internal Revenue Service should within 2 years—

(1) reduce the time between receipt of an electronically filed return and issuance of a refund,

(2) expand assistance to low-income taxpayers,

(3) allocate resources to assist low-income taxpayers in establishing accounts at financial institutions that receive direct deposits from the United States Treasury,

(4) deliver tax refunds on debit cards, prepaid cards, and other electronic means to assist individuals that do not have access to financial accounts or institutions,

(5) establish a pilot program for satellite walk-in centers to be located in rural underserved communities without easy access to Internal Revenue Service Taxpayer Assistance Centers by using office facilities currently occupied by the Federal government, including United States Postal Service and Social Security Administration facilities; such satellite walk-in centers should have the capability to provide video-conferencing services and scanning or other digitizing functions to deliver, in an interactive manner, all service and compliance functions currently available in Internal Revenue Service Taxpayer Assistance Centers, and

(6) establish a pilot program for mobile tax return preparation offices.

(b) LOCATION OF SERVICE.—

(1) IN GENERAL.—The mobile tax return filing offices should be located in communities that the Secretary determines have a high incidence of taxpayers claiming the earned income tax credit, particularly in locations with few community volunteer tax preparation clinics.

(2) INDIAN RESERVATION.—At least one mobile tax return filing office should be on or near an Indian reservation (as defined in section 168(j)(6) of the Internal Revenue Code of 1986).

SEC. 307. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Treasury may award demonstration project grants (including multiyear awards) to eligible entities to provide accounts to individuals who currently do not have an account with a financial institution. The account would be held in a federally insured depository institution.

(b) PRIORITY.—Priority shall be given to demonstration project proposals that provide accounts at low or no cost and—

(1) that utilize new technologies such as the prepaid product to expand access to financial services, in particular for persons without bank accounts, with low access to financial services, or low utilization of mainstream financial services,

(2) that promote the development of new financial products and services that are adequate to improve access to wealth building financial services, which help integrate more Americans into the financial mainstream,

(3) that promote education for these persons and depository institutions concerning the availability and use of financial services for and by such persons, and

(4) that include other such activities and projects as the Secretary may determine are consistent with the purpose of this section.

(c) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) an organization described in 501(c)(5), and exempt from tax under section 501(a), of such Code,

(I) a nonbank financial service provider, or

(J) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) DEFINITIONS.—For purposes of this section—

(A) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term ''federally insured depository institution'' means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ''community development financial institution'' means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as the term ''Native Corporation'' under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) NATIVE HAWAIIAN ORGANIZATION.—The term ''Native Hawaiian organization'' means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) LABOR ORGANIZATION.—The term ''labor organization'' means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5) of the Internal Revenue Code of 1986.

(F) NONBANK FINANCIAL SERVICE PROVIDER.—The term ''nonbank financial service provider'' mean an entity that engages in financial services activities, as authorized under the Federal Reserve Board, 12 Code of Federal Regulations Part 225, Regulation Y.

(d) APPLICATION.—An eligible entity shall submit an application to the Secretary of the Treasury in such form and containing such information as the Secretary may require.

(e) EVALUATION AND REPORT.—For each fiscal year in which a grant is awarded under this section, the Secretary of the Treasury shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) POWER AND AUTHORITY OF THE SECRETARY.—

(1) ASSISTANCE.—Subject to appropriations, the Secretary of the Treasury may provide financial and technical assistance to awardees for expanding the distribution of financial services, including through financial services electronic networks.

(2) RESEARCH AND DEVELOPMENT.—The Secretary of the Treasury may conduct or support such research and development as the Secretary considers appropriate in order to further the purpose of this section, including the collection of information about access to financial services.

(3) REGULATIONS.—The Secretary of the Treasury is authorized to promulgate regulations to implement and administer the program under this section.

(g) STUDY ON DELIVERY OF TAX REFUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall conduct a study on the feasibility of delivering tax refunds on debit cards, prepaid cards, and other electronic means to assist individuals that do not have access to financial accounts or institutions.

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

SEC. 308. ADDITIONAL STUDIES.

(a) STUDY ON ACCELERATED PROCESSING OF INFORMATION RETURNS.—

(1) FINDINGS.—Congress finds the following:

(A) Under current procedures, the Internal Revenue Service processes income tax returns before it processes most information returns, including Forms W-2, which report wages and tax withholding, and Forms 1099, which report interest, dividends, and other payments.

(B) The sequence described in subparagraph (A) makes little logical sense.

(C) From a taxpayer perspective, the sequence leads to millions of cases where taxpayers inadvertently make overclaims that the Internal Revenue Service does not identify until months later, exposing the taxpayer not only to a tax liability but to penalties and interest charges as well.

(D) From the Federal Government's perspective, this sequence creates opportunities for fraud and requires the Internal Revenue Service to devote resources to recovering refunds that should not have been paid and that it often cannot recover.

(2) STUDY.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall conduct a study to identify and recommend legislative and administrative changes that would enable the Internal Revenue Service to receive and process information reporting documents before it processes tax returns. In conducting the study, the Secretary shall consider, among other factors, the issues identified in the National Taxpayer Advocate's 2009 Annual Report to Congress.

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

(b) STUDY ON THE EFFECTIVENESS OF COLLECTION ALTERNATIVES.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall conduct a study to assess the effectiveness of collection alternatives, especially offers in compromise, on long-term tax compliance. Such a study shall analyze a group of taxpayers who applied for offers in compromise 5 or more years ago and compare the amount of revenue collected from the taxpayers whose offers were accepted with the amount of revenue collected from the taxpayers whose offers were rejected, and compare, among the taxpayers whose offers were rejected, the amount they offered with the amounts collected.

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

By Mr. GRASSLEY:

S. 3216. A bill to amend title XVIII of the Social Security Act to ensure Medicare beneficiary access to physicians, to ensure equitable reimbursement under the Medicare program for all rural States, and to eliminate sweetheart deals for frontier States; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, Medicare's payment system for physicians is flawed in many ways. One of those flaws has for many years given unfairly low payments to high quality areas like my own home state of Iowa and many other rural States. The new health care reform law makes some much-needed changes in that regard.

The legislation I am introducing today makes additional improvements in addressing unfair geographic disparities in payment. It is intended to provide more equitable rural health payments and improve rural access to care for all rural states.

As many of you know, Medicare payment varies from one area to another based on the geographic adjustments known as the Geographic Practice Cost Indices or GPCIs. These geographic adjustments are intended to equalize physician payment by reflecting differences in physician's practice costs.

But they do not accurately represent those costs in Iowa or other rural states. They have been a dismal failure in fact. They discourage physicians from practicing in rural areas like New Mexico, Arkansas, Missouri, and Iowa because they create such unfairly low Medicare rates.

I introduced legislation in the last Congress, and again last year, to correct these unwarranted payment disparities. Last fall, I offered an amendment in the Senate Finance Committee mark up of health reform legislation to reform the inequitable formula that has caused these unduly low payments.

My amendment provided more equity and accuracy in calculating this adjustment, and it provided a national solution to the problem. It was accepted unanimously by the Senate Finance Committee, and it was included in the Senate health reform bill, the Patient Protection and Affordable Care Act, that was signed into law.

But, unfortunately, the rural equity that would be achieved by that amendment has been endangered by another sweetheart deal that was added to the Senate health care reform bill that is now the law.

This special deal was added behind closed doors, that is, the closed doors of the majority leader. This special deal addresses geographic disparities but it helps just five states at the expense of the other 45 states.

It was included in the Senate health reform bill for two Democratic Senators from so-called ''frontier states.'' It's what I call the ''Frontier Freeloader.''

The Frontier Freeloader provision improves Medicare reimbursement in so-called frontier states by establishing floors for the hospital wage index and the physician practice expense GPCI.

A frontier state is defined as one with 50 percent or more frontier counties, defined as counties with a population per square mile of less than six.

The Frontier Freeloader deal ensures that higher payments go to just five states—North Dakota, South Dakota, Montana, Wyoming and Utah—at the expense of every other state.

It is another example of how the deals made behind closed doors to garner votes led to bad policies, like the Cornhusker Kickback, the Louisiana Purchase, and the Florida Gator-aid.

Now we have the Frontier Freeloader deal that became law when the President signed the health care reform bill.

Iowa provides some of the highest quality care in the country but it does not meet the definition of a frontier state. Certainly Iowa should have been helped since Medicare reimbursement for hospitals and physicians is lower in Iowa than in most of these so-called ''frontier'' states.

Medicare also pays much lower rates in other rural states, like Arkansas and New Mexico, but they don't benefit from the Frontier Freeloader because they don't meet the definition of a frontier state.

The Frontier Freeloader is even more egregious because Iowa—and other States like Arkansas and New Mexico that don't benefit—are paying for it! So, taxpayers in your state and mine—all the other 45 states—will kick in to pay the bill for these five states. And that's just the cost for the next few years.

This sweetheart deal is not time-limited. The Frontier Freeloader that benefits these five states continues forever while taxpayers in your State and mine—the other 45—continue to pay the bills.

The bill I am introducing today would repeal the Frontier Freeloader sweetheart deal.

We should improve physician payments for all rural states, not just a select few. It is unfair to improve hospital payments for just a few states. This bill would eliminate those special payment deals for just 5 States.

It would also improve physician payments for all rural states during the transition to more accurate data.

The new health care reform law requires the Secretary of Health and Human Services to limit the impact of the current unfair adjustments to ½ of the current adjustment in 2010 and 2011. This bill would use some of the funds saved by repealing the frontier states deal to increase physician payments more in rural states next year.

That would mean higher payments for all rural States, not higher payments for just a few States.

Finally, the bill makes it clear that a side agreement reportedly made between House members and the Secretary of Health and Human Services for an Institute of Medicine study cannot interfere with the legislative changes to the geographic adjustment for physician practice expense that are now law.

My amendment in the Senate bill that became law improves the data that the government uses to calculate geographic physician practice costs.

The House health care reform bill called for a study by the Institute of Medicine to make recommendations on geographic disparities.

It is unclear what agreement was made between Secretary Sebelius and the House, since it was another backroom deal. It is also unclear what advantage it holds for rural health care equity for beneficiaries and physicians.

My amendment that is now the law requires Medicare officials to use accurate data.

The legislation that I am introducing today would ensure that the agreement

House members made with Secretary Sebelius—that somehow accompanies the House health-care reconciliation bill—cannot undo the actual legislative fix in the Senate health care bill that is now law.

If the Institute of Medicine comes up with different data or makes recommendations that are not consistent with the requirements for the geographic adjustments that are now law, we could be back where we started, or even worse off. So this legislation would ensure that HHS follows the legislative improvements just enacted to require more accurate data for calculating these geographic adjustments.

To summarize, the bill does three main things:

First, it eliminates the unfair $2 billion Frontier Freeloader carve-out for 5 States that ends up harming all the other rural States. As I said earlier, that extra spending would continue forever if the Frontier Freeloader is allowed to take effect.

Second, the bill helps provide greater rural health care access and payment equity in a way that is fair to all taxpayers and states.

It would provide additional payments for physicians in all rural States during the transition.

Finally, the bill would ensure that Medicare officials use accurate data to calculate geographic adjustments as now required by the new health care reform law.

This legislation helps ensure that seniors in all of rural America continue to have access to needed health care.

It ensures rural health care equity nationwide.

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

S. 3218. A bill to amend the Controlled Substances Act to clarify that persons who enter into a conspiracy within the United States to possess or traffic illegal controlled substances outside the United States, or engage in conduct within the United States to aid or abet drug trafficking outside the United States, may be criminally prosecuted in the United States, and for other purposes; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, the trafficking and use of illegal drugs is an ongoing challenge in our Nation. It is incumbent upon the Government to seek to prevent the flow of drugs into the country, and limit the availability of drugs on our streets and in our communities. It is for that purpose that I introduce the Drug Trafficking Safe Harbor Elimination Act of 2010 with Senator SESSIONS.

This bill will close a loophole that could allow drug traffickers, under certain circumstances, to operate with impunity in the United States. In United States v. Lopez-Vanegas, the Eleventh Circuit Court of Appeals held that where the object of a conspiracy is to possess controlled substances outside the United States with the intent to distribute outside the United States, there is no violation of U.S. law, even if the conspiracy, including meetings, negotiations, and arrangements to execute the drug transaction, occurs on U.S. soil.

Although a particular conspiracy may not be intended to bring illegal drugs into the U.S., the same traffickers could very well act to bring drugs across our own borders as their next crime. If we have a chance to prosecute such criminals, we should do so.

In the Lopez-Vanegas case, the court stated that the statute relied upon by Federal prosecutors could not be extended to conspiracies to act outside of the U.S. because Congress had not expressed its intention for the statute to be applied in such a manner. This legislation provides Congress an opportunity to clarify its position.

While the binding effect of the Lopez-Vanegas case is now limited to the Eleventh Circuit, it may influence other federal jurisdictions to issue similar decisions. A wide-scale adoption of the reasoning in this case could establish the United States as a safe haven for international drug cartels, damage our relationships with the law enforcement authorities of other nations, and hinder global coordination to combat drug trafficking. Further, the profits and operational capacities generated by extraterritorial drug transactions could very well bolster the ability of drug cartels to distribute drugs in the United States in the future. For these reasons, it is important to close this loophole and give law enforcement the ability to prosecute all drug trafficking conspiracies conducted in the United States.

By Mr. DURBIN (for himself, Mr. FRANKEN, and Mr. WHITEHOUSE):

S. 3219. A bill to amend title 11, United States Code, with respect to certain exceptions to discharge in bankruptcy; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, three weeks ago, the Senate passed significant student loan reform. It turns out that for the past several decades, we have been paying banks $6 billion per year to be the middle men in our student loan system. The bill we passed puts a stop to that. Instead of lining the pockets of bankers like Al Lord at Sallie Mae, we will originate all Federal student loans through the Direct Loan Program and we will invest the savings, $68 billion, in education priorities. We put $36 billion into Pell Grants to increase the grant size and tie it to inflation. We also capped monthly student loan payments at 10 percent of discretionary income to help ease repayment for students in public service careers. We invested in historically black colleges and universities, minority serving institutions, community colleges, and state-based college access programs that help students succeed in college. These reforms are essential in helping students afford a college education.

Today, along with Senator FRANKEN and Senator WHITEHOUSE, I am introducing a bill that will take an additional step in restoring fairness in student lending by treating privately issued student loans in bankruptcy the same way other types of private debt are treated. Our bill, the Fairness for Struggling Students Act, will allow borrowers of private student loans to discharge those loans in bankruptcy. Representatives COHEN and DAVIS are introducing a similar bill in the House.

Federally issued or guaranteed student loans have been protected during personal bankruptcy since 1978. This is a good law that protects Federal investments in higher education. In 2005, a provision was added to law to protect the investments of private lenders that extend private credit—not federally guaranteed student loans—to students. With the 2005 protections in place, there is virtually no risk to lenders making high-cost private loans to students at schools with low graduation rates and even lower job placement rates. So the industry has boomed over the past decade. Private student loan volume last year was $11 billion.

But there is plenty of risk for student borrowers. The interest rates and fees on private loans can be as onerous as credit cards. There are reports of private loans with variable interest rates reaching 18 percent. Unlike Federal student loans, the Government does not impose loan limits on private loans and does not regulate the terms or cost of these loans. Some students who take out these loans find themselves trapped under an enormous amount of debt that they cannot escape.

Today, I am pleased to introduce a bill that will give students who find themselves in dire financial straits a chance at a new beginning. My bill restores the bankruptcy law, as it pertains to private student loans, back to where it was before the law was amended in 2005. Under this legislation, privately issued student loans will once again be dischargeable in bankruptcy. My bill also clarifies that the remaining protections are specific to loans that were issued by or are guaranteed by State and Federal Government.

Three weeks ago we ended the ability of lenders and banks to make risk-free federal loans to students. It is time to also end the risk-free nature of private student loans and restore fairness for student borrowers.

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. 3219

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 ''Fairness for Struggling Students Act of 2010''.

SEC. 2. EXCEPTIONS TO DISCHARGE.

Section 523(a)(8) of title 11, United States Code, is amended by striking ''dependents, for'' and all that follows through the end of subparagraph (B) and inserting ''dependents, for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit or made under any program funded in whole or in part by a governmental unit or an obligation to repay funds received from a governmental unit as an educational benefit, scholarship, or stipend;''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 483—CONGRATULATING THE REPUBLIC OF SERBIA'S APPLICATION FOR EUROPEAN UNION MEMBERSHIP AND RECOGNIZING SERBIA'S ACTIVE EFFORTS TO INTEGRATE INTO EUROPE AND THE GLOBAL COMMUNITY

Mr. VOINOVICH (for himself, Mr. KERRY, Mr. LUGAR, Mrs. SHAHEEN, and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 483

Whereas the United States has been a strong supporter of the European Union (EU);

Whereas the year 2010 marks a full decade of efforts of the Government of Serbia to reintegrate into Europe and the global community;

Whereas, on November 30, 2009, the EU decided that the citizens of ''Serbia will be able to travel without visa to the Schengen area'' permitting the greater integration of Serbia into Europe;

Whereas a democratically elected Government of Serbia has committed to resolving regional disagreements through diplomacy and the tenets of international law;

Whereas, on April 29, 2008, the EU and Serbia signed a Stabilization and Association Agreement, which considered ''the EU's readiness to integrate Serbia to the fullest extent into the political and economic mainstream of Europe and its status as a potential candidate for EU membership'';

Whereas, on June 21, 2003, the EU stated in the Summit Declaration of the EU-Western Balkans summit at Thessaloniki that ''the future of the Balkans is within the EU'' and that the countries of the Western Balkans' ''rapprochement with the EU will go hand in hand with the development of regional co-operation'';

Whereas the United States Government has supported the diplomatic efforts of the Government of Serbia to reintegrate into the global community, including a visit by Vice President Joseph Biden in May 2009; and

Whereas the United States Government has long viewed the EU as a source of stabilization, security, and prosperity for all of Europe and the world: Now, therefore, be it

Resolved, That the Senate—

(1) applauds the people of Serbia for furthering their commitment to democracy, free markets, tolerance, nondiscrimination, and the rule of law;

(2) urges the European Council to adopt in a timely manner a clear position on Serbia's qualifications as a candidate country;

(3) welcomes the decision of the democratically elected Government of Serbia to join the NATO Partnership for Peace Program in 2006;

(4) recognizes the cooperation of the Government of Serbia with the United States Government on issues such as democratization, anti-drug trafficking, anti-terrorism, human rights, regional cooperation, and trade;

(5) strongly urges the Government of Serbia to intensify efforts to capture and transfer at-large indictees Goran Hadzic and Ratko Mladic to the International Criminal Tribunal for the former Yugoslavia and otherwise to fully cooperate with the Tribunal; and

(6) encourages the European Union to also remain actively engaged with all countries in the Western Balkans regarding their aspirations for European integration.

SENATE RESOLUTION 484—DESIGNATING THE WEEK OF MAY 16 THROUGH MAY 22, 2010, AS ''NATIONAL PUBLIC WORKS WEEK''

Mrs. BOXER (for herself and Mr. INHOFE) submitted the following resolution; which was considered and agreed to:

S. RES. 484

Whereas public works infrastructure, facilities, and services are of vital importance to the health, safety, and well-being of the people of the United States;

Whereas the public works infrastructure, facilities, and services could not be provided without the dedicated efforts of public works professionals, including engineers and administrators, who represent State and local governments throughout the United States;

Whereas public works professionals design, build, operate, and maintain the transportation systems, water infrastructure, sewage and refuse disposal systems, public buildings, and other structures and facilities that are vital to the people and communities of the United States;

Whereas understanding the role that public infrastructure plays in protecting the environment, improving public health and safety, contributing to economic vitality, and enhancing the quality of life of every community of the United States is in the interest of the people of the United States; and

Whereas 2010 marks the 50th anniversary of ''National Public Works Week'': Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 16 through May 22, 2010, as ''National Public Works Week'';

(2) recognizes and celebrates the important contributions that public works professionals make every day to improve—

(A) the public infrastructure of the United States; and

(B) the communities that public works professionals serve; and

(3) urges individuals and communities throughout the United States to join with representatives of the Federal Government and the American Public Works Association in activities and ceremonies that are designed—

(A) to pay tribute to the public works professionals of the United States; and

(B) to recognize the substantial contributions that public works professionals make to the United States.

SENATE RESOLUTION 485—DESIGNATING APRIL 2010 AS ''FINANCIAL LITERACY MONTH''

Mr. AKAKA (for himself and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 485

Whereas according to the Federal Deposit Insurance Corporation, at least 25.6 percent of households in the United States, or close to 30,000,000 households with approximately 60,000,000 adults, are unbanked or underbanked and, subsequently, have missed opportunities for savings, lending, and basic financial services;

Whereas according to the 2009 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 41 percent of adults in the United States, or more than 92,000,000 adults living in the United States, gave themselves a grade of C, D, or F on their knowledge of personal finance;

Whereas according to the National Bankruptcy Research Center, the number of personal bankruptcy filings reached 1,410,000 in 2009, a 32 percent increase from 2008 and the highest number since 2005;

Whereas the 2009 Retirement Confidence Survey conducted by the Employee Benefit Research Institute found that the percentage of workers who were ''very confident'' about having enough money for a comfortable retirement decreased sharply, from 27 percent in 2007 to 18 percent in 2008 to 13 percent in 2009, the lowest since the question was first asked in the survey in 1993, and representing a 50 percent decline in worker confidence since 2007;

Whereas according to a 2009 ''Flow of Funds'' report by the Federal Reserve, household debt stood at $13,600,000,000,000;

Whereas according to the Department of Labor, only 43 percent of people in the United States have calculated how much they need to save for retirement;

Whereas according to the 2009 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 26 percent, or more than 58,000,000 adults, admit to not paying all of their bills on time;

Whereas according to the 2009 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, ⅓ of adults in the United States, approximately 72,000,000 adults, report that they have no savings and only 23 percent of adults in the United States are now saving more than they did a year ago because of the current economic climate;

Whereas according to the 2009 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, less than ½ of adults keep close track of their spending, and nearly 16,000,000 adults do not know how much they spend on food, housing, and entertainment, and do not monitor their overall spending;

Whereas the number of adults keeping close track of their spending has not improved since 2007;

Whereas according to the sixth Survey of the States 2009: Economic, Personal Finance, and Entrepreneurship Education in Our Nation's Schools, conducted by the Council for Economic Education, only 21 States require students to take an economics course as a high school graduation requirement, and only 19 States require the testing of student knowledge in economics;

Whereas according to the sixth Survey of the States 2009: Economic, Personal Finance, and Entrepreneurship Education in Our Nation's Schools, conducted by the Council for Economic Education, only 13 States require students to take a personal finance course either independently or as part of an economics course as a high school graduation requirement;