S. 3804

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 3804, a bill to combat online infringement, and for other purposes.

S. 3813

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Maryland (Ms. MIKULSKI), the Senator from New York (Mr. SCHUMER), and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 3813, a bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard, and for other purposes.

S. 3817

At the request of Mr. DODD, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 3817, a bill to amend the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988 to reauthorize the Acts, and for other purposes.

S. 3845

At the request of Mr. CASEY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3845, a bill to establish the National Competition for Community Renewal to encourage communities to adopt innovative strategies and design principles, to programs related to poverty prevention, recovery and response, and for other purposes.

S. 3849

At the request of Mr. WYDEN, his name was added as a cosponsor of S. 3849, a bill to extend the Emergency Contingency Fund for State Temporary Assistance for Needy Families Program, and for other purposes.

S. 3858

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3858, a bill to improve the H–2A agricultural worker program for use by dairy workers, sheepherders, and goat herders, and for other purposes.

S. 3860

At the request of Mr. BROWN of Massachusetts, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Utah (Mr. BENNETT), and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 3860, a bill to require reports on the management of Arlington National Cemetery.

S. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. Con. Res. 63, supra.

At the request of Mr. COCHRAN, his name was added as a cosponsor of S. Con. Res. 63, supra.

S. CON. RES. 71

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution recognizing the United States national interest in helping to prevent and mitigate acts of genocide and other mass atrocities against civilians, and supporting and encouraging efforts to develop a whole of government approach to prevent and mitigate such acts.

S. RES. 631

At the request of Mrs. LINCOLN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Mississippi (Mr. WICKER), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 631, a resolution designating the week beginning on November 8, 2010, as National School Psychology Week.

S. RES. 647

At the request of Mr. INHOFE, the names of the Senator from Nebraska (Mr. JOHANNS) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. Res. 647, a resolution expressing the support for the goals of National Adoption Day and National Adoption Month by promoting national awareness of adoption and the children awaiting families, celebrating children and families involved in adoption, and encouraging Americans to secure safety, permanency, and well-being for all children.

S. RES. 654

At the request of Mr. BURR, the names of the Senator from Colorado (Mr. BENNET), the Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 654, a resolution designating December 18, 2010, as ''Gold Star Wives Day''.

AMENDMENT NO. 4618

At the request of Mr. NELSON of Florida, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 4618 intended to be proposed to S. 3454, an original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHANNS (for himself, Mr. BROWNBACK, Mr. MCCAIN, Mr. THUNE, Mr. BURR, Mr. COBURN, Mr. BENNETT, Mr. ISAKSON, Mr. ENZI, Mr. HATCH, Mr. WICKER, Mr. DEMINT, Mr. ENSIGN, Mr. ROBERTS, Mr. CRAPO, Mr. RISCH, Mr. GRAHAM, Mr. VITTER, and Mr. KYL):

S. 14. A bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child; to the Committee on Health, Education, Labor, and Pensions.

Mr. JOHANNS. Mr. President, I rise today to discuss an issue that I believe does cross the political divide; and that issue is, protecting children from needless pain. Forty years ago, when Roe v. Wade became the law of the land, it was believed that babies simply did not feel pain. At that time, the medical community thought a baby's nervous system was not yet developed enough to have a sense of pain, so surgeries were literally performed with no anesthesia. Parents were told not to worry if it appeared their child was in pain.

We found out the medical community was wrong.

Twenty-five years ago, a doctor at Oxford University proved that newborn babies do, in fact, feel pain. His groundbreaking research was inspired by his own recognition of the signs of pain.

Dr. Anand noticed preterm babies returning from operations with weak pulses, with rapid heart rates, and other signs of stress that would typically be associated with the feeling of pain.

As a result, he studied two groups of babies. One went through surgery without anesthesia, as was the practice at that time. A second group was given anesthesia before the surgery took place.

The results were remarkable. Most of the babies who were given pain medicine sailed through the procedures while the babies who were given no pain medicine suffered significant stress. This study opened the eyes of the medical community, shifting both medical opinion and common practice.

Today, pain relief for infants is now the standard of care. If my child needed surgery today, and a doctor told us it would be done without anesthesia, without pain medicine for the baby, we would walk straight out of the door; and any parent would.

Performing surgery on an infant without pain medicine is unimaginable today, despite having been common practice, the accepted standard of care 40 years ago. Medical research shattered a commonly held belief, and it changed medicine forever.

I stand before you today in recognition that medical research has again advanced. Again, it should shatter a misguided assumption. You see, doctors now perform surgery on unborn babies. They can go into the womb and save a baby as young as 20 weeks old.

This has allowed researchers to study reactions to pain by these unborn babies. The eye-opening results simply cannot be denied. Much like the original groundbreaking study of newborns,

the research involving unborn babies presented evidence that they feel pain.

When pain medicine was administered during surgery involving unborn children, their blood flow, their heart rate remained normal. But without pain medicine, blood flow and heart rate were affected, as unborn babies endured the pain.

The medical evidence is so compelling it alone should inspire us to act. But we do not have to rely upon a doctor's research. All of my colleagues have surely seen with their own eyes the breathtaking images from ultrasounds. Perhaps it was the picture of a child or a grandchild that showed a face and fingers and toes. Some might have been lucky enough to be in the room for a checkup and actually listened to that heartbeat.

There is no denying that those fingers and toes—that face, that heartbeat—is about a baby, a tiny, little miracle that can feel pain. Pretending there is some magical line that is crossed at the moment of birth that allows a baby to feel pain is literally absurd. There is no such line. There is no difference in the pain a baby begins feeling about halfway through pregnancy and the pain a newborn baby feels.

Just as the medical community now admits it was wrong to assert that newborns feel no pain, we know it is wrong to say unborn children feel no pain. But while medical science has moved forward and taken this step, our laws and our practices still rely on decades-old information and mistaken beliefs.

So it is time for us to acknowledge in law and in practice the realities revealed by these advancements in medical science. We must be willing to change our mindset based upon this evidence, and I would suggest we have an obligation to do so.

Mothers have a right to know that their unborn babies feel pain. Respected doctors are on record saying that abortions in the second and third trimester likely cause unborn babies ''intense pain.'' How can we claim to be compassionate, yet look the other way in denial of this pain? I would suggest we cannot. We can see these precious faces. We can hear their hearts beat.

That is why the legislation I am introducing today is so critically important. The Unborn Child Pain Awareness Act would merely require those who perform abortions 20 weeks into a pregnancy or later to inform the mother that her unborn child feels pain. And the mother may request anesthesia for that child to lessen the pain if she does not choose life.

Women should not be kept in the dark. They have the right to know what their unborn child will feel during an abortion. And those who provide abortions should not dismiss the reality of the anguish. The Unborn Child Pain Awareness Act says: At the very least, let's provide mothers with the complete medical and scientific research we have at our disposal today. Let's simply provide the truth before they make a life-changing decision. We cannot in good conscience know of this medical reality and fail to share it with mothers who are contemplating the most difficult and consequential decision of their entire lives.

Our country is awakening to the reality of the pain felt by unborn children but slowly, just as we were slow to accept that newborn babies, yes, in fact, do feel pain so many years ago. Thankfully, our States are leading the way when Congress has failed to act. Arkansas, Georgia, Louisiana, Minnesota, Oklahoma, and Utah have passed similar legislation. Several other States include information about the pain an unborn child experiences in their counseling materials. In fact, in my home State of Nebraska, we became the first State to ban abortions after 20 weeks on the basis that an unborn child can, in fact, feel pain.

Unborn children cannot tell us what they feel, but medical research cries out on their behalf. They deserve the same human compassion we show newborns, 2-year-olds, and children of every age. They all feel pain.

So I encourage my colleagues to join me in cosponsoring this legislation. Thus far, 18 Senators have signed on, and I hope more will follow. I would suggest that this legislation has little to do with whether you call yourself pro-life or pro-choice. It is about basic human decency and concern for human suffering. I hope my colleagues will review the medical research, look to their conscience, and follow what is right. I hope they join me in cosponsoring this legislation.

By Mr. JOHNSON:

S. 3870. A bill to amend the Federal Crop Insurance Act to permit certain livestock owners to plant a secondary crop for the use of the producer as emergency feed; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. JOHNSON. Mr. President, today I introduce legislation that will enable livestock producers who have been affected by excessive precipitation to have access to emergency feed stocks. The rain producers faced last fall, coupled with the abnormal snowfall this winter and the subsequent rain this spring and summer, has led to major flooding throughout South Dakota, particularly in the northeastern part of our State. Unfortunately, there are many areas in which land that would normally be available for planting was not available because of the wet conditions. As a result of the flooding earlier this year, many producers claimed prevented planting coverage through their crop insurance policies.

A side effect of the flooding was that many producers have faced a shortage of forage for their livestock. I have spoken with many producers who would like to be able to plant a secondary crop on land that has qualified for prevented planting coverage for the purposes of providing emergency feed for their own livestock. As currently provided by the Agricultural Risk Protection Act of 2000, in States like South Dakota, which are not permitted to plant two crops during a single year, a producer loses 65 percent of their prevented planting compensation if they plant a secondary crop and harvest or graze that crop before the end of the crop year, which is interpreted as November 1 by the Risk Management Agency, RMA. The actual production history, APH, of the land is also reduced to 60 percent of the normal yield for that year. Given the suffering producers in my State have experienced this year because of flooding, it is necessary to provide them the flexibility they need to stay in business.

My legislation would permit producers to plant and harvest or graze a secondary crop before November 1 for the purposes of ensuring sufficient feed for their livestock without penalty of a reduction in prevented planting coverage and benefits. In order to ensure accountability, my legislation would require producers to own livestock, to have suffered from excessive precipitation which prohibited the first crop from being planted by the Risk Management Agency's final planting date for that crop, and the producer must use the second crop only for feed for their own livestock. The producer would not be permitted to sell the crop. Additionally, any revenue generated from the second planting would be taken into account when calculating the producer's benefits from Federal disaster programs, like the Supplemental Revenue, SURE, Assistance Program. Ultimately, this legislation is very fiscally responsible as it would encourage a reduction in Federal dollars spent on disaster assistance.

Agriculture is a vital industry in South Dakota. Year after year, our producers continue to provide the world with a cheap, safe, and abundant source of food, fuel, and fiber. In fact, according to the South Dakota Department of Agriculture, each year on average, one South Dakota producer raises enough food to feed 144 people. Our farmers and ranchers are absolutely essential to ensuring we can feed an ever-growing world population and to the continued growth of our State's economy, and my legislation would help them through rough times when factors outside of their control, like the weather, would otherwise force them out of business.

By Mr. LEAHY:

S. 3871. A bill to amend chapter 13 of title 28, United States Code, to authorize the designation and assignment of retired justices of the Supreme Court to particular cases in which an active justice is recused; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am introducing legislation to ensure that the Nation's highest court can serve its function as the court of last

resort in our judicial system. The Supreme Court's effectiveness is compromised when it does not have a full slate of nine justices sitting in a given case. When a Justice needs to recuse from a matter under the rules that govern judicial conflicts of interest, the Supreme Court may be rendered ineffective, because there are no provisions in place to allow another to be designated to sit in his or her place. Given the Court's recent rash of 5:4 rulings, the absence of one Justice could result in a 4:4 decision. In that scenario, the Supreme Court cannot serve its function and the lower court decision stands. This was a very real concern for Chief Justice William Rehnquist. He explained that such a stalemate on the Court where there were conflicting rulings in the lower courts, ''would lay down 'one rule in Athens, and another rule in Rome' with a vengeance.''

Under the existing statute, retired Justices may be designated to sit on any court in the land except the one to which they were confirmed. The bill I am introducing today will ensure that the Supreme Court can continue to serve its essential function. I hope that it will encourage Justices to recuse themselves when they have a financial conflict of interest or their participation would create the appearance of impropriety. In recent history, Justices have refused to recuse themselves and one of their justifications has been that the Supreme Court is unlike lower courts because no other judge can serve in their place when Justices recuse.

When I met with Justice John Paul Stevens earlier in the year before he announced his retirement, he suggested exploring legislation that would allow retired U.S. Supreme Court Justices to sit by designation on all of our federal courts. Currently, Justices Stevens, Sandra Day O'Connor and David Souter may sit by designation on any Federal court except the U.S. Supreme Court, the Court to which they were confirmed. This defies common sense.

Recent news about conflicts of interest has raised serious questions in the minds of Americans about the impartiality of the judiciary. These serious concerns only serve to undermine the public trust in our Nation's courts. Allowing retired Justices to sit on the Supreme Court would encourage sitting justices to recuse themselves when there is even an appearance of a conflict of interest regarding a case before the Court. Such a designation would also help to avoid the potential of 4:4 splits which concerned Chief Justice Rehnquist. I am confident the American people want the Supreme Court to serve as the final word in our federal judicial system. I encourage my fellow Senators to consider the legislation I am introducing today as a commonsense solution to preserve the role that the Supreme Court plays in our democracy.

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

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

S. 3871

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

SECTION 1. DESIGNATION AND ASSIGNMENT OF RETIRED SUPREME COURT JUSTICES.

Section 294 of title 28, United States Code, is amended—

(1) in subsection (a), by inserting ''(1)'' after ''(a)'';

(2) by adding at the end the following:

''(2) Any retired Chief Justice of the United States or any retired Associate Justice of the Supreme Court may be designated and assigned to serve as a justice on the Supreme Court of the United States in a particular case if—

''(A) any active justice is recused from that case; and

''(B) a majority of active justices vote to designate and assign that retired Chief Justice or Associate Justice.''; and

(3) in subsection (d), by striking ''No such designation or assignment shall be made to the Supreme Court.'' and inserting ''Except as provided under subsection (a)(2), no designation or assignment under this section shall be made to the Supreme Court.''.

By Mr. UDALL of New Mexico:

S. 3872. A bill to improve billing disclosures to cellular telephone consumers; to the Committee on Commerce, Science, and Transportation.

Mr. UDALL of New Mexico. Mr. President, cell phones today are becoming ubiquitous and more essential to our everyday lives. Americans today have 285 million wireless phones.

We use these phones in new and innovative ways. Consumers today increasingly use their cell phones for much more than just talking. Mobile broadband services now allow us to surf the Internet, search for nearby shops or restaurants, and watch videos right on our wireless handsets.

Since we now use these devices in new ways, it can be more difficult for consumers to realize they have exceeded their monthly subscriptions for cell phone service. This can have dramatic consequences for consumers.

Consider the case of a Navy ROTC midshipman who mistakenly left his smartphone's roaming function turned on while he was abroad. His phone downloaded e-mail messages, and he was sent a bill for almost $1,300. News outlets have highlighted other cases from across the country, including cases where children on family subscription plans racked up thousands of dollars in extra charges. A 13 year-old's cell phone data usage led to a bill for almost $22,000. Another man was billed $18,000 for a 6-week period when his son used a cell phone to connect a computer to the Internet. These stories we hear about in the media are certainly not isolated cases, just the most egregious.

In fact, a recent Federal Communications Commission, FCC, survey found that 30 million Americans, or 1 in 6 adult cell phone users, have experienced cases of ''bill shock.'' Cell phone bill shock is when a consumer's monthly bill increases when they have not changed their plan. In about one in four cases, the consumer's bill increased by more than $100. According to a survey by Consumers Union, the publishers of Consumer Reports magazine, the median bill shock amount was $83.

Although consumers can already access their phone usage by requesting this information from their cell phone provider, the FCC survey found that almost 85 percent of American consumers who suffered bill shock were not alerted that they were about to exceed their allowed voice minutes, text messages, or data downloads.

In many cases, a simple alert message would help consumers avoid bill shock. That is why today I am introducing the Cell Phone Bill Shock Act of 2010.

My legislation would require that cell phone companies do two things; first, that they notify cell phone customers when they have used 80 percent of their limit of voice minutes, text messages, or data usage. This notification could be in the form of a text message or email, and should be free of charge. Secondly, this legislation would require cell phone companies to obtain a customer's consent before charging for services in excess of their limit of voice, text, or data usage. Customers could give such consent by calling or sending a free text message or e-mail to their phone company.

In the European Union, wireless phone companies already provide similar notifications when wireless consumers are roaming and when they reach 80 percent of their monthly data roaming services.

Earlier this year, Congress approved legislation to help consumers avoid bank overdraft fees from everyday debit card and ATM transactions. Banks must now obtain their customer's permission before allowing debit card transactions which would incur overdraft fees. My legislation extends that same concept to cell phone customers, who should benefit from similar protections against ''bill shock.''

The texting and Internet capabilities that make today's cell phones more useful than ever should be applied to help consumers avoid bill shock. Sending an automatic text notification to one's phone or an e-mail alert should not place a burden on cell phone companies. Passing my commonsense legislation will help prevent consumer's from facing ''bill shock'' problems in the future.

I look forward to working with my colleagues to pass this important legislation. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3872

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 ''Cell Phone Bill Shock Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) A recent survey conducted by the Federal Communications Commission found that 1 out of 6 consumers who subscribe to commercial mobile service has experienced ''bill shock'', which is the sudden increase in the monthly bill of a subscriber even though the subscriber has not made changes to their monthly service plan.

(2) Most consumers who experience bill shock do not receive notification from their provider of commercial mobile service when the consumer is about to exceed the monthly limit of voice minutes, text message, or data megabytes.

(3) Most consumers who experience bill shock do not receive notification from their provider of commercial mobile service that their bill has suddenly increased.

(4) Prior to the enactment of this Act, a provider of commercial mobile service was under no obligation to notify a consumer of such services of a pending or sudden increase in their bill for the use of such service.

(5) Section 332 of the Communications Act of 1934 (47 U.S.C. 332) requires that all commercial mobile service provider charges, practices, classifications, and regulations ''for or in connection with'' interstate communications service be just and reasonable, and authorizes the Federal Communications Commission to promulgate rules to implement this requirement.

SEC. 3. NOTIFICATION OF CELL PHONE USAGE LIMITS; SUBSCRIBER CONSENT.

(a) DEFINITION.—In this section, the term ''commercial mobile service'' has the same meaning as in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1)).

(b) NOTIFICATION OF CELL PHONE USAGE LIMITS.—The Federal Communications Commission shall promulgate regulations to require that a provider of commercial mobile service shall—

(1) notify a subscriber when the subscriber has used 80 percent of the monthly limit or prepaid amount of voice minutes, text messages, or data megabytes agreed to in the commercial mobile service contract of the subscriber;

(2) send, at no charge to the subscriber, the notification described in paragraph (1) in the form of a voice message, text message, or email; and

(3) ensure that such text message or email is not counted against the monthly limit or prepaid amount for voice minutes, text messages, or data megabytes of the commercial mobile service contract of the subscriber.

(c) SUBSCRIBER CONSENT.—The Federal Communications Commission shall promulgate regulations to require a provider of commercial mobile service shall—

(1) obtain the consent of a subscriber who received a notification under subsection (b) to use voice, text, or data services in excess of the monthly limit of the commercial mobile service contract of the subscriber before the provider may allow the subscriber to use such excess services; and

(2) allow a subscriber to, at no cost, provide the consent required under paragraph (1) in the form of a voice message, text message, or email that is not counted against the monthly limit or prepaid amount for voice minutes, text messages, or data megabytes of the commercial mobile service contract of the subscriber.

By Mr. WYDEN (for himself and Mr. HATCH):

S. 3876. A bill to amend the Internal Revenue Code of 1986 to extend and modify the alternative fuel vehicle refueling property credit; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased to join with my colleague from Utah, Senator ORRIN HATCH, in introducing legislation to renew an existing Federal program to provide tax incentives for the installation of equipment to refuel cars and trucks with alternative fuels including biodiesel, gasohol, electricity, compressed natural gas, propane, liquefied natural gas, and hydrogen.

The United States continues to import far more oil than we produce. Upwards of ⅔ of the oil we use is imported from other countries, many of whom do not have Americans' best interests at heart, or worse. Similarly, ⅔ of all of the oil used in the U.S. goes to power our cars, buses, and trucks. If the U.S. is going to reduce our dependence on imported oil, it is going to have to adopt alternative transportation technologies such as plug-in hybrid and all electric vehicles, fuel cells, and natural gas vehicles. Each of these alternative technologies has pluses and minuses in terms of their technical maturity, usefulness in different types of vehicles, cost, and the availability of refueling infrastructure to support them. This legislation only addresses the need for refueling and recharging infrastructure, but without a certainty that there will be places to refuel and recharge their alternative fueled vehicles Americans are not going to buy them. No one wants to run out of fuel while looking for a place to fill up.

This legislation extends an already existing tax credit, Sec. 30C of the Tax Code, which is intended to help defray the cost of installing new alternative refueling and recharging equipment. The current credit expires in a matter of a few months at the end of calendar year 2010. Given the critical need to cut our national appetite for imported oil, it is essential that Congress extend this tax credit. This legislation would extend the existing credit for another 4 years, until the end of 2014.

The legislation also makes several changes in the credit to make it more practical. For example, this bill would make it clear that a fueling station could obtain a separate credit for each type of alternative fuel that it chooses to distribute. Right now, the credit is capped at $50,000 per location regardless of the number of fuels that it may want to sell. The bill would also expand the base credit from $50,000 to $100,000 to bring it more in line with the actual cost of refueling and recharging equipment. Third, the bill would allow the credit to cover additional upgrades to building wiring or natural gas piping or other improvements that are necessary for the installation of the alternative fuel equipment, and expand the kinds of equipment that would be covered to include on-site fuel generation. The bill would also allow an option to obtain a smaller $10,000 credit for the installation of refueling devices, such as chargers for plug-in electric cars or slow-fill natural gas compressors, in lieu of the $100,000 credit per location. Finally, the bill would allow multiple owners of buildings, such as a condominium or a co-op, to share the credit.

Continued dependence on imported oil is an economic and national security danger. Giving Americans options to use alternative fueled vehicles is one major way in which to dramatically reduce this danger. This bill does not tell Americans which kind of car or truck to buy. It does not pick winners and losers from among already recognized alternative fuels. What it would do is make the availability of all alternative motor fuels more likely, and then the market will decide which technologies work best.

I urge other Senators to support this legislation and give Americans a real chance to cut our oil imports.

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. 3876

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

SECTION 1. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) EXTENSION.—Subsection (g) of section 30C of the Internal Revenue Code of 1986 is amended by striking ''placed in service—'' and all that follows and inserting ''placed in service after December 31, 2014''.

(b) INCREASED CREDIT.—

(1) CREDIT PERCENTAGE.—Subsection (a) of section 30C of the Internal Revenue Code of 1986 is amended by striking ''30 percent'' and inserting ''50 percent''.

(2) DOLLAR LIMITATIONS.—

(A) INCREASE AND PER DEVICE LIMITATION.—Paragraph (1) of section 30C(b) of such Code is amended to read as follows:

''(1) the greater of—

''(A) $100,000 for each type of clean-burning fuel (among all clean-burning fuels listed in subsection (c)(2)) utilized in property placed in service at the location by the taxpayer during the taxable year, or

''(B) $10,000 multiplied by the number of devices placed in service at the location by the taxpayer during the taxable year,

in the case of a property of a character subject to an allowance for depreciation, and''.

(B) NONDEPRECIABLE PROPERTY.—Paragraph (2) of section 30C(b) of such Code is amended by striking ''$1,000'' and inserting ''$2,000''.

(3) DEVICE.—Subsection (e) of section 30C of such Code is amended by adding at the end the following new paragraph:

''(7) DEVICE.—For the purposes of subsection (b)(1), the term 'device' means an individual item of property, whether a standalone item or part of property that includes multiple devices, which functions to refuel or recharge one alternative fuel vehicle at a time.''.

(4) CONFORMING AMENDMENT.—Paragraph (6) of section 30C(e) of such Code is amended—

(A) by inserting ''and which is placed in service before the date of the enactment of

paragraph (8)'' after ''hydrogen'' in subparagraph (A), and

(B) by striking ''$30,000'' in subparagraph (B) and inserting ''$100,000''.

(c) TREATMENT OF PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30C(d) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 25D and 30D) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENT.—Clause (ii) of section 30D(c)(2)(B) of such Code is amended by striking ''section 25D'' and inserting ''sections 25D and 30C''.

(d) TREATMENT OF PROPERTY USED BY TAX-EXEMPT ENTITY.—Paragraph (2) of section 30C(e) of the Internal Revenue Code of 1986 is amended—

(1) by striking the last sentence, and

(2) by inserting ''(including use by an Indian tribal government)'' after ''paragraph (3) or (4) of section 50(b)''.

(e) JOINT OWNERSHIP OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—Subsection (e) of section 30C of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by adding at the end the following new paragraph:

''(8) JOINT OWNERSHIP OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

''(A) IN GENERAL.—Any qualified alternative fuel vehicle refueling property shall not fail to be treated as such property solely because such property is placed in service with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any qualified alternative fuel vehicle refueling property which is placed in service with respect to 2 or more dwelling units, this section (other than this subparagraph) shall be applied separately with respect to the portion of such property attributable to each such dwelling unit.''.

(f) DEFINITION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

(1) IN GENERAL.—Paragraph (3) of section 179A(d) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) such property is—

''(A) for the generation, storage, compression, blending, or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the generation, storage, compression, or dispensing of such fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

''(B) for the recharging of motor vehicles propelled by electricity (including property relating to providing electricity for such recharging or otherwise necessary for such recharging property).''.

(2) BUILDING COMPONENTS.—Subsection (d) of section 179A of such Code is amended by striking ''and its structural components''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

By Mr. CARDIN (for himself and Mr. MCCAIN):

S. 3881. A bill to require the Secretary of State to identify individuals responsible for the detention, abuse, or death of Sergei Magnitsky or for the conspiracy to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against Hermitage, and to impose a visa ban and certain financial measures with respect to such individuals, until the Russian Federation has thoroughly investigated the death of Sergei Magnitsky and brought the Russian criminal justice system into compliance with international legal standards, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, I rise today to introduce the Justice for Sergei Magnitsky Act of 2010.

As Chairman of the Commission on Security and Cooperation in Europe, I first learned about Sergei Magnitsky at a hearing I held on Russia in June 2009.

Sergei Magnitsky was a young Russian anti-corruption lawyer employed by a prominent American law firm in Moscow who blew the whistle on the largest known tax rebate fraud in Russian history perpetrated by high level Russian officials. After discovering this complex and brazen corruption scheme, Sergei Magnitsky dutifully testified to the authorities detailing the conspiracy to defraud the Russian people of approximately $230 million and naming the names of those officials. Shortly after his testimony, Sergei was arrested by subordinates of the very law enforcement officers he had implicated in this crime. He was held in detention for nearly a year without trial under torturous conditions and died in an isolation cell while prison doctors waited outside his door on November 16, 2009.

In April of this year I sent a letter to our Secretary of State urging a visa ban for Russian officials connected to the death of Sergei Magnitsky. I also released a list of 60 senior officials from the Russian Interior Ministry, Federal Security Service, Federal Tax Service, Regional Courts, General Prosecutor's Office, and Federal Prison Service, along with detailed descriptions of their involvement in this matter. My bill reminds the Department of State that I have not forgotten and will not forget this issue. In fact, this bill goes a bit further adding an asset freeze provision to be applied against those implicated in this tragic affair.

Sergei Magnitsky, a lawyer with what should have been a promising career ahead of him died at age 37 leaving behind a mother, a wife, and two boys who never saw him or even heard his voice after his arrest. Since his death, no one has been held accountable and some of those involved even have been promoted. Also, there is strong evidence that the criminal enterprise that stole the money from the Russian treasury and falsely imprisoned and tortured Magnitsky, continues to operate. In fact, the American founding partner of Magnitsky's firm fled Russia for his safety in the months following his colleague's death after learning that a similar fraud scheme was attempted by the same criminals.

This is a heartbreaking story, and let me be clear, my bill does not even attempt to deliver justice as that would be impossible since nothing can bring Sergei back. There are obvious limits to what we can do as Americans, but we can deny the privilege of visiting our country and accessing our financial system. This bill sends a strong message to those who are currently acting with impunity in Russia that there will be consequences for corruption should you wish to travel and invest abroad. I hope others, especially in the EU, UK, and Canada will adopt similar sanctions.

This measure is also about the future and protecting our business interests abroad by making it clear that, even if your home country allows you to trample the rule of law, we will not stand by and become an unwitting accomplice in your crimes.

Sadly, Sergei Magnitsky joins the ranks of a long list of Russian heroes who lost their lives because they stood up for principle and for truth. These ranks include Natalia Estemirova, a brave human rights activist shot in the head and chest and stuffed into the trunk of a car, Anna Politkovskaya, an intrepid reporter shot while coming home with an armful of groceries, and too many others.

Often in these killings there is a veil of plausible deniability, gunmen show up in the dark and slip away into the shadows, but Sergei, in inhuman conditions managed to document in 450 complaints exactly who bears responsibility for his false arrest and death. We must honor his heroic sacrifice and do all we can to learn from this tragedy that others may not share his fate.

Few are made in the mold of Sergei Magnitsky—able to withstand barbaric depravations and cruelty without breaking and certainly none of us would want to be put to such a test. For those corrupt officials who abuse their office, Sergei's life stands as a rebuke to what is left of their consciences. To those who suffer unjustly, Sergei's experience can be a reminder to draw strength from and to know that they are not completely alone in their struggle.

In closing, I wish to address those prominent Russian human rights defenders who just a couple weeks ago appealed to our government and to European leaders to adopt the sanctions I called for in my April letter to Secretary Clinton. You are the conscience of Russia and we have heard your plea. You are not alone, and while you and your fellow citizens must do the heavy lifting at home, I assure you that ''human rights'' are not empty words for this body and for my government. I urge my colleagues to support this bill.

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

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

S. 3881

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 ''Justice for Sergei Magnitsky Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

(2) The Russian Federation—

(A) is a member of the United Nations, the Organization for Security and Cooperation in Europe, and the International Monetary Fund;

(B) has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the United Nations Convention against Corruption; and

(C) is bound by the legal obligations set forth in the European Convention on Human Rights.

(3) States voluntarily commit themselves to respect obligations and responsibilities through the adoption of international agreements and treaties, which must be observed in good faith in order to maintain the stability of the international order. Human rights are an integral part of international law, and lie at the foundation of the international order. The protection of human rights, therefore, particularly in the case of a country that has incurred obligations to protect human rights under an international agreement to which it is a party, is not left exclusively to the internal affairs of that country.

(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

(6) The President of the Russian Federation, Dmitry Medvedev, has addressed corruption in many public speeches, including stating in his 2009 address to Russia's Federal Assembly, ''[Z]ero tolerance of corruption should become part of our national culture. . . . In Russia we often say that there are few cases in which corrupt officials are prosecuted. . . . [S]imply incarcerating a few will not resolve the problem. But incarcerated they must be.''. President Medvedev went on to say, ''We shall overcome underdevelopment and corruption because we are a strong and free people, and deserve a normal life in a modern, prosperous democratic society.''. Furthermore, President Medvedev has acknowledged Russia's disregard for the rule of law and used the term ''legal nihilism'' to describe a criminal justice system that continues to imprison innocent people.

(7) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by the same officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage, reflects how deeply the protection of human rights is affected by corruption.

(8) The denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention, and the impunity of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution since his death, shows the politically motivated nature of the persecution of Mr. Magnitsky.

(9) Mr. Magnitsky died on November 16, 2009, at the age of 37, in Matrosskaya Tishina Prison in Moscow, Russia, and is survived by a mother, a wife, and 2 sons.

(10) There is extensive evidence that public officials from the Ministry of the Interior of the Russian Federation, the Russian federal tax authorities, the Prosecutor General's Office of the Russian Federation, and the Russian Federal Security Service, as well as regional courts and the prison system of the Russian Federation, have abused their powers and positions to commit serious human rights violations, embezzled funds from the Russian Treasury, and retaliated against whistleblowers.

(11) While he was in detention, Sergei Magnitsky called himself a hostage of officials who misappropriated companies from his client, the Hermitage Fund, and embezzled funds from the Russian Treasury. He said that his criminal prosecution, arrest, and detention were organized as a retribution by police officers who had the full knowledge of his innocence.

(12) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by Russian law to independently monitor prison conditions, concluded, ''A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been experiencing both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.''.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMITTED; ALIEN; SPOUSE.—The terms ''admitted'', ''alien'', and ''spouse'' have the meanings given those terms in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(3) FINANCIAL INSTITUTION; DOMESTIC FINANCIAL AGENCY; DOMESTIC FINANCIAL INSTITUTION.—The terms ''financial institution'', ''domestic financial agency'', and ''domestic financial institution'' have the meanings given those terms in section 5312 of title 31, United States Code.

(4) PARENT.—The term ''parent'' has the meaning given that term in section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)).

(5) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

SEC. 4. IDENTIFICATION OF INDIVIDUALS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY AND FOR THE CONSPIRACY TO DEFRAUD THE RUSSIAN FEDERATION OF TAXES ON CERTAIN CORPORATE PROFITS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of the Treasury, shall publish a list of each individual the Secretary has reason to believe—

(1) is responsible for the detention, abuse, or death of Sergei Magnitsky;

(2) conspired to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against the foreign investment company known as Hermitage and to misappropriate entities owned or controlled by Hermitage; or

(3) participated in efforts to conceal the detention, abuse, or death of Sergei Magnitsky described in paragraph (1) or the existence of the conspiracy described in paragraph (2).

(b) UPDATES.—The Secretary of State shall update the list required by subsection (a) as new information becomes available.

(c) NOTICE.—The Secretary of State shall, to the maximum extent practicable, provide notice and an opportunity for a hearing to an individual before the individual is placed on the list required by subsection (a).

SEC. 5. INADMISSIBILITY OF CERTAIN INDIVIDUALS.

(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien—

(1) is an individual on the list required by section 4(a); or

(2) is the spouse, son, daughter, or parent of an individual on that list.

(b) CURRENT VISAS REVOKED.—The Secretary of State shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a).

(c) WAIVER FOR NATIONAL INTERESTS.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if the Secretary determines that such a waiver is in the national interests of the United States. Upon granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

SEC. 6. FINANCIAL MEASURES.

(a) SPECIAL MEASURES.—The Secretary of the Treasury shall instruct domestic financial institutions and domestic financial agencies to take 1 or more special measures described in section 5318A(b) of title 31, United States Code, if the Secretary of the Treasury makes a determination under section 5318A of such title with respect to money laundering relating to the conspiracy described in section 4(a)(2).

(b) FREEZING OF ASSETS.—The Secretary of the Treasury shall freeze and prohibit all transactions in all property and interests in property of an individual that are in the United States, that come within the United States, or that are or come within the possession or control of a United States person if the individual—

(1) is on the list required by section 4(a); or

(2) acts as an agent of or on behalf of an individual on the list in a matter relating to an act described in paragraph (1), (2), or (3) of section 4(a).

(c) WAIVER FOR NATIONAL INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) or (b) if the Secretary determines that such a waiver is in the national interests of the United States. Upon granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

(d) REGULATORY AUTHORITY.—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

(e) ENFORCEMENT.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

SEC. 7. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on the actions taken to carry out this Act.

(b) UPDATES.—The Secretary of State and the Secretary of the Treasury shall submit an updated version of the report required by subsection (a) as new information becomes available.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 9. TERMINATION.

The provisions of this Act shall cease to be effective on the date on which the Secretary of State and the Secretary of the Treasury certify to the appropriate congressional committees that—

(1) the Government of the Russian Federation has conducted a thorough and impartial investigation into—

(A) the detention, abuse, and resulting death in custody of Sergei Magnitsky; and

(B) the conspiracy (described in section 4(a)(2)) to defraud the Russian Federation of taxes on corporate profits and to misappropriate entities owned or controlled by Hermitage; and

(2) the investigation described in paragraph (1) was properly conducted, transparent, and free of political influence;

(3) the individuals responsible for the detention, abuse, or resulting death of Sergei Magnitsky or for the conspiracy referred to in paragraph (1)(B) have been brought to justice according to the laws of the Russian Federation and pursuant to the international legal obligations of the Russian Federation; and

(4) the Government of the Russian Federation—

(A) has taken significant steps to bring the criminal justice system and penal system of the Russian Federation into compliance with applicable international legal standards;

(B) has substantially strengthened statutory protections for individuals who disclose evidence of illegal government activities; and

(C) has recognized the contribution of Sergei Magnitsky to the fight against corruption and for the rule of law.

COMMISSION ON SECURITY
AND COOPERATION IN EUROPE,
Washington, DC, April 26, 2010.

Hon. HILLARY RODHAM CLINTON,
Secretary of State, Washington, DC.

DEAR SECRETARY CLINTON: I am writing to request the immediate cancelation of U.S. visas held by a number of Russian officials and others who are involved in significant corruption in that country and who are responsible for last year's torture and death in prison of the Russian anti-corruption lawyer, Sergei Magnitsky, who testified against them. While there are many aspects of this case which are impossible to pursue here in the United States, one step we can take, however, is to deny the individuals involved in this crime and their immediate family members the privilege of visiting our country. The United States has a clear policy of denying entry to individuals involved in corruption, and it is imperative that the U.S. Department of State act promptly on this matter.

By way of brief background, on June 23, 2009, the Helsinki Commission heard testimony from the CEO of Hermitage Capital, Bill Browder, about a major crime committed by senior Interior Ministry officials in Russia, along with others in the Russian government and private sector. The crime, which involved a fraudulent $230 million tax refund paid to the criminal group, was exposed by Hermitage's lawyer, Sergei Magnitsky. Through Mr. Browder's testimony we heard about the plight of Mr. Magnitsky, who, after discovering the crime, chose to testify against the Interior Ministry officers who had carried it out. One month after his testimony he was arrested in front of his wife and two young children in his Moscow home by a team of Interior Ministry troopers reporting directly to the officers Mr. Magnitsky had accused.

Since our June hearing, this story has taken a tragic turn for the worse. As highlighted in the 2009 State Department Country Report of Human Rights in Russia, Sergei Magnitsky was tortured in an attempt to force him to withdraw his testimony and to incriminate himself and his client. His detailed letters from prison attest to the inhuman conditions in which he was kept for nearly a year without a trial. During the course of his imprisonment he developed gallstones and pancreatitis, but was denied any medical attention as he continued to refuse to withdraw his testimony. On the night of November 16, 2009, he died awaiting trial.

Sergei Magnitsky's family were denied an independent autopsy by the Russian authorities, who claimed he died of natural causes. Members of Moscow's independent Prison Oversight Commission, a local watchdog group, described Magnitsky's death as ''intentional'' and ''murder'' and highlighted the role of government officials and prison administrators in his torture. Since the death, a number of prison officials have been fired, but no one has been prosecuted for his torture or death, nor for participating in the corruption he exposed.

While there is a limit to the direct action our government can take in this case, we can take the concrete action to ensure those public officials and others who share responsibility for this crime should be denied entry visas to the United States. As you know, the United States has the policy of prohibiting individuals involved in corruption from visiting our country, and the State Department is mandated by the President to achieve this aim. Pursuant to Presidential Proclamation 7750 (''To Suspend Entry as Immigrants or Nonimmigrants of Persons Engaged in or Benefiting From Corruption'' (12 January 2004)).

The colleagues of Sergei Magnitsky and his attorneys have provided to the Helsinki Commission a list of those individuals involved in the $230 million tax refund fraud and the subsequent torture and death of Sergei Magnitsky. The list includes senior officials from the Russian Interior Ministry, Federal Security Service, Federal Tax Service, Arbitration Courts, General Prosecutor Office, and Federal Prison Service, along with detailed descriptions of their involvement.

On this basis, I urge you to immediately cancel and permanently withdraw the U.S. visa privileges of all those involved in this crime, along with their dependents and family members. Doing so will provide some measure of justice for the late Mr. Magnitsky and his surviving family and will send an important message to corrupt officials in Russia and elsewhere that the U.S. is serious about combating foreign corruption and the harm it does. It will also help to protect U.S. companies operating in Russia who risk falling prey to similar schemes in the future.

Sincerely,

BENJAMIN L. CARDIN,
Chairman.

By Mr. PRYOR (for himself and Mr. ALEXANDER):

S. 3884. A bill to require the use of electronic on-board recording devices in motor carriers to improve compliance with hours of service regulations; to the Committee on Commerce, Science, and Transportation.

Mr. PRYOR. Mr. President, I come to the floor today to introduce legislation with Senator ALEXANDER of Tennessee that I believe will have a dramatic impact on the safety of our Nation's highways and interstates, called the Commercial Driver Compliance Improvement Act. This bill will require the Department of Transportation's Federal Motor Carrier Safety Administration, FMCSA, to implement regulations requiring the use of electronic on-board recording devices, EOBRs, for motor carriers in order to improve compliance with Hours-of-Service, HOS, regulations. Requiring the use of these technologies in motor carriers will not only improve compliance with HOS regulations, but it will also reduce the number of fatigued commercial motor vehicle drivers on the road. This will have a profound impact on highway safety and reduce accidents and fatalities on our highways and interstates.

Hours-of-Service regulations place limits on when and how long commercial motor vehicle drivers may drive. These regulations are based on an exhaustive scientific review and are designed to ensure truck drivers get the necessary rest to drive safely. In developing HOS rules the FMCSA reviewed existing fatigue research and worked with nongovernmental organizations like the Transportation Research Board of the National Academies and the National Institute for Occupational Safety. HOS regulations are designed to continue the downward trend in truck driving fatalities and maintain motor carrier operational efficiencies.

Unfortunately, compliance with HOS regulations is often spotty due to inaccurate reporting by drivers as they are

only required to fill out a paper log, a tracking method that dates back to the 1930s. Inaccurate reporting may result from an honest mistake or an intentional error by a driver seeking to extend his work day. These inaccuracies can lead to too much time on the road leaving the driver fatigued and placing other drivers at risk. After listening to the many interest groups and experts on this issue in meetings and Commerce, Science and Transportation Committee hearings, I have come to learn that there is an available and affordable 21st century technology that can ensure accurate logs, enhance compliance, and reduce the number of fatigued drivers on the road. They are being used today, and they are producing results. I believe that widespread utilization of these devices as soon as possible will significantly reduce further loss of life resulting from driver fatigue.

Our legislation will require motor carriers to install in their trucks an electronic device that performs multiple tasks to ensure compliance with HOS regulations. These devices must be engaged to the truck engine control module and capable of identifying the driver operating the truck, recording a driver's duty status, and monitoring the location and movement of the vehicle. Requiring electronic log books that are integrally connected to the vehicle engine as this bill requires will dramatically increase the accuracy of information submitted for hours of service compliance. Our bill will also require these recording devices to be tamper resistant and fully accessible by law enforcement personnel and federal safety regulators only for purposes of enforcement and compliance reviews.

While I understand that some drivers may be reluctant to transition to electronic logging devices, I strongly believe that the safety benefits of the use of these devices far outweigh the costs. I don't want to see more lives lost due to driver fatigue resulting from log book manipulation. I also believe that with the rapid development of electronic technology, especially in the wireless telecommunications area, we will see strong competition among EOBR manufacturers and reduced costs for these technologies. In addition, the price of these products should go down as the demand increases through regulatory requirement to utilize this equipment.

In order to protect the privacy of the driver, an issue which I know is a major concern among truck drivers, this legislation would explicitly provide privacy protections for use of information beyond enforcement and compliance monitoring. Ownership of data is protected for the owner of the vehicle or the person entitled to possession of the vehicle as the lessee.

Senator ALEXANDER and I are not alone in calling for this technology to be more widely used by commercial vehicles. There are a number of Senators, including Senator LAUTENBERG, who have long been strong proponents of implementing the use of this technology. In addition, multiple federal agencies and nongovernmental organizations have recognized the benefits of this technology and called for its widespread use.

For example, Mr. Francis France of the Commercial Vehicle Safety Alliance witness stated at the April 28, 2010, Senate Committee on Commerce, Science, and Transportation hearing on Oversight of Motor Carrier Safety Efforts that:

> All motor vehicles should be equipped with EOBRs to better comply with Hours of Service laws . . . CVSA has been working with a broad partnership to help provide guidance to achieve uniform performance standards for EOBRs.

Similarly, the Chairman of the National Transportation Safety Board, the Honorable Deborah Hersman, stated at the same hearing that:

> For the past 30 years, the NTSB has advocated the use of onboard data recorders to increase Hours of Service compliance . . . the NTSB recommended that they be required on all commercial vehicles.

During the same hearing, Ms. Jacqueline S. Gillan, with the Advocates for Highway and Auto Safety stated that:

> We regard the mandatory, universal installation and use of EOBRs as crucial to stopping the epidemic of hours of service violations that produce fatigued, sleep-deprived commercial drivers . . . at very high risk of serious injury and fatal crashes.

I have also heard from Administrator Ferro of the FMCSA on her thoughts of how EOBRs would enhance compliance and improve highway safety. The FMCSA recently implemented a rule to require that these devices be mandated for truck drivers and trucking companies that have been found to be noncompliant with FMCSA rules. These rules will be effective in June 2012. It is my understanding that they are looking to expand these requirements to include more motor carriers, and I support those efforts as they reflect the qualities and intent of this legislation.

Finally, in addition to the support from safety advocates and Federal transportation safety officials, I have also heard from a number of Arkansas trucking companies currently utilizing this technology. These companies have experienced reductions in driver fatigue, increases in compliance, and reductions in insurance premiums. The executives of these companies, which include J.B. Hunt and Maverick U.S.A. among others, support the expanded use of these devices to increase compliance, improve highway safety, and level the playing field among the industry. I agree with their views on the importance of widespread utilization of this safety and compliance device.

The Commercial Driver Compliance Improvement Act, if enacted, will require the Department of Transportation to issue regulations within 18 months from enactment to require commercial motor vehicles used in interstate commerce to be equipped with electronic onboard recorders for purposes of improving compliance with hours of service regulations. The regulation will apply to commercial motor carriers, commercial motor vehicles, and vehicle operators subject to both hours of service and record of duty status requirements three years after the date of enactment of this act. This population represents a vast majority of drivers and carriers who operate trucks weighing 10,001 pounds or more involved in interstate commerce. It will cover one hundred percent of over-the-road, long-haul truck drivers.

I urge my colleagues in the Senate to recognize the importance of this technology in saving lives on our nation's highways and interstates. I also ask for their support for this legislation and help in moving it to the President as quickly as possible. While I understand our time in the 111th Congress is quickly shrinking as the number of legislative days are limited, it is my hope that we move this legislation through the Senate no later than the Surface Transportation Reauthorization legislation that the Senate will take up in the near future.

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. 3884

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 ''Commercial Driver Compliance Improvement Act''.

SEC. 2. ELECTRONIC ON-BOARD RECORDING DEVICES.

(a) AMENDMENTS.—Subchapter III of chapter 311 of title 49, United States Code, is amended—

(1) in section 31132—

(A) by redesignating paragraphs (2) through (11) as paragraphs (4) through (13), respectively; and

(B) by inserting after paragraph (1) the following:

''(2) 'driving time' has the meaning given such term under section 395.2 of title 49, Code of Federal Regulations.

''(3) 'electronic on-board recording device' means an electronic device that—

''(A) is capable of recording a driver's duty hours of service and duty status accurately and automatically; and

''(B) meets the requirements under section 395.16(b) of title 49, Code of Federal Regulations.''; and

(2) in section 31137—

(A) in the section heading by striking ''**Monitoring device**'' and inserting ''**Electronic on-board recording devices**''; and

(B) by amending subsection (a) to read as follows:

''(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—

''(1) REQUIREMENT.—All commercial motor vehicles involved in interstate commerce and subject to both the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, shall be equipped with an electronic on-board recording device to improve compliance with hours of service regulations under such part.

''(2) LIMITATIONS OF INFORMATION RETRIEVAL.—

''(A) IN GENERAL.—Data recorded by an electronic on-board recording device that meets the requirements under part 395 of title 49, Code of Federal Regulations, is not admissible in any civil, criminal, or administrative proceeding for any purpose other than establishing compliance or noncompliance with the applicable Federal hours-of-service rules governing the maximum driving time and minimum off-duty time applicable to motor carriers and drivers.

''(B) APPLICABILITY TO CIVIL AND CRIMINAL PROCEEDINGS.—The prohibition under subparagraph (A) shall apply to any civil or criminal action or proceeding, whether in Federal or State court, and to any administrative action, whether by Federal or State authorities, unless—

''(i) the owner consents to the retrieval of the information; or

''(ii) the information—

''(I) is retrieved by a government motor vehicle safety agency or law enforcement agency to determine compliance with hours of service regulations under part 395 of title 49, Code of Federal Regulations, and enforcing penalties for violating hours of service regulations under such part; and

''(II) is not used by any person or entity other than a government motor vehicle agency for the purposes set forth in subclause (I) without owner consent.

''(C) DEFINED TERM.—In this paragraph, the term 'owner' means a person or entity—

''(i) in whose name the motor vehicle, which is equipped with the device from which the data is retrieved, is registered or titled; or

''(ii) entitled to possession of the motor vehicle as lessee pursuant to a written lease or rental agreement.''.

(b) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect on the effective date of the final regulations prescribed by the Secretary of Transportation pursuant to section 3.

SEC. 3. RULEMAKING.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall prescribe final regulations to carry out section 31137 of title 49, United States Code, as amended by section 2.

(b) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed by the Secretary under this section shall establish performance and design standards that require each electronic on-board recording device—

(1) to be integrally linked or communicate with the vehicle's engine control module;

(2) to identify each individual who operates the vehicle;

(3) to accurately record driving time;

(4) to provide real-time tracking of the vehicle's location;

(5) to enable law enforcement personnel to access the information contained in the device during roadside inspections; and

(6) to be tamper resistant.

(c) ADDITIONAL REQUIREMENTS.—The regulations prescribed by the Secretary under this section shall—

(1) define a standardized user interface to aid vehicle operator compliance and law enforcement reviews;

(2) establish a secure process for standardized and unique vehicle operator identification, data access, data transfer for vehicle operators between motor vehicles, data storage for motor carriers, and data transfer and transportability for law enforcement;

(3) establish a standard security level for electronic on-board recording devices to be tamper resistant; and

(4) establish a process for approving eligible electronic on-board recorder systems.

(d) EFFECTIVE DATE; APPLICABILITY.—The regulations prescribed under this section shall apply to all motor carriers, commercial motor vehicles, and vehicle operators subject to both the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, beginning on the date that is 3 years after the date of the enactment of this Act.

By Mr. LIEBERMAN:

S. 3885. A bill to provide incentives for States and local educational agencies to implement comprehensive reforms and innovative strategies that are designed to lead to significant improvement in outcomes for all students and significant reductions in achievement gaps among subgroups of students, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise today to introduce the Race to the Top Act of 2010. Congressman JARED POLIS is introducing companion legislation in the House today. The Race to the Top Act will authorize the continuation of the highly successful Race to the Top, RTTT, program which was established by the American Recovery and Reinvestment Act, and expand that program to school districts. RTTT calls for competitive grants from states and school districts that invest in bold educational reforms designed to bring about significant improvement in academic outcomes for all students and significant reductions in achievement gaps. Our bill will authorize the act for 2011 and the succeeding 5 years.

When No Child Left Behind, NCLB, was signed into law 9 years ago, we made a national commitment to fix our educational system—a system in which low-income minority students were performing significantly below their higher-income peers. We made a commitment to bring an end to unacceptable achievement gaps and to ensure that each and every child—regardless of race, nationality or family income—could succeed in our public schools and graduate with the skills necessary for success in college or the workforce. Despite the commitments we made, unacceptable achievement gaps persist in our country today. Still today our public schools are not preparing our students to succeed in college and the workforce. Each year, 30 percent of American students fail to receive their high school diploma on time, and graduation rates are consistently lower for minority students. One-third of our students who do graduate from high school are not college ready, and in international standardized tests involving students from 30 nations, 14-year-olds in the United States rank 25th in mathematics and 21st in science. Improving public education and closing student achievement gaps remains one of the most important issues of our time. We have made some progress, but until we have equal and excellent educational opportunities for all of our children, regardless of ethnicity or income, we have not done our job. While, in many ways, NCLB moved us in the right direction, it needs to be updated. I believe the time is long overdue for Congress to tackle reauthorization of the Elementary and Secondary Education Act, which was the underlying law to NCLB, and continuing the Race to the Top program should be part of this debate.

The positive impact of RTTT, in a very short period of time, is evident and impressive. We have engaged states, school districts, unions, teachers, parents, and students in the mission of a better education for all of our children. RTTT has without a doubt helped to focus the country's attention on school reform.

The competition for RTTT money has already had a significant impact on state and local educational policies across the nation. It has incentivized states to implement high, internationally benchmarked, core standards and to create a positive climate for public charter schools. RTTT recognizes the essential role teachers play in education and has prompted states to get serious about teacher effectiveness, distribution, evaluation, and accountability. And RTTT has prompted states to improve policies aimed at turning around America's lowest performing schools. In sum, RTTT has encouraged states to make real progress towards closing the unacceptable achievement gaps that persist and to improve the state of public education for all students.

Under Race to the Tops: 46 States and DC developed statewide reform plans; 15 States changed laws to increase their ability to intervene in their lowest performing schools; 22 States enacted laws to improve teacher quality, including alternative certification, effectiveness and evaluation systems; 36 States and DC have adopted high college- and career-ready standards; 15 States have altered laws or policies to create or expand the number of charter schools.

RTTT is working. We know it is benefiting states that were successful in receiving funds but it is also working for states that did not receive funds, simply because those states have already enacted changes that will improve education. Many States remain committed to their new educational reforms regardless of their success in achieving RTTT funding. Students in many States will be better off because of the important policy changes enacted as a result of RTTT. Rarely have we witnessed so much change in educational policy in such a short period of time.

I know some officials in my home state, Connecticut, were disappointed about not being selected as a RTTT winner. But I do believe the children in Connecticut were winners because we have strengthened our state laws, policies, and curriculum to lift our charter school caps, improve STEM education,

and strengthen our teacher evaluation process. I commend the state and local leaders that collaborated in the process. If we continue the RTTT program, as our bill would do, more States, and now districts, will be winners and we can continue this movement towards important educational reform.

RTTT has been an effective catalyst for educational reform and has encouraged all stakeholders in states to come together and work together to improve state agendas. It is essential that we keep the momentum of the first two waves of Race to the Top moving forward. Since our goal is to make all schools high quality schools, the real winner in the RTTT competition will be the students across America.

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

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

S. 3885

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 ''Race to the Top Act of 2010''.

SEC. 2. RACE TO THE TOP.

(a) IN GENERAL.—Title VI of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7301 et seq.) is amended—

(1) by redesignating part C as part D;

(2) by redesignating sections 6301 and 6302 as sections 6401 and 6402, respectively; and

(3) by inserting after part B the following:

''PART C—RACE TO THE TOP

''SEC. 6301. PURPOSES.

''The purposes of this part are to—

''(1) provide incentives for States and local educational agencies to implement comprehensive reforms and innovative strategies that are designed to lead to—

''(A) significant improvements in outcomes for all students, including improvements in student achievement, secondary school graduation rates, postsecondary education enrollment rates. and rates of postsecondary education persistence; and

''(B) significant reductions in achievement gaps among subgroups of students; and

''(2) encourage the broad identification, adoption, use, dissemination, replication, and expansion of effective State and local policies and practices that lead to significant improvement in outcomes for all students, and the elimination of those policies and practices that are not effective in improving student outcomes.

''SEC. 6302. RESERVATION OF FUNDS.

''From the amounts made available under section 6308 for a fiscal year, the Secretary may reserve not more than 10 percent to carry out activities related to technical assistance, monitoring, outreach, dissemination, and prize awards that support the purposes of this part.

''SEC. 6303. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—From the amounts made available under section 6308 for a fiscal year and not reserved under section 6302, the Secretary shall award grants, on a competitive basis, to States or local educational agencies, or both, in accordance with section 6304(b), to enable the States or local educational agencies to carry out the purposes of this part.

''(b) GRANT AND SUBGRANT ELIGIBILITY LIMITATIONS.—

''(1) ARRA STATE INCENTIVE GRANTS.—A State that has received a grant under section 14006 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 283) may not receive a grant under this part during the period of its grant under such section.

''(2) NUMBER OF GRANTS.—A State or local educational agency may not receive more than 1 grant under this part per grant period.

''(3) NUMBER OF SUBGRANTS.—A local educational agency may receive 1 grant and 1 subgrant under this part for the same fiscal year.

''(c) DURATION OF GRANTS.—

''(1) IN GENERAL.—A grant under this part shall be awarded for a period of not more than 4 years.

''(2) CONTINUATION OF GRANTS.—A State or local educational agency that is awarded a grant under this part shall not receive grant funds under this part for the second or any subsequent year of the grant unless the State or local educational agency demonstrates to the Secretary, at such time and in such manner as determined by the Secretary, that the State or local educational agency, respectively, is—

''(A) making progress in implementing the plan under section 6304(a)(3) at a rate that the Secretary determines will result in the State or agency fully implementing such plan during the remainder of the grant period; or

''(B) making progress against the performance measures set forth in section 6305 at a rate that the Secretary determines will result in the State or agency reaching its targets and achieving the objectives of the grant during the remainder of the grant period.

''SEC. 6304. APPLICATIONS.

''(a) APPLICATIONS.—Each State or local educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. At a minimum, each such application shall include—

''(1) documentation of the applicant's record, as applicable—

''(A) in increasing student achievement, including for all subgroups described in section 1111(b)(2)(C)(v)(II);

''(B) in decreasing achievement gaps, including for all subgroups described in section 1111(b)(2)(C)(v)(II);

''(C) in increasing secondary school graduation rates, including for all subgroups described in section 1111(b)(2)(C)(v)(II);

''(D) in increasing postsecondary education enrollment and persistence rates, including for all subgroups described in section 1111(b)(2)(C)(v)(II); and

''(E) with respect to any other performance measure described in section 6305 that is not included in subparagraphs (A) through (D);

''(2) evidence of conditions of innovation and reform that the applicant has established and the applicant's proposed plan for implementing additional conditions for innovation and reform, including—

''(A) a description of how the applicant has identified and eliminated ineffective practices in the past and the applicant's plan for doing so in the future;

''(B) a description of how the applicant has identified and promoted effective practices in the past and the applicant's plan for doing so in the future; and

''(C) steps the applicant has taken and will take to eliminate statutory, regulatory, procedural, or other barriers and to facilitate the full implementation of the proposed plan under this paragraph;

''(3) a comprehensive and coherent plan for using funds under this part, and other Federal, State, and local funds, to improve the applicant's performance on the measures described in section 6305, consistent with criteria set forth by the Secretary, including how the applicant will, if applicable—

''(A) improve the effectiveness of teachers and school leaders, and promote equity in the distribution of effective teachers and school leaders, in order to ensure that low-income and minority children are not taught by ineffective teachers, and are not in schools led by ineffective leaders, at higher rates than other children;

''(B) strengthen the use of high-quality and timely data to improve instructional practices, policies, and student outcomes, including teacher evaluations;

''(C) implement internationally benchmarked, college- and career-ready elementary and secondary academic standards, including in the areas of assessment, instructional materials, professional development, and strategies that translate the standards into classroom practice;

''(D) turn around the persistently lowest-achieving elementary schools and secondary schools served by the applicant;

''(E) support or coordinate with early learning programs for high-need children from birth through grade 3 to improve school readiness and ensure that students complete grade 3 on track for school success; and

''(F) create or maintain successful conditions for high-performing charter schools and other innovative, autonomous public schools;

''(4)(A) in the case of an applicant that is a State—

''(i) evidence of collaboration between the State, its local educational agencies, schools (as appropriate), parents, teachers, and other stakeholders, in developing the plan described in paragraph (3), including evidence of the commitment and capacity to implement the plan; and

''(ii)(I) the names of the local educational agencies the State has selected to participate in carrying out the plan; or

''(II) a description of how the State will select local educational agencies to participate in carrying out the plan; or

''(B) in the case of an applicant that is a local educational agency, evidence of collaboration between the local educational agency, schools, parents, teachers, and other stakeholders, in developing the plan described in paragraph (3), including evidence of the commitment and capacity to implement the plan;

''(5) the applicant's annual performance measures and targets, consistent with the requirements of section 6305; and

''(6) a description of the applicant's plan to conduct a rigorous evaluation of the effectiveness of activities carried out with funds under this part.

''(b) CRITERIA FOR EVALUATING APPLICATIONS.—

''(1) AWARD BASIS.—The Secretary shall award grants under this part on a competitive basis, based on the quality of the applications submitted under subsection (a), including—

''(A) each applicant's record in the areas described in subsection (a)(1);

''(B) each applicant's record of, and commitment to, establishing conditions for innovation and reform, as described in subsection (a)(2);

''(C) the quality and likelihood of success of each applicant's plan described in subsection (a)(3) in showing improvement in the areas described in subsection (a)(1), including each applicant's capacity to implement the plan and evidence of collaboration as described in subsection (a)(4); and

''(D) each applicant's evaluation plan as described in subsection (a)(6).

''(2) EXPLANATION.—The Secretary shall publish an explanation of how the application review process under this section will ensure an equitable and objective evaluation based on the criteria described in paragraph (1).

''(c) PRIORITY.—In awarding grants to local educational agencies under this part, the Secretary shall give priority to—

''(1) local educational agencies with the highest numbers or percentages of children from families with incomes below the poverty line; and

''(2) local educational agencies that serve schools designated with a school locale code of 41, 42, or 43.

''SEC. 6305. PERFORMANCE MEASURES.

''Each State and each local educational agency receiving a grant under this part shall establish performance measures and targets, approved by the Secretary, for the programs and activities carried out under this part. These measures shall, at a minimum, track the State's or local educational agency's progress in—

''(1) implementing its plan described in section 6304(a)(3); and

''(2) improving outcomes for all subgroups described in section 1111(b)(2)(C)(v)(II) including, as applicable, by—

''(A) increasing student achievement;

''(B) decreasing achievement gaps;

''(C) increasing secondary school graduation rates;

''(D) increasing postsecondary education enrollment and persistence rates;

''(E)(i) improving the effectiveness of teachers and school leaders, increasing the retention of effective teachers and school leaders; and

''(ii) promoting equity in the distribution of effective teachers and school leaders in order to ensure that low-income and minority children are not taught by ineffective teachers, and are not in schools led by ineffective leaders, at higher rates than other children; and

''(F) making progress on any other measures identified by the Secretary.

''SEC. 6306. USES OF FUNDS.

''(a) GRANTS TO STATES.—Each State that receives a grant under this part shall use—

''(1) not less than 50 percent of the grant funds to make subgrants to the local educational agencies in the State that participate in the State's plan under section 6304(a)(3), based on such local educational agencies' relative shares of funds under part A of title I for the most recent year for which those data are available; and

''(2) not more than 50 percent of the grant funds for any purpose included in the State's plan under section 6304(a)(3).

''(b) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives a grant under this part shall use the grant funds for any purpose included in the local educational agency's plan under section 6304(a)(3).

''(c) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives a subgrant under this part from a State shall use the subgrant funds for any purpose included in the State's plan under section 6304(a)(3).

''SEC. 6307. REPORTING.

''(a) ANNUAL REPORTS.—A State or local educational agency that receives a grant under this part shall submit to the Secretary, at such time and in such manner as the Secretary may require, an annual report including—

''(1) data on the State's or local educational agency's progress in achieving the targets for the performance measures established under section 6305;

''(2) a description of the challenges the State or agency has faced in implementing its program and how it has addressed or plans to address those challenges; and

''(3) findings from the evaluation plan as described in section 6304(a)(6).

''(b) LOCAL REPORTS.—Each local educational agency that receives a subgrant from a State under this part shall submit to the State such information as the State may require to complete the annual report required under subsection (a).

''SEC. 6308. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $1,350,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 5 succeeding fiscal years.''.

(b) CONFORMING AMENDMENTS.—The table of contents for the Elementary and Secondary Education Act of 1965 (20 U.S.C.7301 et seq.) is amended—

(1) by striking the items relating to part C of title VI; and

(2) by inserting after the item relating to section 6234 the following:

''PART C—RACE TO THE TOP

''Sec. 6301. Purposes.
''Sec. 6302. Reservation of funds.
''Sec. 6303. Program authorized.
''Sec. 6304. Applications.
''Sec. 6305. Performance measures.
''Sec. 6306. Uses of funds.
''Sec. 6307. Reporting.
''Sec. 6308. Authorization of appropriations.

''PART D—GENERAL PROVISIONS

''Sec. 6401. Prohibition against Federal mandates, direction, or control.
''Sec. 6402. Rule of construction on equalized spending.''.

By Mr. FRANKEN (for himself and Mr. LEMIEUX):

S. 3888. A bill to make improvements to the Fair Debt Collection Practices Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FRANKEN. Mr. President, we have big problems in the debt collection industry that are long overdue in being addressed. Before I even begin, I wish to preface my remarks by saying when someone takes out a loan, they ought to pay it back. I have no intention of making it easier for people to skip out on legitimate debts. But we also cannot sit idly by as debt collectors prey on good people who have always tried to do the right thing.

In 1977, by my calculations 33 years ago, Congress passed the Fair Debt Collection Practices Act to protect consumers from abusive practices by debt collectors. But times have changed and that law needs updating.

Congress did not foresee the abuses that would arise as the growing debt collection industry found ways around the intent of the law to make a profit on the backs of hard-working Americans. All around our country, there are numerous stories of people being taken advantage of by unscrupulous debt collectors. The debt collectors do not let the law or common decency stop them from doing whatever it takes for them to make a buck.

Those abuses include nasty and harassing calls, including the use of racial slurs and going after innocent people for debts they do not owe. In my State alone, and you can find similar stories from all over the country, consumers have been subjected to endless collection attempts over debts they do not recognize or debts they do not believe ever existed, debts that have already been paid, debts owed by different people, and debts that have been dramatically inflated.

Just this week, I met a man from Minnesota who was repeatedly harassed by debt collectors for a debt he did not owe. And in spite of the evidence he provided, it did not stop until he got a lawyer. Debt collectors have time and money on their side, and now some are even exploiting scarce law enforcement resources to go after unsuspecting Minnesotans. Debt collection firms are preying on people with good intentions. But without the time and money to figure out their rights and to fight back, this is basically a David and Goliath situation, but here, usually Goliath is the one that wins.

For some people, this bad situation spirals into an even worse nightmare. The problems in the debt collection industry first came to my attention in June, when my hometown newspaper, the Star Tribune, began a series on the subject about the story about the Minnesotans who have landed in jail because debt collectors were pursuing them for a debt.

One woman who told her story, a Minneapolis resident, spent a full day in jail over a $250 credit card debt. During that day she was treated like a criminal, groped by an inmate, and offered drugs by another, and slept in a room with a dozen other women, sharing a toilet with no privacy.

Here is what she told the newspaper.

We hear every day about how there is no money for public services. But it seems like the collectors have found a way to get the police to do their work.

She is right. These rogue debt collectors are gaming the system and using law enforcement resources for the sole purpose of corporate profit. Then there is the story of a woman from Richfield, MN, a suburb south of Minneapolis, who was arrested one day recently because she had defaulted on a credit card in 2006. A debt-buying company had bought up her old credit card debt and started sending collection notices. But she ignored them because she had never heard of that company. The next thing you know, she was stopped on the road and arrested.

This harassment and abuse needs to be stopped. That is why Senator LEMIEUX and I are introducing the End Debt Collector Abuse Act, which would forbid debt collectors from seeking the arrest of a consumer in pursuit of payment. The court can initiate it, just not the debt collector.

It would also require the debt collectors to provide consumers with, get this, basic information upfront such as an itemization of principle, fees, and interest that make up the debt, so that consumers can recognize a debt, determine whether the collectors' claim is accurate, and exercise their rights.

This bill will also require the debt collectors provide the name of the original creditor upfront so we can avoid cases such as that women from Richfield, who received collection notices from a company she had never heard of and, quite reasonably, ignored them. It is just common sense to make sure that debt collectors provide this sort of basic information upfront so these misunderstandings do not happen.

In the case a consumer does identify an inaccuracy with a debt claim, some debt collectors currently do little or nothing in terms of investigating whether the consumer's dispute is correct. For that reason, this bill would require the collectors conduct a thorough investigation when a consumer contacts them about a mistake. The collector would then have to provide the consumer with specific evidence about the dispute.

Finally, the End Debt Collector Abuse Act would increase the penalties for violating consumer rights in order to crack down on the rogue debt collectors who have been blatantly and willfully ignoring current Federal prohibitions against harassing calls and other abusive practices.

In this tough economy, Minnesotans are suffering enough right now and they deserve to have the basic protections against abusive debt collective practices. I urge my colleagues to join Senator LEMIEUX and me in supporting this bill so we can stop the abuse and harassment of hard-working Americans by rogue debt collection firms.

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

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

S. 3888

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 ''End Debt Collector Abuse Act of 2010''.

SEC. 2. ENHANCED VALIDATION NOTICES.

(a) IN GENERAL.—Section 809(a) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(a)) is amended—

(1) in paragraph (4), by striking ''and'' at the end; and

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

''(5) the date of the last payment to the creditor on the subject debt by the consumer and the amount of the debt at the time of default;

''(6) the name and address of the last person to extend credit with respect to the debt;

''(7) an itemization of the principal, fees, and interest that make up the debt and any other charges added after the date of the last payment to the creditor;

''(8) a description of the rights of the consumer—

''(A) to request that the debt collector cease communication with the consumer under section 805(c); and

''(B) to have collection efforts stopped under subsection (b); and

''(9) the name and contact information of the person responsible for handling complaints on behalf of the debt collector.''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 3. DISPUTE INVESTIGATIONS AND VERIFICATION.

Section 809(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(b)) is amended—

(1) by inserting after ''(b)'' the following: ''DISPUTED DEBTS.—

''(1) IN GENERAL.—''; and

(2) by striking ''Collection activities'' and inserting the following:

''(2) REASONABLE INVESTIGATION AND VERIFICATION REQUIRED.—Upon receipt of a notification under paragraph (1) that a debt is disputed by the consumer, the debt collector shall undertake a thorough investigation of the substance of the dispute, and shall timely provide to the consumer specific responsive information and verification of the disputed debt.

''(3) COLLECTION ACTIVITIES.—Collection activities''.

SEC. 4. AWARD OF DAMAGES.

(a) ADDITIONAL DAMAGES INDEXED FOR INFLATION.—

(1) IN GENERAL.—Section 813 of the Fair Debt Collection Practices Act (15 U.S.C. 1692k) is amended by adding at the end the following:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) INITIAL ADJUSTMENT.—Not later than 90 days after the date of the enactment of this subsection, the Commission shall provide a percentage increase (rounded to the nearest multiple of $100 or $1,000, as applicable) in the amounts set forth in such section equal to the percentage by which—

''(A) the Consumer Price Index for All Urban Consumers (all items, United States city average) for the 12-month period ending on the June 30 preceding the date on which the percentage increase is provided, exceeds

''(B) the Consumer Price Index for the 12-month period preceding January 1, 1978.

''(2) ANNUAL ADJUSTMENTS.—With respect to any fiscal year beginning after the date of the increase provided under paragraph (1), the Commission shall provide a percentage increase (rounded to the nearest multiple of $100 or $1,000, as applicable) in the amounts set forth in this section equal to the percentage by which—

''(A) the Consumer Price Index for All Urban Consumers (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) the Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).''.

(2) APPLICABILITY.—The increases made under section 813(f) of the Fair Debt Collection Practices Act, as added by paragraph (1) of this subsection, shall apply with respect to failures to comply with a provision of such Act (15 U.S.C. 1601 et seq.) occurring on or after the date of enactment of this Act.

(b) INJUNCTIVE RELIEF.—Section 813(d) of the Fair Debt Collection Practices Act (15 U.S.C. 1692k(d)) is amended by adding at the end the following: ''In a civil action alleging a violation of this title, the court may award appropriate relief, including injunctive relief.''.

SEC. 5. SEEKING A WARRANT FOR ARREST OF DEBTOR AS AN UNFAIR DEBT COLLECTION PRACTICE.

(a) IN GENERAL.—Section 808 of the Fair Debt Collection Practices Act (15 U.S.C. 1692f) is amended by adding at the end the following:

''(9) A request by a debt collector to a court or any law enforcement agency for the issuance of a warrant for the arrest of a debtor or any other similar request that a debt collector knows or should know would lead to the issuance of an arrest warrant, in relation to collection of a debt.''.

(b) CONSTRUCTION.—Paragraph (9) of such section 808, as added by subsection (a), shall not be construed to limit a court's inherent authority to hold a debtor in civil contempt, nor to limit a debt collector's ability to seek a writ of execution or similar remedy to take possession of property in order to satisfy a valid judgment of debt.

The following have endorsed the End Debt Collector Abuse Act:

National Consumer Law Center, Consumers Union; National Consumers League, Center for Responsible Lending, Service Employees International Union (SEIU), The Leadership Conference on Civil and Human Rights, National Association of Consumer Advocates, National Council of La Raza, Consumer Action, National Association for the Advancement of Colored People (NAACP), Minnesota Attorney General Lori Swanson, Legal Services Advocacy Project (Minnesota), Family Partnership (Minnesota), Minneapolis Urban League, Minnesota Community Action Partnership, Jewish Community Action (Minnesota), Housing Preservation Project (Minnesota), Lutheran Social Services of Minnesota—Financial Counseling Services, Catholic Charities' Office for Social Justice (Minnesota), Twin Cities Habitat for Humanity (Minnesota), Downtown Congregations to End Homelessness (Minnesota), Metropolitan Consortium of Community Developers (Minnesota).

By Mr. DODD (for himself and Mr. BURR):

S. 3895. A bill to protect students from inappropriate seclusion and physical restraint, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Keeping All Students Safe Act to create a safe environment for students and school personnel by creating minimum standards around the use of seclusion and restraint in schools. In December, I introduced a similar bill. But today, I come to the floor with my good friend and colleague Senator BURR, with a revised act that incorporates additional protections for students.

In 1998, the Hartford Courant ran an award-winning series of stories about the use of seclusion and restraint in hospitals, residential facilities, and group homes for individuals with psychiatric and developmental disabilities. The Courant uncovered a hidden epidemic, confirming 142 deaths occurring during or after the use of seclusion or restraint.

One of those 142 cases was an 11-year-old boy from my home State of Connecticut. He was restrained face-down in a position that restricted his air flow. He died as a result.

In response, I led the charge to establish Federal standards to prevent the misuse of these practices. I helped pass The Children's Health Act of 2000, which included the Compassionate Care Act that I originally drafted to put these standards in place in certain hospitals and residential facilities. We

wanted to include schools in this legislation, but were unable to do so. Sadly, the need could not have been greater.

Over the past year, reports from the National Disability Rights Network, NDRN, the Alliance to Prevent Restraint, Aversive Interventions, and Seclusion, APRAIS, the Council of Parent Attorneys and Advocates, Inc., COPAA, and the Government Accountability Office, GAO, have painted a picture disturbingly similar to the one the Hartford Courant discovered more than a decade ago.

The statistics are chilling—hundreds of incidents of physical injury, psychological trauma, even death—but the stories are even more devastating.

The GAO found many examples of the inappropriate use of seclusion and restraint in the report it released on May 19, 2009.

A 14 year-old boy was restrained facedown by a teacher because he would not stay seated in class. The 230 lb. teacher sat on the 129 lb. boy, restricting his airflow and resulting in the boy's death.

A 4 year-old girl with cerebral palsy and autism was restrained in a wooden chair with leather straps for being ''uncooperative.''

In one school district, children with disabilities as young as six years old were allegedly placed in strangleholds, restrained for extended periods of time, confined to dark rooms, and tethered to ropes and prevented from using the restroom until they urinated on themselves.

To be clear, school personnel go to work every day with the goal of educating children, not harming them. I have the utmost respect and appreciation for the difficult job they do and want to make it clear that my concern signifies no disrespect for their challenging jobs, or the dangers they sometimes face.

However, these tragic stories reflect inadequate training and a lack of resources on the state and local levels to implement effective interventions, such as school-wide positive behavioral interventions and supports. According to a report by COPPA, over 71 percent of the 185 incidents they identified occurred in schools with no positive behavioral interventions or supports. If school personnel are provided with the necessary tools to prevent dangerous situations, the number of incidents requiring restraint and seclusion will decrease.

Just as students have a right to learn in a safe environment, educators have a right to work in a safe environment. They should be provided with the proper training and support to prevent injury to themselves and others.

In some states, parents have successfully advocated for laws that provide these resources, as well as guidelines to ensure that they are used effectively.

But the patchwork of state laws and regulations is confusing and especially troublesome for transient students.

According to the GAO study, 19 states have no law or regulations concerning seclusion and restraint in schools. Some laws apply to only certain schools or situations, and some apply to restraint but not seclusion. Only 19 states require parental notification, only 17 states require staff training, and only eight specifically prohibit restraints that restrict air flow.

Therefore, Senator BURR and I will today introduce the Keeping All Students Safe Act, a bill that will address these issues.

Our bill will establish clear minimum standards for the use of restraint and seclusion in schools, closely based on the Children's Health Act of 2000. It will also provide resources to assist with policy implementation and provide school personnel with necessary tools, training, and support.

It will improve data collection, analysis, and identification of effective practices to prevent and reduce seclusion and restraint in schools, so we may better understand the scope of the problem and the effectiveness of our solutions.

Specifically, the legislation will prohibit the use of seclusion and restraint in schools unless a student's behavior poses an immediate danger of serious physical injury and less restrictive interventions would be ineffective.

It will prohibit the use of mechanical, chemical, and physical restraints that restrict air flow to the lungs.

This legislation will require adequate training and state certification of school personnel imposing seclusion or restraint, immediate parental notification when such an incident occurs, and a debriefing session to prevent future incidents.

As a result of this act, the Department of Education will conduct, and provide to Congress, a national assessment that analyzes data on seclusion and restraint and determines effective practices in preventing and reducing the number of incidents. This assessment will provide us with a more accurate picture of the extent of seclusion and restraint in schools, and will help direct additional future efforts to ensure that our children and those who educate them are safe.

The Keeping All Students Safe Act includes language that solidifies Protection and Advocacy agencies', P&A, abilities to serve the students who are in need of protection. This legislation is meant to ensure that these P&As are spending their time and resources protecting our Nation's children in schools, and not in court about this already settled issue.

Finally, this legislation will amend the Elementary and Secondary Education Act, as well as the Higher Education Act, to provide additional planning for and training on the use of positive behavioral interventions and supports.

I want to thank the many organizations representing individuals with disabilities, students, teachers, and schools that all came to the table with recommendations. Their time, energy, and input made this a much stronger and more effective bill, and I truly appreciate their hard work and support. I am especially thankful for Senator BURR'S commitment to this issue and his insights that have strengthened the bill. I am also grateful to Secretary Duncan for his leadership on this issue at the Department of Education. Finally, I want to thank my colleague and good friend, Chairman GEORGE MILLER in the House of Representatives. Earlier this year, he introduced companion legislation that passed the House in March. Senator BURR and I look forward to working with him to pass this into law.

Every child has a right to be safe in the place where he or she goes to learn and grow. Every educator deserves the training and support he or she needs to do his or her job safely and effectively. The Keeping All Students Safe Act will help to prevent tragedies in our schools. I am proud to introduce it today, and I urge my colleagues to join me.

By Mr. GOODWIN:

S. 3896. A bill to protect children against hazards associated with swallowing button cell batteries by requiring the Consumer Product Safety Commission to promulgate a consumer product safety standard to require child-proof closures on remote controls and other consumer electronic products that use such batteries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. GOODWIN. Mr. President, today I am pleased to introduce the Access to Button Cell Batteries Act. This legislation will ensure that the small batteries we find in everything from car keys to musical greeting cards are properly secured, and kept out of the hands of our children.

There is no question that technological progress makes our everyday activities a little easier. Such advancement has allowed for small batteries to be powerful enough to run many of today's devices, creating less bulky products.

Unfortunately, with advanced technology comes a new potential hazard. Many may not know the possible consequences when a child gets their hands on these tiny batteries.

Although many of these incidents are relatively harmless, should a child find one of these small button batteries, the consequences can be much, much worse—even deadly. We have discovered that battery ingestion has caused 13 deaths and numerous injuries, and from 1985 to 2009, there was an almost 7-fold increase in the percentage of ingestions with severe outcomes. This is unacceptable, and it is time for action.

Lithium cell batteries, some the size of a penny, are a growing concern. Beyond the choking risk to children, the real issue is what happens when they

are swallowed. The batteries can cause internal burns, and lasting damage can occur in just a couple of hours. These injuries can cause death or lifelong injuries including damaged vocal cords or torn intestinal tracts that require surgeries or feeding tubes.

The Access to Button Cell Batteries Act would require the Consumer Product Safety Commission to initiate a rule requiring that compartments on small battery products be properly secured.

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. 3896

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 ''Access to Button Cell Batteries Act of 2010''.

SEC. 2. CONSUMER PRODUCT SAFETY STANDARD FOR BUTTON CELL BATTERY ACCESS.

(a) DEFINITIONS.—In this section:

(1) BATTERY-OPERATED OR ASSISTED CONSUMER ELECTRONIC PRODUCT.—The term ''battery-operated or assisted consumer electronic product'' means a remote control, clock, musical greeting card, automobile key, flashlight, or other consumer product powered in whole or in part by a button cell battery that is designed, manufactured, and sold primarily for use by consumers in or around their homes or motor vehicles.

(2) BUTTON CELL BATTERY.—The term ''button cell battery'' means—

(A) a lithium cell battery that is 32 millimeters or less in diameter; or

(B) any other battery of that size, regardless of the technology used to produce an electrical charge, as determined by the Consumer Product Commission.

(3) CONSUMER PRODUCT.—The term ''consumer product'' has the meaning given the term in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052).

(b) STANDARD REQUIRED.—Not later than 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall promulgate, as a final consumer product safety standard under section 7(a) of the Consumer Product Safety Act (15 U.S.C. 2056(a)), a standard that requires button cell battery compartments of battery operated or assisted consumer electronic products be secured, to the greatest extent practicable, in a manner that reduces access to button cell batteries by children that are 3 years of age or younger.

(c) EXPEDITED RULEMAKING.—

(1) IN GENERAL.—The standard required by subsection (b) shall be promulgated in accordance with section 553 of title 5, United States Code.

(2) INAPPLICABILITY OF CERTAIN PROMULGATION REQUIREMENTS.—The requirements of subsections (a) through (f) and (g)(1) of section 9 of the Consumer Product Safety Act (15 U.S.C. 2058) shall not apply to the promulgation of the standard required by subsection (b) of this section.

(d) EFFECTIVE DATE.—The final consumer product safety standard required by subsection (b) shall apply to battery-operated or assisted consumer electronic products manufactured on or after the date that is 1 year after the date on which the Commission promulgates such standard.

By Mr. COBURN (for himself, Mr. LEMIEUX, Mr. INHOFE, and Mr. DEMINT):

S. 3900. A bill to reduce waste, fraud, and abuse under the Medicare, Medicaid, and CHIP programs, and for other purposes; to the Committee on Finance.

Mr. COBURN. Mr. President, today, I, along with Senators LEMIEUX, DEMINT, and INHOFE, am introducing the FAST Act. At the same time, this same bill is being introduced in the U.S. House of Representatives by Representative PETER ROSKAM. Both of us were present at the White House summit with the President.

What the FAST Act does is attack the $100 billion worth of waste and fraud in Medicare, Medicaid, and SCHIP.

In the President's February 22, 2010 proposal for health reform, President Obama endorsed several Republican proposals designed to combat waste, fraud, and abuse in Medicare and Medicaid. While some anti-fraud provisions were included in the health care overhaul that passed Congress, these Republican proposals were not fully included.

Today, along with Senators LEMIEUX, DEMINT, and INHOFE, I am introducing the ''Fighting Fraud and Abuse to Save Taxpayers' Dollars'' or ''FAST'' Act. An identical bill is also being introduced today in the U.S. House of Representatives by Representative PETER ROSKAM, who also attended the White House health summit. The FAST Act notionally represents the Republican solutions the President endorsed to combat waste in Medicare and Medicaid as, as well as a bipartisan provision to reduce from by removing Social Security numbers from Medicare cards.

The status quo in Medicaid and Medicare is unsustainable and unacceptable. American taxpayers lose $60 to $100 billion in waste, fraud, and abuse in Medicare and Medicaid each year. Congress and the administration must do a better job of working to staunch this flow of taxpayer dollars that goes to crooks instead of providing care.

The current system was designed to be defrauded. And under the status quo today, organized crime affiliates and criminal gangs are bilking billions of taxpayer dollars from Medicare each year because it is so easy to defraud the system. HHS' Inspector General told Congress recently that a street gang in California has defrauded Medicare to the tune of $11 million by establishing a fake company and billing Medicare for expensive items like wheel chairs and oxygen supplies. The American people ought to be outraged and should not stand for this.

Imagine how we could improve Medicare's solvency if we could recoup two-thirds of the known fraud and abuse in the program each year. We could save $400 billion over a decade, just by preventing fraud.

But the loss of taxpayer dollars due to waste and fraud under Medicare and Medicaid not only threatens the financial viability of programs, they erode the public trust. American taxpayers should not be expected to tolerate rampant waste, fraud, and abuse in publicly-funded health care programs.

The new Federal health overhaul that Congress passed earlier this year dramatically expands Medicaid, significantly changes Medicare, creates new regulations, and will send hundreds of billions of dollars to insurance companies. Without improvements to current anti-fraud efforts, taxpayers could be at risk to even more money.

Congress and the Administration must do a more effective job in combating waste, fraud, and abuse in public health care programs and protecting the American taxpayer dollars. This bill is not a magic bullet, but I believe it offers a common-sense step forward to reduce fraud, waste, and abuse in our Nation's largest two health care programs. This bill gives increases data sharing, stiffens penalties, and pilots new ways of combating egregious fraud.

I sincerely hope politicians and bureaucrats can put the public interest ahead of their own. Congress and the administration cannot afford to continue to tolerate such fraud in Medicare and Medicaid. I look forward to working with any member of Congress who is serious about reducing waste, fraud, and abuse in public health care programs.

Just think for a minute what would happen to Medicare solvency if, in fact, we could recoup two-thirds of the fraud and inappropriate payments that are ongoing. It is straightforward. Many of the ideas in this were embraced by the President at our meeting.

It is my hope that the Senate will look at this and, in a bipartisan fashion, jump on board to fix a problem that is undermining one of our possible solutions to health care, which is that the Medicare trust fund is belly up.

There has been a lot of work done on this by Democrats and Republicans in the Senate. It is my hope we will have their consent and cosponsorship for the bill.

By Mr. HATCH:

S. 3901. A bill to promote enforcement of immigration laws and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce the Strengthening Our Commitment to Legal Immigration and America's Security Act. Our immigration system is broken and needs reform. We can make progress by starting with the laws that already exist. My bill would enhance our core immigration and enforcement laws for both legal and illegal immigrants.

Much has been discussed this Congress on how to proceed on the very complex and, unfortunately at times, partisan issue of immigration reform. Some have introduced non-binding resolutions others have tried to attach

immigration-related measures to nongermane legislative vehicles. But, we're never going to get anywhere with these political stunts which do little to get to the root the problem.

Throughout my service, I have spent considerable time with my constituents and, quite frankly, have anguished with them on how to best address the considerable strain the illegal alien population is having on Utahns. Among other things, I have taken the initiative to increase immigration enforcement in Utah include bringing ICE Quick Response teams to our state, creating an immigration court, and establishing an ICE Field Office Director position to address Utah's immigration concerns. I also brought the 287(g) cross-deputizing program and just recently the Secure Communities program to Utah.

There is no question that more needs to be done. That is something everyone will agree on. Just recently legislation was enacted to enhance border security. I was pleased that this was a bipartisan effort. Some argue that the bill is sufficient to secure our border, but I disagree. There is much work to be done before the border is properly sealed. I continue to work with and support my colleagues whose states are located along the Southwest border. They know what resources we need to deploy to secure the border.

While Utah is not a border state, we still share the same concerns of our neighbors along the border. However, our problems result from a residual effect of a porous border and a breakdown of our immigration enforcement system.

For years, I have been saying most immigration problems could be solved if we would enforce the laws on the books. Unfortunately, the current Administration continues to explore ways to exploit current law and score political points.

During the past several months, the Obama administration has been holding behind-the-scenes talks to determine whether the Department of Homeland Security can unilaterally grant legal status, on a mass basis, to illegal immigrants via deferred action and parole. If the Administration is successful, it would be the equivalent of back-door amnesty for millions. For this reason, my bill specifies that an alien may only be paroled or granted deferred action on a case-by-case basis—not en mass—the way these laws were intended to be used.

The 287(g) and Secure Communities programs continue to be valuable tools to our law enforcement officials in detaining and deporting criminal aliens. For example, in Fiscal Year 2010, the 287(g) program was responsible for detaining 29,295 criminal aliens. What I don't understand is why some cities would choose to not participate in these effective programs. That is why my proposed legislation would require eligible states, counties, or cities to actively participate in the Secure Communities or 287(g) programs or forego compensation for incarceration expenses. Turning a blind eye to these law enforcement programs poses a serious risk to the public and creates sanctuary cities.

When I meet with my constituents, one of their top concerns is how we fix our visa programs. Many are concerned, and with good cause, about how some of these folks are getting into the country. Disturbingly, some visa holders are active participants in organized crime. They come to this country and infiltrate our communities, wreaking havoc in our neighborhoods.

In an effort to address this problem, my bill would provide our State Department consular officers the necessary legal authority to deny members of known gangs from coming into our country. It's not acceptable to allow these thugs to slip through the cracks.

After 9/11, many areas of our immigration system came under scrutiny. One of the top recommendations for reform to our system is to create an exit procedure for foreign visitors to the United States. Departure information is vital for determining whether foreign visitors are departing the U.S., maintaining their visa status, and evaluating future visa eligibility for these visitors. Not to mention, the ability to track departures goes to the heart of keeping America safe.

Without such exit procedures, however, the task of determining whether an alien has overstayed their visa in the United States is nearly impossible. Since 2004, the Department of Homeland Security has been testing exit programs and departure controls at U.S. airports for visa holders leaving the United States. As recently as July 2009, another pilot program was concluded by the Department of Homeland Security. To date, we still haven't seen any implementation of exit procedures for our country's visitors, nor have we seen any final conclusions made by the Department. It has been over 6 years since the first pilot program concluded. It is time to act.

Thus, my bill would require the Secretary of Homeland Security to create a mandatory exit procedure for foreign visitors to the United States. This should have been done years ago.

Additionally, the proposed legislation would eliminate the fraud-laden visa lottery, known as the Diversity Visa program. At present, applicants of the visa lottery program are open to being defrauded by so-called service providers who offer to assist them in obtaining Diversity Visa status. Unlike other immigrant visa categories, this is one of the few visas that allows people to immigrate to the United States without having any connection to the country. In other words, the applicants may not have any family, employment, or even provide an economic tie to the United States. And because of limited availability of verification, the program presents serious national security concerns.

Let me be clear: if anyone is a proponent of a diverse nation, one that enjoys the influence of many cultures, it is me. But what we have right now in the visa lottery program does not accomplish the intended goal.

After careful consultation with State Department officials, I have been advised that the Diversity Visa program needs serious reform, and some have even called for complete elimination of the program. In light of this guidance, I propose to sunset the Diversity Visa program, unless the State Department recommends to Congress how best to combat fraud and eliminate abuse currently in the program.

One of the most heated issues that is continually raised by my constituents, and many across the country, is the impact that illegal aliens are having upon our welfare programs. It came to my attention that Los Angeles County, California, actually tracks this information. Much to my amazement, L.A. County confirms that in 2009 alone, they distributed over $2.4 billion in Federal-State welfare and food stamp programs. Of that amount, $569 million was issued to households that include illegal aliens. Let me reiterate: the illegal alien population in L.A. County received over a half-billion dollars of welfare benefits in one year alone.

In order to have an honest discussion about the drain illegal aliens are having upon our welfare systems, we must be armed with state-specific information to understand the extent of this problem.

Thus, my bill would require the Secretary of Health and Human Services, in consultation with the Department of Homeland Security and any other appropriate Federal agency, to submit an annual report to Congress outlining the total dollar amount of Federal welfare benefits received by households of illegal aliens for each state and the District of Columbia. The annual report would also include the overall dollar amount each state spends on Federal welfare benefits.

Without having this information, we will continue to dismiss the serious economic ramifications to our country's prosperity. We cannot afford to perpetuate this problem any longer.

My legislation also includes a provision which revisits the legal immigrant policy included in the Children's Health Insurance Program Reauthorization Act of 2009, P.L. 111–3. The CHIP Reauthorization law overturned language requiring a 5-year waiting period before legal immigrants may be eligible for federal health coverage. The 5-year waiting period was included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104–193. As my colleagues will recall, the 1996 Welfare Reform Act required sponsors of legal immigrants to be responsible for individuals' expenses during the first 5 years of residency in our country. States had the option of offering legal immigrants CHIP and Medicaid coverage with State only dollars. In other words, States could not

receive Federal matching dollars for covering these legal immigrants.

The 2009 CHIP law overturned that policy. Today, States may still cover legal immigrant children and pregnant women who have been in the U.S. less than 5 years. However, the big difference is states now receive Federal matching dollars for covering those individuals.

The provision in the bill I am introducing today would permit states to continue receiving federal matching dollars for covering legal immigrant children and legal immigrant pregnant women but two conditions must be met. First, the state must demonstrate that it has covered 90 percent of its U.S. citizen children and pregnant women eligible for CHIP or Medicaid. These individuals' family income may not exceed 200 percent of the Federal poverty level. Second, the State must demonstrate that it is not supplanting state dollars which were being used to cover legal immigrants prior to passage of the 2009 CHIP reauthorization law with Federal dollars.

Another top concern I regularly hear about is identity theft—that of both adults and children who have to spend a great amount of their time and money to clear their good names and restore their credit history.

In 2006, parents of Utah 2-year old Tyler Lybbert realized their daughter's identity had been stolen by 38-year old Jose Tinoco. By the time the Lybberts became aware of the fraud, Mr. Tinoco had already taken out two loans and opened credit cards—saddling Tyler with over $15,000 in debt. Little Tyler was left holding the bag.

Fortunately, when Mr. Tinoco tried to obtain a loan from a local Utah bank, an employee spotted the discrepancy and alerted Tyler's parents. Mr. Tinoco was caught, but the Lybberts were left with countless hours of work to correct the fraud perpetrated against their child.

This past weekend, the Utah press reported on another identity theft case. A newly married radiology student at Weber State University has been battling to reclaim his identity for the last 15 years. When Cameron Noble was 7 years old his Social Security number was stolen by Mr. Jose Zavala of California—an over 60-year-old man.

Noble's parents thought they had corrected the error but when Cameron began working at the age of 16 he started receiving notices that his wages were being garnished to pay child support. The problem has continued to haunt him ever since—in the form of tax withholdings and credit report confusion. He is now nearing the end of the process to obtain a new Social Security number.

It is not a secret that many in the illegal immigrant community perpetuate identity theft with stolen or fabricated Social Security numbers, SSN. The identity theft they commit often affects the very young—who may not notice problems for years or decades until they are old enough to apply for their first job, car or school loan, or credit card.

As in little Tyler Lybbert's case, why did it take a bank employee to pick up on the theft? Because there is no formal system established to alert SSN holders when potential fraud or improper usage have occurred.

The federal agency that is best suited to track the use of mismatched SSN numbers is the Internal Revenue Service, IRS. That is why my bill requires the IRS to send a notice to an employer that an inaccurate SSN has been discovered for an employee. If the employer does not respond to the notice within 60-days to correct the inaccuracy, my legislation will require the IRS to notify the SSN holder or to parents and guardians of a minor, that a discrepancy has been detected and to do the following: if it is an actual mismatch to contact the IRS; if they suspect fraudulent use, the SSN holder is provided with contact information for the FTC and various credit bureaus to report the problem; and finally if no response is received by the SSN holder, the IRS would be required to refer the account number to appropriate Federal agencies for possible investigation.

Let me pause here to underscore a point. Currently, the original SSN holder never receives notice when a mismatch has occurred. Quite frankly, I do not have the assurances that the IRS is requiring much of the employer to correct or verify the submission. That is not acceptable. In this day and age, when at a click of a mouse, someone can apply for credit cards, mortgages, or even car loans, there is no excuse why SSN holders are left in the dark.

One can only imagine that if this simple notification step was taken in the case of little Tyler Lybbert or the Noble family that years of laborious efforts and countless hours of notifying credit bureaus, banks, and other authorities, could have been greatly reduced if not avoided all together.

To make matters more confusing in this area of the law, the Supreme Court has more or less tied the hands of prosecutors in going after these thieves and those who are involved in so-called document mills. The case of Flores-Figueroa v. United States undermined prosecutors' longstanding practice of using the aggravated identity theft statute by requiring them to also prove that a defendant knew that he or she was using a real person's identity information, as opposed to counterfeit information not connected to an actual person.

To clarify the Criminal Code and provide our prosecutors with the latitude they need to pursue these cases, my bill makes clear that defendants who possess or otherwise use identity information not their own, without lawful authority, and in the commission of another felony is still punishable for aggravated identity fraud, regardless of the defendants' ''knowledge'' of the victim.

Finally, my bill's identity theft would require the Secretary of the Treasury, the Chairman of the FTC, and the Commissioner of Social Security to conduct a study to determine the most feasible and cost-effective ways to protect the credit worthiness of individuals, especially that of children.

Mexican Cartel drug violence has been placed front and center by the media and members of this body. Some of my fellow colleagues have called for more resources directed to this problem. As additional federal law enforcement personnel and military units continue to be deployed to the southwest border the focus has been on weapons, drug interdiction and bulk cash smuggling. While I recognize the importance of these border enforcement activities, too little attention is being paid to outdoor marijuana cultivation by Mexican drug trafficking organizations.

Outdoor marijuana cultivation by Mexican drug trafficking organizations is causing increasing environmental damage, especially on publicly owned lands. From 2004–2009 more than 11 million marijuana plants have been eradicated from federal public lands. Outdoor marijuana cultivation is the chief source of revenue for Mexican drug trafficking organizations.

Growing marijuana in the U.S. saves traffickers the risk and expense of smuggling their product across the border and allows gangs to produce their crops closer to local markets. Illegal alien workers are smuggled in from Mexico to serve as laborers and provide security to the grow plots. Mexican gang plots can often be distinguished from those of domestic-based growers based on their plant volume and security measures. Many of the plots are encircled with crude explosives and are patrolled by armed illegal aliens providing security for the crop.

In my home State of Utah, the Drug Enforcement Administration and local law enforcement have seized more than 110,000 marijuana plants this year. Each plant can yield one pound of marijuana with a street value of $1,000. These remote plots were on federal land and nestled under the cover in a national forest or hidden high in the rugged-yet-fertile tracts of federal land. All of the sites were far from the eyes of law enforcement, where growers can take the time needed to grow far more potent marijuana. Growers of these fields have even created irrigation systems to disrupt or divert water sources. They even use illegal fertilizers that damage the environment and the local eco-system.

In one recent incident in Garfield County, Utah an illegal alien grow worker was armed with a shotgun and confronted six teenage girls who inadvertently hiked into the marijuana field. The worker brandished a shotgun and demanded to use their cell phone. Fortunately, the group of girls were able to run away from this armed man

and prevented what could have been a very tragic outcome. The girls were quite traumatized and reported the incident to local police. The Drug Enforcement Administration and the local authorities apprehended the man a short time later.

So far this year in Utah, as a result of joint investigative efforts between Federal, State and local law enforcement, 20 arrests have been made in connection with the outdoor cultivation of marijuana on Federal lands. Out of the 20 arrests made, 19 were illegal aliens. This is not a problem that is unique to Utah. Other States with substantial federal lands are also seeing a spike in marijuana cultivation by Mexican drug trafficking organizations, including Colorado, California, Idaho, Nevada, Oregon and Michigan.

It is for this reason why my legislation would provide tougher penalties for cultivating marijuana on federal lands and destroying the environment. Provisions of this legislation would also require the Office of National Drug Control Policy to formulate a comprehensive and coordinated action plan to address marijuana cultivation on Federal lands. This plan will be a broad strategic approach to disrupt Mexican drug trafficking organizations' central source of revenue and a key reason for organized alien smuggling.

The fight to control the border is no longer isolated to just the physical boundary between the United States and Mexico. Securing the border now means addressing Mexican cartels; prohibiting mass deferral or parole; streamlining the visa process; requiring participation in key law enforcement programs; clamping down on identity theft; tracking the amount of welfare benefits being diverted by illegal immigrant households; ensuring that dollars are being used to cover newly eligible American children in CHIP and Medicaid; and keeping our great national parks and Federal lands safe and free from drug traffickers, drug cultivation, and environmental damage.

Let me conclude by saying this bill represents key issues that are important to my Utah constituents and Americans across the country. They are common sense solutions to strengthen our commitment to legal immigration and American's security. I urge my colleagues to put partisanship aside and support this bill.

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. 3901

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 ''Strengthening Our Commitment to Legal Immigration and America's Security Act''.

SEC. 2. DEFERRED ACTION AND PAROLE.

Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended by adding at the end the following:

''(C) Notwithstanding any other provision of law, an alien may only be paroled into the United States or granted deferred action of a final order of removal on a case-by-case basis for urgent humanitarian reasons or significant public benefit.''.

SEC. 3. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7);

(2) in paragraph (7), as so redesignated, by striking ''paragraph (5)'' and inserting ''paragraph (6)''; and

(3) by inserting after paragraph (4) the following:

''(5) A State, county, city, or township that is eligible to participate in Secure Communities or to cross-designate local law enforcement officers to perform immigration law enforcement functions under section 287(g) and does not participate in such programs may not receive compensation for incarceration expenses under this subsection.''.

SEC. 4. VISA REFORM.

(a) VISA INELIGIBILITY FOR ORGANIZED CRIME MEMBERS.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

''(J) ALIENS ENGAGED IN ORGANIZED CRIME.—Any alien who the consular officer or the Attorney General knows or has reason to believe is a member of a known criminal organization that regularly engages in transnational criminal activity, is inadmissible.''.

(b) EXIT PROCEDURES FOR FOREIGN VISITORS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of State and the aviation industry, as appropriate, shall create a mandatory exit procedure for foreign visitors, based upon—

(1) the results of the programs piloted by United States Customs and Border Protection to track the departure of foreign visitors, including US–VISIT; and

(2) the feasibility and benefits of the departure confirmation systems tested under such exit pilot programs.

(c) ELIMINATION OF THE DIVERSITY VISA PROGRAM.—

(1) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by striking subsection (c).

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151) is amended as follows:

(A) In section 201 (8 U.S.C. 1151)—

(i) in subsection (a)—

(I) in paragraph (1), by adding ''and'' at the end; and

(II) in paragraph (2), by striking ''; and'' at the end and inserting a period; and

(ii) by striking subsection (e).

(B) In section 203 (8 U.S.C. 1153)—

(i) in subsection (d), by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)'';

(ii) in subsection (g), by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)''; and

(iii) in subsection (h)(2)(B), by striking ''subsection (a), (b), or (c)'' and inserting ''subsection (a) or (b)''.

(C) Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended by striking subparagraph (I).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall become effective on the first day of the fiscal year beginning after the date of the enactment of this Act, unless Congress reviews the recommendations from the Secretary of State on how to combat fraud and eliminate abuse in the Diversity Visa Program and legislation is enacted to maintain the Diversity Visa Program that addresses such recommendations, with appropriate changes in the eligibility requirements.

SEC. 5. ANNUAL ACCOUNTABILITY OF FEDERAL WELFARE BENEFITS RECEIVED BY ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES.

The Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security and the head of any other appropriate Federal agency, shall submit to Congress an annual report that includes, for each State (and including the District of Columbia)—

(1) the total amount of Federal welfare benefits provided to such State during the most recent fiscal year, disaggregated by State; and

(2) the total amount of Federal welfare benefits provided to households with any persons who resided in the United States illegally during the most recent fiscal year.

SEC. 6. LIMITATION ON STATE OPTION TO EXPAND CHIP COVERAGE TO NONCITIZEN CHILDREN OR NONCITIZEN PREGNANT WOMEN.

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

(1) in subsection (e)(1)(J), by inserting ''and only if the State satisfies the requirements described in subsection (g)'' before the period at the end; and

(2) by adding at the end the following:

''(g) DEMONSTRATION OF COVERAGE AND MAINTENANCE OF EFFORT.—For purposes of subsection (e)(1)(J), the requirements described in this subsection are the following:

''(1) The State demonstrates to the Secretary (on the basis of the best data reasonably available to the Secretary and in accordance with such techniques for sampling and estimating as the Secretary determines appropriate) that the State has enrolled in the State plan under title XIX, the State child health plan under this title, or under a waiver of either such plan, at least 90 percent of the children residing in the State who are citizens or nationals of the United States, whose family income does not exceed 200 percent of the poverty line (as determined before January 1, 2014, without regard to the application of any general exclusion or disregard of a block of income that is not determined by type of expense or type of income, and as determined on or after January 1, 2014, in accordance with section 1902(e)(14)), and who are eligible for medical assistance under the State plan under title XIX or child health assistance under the State child health plan under this title.

''(2) The State provides assurances that the amount of State or other non-Federal funds expended annually by the State to provide medical assistance, child health assistance, or other health benefits coverage to lawfully residing immigrant children or lawfully residing immigrant pregnant women will not be less than the amount of such funds expended for such purposes for fiscal year 2009.''.

SEC. 7. IDENTITY THEFT.

(a) AMENDMENTS TO THE CRIMINAL CODE.—Chapter 47 of title 18, United States Code, is amended—

(1) in section 1028—

(A) in subsection (a)(7), by striking ''of another person'' and inserting ''other than his or her own''; and

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking ''or'' at the end;

(ii) in subparagraph (C), by adding ''or'' at the end; and

(iii) by adding at the end the following:

''(C) to facilitate or assist in harboring or hiring unauthorized workers in violation of section 274, 274A or 274C of the Immigration and Nationality Act (8 U.S.C. 1324, 1324a, and 1324c)''.

(b) IRS NOTIFICATION REQUIREMENT.—

(1) REQUIREMENT TO NOTIFY SOCIAL SECURITY ACCOUNT NUMBER HOLDERS.—If the Commissioner of Internal Revenue sends a notice to an employer that an inaccurate social security account number has been discovered for an employee and the employer does not respond to the notice within 60 days to correct such account number, the Commissioner shall send such a notice—

(A) to the individual who was originally issued such social security account number; or

(B) if such individual is a minor, to the individual's legal guardian.

(2) CONTENT OF NOTICE.—A notice sent to an individual under paragraph (1) shall include the following:

(A) A request that the individual respond to such notice within 60 days to correct the information associated with the social security account number.

(B) Information on how to respond to the notice.

(C) Notification that if a response is not received by the Commissioner within 60 days, the Commissioner shall provide notice of the inaccurate social security account number to the appropriate agencies for possible investigation, including the Department of Homeland Security, the Department of Justice, and the Federal Trade Commission.

(D) Notification—

(i) that if the individual suspects that the individual's social security account number may have been used fraudulently, the individual should notify the Federal Trade Commission and the various credit bureaus; and

(ii) information on how to provide the notifications described in clause (i).

(c) STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Federal Trade Commission, and the Commissioner of Social Security, in consultation with the Secretary of Commerce and other appropriate Federal officials, shall conduct a study to determine the most feasible and cost effective ways to protect the credit worthiness of individuals, especially children.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall—

(A) assess the types of data held by the Federal Government and the private sector that could prove beneficial in protecting and verifying identity;

(B) assess current government and industry practices designed to protect personal privacy and determine how such practices could be improved to protect and verify individuals' credit worthiness;

(C) analyze the estimated impact of alternative systems of achieving effective protection of credit on the financial industry (including small banks, rural financial institutions, and credit unions), consumers, and the government with respect to—

(i) costs;

(ii) credit availability;

(iii) convenience;

(iv) privacy; and

(v) other nonfinancial burdens, including any effects on personal privacy; and

(D) determine the most effective ways to protect and verify credit information.

(3) PARTICIPATION.—Representatives of the financial industry, members of the public, government agencies, and other interested groups shall be given opportunities to provide information for the study conducted under paragraph (1).

(4) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report containing the results of the study conducted under paragraph (1), including any recommendations for legislative or administrative actions, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 8. ENHANCED PENALTIES FOR CERTAIN DRUG OFFENSES ON FEDERAL LANDS.

(a) CULTIVATING OR MANUFACTURING CONTROLLED SUBSTANCES ON FEDERAL PROPERTY.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended by striking ''as provided in this subsection'' and inserting ''for not more than 10 years, in addition to any other term of imprisonment imposed under this subsection,''.

(b) USE OF HAZARDOUS SUBSTANCES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense—

(1) includes the use of a poison, chemical, or other hazardous substance to cultivate or manufacture controlled substances on Federal property;

(2) creates a hazard to humans, wildlife, or domestic animals;

(3) degrades or harms the environment or natural resources; or

(4) pollutes an aquifer, spring, stream, river, or body of water.

(c) STREAM DIVERSION OR CLEAR CUTTING ON FEDERAL PROPERTY.—

(1) PROHIBITION ON STREAM DIVERSION OR CLEAR CUTTING ON FEDERAL PROPERTY.—Section 401(b) of the Controlled Substances Act is amended by adding at the end the following:

''(8) DESTRUCTION OF BODIES OF WATER.—Any person who violates subsection (a) in a manner that diverts, redirects, obstructs, or drains an aquifer, spring, stream, river, or body of water or clear cuts timber while cultivating or manufacturing a controlled substance on Federal property shall be fined in accordance with title 18, United States Code.''.

(2) FEDERAL SENTENCING GUIDELINES ENHANCEMENT.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels for above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the diversion, redirection, obstruction, or draining of an aquifer, spring, stream, river, or body of water or the clear cut of timber while cultivating or manufacturing a controlled substance on Federal property.

(d) BOOBY TRAPS ON FEDERAL LAND.—Section 401(d)(1) of the Controlled Substances Act (21 U.S.C. 841(d)(1)) is amended by inserting ''cultivated,'' after ''is being''.

(e) USE OR POSSESSION OF FIREARMS IN CONNECTION WITH DRUG OFFENSES ON FEDERAL LANDS.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal Sentencing Guidelines and policy statements to ensure that the guidelines provide an additional penalty increase of 2 offense levels above the sentence otherwise applicable for a violation of section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) if the offense involves the possession of a firearm while cultivating or manufacturing controlled substances on Federal lands.

SEC. 9. FEDERAL LANDS COUNTERDRUG ACTION PLAN.

(a) DEFINITIONS.—In this section:

(1) CONTROLLED SUBSTANCE.—The term ''controlled substance'' has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) COVERED LANDS.—The term ''covered lands'' means—

(A) units of the National Park System;

(B) National Forest System land;

(C) public lands (as defined by section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)); and

(D) all land administered by the Bureau of Land Management.

(b) IMPLEMENTATION OF FEDERAL LANDS COUNTERDRUG ACTION PLAN.—

(1) IN GENERAL.—

(A) REQUIREMENT FOR ACTION PLAN.—Not later than 90 days after the date of the enactment of this Act, the Director of National Drug Control Policy shall implement an action plan for keeping controlled substances off of Federal lands (referred to in this section as the ''Federal Lands Counterdrug Action Plan'').

(B) REPORT TO CONGRESS.—Not later than 2 years after the implementation of the Federal Lands Counterdrug Action Plan, the Director shall submit to Congress a report that describes the progress made in carrying out such Action Plan.

(2) CONSULTATION REQUIREMENT.—In implementing the Federal Lands Counterdrug Action Plan, the Director of National Drug Control Policy shall consult with the heads of relevant Federal agencies, including the Drug Enforcement Administration, the Forest Service, the National Park Service, the Bureau of Land Management, and any relevant State, local, and tribal law enforcement agencies.

(c) CONTENTS.—The Federal Lands Counterdrug Action Plan shall include—

(1) the Federal Government's action plan for preventing the illegal production, cultivation, manufacture, and trafficking of controlled substances on covered lands;

(2) the specific roles of relevant Federal agencies, including the Drug Enforcement Administration and relevant agencies within the Department of the Interior for implementing such an action plan;

(3) the specific resources required to enable the agencies referred to in paragraph (2) to implement that strategy;

(4) a strategy to reduce the cultivation and trafficking of marijuana on covered lands by Mexican drug trafficking organizations;

(5) the use of available technology to reduce the cultivation and trafficking of marijuana on covered lands;

(6) the impact of Federal land management statutes on law enforcement efforts; and

(7) the costs associated with marijuana eradication programs through high intensity drug trafficking areas.

(d) EFFECT ON EXISTING LAW.—The Federal Lands Counterdrug Action Plan—

(1) may not change existing agency authorities or laws governing interagency relationships; and

(2) may provide recommendations for changes to such authorities or laws.

(e) DISTRIBUTION.—

(1) IN GENERAL.—The Director of the Office of National Drug Control Policy shall provide a copy of the Federal Lands Counterdrug Action Plan to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the United States Senate Caucus on International Narcotics Control;

(E) the Committee on the Judiciary of the House of Representatives;

(F) the Committee on Appropriations of the House of Representatives;

(G) the Committee on Homeland Security of the House of Representatives;

(2) CLASSIFIED INFORMATION.—Any classified or law enforcement sensitive information contained in the Federal Lands Counterdrug Action Plan may be submitted in a classified annex to accompany the Action Plan.

By Mr. ALEXANDER (for himself and Mr. DODD):

S. 3906. A bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, today I am pleased to once again partner with my good friend and colleague Senator DODD to introduce the Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act, or the PREEMIE Act. This bipartisan bill reauthorizes and expands upon the 2006 PREEMIE Act to enhance research into the causes and prevention of prematurity. The end result of this bill will hopefully be to find a solution to the serious problem of premature birth.

Premature birth is the leading killer of newborns and a major cause of lasting disabilities, and finding answers to this problem is one of the most urgent challenges confronting medicine today. More than half a million babies are born prematurely in the United States each year, and in nearly half the cases the causes are unknown. In Tennessee 236 babies are born preterm per week on average, and in 2007, 12,256 babies or 14.2 percent of all live births were premature.

The emotional toll a premature birth has on a family is significant. When an infant arrives prematurely before 37 weeks gestation, the family faces a stressful new world. Often, the parents see the baby only momentarily before he or she is whisked away to the neonatal intensive care unit, NICU. Instead of taking home a healthy baby, parents spend hours in the hospital, talking to all kinds of specialists who use clinical terms that they don't always understand. The baby's medical equipment is frightening, and the busy, hectic atmosphere in the NICU is stressful. Often the mother, who may have suffered from her own serious medical complications, recovers and leaves the hospital before the baby does.

Many preterm infants face life-threatening complications. Families with premature infants often refer to the NICU as a roller-coaster experience. One day the baby appears to be doing well; the next, hope seems to be lost. Day-to-day life is completely disrupted. Parents spend hours in the NICU, away from their other children and work. The average hospital stay in 2005 was nearly nine times as long for a preterm infant (13 days) compared to an infant born at term (1.5 days).

Families face financial stress as they struggle to pay the high NICU costs, since the average first year medical costs were about 10 times greater for preterm, $32,325, than for term infants, $3,325, in 2005. Additionally, 4 out of the 10 most expensive hospital stays regardless of age are related to infant care: infant respiratory distress syndrome, prematurity/low birthweight, cardiac/circulatory birth defects, and lack of oxygen in infants.

Advances in neonatology are saving even the smallest and most fragile newborns, but we need to prevent those births from happening too early in the first place. We now find ourselves facing enormous potential for progress, and technological innovation has made sequencing of the entire human genome possible, which will hasten the pace of discovery and application of new knowledge. Hopefully, research moves ahead to unravel the mysteries of premature birth and to find the answers that will save babies' lives. However, the private sector cannot accomplish this goal alone, which is why we need dedicated federal resources to support such efforts.

If we invest the money now and conduct additional research investigating the root causes of prematurity, it will save the Government money over time, and parents will not have to fear for their new child's life from the moment of birth. I strongly urge my colleagues to join me and support the PREEMIE Act—an investment in infants' health.

Mr. DODD. Mr. President, I rise today to discuss a very serious issue that affects many Americans, and that is premature births. More than half a million babies will be born preterm this year and approximately 28,000 babies will die before they turn 1 year old.

In my home State of Connecticut, there were more than 4,000 preterm births in 2007, representing approximately 11 percent of all live births in the State. Between 1997 and 2007, the rate of infants born preterm in Connecticut increased 3 percent.

The incidence of preterm birth represents a huge disconnect between our scientific knowledge and our capacity to meet basic and critical needs in maternal-child health. According to the Centers for Disease Control and Prevention, CDC, babies who died from preterm birth-related causes accounted for more than 36 percent of infant deaths in 2006. For newborns, prematurity is the leading cause of death.

Of the surviving preemies, approximately one-fourth will have serious health complications including hearing loss, cerebral palsy, intellectual disabilities, acute respiratory diseases, and other maladies. These health problems not only affect the child, but also place a financial and emotional burden on many families. According to the Institute of Medicine, the annual societal costs associated with preterm birth were $26.2 billion in 2005 or $51,600 per infant born preterm. Nearly two-thirds of this cost was for medical care. More importantly, the $26.2 billion estimate does not include the cost of medical care beyond early childhood or caretaker costs such as lost wages.

In nearly half of all cases, physicians and scientists cannot pinpoint a cause for preterm labor and delivery. However, research has shown that causes of preterm birth may include neighborhood characteristics, environmental exposures, biological factors, and medical conditions. Many of these factors can occur in combination, particularly for those who are socioeconomically disadvantaged and minority groups. Accordingly, there are significant disparities in the rates of preterm birth across these groups, with the highest rate of preterm births for non-Hispanic African Americans at 17.5 percent in 2008, according to the National Center for Health Statistics. It is clear that a greater commitment to eliminating these inequalities is needed. As the chairman of the U.S. Senate's Health, Education, Labor, and Pensions' Subcommittee on Children and Families, ensuring the health of America's children has been my life's work, making the correction of these inequalities an issue of great importance.

In 2006, my colleague Senator ALEXANDER and I worked to pass the Prematurity Research Expansion and Education for Mothers who deliver Infants Early Act or PREEMIE Act, Public Law 109–450, which authorized finding to enhance Federal research related to preterm labor and delivery and increased public and provider education and support services. Among the results of the PREEMIE Act were the 2008 Surgeon General's Conference on Preterm Birth and expanded research activities at CDC. The most notable accomplishment to date is a 3 percent decline in the preterm birth rate from 2007 to 2008. But there is still much work to be done. We must build on the progress recently achieved and use both public and private efforts to accelerate this decrease in the rate of preterm birth.

For these reasons, I rise today to join my colleague from Tennessee to introduce the PREEMIE Act to reauthorize these vital activities. It is my hope that this legislation will complement many of the efforts being conducted by the private sector, such as the March of Dimes campaign to raise public awareness and reduce the rate of preterm births. I urge my colleagues to join me in promoting a healthy start for America's children by supporting this legislation.

By Mr. DODD (for himself and Mr. BROWN of Ohio):

S. 3907. A bill to amend the Public Health Service Act to increase access to health care for individuals with disabilities and increase awareness of the need for health care facilities and examination rooms to be accessible for individuals with disabilities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, as a co-chair of the Congressional Spina Bifida Caucus, I rise today to introduce the Debbie Blanchard Access to Health Care for Individuals with Disabilities Act of 2010 with my colleague, Senator SHERROD BROWN. This legislation provides an excellent opportunity to address a critical disparity that exists in our Nation's health care system.

Individuals with disabilities can face a myriad of challenges in accessing the health care they need and deserve. Such was the case for Debbie Blanchard, a woman who lived with Spina Bifida for nearly 56 years, and who passed away in August 2008 from cervical cancer. Due to the challenges she faced in finding a physician whose office and examination tables were accessible for individuals with disabilities, Debbie was not able to seek regular well-woman exams, including cervical cancer screenings. The barriers Debbie faced in physically accessing the regular preventive care she needed unfortunately contributed to her cervical cancer going undetected until it was too late. The lack of accessible care clearly contributed to her untimely death.

The Spina Bifida community is devastated by Debbie Blanchard's tragic passing, and we in the Congressional Spina Bifida Caucus wish to help ensure that the challenges and barriers that contributed to her illness and death are eliminated. To that end, we have developed the Debbie Blanchard Access to Health Care for Individuals with Disabilities Act in an effort to help facilitate access to health care by individuals with disabilities, including, but not limited to, those with Spina Bifida, and help them to identify providers whose offices and examination rooms are accessible for individuals with disabilities.

Before I discuss the details of this bill, I believe it is important to recognize the scope of the problem we are dealing with. According to the U.S. Census, more than 54 million Americans, about one out of every five, live with some level of disability. Approximately 34 million of those are classified as having a severe disability. In Connecticut, more than 540,000 individuals are living with some level of disability. Of those individuals, close to 22,000 have physical disabilities.

Studies conducted by the Centers for Disease Control and Prevention have found that individuals with disabilities have difficulty in accessing routine and specialized health care. Numerous barriers exist for these patients, including the inability to find a health care provider who understands how to treat individuals with disabilities and is willing to have those individuals as patients. According to a survey commissioned by the National Organization on Disability, 19 percent of persons with disabilities reported they needed medical care within the previous year and did not get it. This is a number more than three times the percentage for those without disabilities.

Women with disabilities are particularly vulnerable. A study by the Center for Research on Women with Disabilities showed that nearly one-third of women with disabilities surveyed reported being denied services at a physician's office solely because of their disability, and 56 percent described their physicians' offices and hospitals as ill-prepared to accommodate their specific needs. Research by the National Institute on Disability and Rehabilitation Research shows that women with disabilities are less likely to have Pap smears and mammograms and are more likely to be diagnosed at a later stage of breast cancer. These women are less likely to receive standard treatments and more likely to have poor outcomes.

The Patient Protection and Affordable Care Act, PL 111–148, includes an important component to establish standards for medical diagnostic equipment such as examination tables and chairs to improve access to health care for individuals with disabilities and I applaud Senator HARKIN for his leadership on that provision. As such, the legislation I propose today seeks to complement existing programs and other pending proposals. The Debbie Blanchard Access to Health Care for Individuals with Disabilities Act would empower individuals with disabilities with the information and tools they need to identify accessible providers. It would also increase awareness among health professionals of the need to provide an accessible environment. The bill provides for four key programs to achieve these goals.

First, this bill authorizes the Secretary of the Department of Health and Human Services to provide formula-based grants to States to create on-line directories of health care providers accessible to individuals with disabilities. States would not be required to engage in this activity, and the grants are strictly voluntary.

Second, it authorizes HHS to develop a pilot program to increase health care provider awareness of the need to provide accessible environments, examination rooms, and examination tables for individuals with disabilities.

Third, it authorizes the HHS Office on Disability, with the help of national organizations representing individuals with disabilities, to develop resources to support individuals with disabilities in their efforts to find accessible providers. Such resources include ''tips cards'' and questions to ask when calling a provider for the first time to make an appointment.

Finally, the bill authorizes HHS to create a National Advisory Committee on Access to Health Care for Individuals with Disabilities to ensure intra-agency coordination of efforts to improve access to care for individuals with disabilities.

The Debbie Blanchard Access to Health Care for Individuals with Disabilities Act would be a significant step in ensuring health care equity for the more than 50 million Americans who live with a disability. Debbie Blanchard's tragic passing should serve as a lesson on the barriers that exist for individuals with disabilities in accessing basic quality health care. We should take action to ensure that these barriers are eliminated to prevent Debbie's story from being repeated. I urge my colleagues to cosponsor this important legislation.

By Mr. MCCAIN:

S. 3908. A bill to ensure that private property, public safety, and human life are protected from flood hazards that directly result from post-fire watershed conditions that are created by wildfires on Federal land; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, today I am introducing legislation that would assist several communities in northern Arizona, and any other community in the United States, whose homes were damaged or destroyed in flash flood event caused by wildfires on federal lands. I am saddened to report that the flood in Arizona which is the genesis of this bill also killed a 12-year-old girl and caused an estimated $8 million in damage to the area's public infrastructure. While the flood itself occurred on July 20, 2010, the true account of this disaster actually began one month prior with a wildfire on the Coconino National Forest. The human-caused ''Schultz Fire'' severely burned 15,000 acres of forest land along the steep terrain of the San Francisco Peaks leaving little ground vegetation to absorb and hold back rainwater. After the fire was contained, the U.S. Forest Service quickly determined that residents living near the base of the Peaks would face a daily flooding threat from summer monsoon storms and publically urged them to purchase flood insurance. Less than two weeks later, a monsoon storm created a flash flood of rainwater, mud and wildfire debris that slammed into the homes below the Schultz burn area. Tragically, the affected homeowners who had purchased flood insurance as soon as they were alerted to the danger of flooding were deemed ineligible for coverage because Federal law mandates a 30-day waiting period before the policy takes effect.

This August I had an opportunity to tour the Schultz Fire burn and flood areas and also met with several affected homeowners. Needless to say they are deeply concerned that their homes remain threatened with every severe storm that passes through. This rural unincorporated community simply does not have the resources to cope

with a flood plain that didn't exist before the wildfire. While we were able to get a U.S. Army Corps of Engineers team to study and recommend some interim and long-term flood mitigation measures, much work remains to be done including additional soil and hydrological data collection which would assist in the planning and design of more permanent flood control projects.

This legislation would enable the FEMA Administrator to waive the 30-day waiting period for flood insurance for private property owners affected by wildfires. This bill would also clarify that the recently created FLAME Act Accounts, which were established by Congress to pay for wildfire supersession, can also be used for burn area recovery, including post-fire watershed flood prevention. With respect to the Schultz Fire, the bill would enhance coordination between the Army Corps of Engineers, the U.S. Department of Agriculture, and other Federal, State and local government agencies by establishing a Schultz Fire Flood Area Task Force headed by the Administrator of the Federal Emergency Management Agency. This bill would also direct FEMA to complete a detailed study of the affected area to evaluate the potential of integrating various federal projects and programs into a long-term flood protection system. Finally, this bill would require that the Attorney General disclose any payments made under the Equal Access to Justice Act program that went to activist litigants who blocked the forest thinning project that many experts agree would have prevented the Schultz Fire from occurring.

The flood risk to this community will remain high for many years unless action is taken now. I strongly believe that because the Schultz Fire occurred on Federal land, the Federal Government is obligated to provide an appropriate level of disaster assistance, including Federal flood insurance, to these homeowners. I urge my colleagues to support this bill.

By Mrs. MURRAY (for herself, Ms. CANTWELL, Mr. BURRIS, Mr. REED, Mr. SANDERS, Mrs. HAGAN, Mr. SCHUMER, Mr. CONRAD, Mrs. GILLIBRAND, Mr. BEGICH, Mr. LEVIN, Mr. WEBB, and Mr. BENNET):

S. 3914. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to complete payments under such title to local educational agencies eligible for payments within 3 fiscal years; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, I congratulate Child Care Resources of King County for 20 years of service to the community. This organization is a leader in King County and occupies a critical role for children and families within the community. Through promoting equity for all children, establishing community stability, and helping children prepare for school, Child Care Resources of King County has impacted and helped shape the lives of many Washingtonians.

As a former preschool teacher, on the first day of class it was easy to identify which students had participated in high-quality child care before entering my classroom. We know that children who participate in high-quality care are better prepared for school and more likely to lead a successful life. Child Care Resources of King County has worked tirelessly for 20 years to ensure children in King County have access to high-quality care and enter school well prepared. Additionally, they work to incorporate culturally relevant care that reflects a child's culture and language which builds positive self identity and improves school readiness.

I believe strongly in the Child Care Resources of King County and their mission. Congratulations to them on a job well done and I wish them twenty more years of continued success.

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. 3914

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

SECTION 1. TIMELY PAYMENTS.

Section 8010 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7710) is amended by adding at the end the following:

''(d) TIMELY PAYMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay a local educational agency the full amount that the agency is eligible to receive under this title for a fiscal year not later than September 30 of the second fiscal year following the fiscal year for which such amount has been appropriated if, not later than 1 calendar year following the fiscal year in which such amount has been appropriated, such local educational agency submits to the Secretary all the data and information necessary for the Secretary to pay the full amount that the agency is eligible to receive under this title for such fiscal year.

''(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—For a fiscal year in which the amount appropriated under section 8014 is insufficient to pay the full amount a local educational agency is eligible to receive under this title, paragraph (1) shall be applied by substituting 'is available to pay the agency' for 'the agency is eligible to receive' each place it appears.''.

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 3916. A bill to require the Consumer Product Safety Commission to study and report on the impact on consumers of permitting an increase in the amount of ethanol blended with gasoline for use in gasoline-powered engines used in vehicles operated in interstate commerce, on public streets and roads, or offroad, appliances such as lawn mowers and other nonvehicular devices, and marine engines, and to require the National Highway Traffic Safety Administration to study and report on any safety or reliability impact of such an increase on motor vehicle engines and fuel systems; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON: Mr. President, I rise today to introduce legislation that will protect our nation's consumers from adverse impacts that could result from a potential government mandate to increase the current percentage of ethanol which is blended with gasoline. Significant questions and concerns exist as to the effects of increasing the current blend percentage of ethanol into gasoline above its current level of 10 percentage for motor vehicles, equipment and engines. If the United States Government is going to require an increase of the ethanol blend, I believe it is necessary to conduct extensive studies to ensure no Americans are injured or suffer any economic damages as a result of that decision.

The legislation I am introducing today will require the Consumer Product Safety Commission to conduct a study of the potential impact consumers may face by increasing the amount of ethanol blended with gasoline or other petroleum products used for internal combustion engines. This study would examine how the higher blend would impact consumers in different regions of the country through interstate commerce, whether the cost increase is associated with the higher blend rate and most importantly, whether a higher blend of gasoline and ethanol poses danger to consumers' well being.

Additionally, my legislation would require the National Highway Traffic Safety Administration to conduct a study to determine whether the use of ethanol-gasoline blends of more than 10 percent will have an adverse impact on tailpipe emissions, exhaust temperatures, catalytic converters and motor engine performance.

I believe it is irresponsible for the United States Government to require an untested mandate, such an increase in the percentage of ethanol mixed with gasoline, without all tests having been performed to guarantee there are no detrimental consequences on any American. It is common sense for all of the science to be revealed before such an important decision is made, and that is what my legislation will do.

By Mr. HATCH (for himself, Mr. RISCH, Mr. CRAPO, Mr. ENZI, and Mr. BARRASSO):

S. 3919. A bill to remove the gray wolf from the list of threatened species or the list of endangered species published under the Endangered Species Act of 1973, and for other purposes; to the Committee on Environment and Public Works.

Mr. HATCH. Mr. President, I rise today to introduce S. 3919, an act to remove Endangered Species Act, ESA,

protections for gray wolves. Delisting of this species is long overdue.

Gray wolves are listed as endangered under the ESA in the United States, except in Minnesota where they are listed as threatened. The U.S. Fish and Wildlife Service removed ESA protection from these wolves in 2009, but subsequently reinstated protection under a court decision following a lawsuit.

Legislative action is the only solution to stop the endless cycle of litigation and return the sovereign ability of states to manage their wildlife. Gray wolves are the iconic species of the ESA. But we cannot let the preconceived and inaccurate perceptions surrounding this animal prevent us from doing our due diligence in providing protections and safeguards for other species including elk, deer, moose, and big horn sheep. With a population growth rate of 24 percent, gray wolf overpopulation is now doing significant damage to wildlife populations throughout the West and Midwest.

Gray wolf predation is erasing decades of effort and hundreds of millions invested in rebuilding healthy big game populations. Wolves do not know or care where recovery plan lines are drawn. They will roam wherever necessary to find adequate food and habitat. Research indicates that wolf and ungulate populations are generally inversely proportional and cyclical over relatively long periods of time.

Ill-advised experimentation and anti-management philosophy continues to be pushed by extreme animal rights and anti-sportsmen special interest groups. This war on the west threatens big game herds, proactive State wildlife management, use of renewable wildlife resources, and the western way of life. This bill, while viewed with suspicion and opposed with philosophical arguments by some environmental organizations, ensures that delicate wildlife populations are restored to healthy levels.

When Congress passed the ESA, it envisioned legislation to make certain that species would not become extinct. The key to success of the new law was finding a way to conserve and protect species truly in danger of becoming extinct. The gray wolf is not endangered as a species. There are thousands alive and well in North America. The ESA has become a vehicle by which some organizations and individuals seek to halt all activities on our public lands which they happen to oppose. I would submit to you that such use of the ESA was not envisioned nor would it have been condoned by a majority of those who originally crafted the law.

Some groups want to use the gray wolf as a surrogate for other agendas. Others have used it to raise a lot of money from citizens of this country truly concerned about the place of the wolf in our environment. Still others have used it for political purposes. What a shame that the laws of this great Nation can be subverted for purposes other than the reason the law was originally written.

The gray wolf has been protected by the ESA since 1973, the year the ESA was passed. The single exception to that classification is in the State of Minnesota where they are classified as threatened. The original recovery plan for the gray wolf in the Northern Rockies was written in 1974. The main States involved are owned largely by the Federal Government. Thirty percent of Montana, 50 percent of Wyoming, and 64 percent of Idaho is federally owned. Access to and use of the public lands and resources on them has a great deal to do with the economy of these sparsely populated States. When the economy suffers, so do these communities and these people.

The working men and women of our States have no alternative but to rely on continued access to and the use of grass, water, timber, and minerals from public lands to support their families. Those working people have mortgages to pay just like you and I; they have bills that are due each month; and they want to be able to feed and clothe their children just as you and I do.

We must recognize the legitimate concerns of the hundreds of honest, hardworking citizens who are being directly affected by the continued listing of the gray wolf on the ESA. In my opinion, we have a responsibility to protect their right to make an honest living and to live the lifestyle they have chosen.

I hope my colleagues will join me in this attempt to resolve this important issue.

By Mr. AKAKA (for himself, Mr. CARPER, and Mr. VOINOVICH):

S. 3922. A bill to underscore the importance of international nuclear safety cooperation for operating power reactors, encouraging the efforts of the Convention on Nuclear Safety, supporting progress in improving nuclear safety, and enhancing the public availability of nuclear safety information; to the Committee on Foreign Relations.

Mr. AKAKA. Mr. President, I rise today to introduce the Furthering International Nuclear Safety Act of 2010. This bipartisan legislation, which is cosponsored by Senators Carper and Voinovich, will enhance the implementation of the Convention on Nuclear Safety by taking a more systematic approach to improving civilian nuclear power safety.

The Chernobyl disaster in Ukraine in 1986 was the worst nuclear power accident in history and made clear the need for international nuclear safety norms. According to a report commissioned by United Nations agencies, millions of people were exposed to high doses of radiation and approximately 350,000 people were displaced from their homes. On top of this, the countries most directly impacted by the disaster were estimated to have suffered economic damages on the order of hundreds of billions of dollars, while thousands of square miles of agricultural and forest lands were removed from service.

In the aftermath of this accident, over 50 countries, led by the United States, worked together to develop the Convention on Nuclear Safety. This convention was formally established in 1994, and the United States joined in 1999. Through the cooperative nature of the convention, which relies on peer-reviewed national reports and the sharing of best practices, countries that are party to the treaty have been able to improve their nuclear safety.

Although civilian nuclear power programs have become safer, we must not be complacent. As history has shown, a nuclear accident in one country can have devastating effects across several countries. Currently there are over 400 civilian nuclear power reactors operating in 29 countries around the world, and at least 56 more are under construction. Countries such as Jordan, the United Arab Emirates, Indonesia, Libya, Thailand, and Vietnam are interested in starting civilian nuclear power programs. The construction of new nuclear power facilities, along with an increasing number of countries readying to build nuclear power plants, should be accompanied by greater attention to nuclear safety.

Earlier this year, the Government Accountability Office, GAO, completed a review of the Convention in which GAO obtained the views of 40 parties to the Convention, while carefully protecting individual respondent information. GAO found that the Convention has been very successful in improving nuclear safety, but made recommendations to the United States Government that would enhance the Convention's effectiveness.

The bill I am introducing today will implement GAO's recommendations and additional steps to improve safety. This bill requires the United States delegate to the Convention to take certain actions to enhance international nuclear safety. This includes the United States advocating that parties to the Convention more systematically assess their own progress in improving nuclear safety through the broader use of performance metrics. Additionally, to increase access to information about nuclear safety and implementation of the Convention, the delegate to the Convention will encourage parties to post their annual reports and answers to questions from other parties on the International Atomic Energy Agency's, IAEA, public website. IAEA will be encouraged to offer additional support, such as providing assistance as needed for the production of parties' national reports; support for Convention meetings, including language translation services; and providing additional technical support to improve civilian nuclear power program safety. Further, the United States delegate will encourage all countries that have or are considering establishing a civilian nuclear power program to join the Convention. Finally, this bill calls for the Secretary of State to lead the development

of a United States Government strategic plan for international nuclear safety cooperation for operating power reactors, and to report on the plan's implementation and the progress on implementing this bill.

International nuclear safety deserves our Nation's ongoing attention. As we approach the 25th anniversary of the Chernobyl disaster, we should be mindful that the use and expansion of nuclear power needs to be combined with supreme vigilance and concern for safety.

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. 3922

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 ''Furthering International Nuclear Safety Act of 2010''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To recognize the paramount importance of international nuclear safety cooperation for operating power reactors.

(2) To further the efforts of the Convention on Nuclear Safety as a vital international forum on nuclear safety.

(3) To support progress in improving nuclear safety for countries that currently have or are considering the development of a civilian nuclear power program.

(4) To enhance the public availability of nuclear safety information.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Environment and Public Works of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on Foreign Affairs of the House of Representatives;

(E) the Committee on Energy and Commerce of the House of Representatives; and

(F) the Committee on Oversight and Government Reform of the House of Representatives.

(2) CONVENTION.—The term ''Convention'' means the Convention on Nuclear Safety, done at Vienna September 20, 1994, and ratified by the United States April 11, 1999.

(3) MEETING.—The term ''meeting'' means a meeting as described under Article 20, 21, or 23 of the Convention.

(4) NATIONAL REPORT.—The term ''national report'' means a report as described under Article 5 of the Convention.

(5) PARTY.—The term ''party'' means a nation that has formally joined the Convention through ratification or other means.

(6) SUMMARY REPORT.—The term ''summary report'' means a report as described under Article 25 of the Convention.

SEC. 4. UNITED STATES EFFORTS TO FURTHER INTERNATIONAL NUCLEAR SAFETY.

The President shall instruct the United States official serving as the delegate to the meetings of the Convention on Nuclear Safety pursuant to Article 24 of the Convention to use the voice, vote, and influence of the United States, while recognizing that these efforts by parties are voluntary, to encourage, where appropriate—

(1) parties to more systematically assess where and how they have made progress in improving safety, including where applicable through the incorporation of performance metric tools;

(2) parties to increase the number of national reports they make available to the public by posting them to a publicly available Internet Web site of the International Atomic Energy Agency (IAEA);

(3) parties to expand public dissemination of written answers to questions raised by other parties about national reports by posting the information to a publicly available Internet Web site of the IAEA;

(4) the IAEA to further its support of the Convention, upon request by a party and where funding is available, by—

(A) providing assistance to parties preparing national reports;

(B) providing additional assistance to help prepare for and support meetings, including language translation services; and

(C) providing additional technical support to improve the safety of civilian nuclear power programs; and

(5) all countries that currently have or are considering the establishment of a civilian nuclear power program to formally join the Convention.

SEC. 5. STRATEGIC PLAN.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State, in cooperation with the heads of other relevant United States Government agencies, shall develop the United States Government's strategic plan and goals for international nuclear safety cooperation for operating power reactors and shall submit them to the appropriate congressional committees.

SEC. 6. REPORTS.

Not later than 180 days after the issuance of each of the first two summary reports of the Convention issued after the date of the enactment of this Act—

(1) the Secretary of State, in cooperation with the heads of other relevant United States Government agencies, shall submit to the appropriate congressional committees a report that describes the status of implementing the strategic plan and achieving the goals set forth in section 5; and

(2) the United States official serving as the delegate to the meetings of the Convention shall submit to the appropriate congressional committees a report providing the status of achieving the actions set forth in section 4.

By Mr. BINGAMAN (for himself and Ms. KLOBUCHAR):

S. 3925. A bill to amend the Energy Policy and Conservation Act to improve the energy efficiency of, and standards applicable to, certain appliances and equipment, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, the Committee on Energy and Natural Resources has worked diligently throughout this Congress to develop legislation that would strengthen our nation's energy security. In July of last year, on a strong bipartisan vote, the Committee reported the American Clean Energy Leadership Act of 2009, ACELA, and this past May, again with bipartisan votes, the Committee reported several amendments that would enhance ACELA. I know that other committees also have reported energy legislation, with the expectation that all of this work would be combined into a single bill that the full Senate could consider.

Unfortunately, the Senate has, so far, not been able to find a combination of these energy policy proposals that it can move. This situation is particularly unfortunate because many of the provisions caught in this energy policy grid-lock have no known opposition.

There is no rational reason why the Senate should not pass legislation which would save our nation energy, strengthen our economy, save Americans money, lower carbon dioxide emissions, and to which there is no known opposition, should not be passed by the Senate.

In an effort to bypass this grid-lock, I am pleased to introduce a bill which packages many of these consensus elements. The Implementation of National Consensus Appliance Agreements Act, INCAAA, consolidates all of the consensual legislative provisions regarding the Department of Energy's appliance and consumer product energy efficiency program that the Energy Committee has reported, along with four more-recent agreements, into one bill.

The DOE appliance standards program is one of the most powerful tools that our Nation has to reduce energy demand. It is a mature, broadly-supported program which has been estimated to have reduced the nation's electricity demand by about 10 percent.

The enactment of INCAAA would strengthen this program by establishing, or increasing, energy efficiency standards for several classes of products. Such new or improved standards have been agreed to by the manufacturers of these products as well by as the Nation's leading energy efficiency advocacy groups such as the American Council for an Energy Efficient Economy, the Alliance to Save Energy, and the Natural Resources Defense Council. INCAAA includes new efficiency standards for outdoor lighting, supported by the National Electrical Manufacturing Association and major lighting manufacturers such as General Electric, Osram Sylvania, Philips, and Acuity Brands.

It includes increased efficiency standards for furnaces, heat pumps, and central air conditioners, supported by the Air-Conditioning, Heating and Refrigeration Institute and its dozens of members, including Carrier, Johnson Controls, Rheem and Trane.

It includes new efficiency standards for portable lamps, supported by the American Lighting Association.

It includes increased energy and water efficiency standards for refrigerators and freezers, clothes washers and dryers, dishwashers, and room air-conditioners as supported by the Association of Home Appliance Manufacturers and its many members, including Electrolux, General Electric, Panasonic, and Whirlpool.

INCAAA also includes consensus standards and legislation reported by the Energy Committee covering smaller classes of products such as drinking

water dispensers, hot food holding cabinets, and electric spas. Finally, this bill strengthens DOE's operation and administration of the appliance standards programs to include accelerated rulemaking and updated decision-making criteria to include new developments such as emerging smart-grid technologies. It is important to note that the bill requires no new authorizations or spending. These changes would be integrated into and administered by the existing DOE program.

The American Council for an Energy Efficiency Economy estimates that INCAAA would save the Nation over 1.2 Quadrillion Btus of energy each year by 2030—enough energy to meet the needs of 6.5 million typical American households. ACEEE also estimated that INCAAA would save nearly 5 trillion gallons of water annually by 2030, roughly the amount of water needed to meet the current needs of every resident of Los Angeles for 25 years.

Broad Senate support for the provisions of INCAAA is demonstrated by the bipartisan votes in the Energy Committee when many elements of this bill were reported as a part of ACELA, or as amendments to ACELA. Broad support for these consensus standards among manufacturers and energy efficiency, and consumer groups is voiced in the letter written to the Senate Majority and Minority Leaders on August 13. In this letter, 16 manufacturing, energy efficiency advocacy, and consumer groups urged our Senate leadership to ''quickly pass several consensus appliance and equipment efficiency standards this session of Congress.''

Even if the Senate is unable to enact comprehensive energy legislation this year, enactment of the consensus agreements in this bill offers an opportunity to strengthen our economy by reducing energy use, saving consumers money, and improving the environment.

I urge my colleagues to support and co-sponsor this legislation and seek its enactment this year. While there are plenty of energy policy proposal Senators disagree on, the efficiency standards and program improvements in INCAAA deserves the Senate's unanimous support.

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

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

S. 3925

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Implementation of National Consensus Appliance Agreements Act''.

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

SEC. 2. ENERGY CONSERVATION STANDARDS.

(a) DEFINITION OF ENERGY CONSERVATION STANDARD.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) by striking paragraph (6) and inserting the following:

''(6) ENERGY CONSERVATION STANDARD.—

''(A) IN GENERAL.—The term 'energy conservation standard' means 1 or more performance standards that—

''(i) for covered products (excluding clothes washers, dishwashers, showerheads, faucets, water closets, and urinals), prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323;

''(ii) for showerheads, faucets, water closets, and urinals, prescribe a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with test procedures prescribed under section 323; and

''(iii) for clothes washers and dishwashers—

''(I) prescribe a minimum level of energy efficiency or a maximum quantity of energy use, determined in accordance with test procedures prescribed under section 323; and

''(II) include a minimum level of water efficiency or a maximum quantity of water use, determined in accordance with those test procedures.

''(B) INCLUSIONS.—The term 'energy conservation standard' includes—

''(i) 1 or more design requirements, if the requirements were established—

''(I) on or before the date of enactment of this subclause;

''(II) as part of a direct final rule under section 325(p)(4); or

''(III) as part of a final rule published on or after January 1, 2012; and

''(ii) any other requirements that the Secretary may prescribe under section 325(r).

''(C) EXCLUSION.—The term 'energy conservation standard' does not include a performance standard for a component of a finished covered product, unless regulation of the component is specifically authorized or established pursuant to this title.''; and

(2) by adding at the end the following:

''(67) EER.—The term 'EER' means energy efficiency ratio.

''(68) HSPF.—The term 'HSPF' means heating seasonal performance factor.''.

(b) EER AND HSPF TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

''(19) EER AND HSPF TEST PROCEDURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for purposes of residential central air conditioner and heat pump standards that take effect on or before January 1, 2015—

''(i) the EER shall be tested at an outdoor test temperature of 95 degrees Fahrenheit; and

''(ii) the HSPF shall be calculated based on Region IV conditions.

''(B) REVISIONS.—The Secretary may revise the EER outdoor test temperature and the conditions for HSPF calculations as part of any rulemaking to revise the central air conditioner and heat pump test method.''.

(c) CENTRAL AIR CONDITIONERS AND HEAT PUMPS.—Section 325(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

''(4) CENTRAL AIR CONDITIONERS AND HEAT PUMPS (EXCEPT THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS) MANUFACTURED ON OR AFTER JANUARY 1, 2015.—

''(A) BASE NATIONAL STANDARDS.—

''(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps manufactured on or after January 1, 2015, shall not be less than the following:

''(I) Split Systems: 13 for central air conditioners and 14 for heat pumps.

''(II) Single Package Systems: 14.

''(ii) HEATING SEASONAL PERFORMANCE FACTOR.—The heating seasonal performance factor of central air conditioning heat pumps manufactured on or after January 1, 2015, shall not be less than the following:

''(I) Split Systems: 8.2.

''(II) Single Package Systems: 8.0.

''(B) REGIONAL STANDARDS.—

''(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio of central air conditioners and central air conditioning heat pumps manufactured on or after January 1, 2015, and installed in States having historical average annual, population weighted, heating degree days less than 5,000 (specifically the States of Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia) or in the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States shall not be less than the following:

''(I) Split Systems: 14 for central air conditioners and 14 for heat pumps.

''(II) Single Package Systems: 14.

''(ii) ENERGY EFFICIENCY RATIO.—The energy efficiency ratio of central air conditioners (not including heat pumps) manufactured on or after January 1, 2015, and installed in the State of Arizona, California, New Mexico, or Nevada shall be not less than the following:

''(I) Split Systems: 12.2 for split systems having a rated cooling capacity less than 45,000 BTU per hour and 11.7 for products

having a rated cooling capacity equal to or greater than 45,000 BTU per hour.

''(II) Single Package Systems: 11.0.

''(iii) APPLICATION OF SUBSECTION (O)(6).—Subsection (o)(6) shall apply to the regional standards set forth in this subparagraph.

''(C) AMENDMENT OF STANDARDS.—

''(i) IN GENERAL.—Not later than January 1, 2017, the Secretary shall publish a final rule to determine whether the standards in effect for central air conditioners and central air conditioning heat pumps should be amended.

''(ii) APPLICATION.—The rule shall provide that any amendments shall apply to products manufactured on or after January 1, 2022.

''(D) CONSIDERATION OF ADDITIONAL PERFORMANCE STANDARDS OR EFFICIENCY CRITERIA.—

''(i) FORUM.—Not later than 4 years in advance of the expected publication date of a final rule for central air conditioners and heat pumps under subparagraph (C), the Secretary shall convene and facilitate a forum for interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of the covered product, States, and efficiency advocates), as determined by the Secretary, to consider adding additional performance standards or efficiency criteria in the forthcoming rule.

''(ii) RECOMMENDATION.—If, within 1 year of the initial convening of such a forum, the Secretary receives a recommendation submitted jointly by such representative interested persons to add 1 or more performance standards or efficiency criteria, the Secretary shall incorporate the performance standards or efficiency criteria in the rulemaking process, and, if justified under the criteria established in this section, incorporate such performance standards or efficiency criteria in the revised standard.

''(iii) NO RECOMMENDATION.—If no such joint recommendation is made within 1 year of the initial convening of such a forum, the Secretary may add additional performance standards or efficiency criteria if the Secretary finds that the benefits substantially exceed the burdens of the action.

''(E) NEW CONSTRUCTION LEVELS.—

''(i) IN GENERAL.—As part of any final rule concerning central air conditioner and heat pump standards published after June 1, 2013, the Secretary shall determine if the building code levels specified in section 327(f)(3)(C) should be amended subject to meeting the criteria of subsection (o) when applied specifically to new construction.

''(ii) EFFECTIVE DATE.—Any amended levels shall not take effect before January 1, 2018.

''(iii) AMENDED LEVELS.—The final rule shall contain the amended levels, if any.''.

(d) THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—Section 325(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) (as amended by subsection (c)) is amended by adding at the end the following:

''(5) STANDARDS FOR THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) SMALL DUCT, HIGH VELOCITY SYSTEM.—The term 'small duct, high velocity system' means a heating and cooling product that contains a blower and indoor coil combination that—

''(I) is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and

''(II) when applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

''(ii) THROUGH-THE-WALL CENTRAL AIR CONDITIONER; THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMP.—The terms 'through-the-wall central air conditioner' and 'through-the-wall central air conditioning heat pump' mean a central air conditioner or heat pump, respectively, that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and—

''(I) is not weatherized;

''(II) is clearly and permanently marked for installation only through an exterior wall;

''(III) has a rated cooling capacity no greater than 30,000 Btu/hr;

''(IV) exchanges all of its outdoor air across a single surface of the equipment cabinet; and

''(V) has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface area described in subclause (IV).

''(iii) REVISION.—The Secretary may revise the definitions contained in this subparagraph through publication of a final rule.

''(B) RULEMAKING.—

''(i) IN GENERAL.—Not later than June 30, 2011, the Secretary shall publish a final rule to determine whether standards for through-the-wall central air conditioners, through-the-wall central air conditioning heat pumps and small duct, high velocity systems should be established or amended.

''(ii) APPLICATION.—The rule shall provide that any new or amended standard shall apply to products manufactured on or after June 30, 2016.''.

(e) FURNACES.—Section 325(f) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)) is amended by adding at the end the following:

''(5) NON-WEATHERIZED FURNACES (INCLUDING MOBILE HOME FURNACES, BUT NOT INCLUDING BOILERS) MANUFACTURED ON OR AFTER MAY 1, 2013, AND WEATHERIZED FURNACES MANUFACTURED ON OR AFTER JANUARY 1, 2015.—

''(A) BASE NATIONAL STANDARDS.—

''(i) NON-WEATHERIZED FURNACES.—The annual fuel utilization efficiency of non-weatherized furnaces manufactured on or after May 1, 2013, shall be not less than the following:

''(I) Gas furnaces, 80 percent.

''(II) Oil furnaces, 83 percent.

''(ii) WEATHERIZED FURNACES.—The annual fuel utilization efficiency of weatherized gas furnaces manufactured on or after January 1, 2015, shall be not less than 81 percent.

''(B) REGIONAL STANDARD.—

''(i) ANNUAL FUEL UTILIZATION EFFICIENCY.—The Secretary shall by May 1, 2011, establish a standard for the annual fuel utilization efficiency of non-weatherized gas furnaces manufactured on or after May 1, 2013, and installed in States having historical average annual, population weighted, heating degree days equal to or greater than 5,000 (specifically the States of Alaska, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming).

''(ii) APPLICATION OF SUBSECTION (O)(6).—Subsection (o)(6) shall apply to the regional standard set forth in this subparagraph.

''(iii) SEPARATE STANDARDS.—The Secretary may establish separate standards for furnaces to be installed in newly constructed buildings and for replacement in existing buildings.

''(C) AMENDMENT OF STANDARDS.—

''(i) NON-WEATHERIZED FURNACES.—

''(I) IN GENERAL.—Not later than January 1, 2014, the Secretary shall publish a final rule to determine whether the standards in effect for non-weatherized furnaces should be amended.

''(II) APPLICATION.—The rule shall provide that any amendments shall apply to products manufactured on or after January 1, 2019.

''(ii) WEATHERIZED FURNACES.——

''(I) IN GENERAL.—Not later than January 1, 2017, the Secretary shall publish a final rule to determine whether the standard in effect for weatherized furnaces should be amended.

''(II) APPLICATION.—The rule shall provide that any amendments shall apply to products manufactured on or after January 1, 2022.

''(D) NEW CONSTRUCTION LEVELS.—

''(i) IN GENERAL.—As part of any final rule concerning furnace standards published after June 1, 2013, the Secretary shall determine if the building code levels specified in section 327(f)(3)(C) should be amended subject to meeting the criteria of subsection (o) when applied specifically to new construction.

''(ii) EFFECTIVE DATE.—Any amended levels shall not take effect before January 1, 2018.

''(iii) AMENDED LEVELS.—The final rule shall contain the amended levels, if any.''.

(f) EXCEPTION FOR CERTAIN BUILDING CODE REQUIREMENTS.—Section 327(f) of the Energy Policy and Conservation Act (42 U.S.C. 6297(f)) is amended—

(1) in paragraph (3), by striking subparagraphs (B) through (F) and inserting the following:

''(B) The code does not contain a mandatory requirement that, under all code compliance paths, requires that the covered product have an energy efficiency exceeding 1 of the following levels:

''(i) The applicable energy conservation standard established in or prescribed under section 325.

''(ii) The level required by a regulation of the State for which the Secretary has issued a rule granting a waiver under subsection (d).

''(C) If the energy consumption or conservation objective in the code is determined using covered products, including any baseline building designs against which all submitted building designs are to be evaluated, the objective is based on the use of covered products having efficiencies not exceeding—

''(i) for residential furnaces, central air conditioners, and heat pumps, effective not earlier than January 1, 2013, and until such time as a level takes effect for the product under clause (ii)—

''(I) for the States described in section 325(f)(5)(B)(i)—

''(aa) 92 percent AFUE for gas furnaces; and

''(bb) 14 SEER for central air conditioners (not including heat pumps);

''(II) for the States and other localities described in section 325(d)(4)(B)(i) (except for the States of Arizona, California, Nevada, and New Mexico)—

''(aa) 90 percent AFUE for gas furnaces; and

''(bb) 15 SEER for central air conditioners;

''(III) for the States of Arizona, California, Nevada, and New Mexico—

''(aa) 92 percent AFUE for gas furnaces;

''(bb) 15 SEER for central air conditioners;

''(cc) an EER of 12.5 for air conditioners (not including heat pumps) with cooling capacity less than 45,000 Btu per hour; and

''(dd) an EER of 12.0 for air conditioners (not including heat pumps) with cooling capacity of 45,000 Btu per hour or more; and

''(IV) for all States—

''(aa) 85 percent AFUE for oil furnaces; and

''(bb) 15 SEER and 8.5 HSPF for heat pumps;

''(ii) the building code levels established pursuant to section 325; or

''(iii) the applicable standards or levels specified in subparagraph (B).

''(D) The credit to the energy consumption or conservation objective allowed by the code for installing a covered product having an energy efficiency exceeding the applicable standard or level specified in subparagraph (C) is on a 1-for-1 equivalent energy use or equivalent energy cost basis, which may take into account the typical lifetimes of the products and building features, using lifetimes for covered products based on information published by the Department of Energy or the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

''(E) If the code sets forth 1 or more combinations of items that meet the energy consumption or conservation objective, and if 1 or more combinations specify an efficiency level for a covered product that exceeds the applicable standards and levels specified in subparagraph (B)—

''(i) there is at least 1 combination that includes such covered products having efficiencies not exceeding 1 of the standards or levels specified in subparagraph (B); and

''(ii) if 1 or more combinations of items specify an efficiency level for a furnace, central air conditioner, or heat pump that exceeds the applicable standards and levels specified in subparagraph (B), there is at least 1 combination that the State has found to be reasonably achievable using commercially available technologies that includes such products having efficiencies at the applicable levels specified in subparagraph (C), except that no combination need include a product having an efficiency less than the level specified in subparagraph (B)(ii).

''(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be specified in units of energy or its equivalent cost).'';

(2) in paragraph (4)(B)—

(A) by inserting after ''building code'' the first place it appears the following: ''contains a mandatory requirement that, under all code compliance paths,''; and

(B) by striking ''unless the'' and all that follows through ''subsection (d)''; and

(3) by adding at the end the following:

''(5) REPLACEMENT OF COVERED PRODUCT.—Paragraph (3) shall not apply to the replacement of a covered product serving an existing building unless the replacement results in an increase in capacity greater than—

''(A) 12,000 Btu per hour for residential air conditioners and heat pumps; or

''(B) 20 percent for other covered products.''.

SEC. 3. ENERGY CONSERVATION STANDARDS FOR HEAT PUMP POOL HEATERS.

(a) DEFINITIONS.—

(1) EFFICIENCY DESCRIPTOR.—Section 321(22) of the Energy Policy and Conservation Act (42 U.S.C. 6291(22)) is amended—

(A) in subparagraph (E), by inserting ''gas-fired'' before ''pool heaters''; and

(B) by adding at the end the following:

''(F) For heat pump pool heaters, coefficient of performance of heat pump pool heaters.''.

(2) COEFFICIENT OF PERFORMANCE OF HEAT PUMP POOL HEATERS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291)) is amended by inserting after paragraph (25) the following:

''(25A) COEFFICIENT OF PERFORMANCE OF HEAT PUMP POOL HEATERS.—The term 'coefficient of performance of heat pump pool heaters' means the ratio of the capacity to power input value obtained at the following rating conditions: 50.0 °F db/44.2 °F wb outdoor air and 80.0 °F entering water temperatures, according to AHRI Standard 1160.''.

(3) THERMAL EFFICIENCY OF GAS-FIRED POOL HEATERS.—Section 321(26) of the Energy Policy and Conservation Act (42 U.S.C. 6291(26)) is amended by inserting ''gas-fired'' before ''pool heaters''.

(b) STANDARDS FOR POOL HEATERS.—Section 325(e)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6295(e)(2)) is amended—

(1) by striking ''(2) The thermal efficiency of pool heaters'' and inserting the following:

''(2) POOL HEATERS.—

''(A) GAS-FIRED POOL HEATERS.—The thermal efficiency of gas-fired pool heaters''; and

(2) by adding at the end the following:

''(B) HEAT PUMP POOL HEATERS.—Heat pump pool heaters manufactured on or after the date of enactment of this subparagraph shall have a minimum coefficient of performance of 4.0.''.

SEC. 4. PORTABLE LIGHT FIXTURES.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 2(a)(2)) is amended by adding at the end the following:

''(69) ART WORK LIGHT FIXTURE.—The term 'art work light fixture' means a light fixture designed only to be mounted directly to an art work and for the purpose of illuminating that art work.

''(70) LED LIGHT ENGINE.—The term 'LED light engine' or 'LED light engine with integral heat sink' means a subsystem of an LED light fixture that—

''(A) includes 1 or more LED components, including—

''(i) an LED driver power source with electrical and mechanical interfaces; and

''(ii) an integral heat sink to provide thermal dissipation; and

''(B) may be designed to accept additional components that provide aesthetic, optical, and environmental control.

''(71) LED LIGHT FIXTURE.—The term 'LED light fixture' means a complete lighting unit consisting of—

''(A) an LED light source with 1 or more LED lamps or LED light engines; and

''(B) parts—

''(i) to distribute the light;

''(ii) to position and protect the light source; and

''(iii) to connect the light source to electrical power.

''(72) LIGHT FIXTURE.—The term 'light fixture' means a product designed to provide light that includes—

''(A) at least 1 lamp socket; and

''(B) parts—

''(i) to distribute the light;

''(ii) position and protect 1 or more lamps; and

''(iii) to connect 1 or more lamps to a power supply.

''(73) PORTABLE LIGHT FIXTURE.—

''(A) IN GENERAL.—The term 'portable light fixture' means a light fixture that has a flexible cord and an attachment plug for connection to a nominal 120-volt circuit that—

''(i) allows the user to relocate the product without any rewiring; and

''(ii) typically can be controlled with a switch located on the product or the power cord of the product.

''(B) EXCLUSIONS.—The term 'portable light fixture' does not include—

''(i) direct plug-in night lights, sun or heat lamps, medical or dental lights, portable electric hand lamps, signs or commercial advertising displays, photographic lamps, germicidal lamps, or light fixtures for marine use or for use in hazardous locations (as those terms are defined in ANSI/NFPA 70 of the National Electrical Code); or

''(ii) decorative lighting strings, decorative lighting outfits, or electric candles or candelabra without lamp shades that are covered by Underwriter Laboratories (UL) standard 588, 'Seasonal and Holiday Decorative Products'.''.

(b) COVERAGE.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (20) as paragraph (21); and

(2) by inserting after paragraph (19) the following:

''(20) Portable light fixtures.''.

(c) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 2(b)) is amended by adding at the end the following:

''(20) LED FIXTURES AND LED LIGHT ENGINES.—Test procedures for LED fixtures and LED light engines shall be based on Illuminating Engineering Society of North America test procedure LM–79, Approved Method for Electrical and Photometric Testing of Solid-State Lighting Devices and an IES-approved test procedure for testing LED light engines.''.

(d) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsection (ii) as subsection (kk); and

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

''(ii) PORTABLE LIGHT FIXTURES.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), portable light fixtures manufactured on or after January 1, 2012, shall meet 1 or more of the following requirements:

''(A) Be a fluorescent light fixture that meets the requirements of the Energy Star Program for Residential Light Fixtures, Version 4.2.

''(B) Be equipped with only 1 or more GU–24 line-voltage sockets, not be rated for use with incandescent lamps of any type (as defined in ANSI standards), and meet the requirements of version 4.2 of the Energy Star program for residential light fixtures.

''(C) Be an LED light fixture or a light fixture with an LED light engine and comply with the following minimum requirements:

''(i) Minimum light output: 200 lumens (initial).

''(ii) Minimum LED light engine efficacy: 40 lumens/watt installed in fixtures that meet the minimum light fixture efficacy of 29 lumens/watt or, alternatively, a minimum LED light engine efficacy of 60 lumens/watt for fixtures that do not meet the minimum light fixture efficacy of 29 lumens/watt.

''(iii) All portable fixtures shall have a minimum LED light fixture efficacy of 29 lumens/watt and a minimum LED light engine efficacy of 60 lumens/watt by January 1, 2016.

''(iv) Color Correlated Temperature (CCT): 2700K through 4000K.

''(v) Minimum Color Rendering Index (CRI): 75.

''(vi) Power factor equal to or greater than 0.70.

''(vii) Portable luminaries that have internal power supplies shall have zero standby power when the luminaire is turned off.

''(viii) LED light sources shall deliver at least 70 percent of initial lumens for at least 25,000 hours.

''(D)(i) Be equipped with an ANSI-designated E12, E17, or E26 screw-based socket and be prepackaged and sold together with 1 screw-based compact fluorescent lamp or screw-based LED lamp for each screw-based socket on the portable light fixture.

''(ii) The compact fluorescent or LED lamps prepackaged with the light fixture

shall be fully compatible with any light fixture controls incorporated into the light fixture (for example, light fixtures with dimmers shall be packed with dimmable lamps).

''(iii) Compact fluorescent lamps prepackaged with light fixtures shall meet the requirements of the Energy Star Program for CFLs Version 4.0.

''(iv) Screw-based LED lamps shall comply with the minimum requirements described in subparagraph (C).

''(E) Be equipped with 1 or more single-ended, non-screw based halogen lamp sockets (line or low voltage), a dimmer control or high-low control, and be rated for a maximum of 100 watts.

''(2) REVIEW.—

''(A) REVIEW.—The Secretary shall review the criteria and standards established under paragraph (1) to determine if revised standards are technologically feasible and economically justified.

''(B) COMPONENTS.—The review shall include consideration of—

''(i) whether a separate compliance procedure is still needed for halogen fixtures described in subparagraph (E) and, if necessary, what an appropriate standard for halogen fixtures shall be;

''(ii) which of the specific technical criteria described in subparagraphs (A), (C), and (D)(iii) should be modified; and

''(iii) which fixtures should be exempted from the light fixture efficacy standard as of January 1, 2016, because the fixtures are primarily decorative in nature (as defined by the Secretary) and, even if exempted, are likely to be sold in limited quantities.

''(C) TIMING.—

''(i) DETERMINATION.—Not later than January 1, 2014, the Secretary shall publish amended standards, or a determination that no amended standards are justified, under this subsection.

''(ii) STANDARDS.—Any standards under this subsection take effect on January 1, 2016.

''(3) ART WORK LIGHT FIXTURES.—Art work light fixtures manufactured on or after January 1, 2012, shall—

''(A) comply with paragraph (1); or

''(B)(i) contain only ANSI-designated E12 screw-based line-voltage sockets;

''(ii) have not more than 3 sockets;

''(iii) be controlled with an integral high/low switch;

''(iv) be rated for not more than 25 watts if fitted with 1 socket; and

''(v) be rated for not more than 15 watts per socket if fitted with 2 or 3 sockets.

''(4) EXCEPTION FROM PREEMPTION.—Notwithstanding section 327, Federal preemption shall not apply to a regulation concerning portable light fixtures adopted by the California Energy Commission on or before January 1, 2014.''.

SEC. 5. GU–24 BASE LAMPS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 4(a)) is amended by adding at the end the following:

''(74) GU–24.—The term 'GU–24'' means the designation of a lamp socket, based on a coding system by the International Electrotechnical Commission, under which—

''(A) 'G' indicates a holder and socket type with 2 or more projecting contacts, such as pins or posts;

''(B) 'U' distinguishes between lamp and holder designs of similar type that are not interchangeable due to electrical or mechanical requirements; and

''(C) 24 indicates the distance in millimeters between the electrical contact posts.

''(75) GU–24 ADAPTOR.—

''(A) IN GENERAL.—The term 'GU–24 Adaptor' means a 1-piece device, pig-tail, wiring harness, or other such socket or base attachment that—

''(i) connects to a GU–24 socket on 1 end and provides a different type of socket or connection on the other end; and

''(ii) does not alter the voltage.

''(B) EXCLUSION.—The term 'GU–24 Adaptor' does not include a fluorescent ballast with a GU–24 base.

''(76) GU–24 BASE LAMP.—'GU–24 base lamp' means a light bulb designed to fit in a GU–24 socket.''.

(b) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by section 4(d)) is amended by inserting after subsection (ii) the following:

''(jj) GU–24 BASE LAMPS.—

''(1) IN GENERAL.—A GU–24 base lamp shall not be an incandescent lamp as defined by ANSI.

''(2) GU–24 ADAPTORS.—GU–24 adaptors shall not adapt a GU–24 socket to any other line voltage socket.''.

SEC. 6. EFFICIENCY STANDARDS FOR BOTTLE-TYPE WATER DISPENSERS, COMMERCIAL HOT FOOD HOLDING CABINETS, AND PORTABLE ELECTRIC SPAS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 5(a)) is amended by adding at the end the following:

''(77) BOTTLE-TYPE WATER DISPENSER.—The term 'bottle-type water dispenser' means a drinking water dispenser that is—

''(A) designed for dispensing hot and cold water; and

''(B) uses a removable bottle or container as the source of potable water.

''(78) COMMERCIAL HOT FOOD HOLDING CABINET.—

''(A) IN GENERAL.—The term 'commercial hot food holding cabinet' means a heated, fully-enclosed compartment that—

''(i) is designed to maintain the temperature of hot food that has been cooked in a separate appliance;

''(ii) has 1 or more solid or glass doors; and

''(iii) has an interior volume of 8 cubic feet or more.

''(B) EXCLUSIONS.—The term 'commercial hot food holding cabinet' does not include—

''(i) a heated glass merchandising cabinet;

''(ii) a drawer warmer;

''(iii) a cook-and-hold appliance; or

''(iv) a mobile serving cart with both hot and cold compartments.

''(79) COMPARTMENT BOTTLE-TYPE WATER DISPENSER.—The term 'compartment bottle-type water dispenser' means a drinking water dispenser that—

''(A) is designed for dispensing hot and cold water;

''(B) uses a removable bottle or container as the source of potable water; and

''(C) includes a refrigerated compartment with or without provisions for making ice.

''(80) PORTABLE ELECTRIC SPA.—

''(A) IN GENERAL.—The term 'portable electric spa' means a factory-built electric spa or hot tub that—

''(i) is intended for the immersion of persons in heated water circulated in a closed system; and

''(ii) is not intended to be drained and filled with each use.

''(B) INCLUSIONS.—The term 'portable electric spa' includes—

''(i) a filter;

''(ii) a heater (including an electric, solar, or gas heater);

''(iii) a pump;

''(iv) a control; and

''(v) other equipment, such as a light, a blower, and water sanitizing equipment.

''(C) EXCLUSIONS.—The term 'portable electric spa' does not include—

''(i) a permanently installed spa that, once installed, cannot be moved; or

''(ii) a spa that is specifically designed and exclusively marketed for medical treatment or physical therapy purposes.

''(81) WATER DISPENSER.—The term 'water dispenser' means a factory-made assembly that—

''(A) mechanically cools and heats potable water; and

''(B) dispenses the cooled or heated water by integral or remote means.''.

(b) COVERAGE.—

(1) IN GENERAL.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) (as amended by section 4(b)(1)) is amended—

(A) by redesignating paragraph (21) as paragraph (24); and

(B) by inserting after paragraph (20) the following:

''(21) Bottle-type water dispensers and compartment bottle-type water dispensers.

''(22) Commercial hot food holding cabinets.

''(23) Portable electric spas.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294) is amended by striking ''(19)'' each place it appears in subsections (a)(3), (b)(1)(B), (b)(3), and (b)(5) and inserting ''(24)''.

(B) Section 325(l) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)) is amended by striking ''paragraph (19)'' each place it appears in paragraphs (1) and (2) and inserting ''paragraph (24)''.

(c) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 4(c)) is amended by adding at the end the following:

''(21) BOTTLE-TYPE WATER DISPENSERS.—

''(A) IN GENERAL.—Test procedures for bottle-type water dispensers and compartment bottle-type water dispensers shall be based on the document 'Energy Star Program Requirements for Bottled Water Coolers version 1.1' published by the Environmental Protection Agency.

''(B) INTEGRAL, AUTOMATIC TIMERS.—A unit with an integral, automatic timer shall not be tested under this paragraph using section 4D of the test criteria (relating to Timer Usage).

''(22) COMMERCIAL HOT FOOD HOLDING CABINETS.—

''(A) IN GENERAL.—Test procedures for commercial hot food holding cabinets shall be based on the test procedures described in ANSI/ASTM F2140–01 (Test for idle energy rate-dry test).

''(B) INTERIOR VOLUME.—Interior volume shall be based under this paragraph on the method demonstrated in the document 'Energy Star Program Requirements for Commercial Hot Food Holding Cabinets' of the Environmental Protection Agency, as in effect on August 15, 2003.

''(23) PORTABLE ELECTRIC SPAS.—

''(A) IN GENERAL.—Test procedures for portable electric spas shall be based on the test method for portable electric spas described in section 1604 of title 20, California Code of Regulations, as amended on December 3, 2008.

''(B) NORMALIZED CONSUMPTION.—Consumption shall be normalized under this paragraph for a water temperature difference of 37 degrees Fahrenheit.

''(C) ANSI TEST PROCEDURE.—If the American National Standards Institute publishes a test procedure for portable electric spas, the Secretary shall revise the procedure established under this paragraph, as determined appropriate by the Secretary.''.

(d) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by sections 4(d) and 5(b)) is amended—

(1) by redesignating subsection (kk) as subsection (oo); and

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

''(kk) BOTTLE-TYPE WATER DISPENSERS.—Effective beginning January 1, 2012—

''(1) a bottle-type water dispenser shall not have standby energy consumption that is greater than 1.2 kilowatt-hours per day; and

''(2) a compartment bottle-type water dispenser shall not have standby energy consumption that is greater than 1.3 kilowatt-hours per day.

''(ll) COMMERCIAL HOT FOOD HOLDING CABINETS.—Effective beginning January 1, 2012, a commercial hot food holding cabinet shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume.

''(mm) PORTABLE ELECTRIC SPAS.—Effective beginning January 1, 2012, a portable electric spa shall not have a normalized standby power rate of greater than 5 ($V^{2/3}$) Watts (in which 'V' equals the fill volume (in gallons)).

''(nn) REVISIONS.—

''(1) IN GENERAL.—Not later than January 1, 2013, the Secretary shall—

''(A) consider in accordance with subsection (o) revisions to the standards established under subsections (kk), (ll), and (mm); and

''(B)(i) publish a final rule establishing the revised standards; or

''(ii) make a finding that no revisions are technically feasible and economically justified.

''(2) EFFECTIVE DATE.—Any revised standards under this subsection take effect on January 1, 2016.''.

(e) PREEMPTION.—Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking ''or'' after the semicolon at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(8) is a regulation that—

''(A) establishes efficiency standards for bottle-type water dispensers, compartment bottle-type water dispensers, commercial hot food holding cabinets, or portable electric spas; and

''(B) is in effect on or before the date of enactment of this paragraph.''; and

(2) in subsection (c)—

(A) in paragraph (8)(B), by striking ''and'' after the semicolon at the end;

(B) in paragraph (9)—

(i) by striking ''except that—'' and all that follows through ''if the Secretary'' and inserting ''except that if the Secretary'';

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately; and

(iii) in subparagraph (B) (as so redesignated), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(10) is a regulation that—

''(A) establishes efficiency standards for bottle-type water dispensers, compartment bottle-type water dispensers, commercial hot food holding cabinets, or portable electric spas; and

''(B) is adopted by the California Energy Commission on or before January 1, 2013.''.

SEC. 7. TEST PROCEDURE PETITION PROCESS.

(a) CONSUMER PRODUCTS OTHER THAN AUTOMOBILES.—Section 323(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)(1)) is amended—

(1) in subparagraph (A)(i), by striking ''amend'' and inserting ''publish in the Federal Register amended''; and

(2) by adding at the end the following:

''(B) PETITIONS.—

''(i) IN GENERAL.—In the case of any covered product, any person may petition the Secretary to conduct a rulemaking—

''(I) to prescribe a test procedure for the covered product; or

''(II) to amend the test procedures applicable to the covered product to more accurately or fully comply with paragraph (3).

''(ii) DETERMINATION.—The Secretary shall—

''(I) not later than 90 days after the date of receipt of the petition, publish the petition in the Federal Register; and

''(II) not later than 180 days after the date of receipt of the petition, grant or deny the petition.

''(iii) BASIS.—The Secretary shall grant a petition if the Secretary finds that the petition contains evidence that, assuming no other evidence was considered, provides an adequate basis for determining that an amended test method would more accurately or fully comply with paragraph (3).

''(iv) EFFECT ON OTHER REQUIREMENTS.—The granting of a petition by the Secretary under this subparagraph shall create no presumption with respect to the determination of the Secretary that the proposed test procedure meets the requirements of paragraph (3).

''(v) RULEMAKING.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than the end of the 18-month period beginning on the date of granting a petition, the Secretary shall publish an amended test method or a determination not to amend the test method.

''(II) EXTENSION.—The Secretary may extend the period described in subclause (I) for 1 additional year.

''(III) DIRECT FINAL RULE.—The Secretary may adopt a consensus test procedure in accordance with the direct final rule procedure established under section 325(p)(4).''.

(b) CERTAIN INDUSTRIAL EQUIPMENT.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) AMENDMENT AND PETITION PROCESS.—

''(A) IN GENERAL.—At least once every 7 years, the Secretary shall review test procedures for all covered equipment and—

''(i) publish in the Federal Register amended test procedures with respect to any covered equipment, if the Secretary determines that amended test procedures would more accurately or fully comply with paragraphs (2) and (3); or

''(ii) publish notice in the Federal Register of any determination not to amend a test procedure.

''(B) PETITIONS.—

''(i) IN GENERAL.—In the case of any class or category of covered equipment, any person may petition the Secretary to conduct a rulemaking—

''(I) to prescribe a test procedure for the covered equipment; or

''(II) to amend the test procedures applicable to the covered equipment to more accurately or fully comply with paragraphs (2) and (3).

''(ii) DETERMINATION.—The Secretary shall—

''(I) not later than 90 days after the date of receipt of the petition, publish the petition in the Federal Register; and

''(II) not later than 180 days after the date of receipt of the petition, grant or deny the petition.

''(iii) BASIS.—The Secretary shall grant a petition if the Secretary finds that the petition contains evidence that, assuming no other evidence was considered, provides an adequate basis for determining that an amended test method would more accurately promote energy or water use efficiency.

''(iv) EFFECT ON OTHER REQUIREMENTS.—The granting of a petition by the Secretary under this paragraph shall create no presumption with respect to the determination of the Secretary that the proposed test procedure meets the requirements of paragraphs (2) and (3).

''(v) RULEMAKING.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than the end of the 18-month period beginning on the date of granting a petition, the Secretary shall publish an amended test method or a determination not to amend the test method.

''(II) EXTENSION.—The Secretary may extend the period described in subclause (I) for 1 additional year.

''(III) DIRECT FINAL RULE.—The Secretary may adopt a consensus test procedure in accordance with the direct final rule procedure established under section 325(p).'';

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 8. ENERGY EFFICIENCY PROVISIONS.

(a) DIRECT FINAL RULE.—Section 323(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)(1)) (as amended by section 7(a)(2)) is amended by adding at the end the following:

''(C) TEST PROCEDURES.—The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 322(b).

''(D) NEW OR AMENDED TEST PROCEDURES.—The Secretary shall direct the National Institute of Standards and Technology to assist in developing new or amended test procedures.''.

(b) CRITERIA FOR PRESCRIBING NEW OR AMENDED STANDARDS.—Section 325(o) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)) is amended—

(1) in paragraph (2)(B)—

(A) in clause (i)—

(i) in subclause (III), by adding before the semicolon ''and the estimated impact on average energy prices'';

(ii) in subclause (VI), by striking ''; and'' and inserting a semicolon;

(iii) by redesignating subclause (VII) as subclause (VIII); and

(iv) by inserting after subclause (VI) the following:

''(VII) the net energy, environmental, and economic impacts due to smart grid technologies or capabilities in a covered product that enable demand response or response to time-dependent energy pricing, taking into consideration the rate of use of the smart grid technologies or capabilities over the life of the product that is likely to result from the imposition of the standard; and''; and

(B) in clause (iii)—

(i) by striking ''(iii) If the Secretary finds'' and inserting the following:

''(iii) REBUTTABLE PRESUMPTION.—

''(I) IN GENERAL.—Subject to subclause (II), if the Secretary finds'';

(ii) in subclause (I) (as designated by clause (i)), by striking ''three'' and inserting ''4''; and

(iii) by striking the second sentence and inserting the following:

''(II) MULTIPLIER FOR CERTAIN PRODUCTS.—For any product with an average expected useful life of less than 4 years, the rebuttable presumption described in subclause (I) shall be determined using 75 percent of the average expected useful life of the product as a multiplier instead of 4.

''(III) REQUIREMENT FOR REBUTTAL OF PRESUMPTION.—A presumption described in subclause (I) may be rebutted only if the Secretary finds, based on clear and substantial evidence, that—

''(aa) the standard level would cause substantial hardship to the average consumer of the product, or to manufacturers supplying a significant portion of the market for the product, in terms of manufacturing or product cost or loss of product utility or features, the aggregate of which outweighs the benefits of the standard level;

''(bb) the standard and implementing regulations cannot reasonably be designed to avoid or mitigate any hardship described in item (aa) (including through the adoption of regional standards for the products identified in, and consistent with, paragraph (6) or other reasonable means consistent with this part) and the hardship cannot be avoided or mitigated through the procedures described in section 504 of the Department of Energy Organization Act (42 U.S.C. 7194); and

''(cc) the same or a substantially similar hardship with respect to a hardship described in item (aa) would not occur under a standard adopted in the absence of the presumption, but that otherwise meets the requirements of this section.

''(IV) PROHIBITED FACTORS FOR DETERMINATION.—

''(aa) IN GENERAL.—Except as provided in item (bb), a determination by the Secretary that the criteria triggering a presumption described in subclause (I) are not met, or that the criterion for rebutting the presumption are met, shall not be taken into consideration by the Secretary in determining whether a standard is economically justified.

''(bb) EXCEPTION.—Evidence presented regarding the presumption may be considered by the Secretary in making a determination described in item (aa).''; and

(2) by adding at the end the following:

''(7) INCORPORATION OF SMART GRID TECHNOLOGIES.—

''(A) IN GENERAL.—The Secretary, after consultation with the Director of the National Institute of Standards and Technology, may incorporate smart grid technologies or capabilities into standards described in subparagraph (B).

''(B) STANDARDS.—Standards referred to in subparagraph (A) shall meet the requirements of this section, including through incorporation of—

''(i) standards that provide credit for smart grid technologies or capabilities, if the smart grid technologies or capabilities provide net benefits substantially equivalent to benefits of products that meet the standards without smart grid technologies or capabilities, taking into consideration energy, economic, and environmental impacts (including emissions reductions from electrical generation); and

''(ii) 1 or more performance standards or design requirements, if the required smart grid technologies or capabilities are technologically feasible and provide net benefits, taking into consideration energy, economic, and environmental impacts (including emissions reductions from electrical generation).''.

(c) OBTAINMENT OF APPLIANCE INFORMATION FROM MANUFACTURERS.—Section 326 of the Energy Policy and Conservation Act (42 U.S.C. 6296) is amended by striking subsection (d) and inserting the following:

''(d) INFORMATION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of carrying out this part, the Secretary shall promulgate proposed regulations not later than 1 year after the date of enactment of the Implementation of National Consensus Appliance Agreements Act, and after receiving public comment, final regulations not later than 18 months after the date of enactment of that Act, under this part or other provision of law administered by the Secretary, that shall require each manufacturer of a covered product, on a product specific basis, to submit information or reports to the Secretary—

''(A) in such form as the Secretary may adopt; and

''(B)(i) on an annual basis; or

''(ii) at longer-than-annual intervals, but not less frequently than once every 3 years.

''(2) FORM AND CONTENT OF REPORTS.—The form and content of each report required by a manufacturer of a covered product under paragraph (1)—

''(A) may vary by product type, as determined by the Secretary; and

''(B) shall include information or data regarding—

''(i) the annual shipments by the manufacturer of each class or category of covered products, subdivided, to the extent practicable, by—

''(I) energy efficiency, energy use, and, in the case of products with water use standards, water use;

''(II) the presence or absence of such efficiency related or energy consuming operational characteristics or components that are or may be required as part of a standard as the Secretary determines to be relevant for the purposes of carrying out this part; and

''(III) for covered products for which the Secretary may adopt regional standards, shipments to California and regional location of sale; and

''(ii) such other categories of information that the Secretary determines to be relevant to carry out this part, including such other information that may be necessary—

''(I) to establish and revise—

''(aa) test procedures;

''(bb) labeling rules; and

''(cc) energy conservation standards;

''(II) to ensure compliance with the requirements of this part; and

''(III) to estimate the impacts on consumers and manufacturers of energy conservation standards in effect as of the reporting date.

''(3) REQUIREMENTS OF SECRETARY IN PROMULGATING REGULATIONS.—

''(A) IN GENERAL.—In promulgating regulations under paragraph (1), the Secretary shall consider—

''(i) existing public sources of information, including nationally recognized certification or verification programs of trade associations and States; and

''(ii)(I) whether some or all of the information described in paragraph (2) is submitted to another Federal agency; and

''(II) the means by which to minimize any duplication of requests for information by Federal agencies.

''(B) COORDINATION WITH TRADE ASSOCIATIONS AND STATES.—In carrying out subparagraph (A)(i), the Secretary shall, to the extent practicable, coordinate with trade associations and States—

''(i) to ensure the uniformity of the reporting requirements; and

''(ii) to mitigate reporting burdens.

''(4) MINIMIZATION OF BURDENS ON MANUFACTURERS.—In carrying out this subsection, the Secretary shall exercise the authority of the Secretary under this subsection in a manner designed to minimize burdens on the manufacturers of covered products.

''(5) REPORTING OF ENERGY INFORMATION.—

''(A) IN GENERAL.—Section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)) shall apply with respect to information obtained under this subsection to the same extent and in the same manner as section 11(d) of that Act applies with respect to energy information obtained under section 11 of that Act.

''(B) DISCLOSURE OF INDUSTRY AGGREGATED SHIPMENT DATA.—To protect individual company shipment information from public disclosure, the Secretary shall, to the maximum extent practicable, disclose to the public the information required under clauses (i) and (ii) of paragraph (2)(B) in a form that has been aggregated by industry associations that are authorized by manufacturers to report the aggregated information for public disclosure on behalf of the manufacturers.

''(6) LIMITATIONS.—Nothing in this subsection limits—

''(A) the ability of any State to collect information and data from manufacturers, industry or trade associations, or other entities, pursuant to the statutory or regulatory authority of the State;

''(B) the application of section 327(a) to any State law (including regulations); or

''(C) the authority of the Secretary to require each manufacturer of a covered product to submit information or reports regarding the compliance by the manufacturer with the requirements of this part.

''(7) PERIODIC REVISIONS.—In accordance with each procedure and criteria required under paragraph (1), the Secretary may periodically revise the reporting requirements adopted under this subsection.''.

(d) WAIVER OF FEDERAL PREEMPTION.—Section 327(d)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6297(d)(1)) is amended—

(1) in subparagraph (B)—

(A) by inserting ''(i)'' before ''Subject to paragraphs''; and

(B) by adding at the end the following:

''(ii) In making a finding under clause (i), the Secretary may not reject a petition for failure of the petitioning State or river basin commission to produce confidential information maintained by any manufacturer or distributor, or group or association of manufacturers or distributors, that the petitioning party has requested and not received.''; and

(2) in the matter following subparagraph (C)(ii), by adding at the end the following: ''Notwithstanding the preceding sentence, the Secretary may approve a waiver petition submitted by a State that does not have an energy plan and forecast if the waiver petition concerns a State regulation adopted pursuant to a notice and comment rulemaking proceeding.''.

(e) PERMITTING STATES TO SEEK INJUNCTIVE ENFORCEMENT.—Section 334 of the Energy Policy and Conservation Act (42 U.S.C. 6304) is amended to read as follows:

''SEC. 334. PERMITTING STATES TO SEEK INJUNCTIVE ENFORCEMENT.

''(a) JURISDICTION.—The United States district courts shall have original jurisdiction of a civil action seeking an injunction to restrain—

''(1) any violation of section 332; and

''(2) any person from distributing in commerce any covered product that does not comply with an applicable rule under section 324 or 325.

''(b) AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an action under subsection (a) shall be brought by—

''(A) the Commission; or

''(B) the attorney general of a State in the name of the State.

''(2) EXCEPTIONS.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), only the Secretary may bring an action under this section to restrain—

''(i) a violation of section 332(a)(3) relating to a requirement prescribed by the Secretary;

''(ii) a violation of section 332(a)(4) relating to a request by the Secretary under section 326(b)(2); or

''(iii) a violation of paragraph (8), (9), or (10) of section 332(a).

''(B) OTHER PROHIBITED ACTS.—An action under this section regarding a violation of paragraph (5) or (7) of section 332(a) shall be brought by—

''(i) the Secretary; or

''(ii) the attorney general of a State in the name of the State.

''(c) LIMITATION.—If an action under this section is brought by the attorney general of a State—

''(1) not less than 30 days before the date of commencement of the action, the State shall—

''(A) provide written notice to the Secretary and the Commission; and

''(B) provide the Secretary and the Commission with a copy of the complaint;

''(2) the Secretary and the Commission—

''(A) may intervene in the suit or action;

''(B) upon intervening, shall be heard on all matters arising from the suit or action; and

''(C) may file petitions for appeal;

''(3) no separate action may be brought under this section if, at the time written notice is provided under paragraph (1), the same alleged violation or failure to comply is the subject of a pending action, or a final judicial judgment or decree, by the United States under this Act; and

''(4) the action shall not be construed—

''(A) as to prevent the attorney general of a State, or other authorized officer of the State, from exercising the powers conferred on the attorney general, or other authorized officer of the State, by the laws of the State (including regulations); or

''(B) as to prohibit the attorney general of a State, or other authorized officer of the State, from proceeding in a Federal or State court on the basis of an alleged violation of any civil or criminal statute of the State.

''(d) VENUE; SERVICE OF PROCESS.—

''(1) VENUE.—An action under this section may be brought in the United States district court for—

''(A) the district in which the act, omission, or transaction constituting the applicable violation occurred; or

''(B) the district in which the defendant—

''(i) resides; or

''(ii) transacts business.

''(2) SERVICE OF PROCESS.—In an action under this section, process may be served on a defendant in any district in which the defendant resides or is otherwise located.''.

(f) TREATMENT OF APPLIANCES WITHIN BUILDING CODES.—Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended by adding at the end the following:

''(h) RECOGNITION OF ALTERNATIVE REFRIGERANT USES.—With respect to State or local laws (including regulations) prohibiting, limiting, or restricting the use of alternative refrigerants for specific end uses approved by the Administrator of the Environmental Protection Agency pursuant to the Significant New Alternatives Program under section 612 of the Clean Air Act (42 U.S.C. 7671k) for use in a covered product under section 322(a)(1) considered on or after the date of enactment of this subsection, notice shall be provided to the Administrator before or during any State or local public comment period to provide to the Administrator an opportunity to comment.''.

(g) ENFORCEMENT.—Section 333 of the Energy Policy and Conservation Act (42 U.S.C. 6303) is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following:

''(1) PROHIBITED ACTS.—Except as provided in subsection (c), any person who knowingly violates any provision of section 332, or any regulation promulgated pursuant to that section, shall be subject to a civil penalty.'';

(B) in the second sentence—

(i) by striking ''Such penalties'' and inserting the following:

''(2) ASSESSMENT.—The penalties''; and

(ii) by striking ''violations of section 332(a)(5)'' and inserting ''violations of paragraphs (5), (8), (9), and (10) of section 332(a)'';

(C) in the third sentence, by striking ''Civil penalties'' and inserting the following:

''(3) COMPROMISE.—Civil penalties''; and

(D) by striking the fourth sentence and inserting the following:

''(4) SEPARATE VIOLATIONS.—Each violation of paragraph (1), (2), or (5) of section 332(a) shall constitute a separate violation with respect to each covered product, with a maximum civil penalty of up to $100,000 or $400 per unit, whichever is greater, and each day of violation of paragraph (3), (4), (8), (9), or (10) of section 332(a) shall constitute a separate violation, with a maximum civil penalty of $500 per day.''; and

(2) in subsection (d)—

(A) in paragraph (1), by striking the second sentence; and

(B) in paragraph (2)(A), by striking ''Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty,'' and inserting ''If the proposed penalty arises from an alleged violation of paragraph (3), (4), (5), (9), or (10) of section 332(a),'';

(3) by striking paragraph (3) and inserting the following:

''(3) FAILURE TO CERTIFY.—If the proposed penalty arises from an alleged failure to certify a covered product as required by section 332(a)(8), the Secretary shall assess the penalty, by order, after an informal adjudication conducted under section 555 of title 5, United States Code.''; and

(4) in paragraph (4), in the first sentence, by striking ''amount of such penalty'' and inserting ''amount of the penalty, plus interest assessed from the date upon which the assessment of a civil penalty became a final and unappealable order under paragraph (2),''.

SEC. 9. MEASURING ICEMAKER ENERGY.

Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 6(c)) is amended by adding at the end the following:

''(24) REFRIGERATOR AND FREEZER TEST PROCEDURE.—

''(A) IN GENERAL.—Not later than January 1, 2011, the Secretary shall finalize the test procedure proposed on May 27, 2010, with such modifications as the Secretary determines to be appropriate and consistent with this part.

''(B) RULEMAKING.—

''(i) INITIATION.—Not later than January 1, 2012, the Secretary shall initiate a rulemaking to amend the test procedure described in subparagraph (A) only to incorporate measured automatic icemaker energy use.

''(ii) FINAL RULE.—Not later than December 31, 2012, the Secretary shall publish a final rule regarding the matter described in clause (i).

''(25) ADDITIONAL HOME APPLIANCE TEST PROCEDURES.—

''(A) FINAL RULE.—Not later than October 1, 2011, the Secretary shall publish a final rule amending the residential clothes washer test procedure.

''(B) FINALIZATION OF TEST PROCEDURE FOR CLOTHES DRYERS.—Not later than April 1, 2011, the Secretary shall finalize the test procedure for clothes dryers proposed on June 29, 2010, with such modifications as the Secretary determines to be appropriate and consistent with this part.

''(C) FINALIZATION OF TEST PROCEDURE FOR ROOM AIR CONDITIONERS.—Not later than April 1, 2011, the Secretary shall finalize the test procedure for room air conditioners proposed on June 29, 2010, with such modifications as the Secretary determines to be appropriate and consistent with this part.''.

SEC. 10. CREDIT FOR ENERGY STAR SMART APPLIANCES.

Section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a) is amended by adding at the end the following:

''(e) CREDIT FOR SMART APPLIANCES.—Not later than 180 days after the date of enactment of this subsection, after soliciting comments pursuant to subsection (c)(5), the Administrator of the Environmental Protection Agency, in cooperation with the Secretary, shall determine whether to update the Energy Star criteria for residential refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, clothes dryers, and room air conditioners to incorporate smart grid and demand response features.''.

SEC. 11. VIDEO GAME CONSOLE ENERGY EFFICIENCY STUDY.

(a) IN GENERAL.—Part B of title III of the Energy Policy and Conservation Act is amended by inserting after section 324A (42 U.S.C. 6294a) the following:

''SEC. 324B. VIDEO GAME CONSOLE ENERGY EFFICIENCY STUDY.

''(a) INITIAL STUDY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall conduct a study of—

''(A) video game console energy use; and

''(B) opportunities for energy savings regarding that energy use.

''(2) INCLUSIONS.—The study under paragraph (1) shall include an assessment of all power-consuming modes and media playback modes of video game consoles.

''(b) ACTION ON COMPLETION.—On completion of the initial study under subsection (a), the Secretary shall determine, by regulation, using the criteria and procedures described in section 325(n)(2), whether to initiate a process for establishing minimum energy efficiency standards for video game console energy use.

''(c) FOLLOW-UP STUDY.—If the Secretary determines under subsection (b) that standards should not be established, the Secretary shall conduct a follow-up study in accordance with subsection (a) by not later than 3 years after the date of the determination.''.

(b) APPLICATION DATE.—Subsection (oo)(1) of section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as redesignated by sections 4(d)(1) and 6(d)(1)) is amended by inserting ''or section 324B'' after ''subsection (l), (u), or (v)'' each place it appears.

SEC. 12. REFRIGERATOR AND FREEZER STANDARDS.

Section 325(b) of the Energy Policy and Conservation Act (42 U.S.C. 6295(b)) is amended by striking paragraph (4) and inserting the following:

''(4) REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS MANUFACTURED AS OF JANUARY 1, 2014.—

''(A) DEFINITION OF BUILT-IN PRODUCT CLASS.—In this paragraph, the term 'built-in product class' means a refrigerator, freezer, or refrigerator with a freezer unit that—

''(i) is 7.75 cubic feet or greater in total volume and 24 inches or less in cabinet depth (not including doors, handles, and custom front panels);

''(ii) is designed to be totally encased by cabinetry or panels attached during installation;

''(iii) is designed to accept a custom front panel or to be equipped with an integral factory-finished face;

''(iv) is designed to be securely fastened to adjacent cabinetry, walls, or floors; and

''(v) has 2 or more sides that are not—

''(I) fully finished; and

''(II) intended to be visible after installation.

''(B) MAXIMUM ENERGY USE.—

''(i) IN GENERAL.—Based on the test procedure in effect as of July 9, 2010, the maximum energy use allowed in kilowatt hours per year for each product described in the table contained in clause (ii) (other than refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet and freezers with total refrigerated volume exceeding 30 cubic feet) that is manufactured on or after January 1, 2014, is specified in the table contained in that clause.

''(ii) STANDARDS EQUATIONS.—The allowed maximum energy use referred to in clause (i) is as follows:

"Standards Equations	
Product Description	
Automatic Defrost Refrigerator-Freezers	
Top Freezer w/o TTD ice	7.35 AV+ 207.0
Top Freezer w/ TTD ice	7.65 AV+ 267.0
Side Freezer w/o TTD ice	3.68 AV+ 380.6
Side Freezer w/ TTD ice	7.58 AV+304.5
Bottom Freezer w/o TTD ice	3.68 AV+ 367.2
Bottom Freezer w/ TTD ice	4.0 AV+ 431.2
Manual & Partial Automatic Refrigerator-Freezers	
Manual Defrost	7.06 AV+ 198.7
Partial Automatic	7.06 AV+198.7
All Refrigerators	
Manual Defrost	7.06AV+198.7
Automatic Defrost	7.35 AV+ 207.0
All Freezers	
Upright with manual defrost	5.66 AV+ 193.7
Upright with automatic defrost	8.70 AV+ 228.3
Chest with manual defrost	7.41 AV+ 107.8
Chest with automatic defrost	10.33 AV+ 148.1
Automatic Defrost Refrigerator-Freezers–Compact Size	
Top Freezer and Bottom Freezer	10.80 AV+ 301.8
Side Freezer	6.08 AV+ 400.8
Manual & Partial Automatic Refrigerator-Freezers–Compact Size	
Manual Defrost	8.03 AV+ 224.3
Partial Automatic	5.25 AV+ 298.5
All Refrigerators–Compact Size	
Manual defrost	8.03 AV+ 224.3
Automatic defrost	9.53 AV+ 266.3
All Freezers–Compact Size	
Upright with manual defrost	8.80 AV+ 225.7
Upright with automatic defrost	10.26 AV+ 351.9
Chest	9.41AV+ 136.8
Automatic Defrost Refrigerator-Freezers–Built-ins	
Top Freezer w/o TTD ice	7.84 AV+ 220.8
Side Freezer w/o TTD ice	3.93 AV+ 406.0
Side Freezer w/ TTD ice	8.08 AV+ 324.8
Bottom Freezer w/o TTD ice	3.91 AV+ 390.2
Bottom Freezer w/ TTD ice	4.25 AV+ 458.2
All Refrigerators–Built-ins	

Automatic Defrost	7.84 AV+ 220.8
All Freezers–Built-ins	
Upright with automatic defrost	9.32 AV+ 244.6

''(iii) FINAL RULES.—

''(I) IN GENERAL.—Except as provided in subclause (II), after the date of publication of each test procedure change made pursuant to section 323(b)(19), in accordance with the procedures described in section 323(e)(2), the Secretary shall publish final rules to amend the standards specified in the table contained in clause (ii).

''(II) EXCEPTION.—The standards amendment made pursuant to the test procedure change required under section 323(b)(19)(B) shall be based on the difference between—

''(aa) the average measured automatic ice maker energy use of a representative sample for each product class; and

''(bb) the value assumed by the Department of Energy for ice maker energy use in the test procedure published pursuant to section 323(b)(19)(A).

''(III) APPLICABILITY.—Section 323(e)(3) shall not apply to the rules described in this clause.

''(iv) FINAL RULE.—The Secretary shall publish any final rule required by clause (iii) by not later than the later of the date that is 180 days after—

''(I) the date of enactment of this clause; or

''(II) the date of publication of a final rule to amend the test procedure described in section 323(b)(19).

''(v) NEW PRODUCT CLASSES.—The Secretary may establish 1 or more new product classes as part of the final amended standard adopted pursuant to the test procedure change required under section 323(b)(19)(B) if the 1 or more new product classes are needed to distinguish among products with automatic icemakers.

''(vi) EFFECTIVE DATES OF STANDARDS.—

''(I) STANDARDS AMENDMENT FOR FIRST REVISED TEST PROCEDURE.—A standards amendment adopted pursuant to a test procedure change required under section 323(b)(19)(A) shall apply to any product manufactured as of January 1, 2014.

''(II) STANDARDS AMENDMENT AFTER REVISED TEST PROCEDURE FOR ICEMAKER ENERGY.—An amendment adopted pursuant to a test procedure change required under section 323(b)(19)(B) shall apply to any product manufactured as of the date that is 3 years after the date of publication of the final rule amending the standards.

''(vii) SLOPE AND INTERCEPT ADJUSTMENTS.—

''(I) IN GENERAL.—With respect to refrigerators, freezers, and refrigerator-freezers, the Secretary may, by rule, adjust the slope and intercept of the equations specified in the table contained in clause (ii)—

''(aa) based on the energy use of typical products of various sizes in a product class; and

''(bb) if the average energy use for each of the classes is the same under the new equations as under the equations specified in the table contained in clause (ii).

''(II) DEADLINE.—If the Secretary adjusts the slope and intercept of an equation described in subclause (I), the Secretary shall publish the final rule containing the adjustment by not later than July 1, 2011.

''(viii) EFFECT.—A final rule published under clause (iii) pursuant to the test procedure change required under section 323(b)(19)(B) or pursuant to clause (iv) shall not be considered to be an amendment to the standard for purposes of section 325(m).''.

SEC. 13. ROOM AIR CONDITIONER STANDARDS.

Section 325(c) of the Energy Policy and Conservation Act (42 U.S.C. 6295(c)) is amended by adding at the end the following:

''(3) MINIMUM ENERGY EFFICIENCY RATIO OF ROOM AIR CONDITIONERS MANUFACTURED ON OR AFTER JUNE 1, 2014.—

''(A) IN GENERAL.—Based on the test procedure in effect as of July 9, 2010, the minimum energy efficiency ratios of room air conditioners manufactured on or after June 1, 2014, shall not be less than that specified in the table contained in subparagraph (B).

''(B) MINIMUM ENERGY EFFICIENCY RATIOS.—The minimum energy efficiency ratios referred to in subparagraph (A) are as follows:

Without Reverse Cycle w/Louvers	
<6,000 Btu/h	11.2
6,000 to 7,999 Btu/h	11.2
8,000-13,999 Btu/h	11.0
14,000 to 19,999 Btu/h	10.8
20,000-27,999 Btu/h	9.4
≥28,000 Btu/h	9.0
Without Reverse Cycle w/o Louvers	
<6,000 Btu/h	10.2
6,000 to 7,999 Btu/h	10.2
8,000-10,999 Btu/h	9.7
11,000-13,999 Btu/h	9.6
14,000 to 19,999 Btu/h	9.4
≥20,000 Btu/h	9.4
With Reverse Cycle	
<20,000 w/Louvers Btu/h	9.9
≥ 20,000 w/Louvers Btu/h	9.4
<14,000 w/o Louvers Btu/h	9.4
≥14,000 w/o Louvers Btu/h	8.8
Casement	
Casement Only	9.6
Casement-Slider	10.5

''(C) FINAL RULE.—

''(i) IN GENERAL.—The final rule to amend the room air conditioner test procedure adopted pursuant to section 323(b)(20)(C) shall amend the standards specified in the

table contained in subparagraph (B) in accordance with the procedures described in section 323(e)(2).

''(ii) STANDBY AND OFF MODE ENERGY CONSUMPTION.—

''(I) IN GENERAL.—The Secretary shall integrate standby and off mode energy consumption into the amended energy efficiency ratios standards required under clause (i).

''(II) REQUIREMENTS.—The amended standards described in subclause (I) shall reflect the levels of standby and off mode energy consumption that meet the criteria described in section 325(o).

''(iii) APPLICABILITY.—

''(I) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in clause (i).

''(II) AMENDED STANDARDS.—The amended standards required by this subparagraph shall apply to products manufactured on or after June 1, 2014.''.

SEC. 14. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.

Section 325(e) of the Energy Policy and Conservation Act (42 U.S.C. 6295(e)) is amended by adding at the end the following:

''(5) UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) COVERED WATER HEATER.—The term 'covered water heater' means—

''(I) a water heater; and

''(II) a storage water heater, instantaneous water heater, and unfired water storage tank (as defined in section 340).

''(ii) FINAL RULE.—The term 'final rule' means the final rule published under this paragraph.

''(B) PUBLICATION OF FINAL RULE.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters.

''(C) PURPOSE.—The purpose of the final rule shall be to replace with a uniform efficiency descriptor—

''(i) the energy factor descriptor for water heaters established under this subsection; and

''(ii) the thermal efficiency and standby loss descriptors for storage water heaters, instantaneous water heaters, and unfired water storage tanks established under section 342(a)(5).

''(D) EFFECT OF FINAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this title, effective beginning on the effective date of the final rule, the efficiency standard for covered water heaters shall be denominated according to the efficiency descriptor established by the final rule.

''(ii) EFFECTIVE DATE.—The final rule shall take effect 1 year after the date of publication of the final rule under subparagraph (B).

''(E) CONVERSION FACTOR.—

''(i) IN GENERAL.—The Secretary shall develop a mathematical conversion factor for converting the measurement of efficiency for covered water heaters from the test procedures in effect on the date of enactment of this paragraph to the new energy descriptor established under the final rule.

''(ii) APPLICATION.—The conversion factor shall apply to models of covered water heaters affected by the final rule and tested prior to the effective date of the final rule.

''(iii) EFFECT ON EFFICIENCY REQUIREMENTS.—The conversion factor shall not affect the minimum efficiency requirements for covered water heaters otherwise established under this title.

''(iv) USE.—During the period described in clause (v), a manufacturer may apply the conversion factor established by the Secretary to rerate existing models of covered water heaters that are in existence prior to the effective date of the rule described in clause (v)(II) to comply with the new efficiency descriptor.

''(v) PERIOD.—Subclause (E) shall apply during the period—

''(I) beginning on the date of publication of the conversion factor in the Federal Register; and

''(II) ending on April 16, 2015.

''(F) EXCLUSIONS.—The final rule may exclude a specific category of covered water heaters from the uniform efficiency descriptor established under this paragraph if the Secretary determines that the category of water heaters—

''(i) does not have a residential use and can be clearly described in the final rule; and

''(ii) are effectively rated using the thermal efficiency and standby loss descriptors applied (as of the date of enactment of this paragraph) to the category under section 342(a)(5).

''(G) OPTIONS.—The descriptor set by the final rule may be—

''(i) a revised version of the energy factor descriptor in use as of the date of enactment of this paragraph;

''(ii) the thermal efficiency and standby loss descriptors in use as of that date;

''(iii) a revised version of the thermal efficiency and standby loss descriptors;

''(iv) a hybrid of descriptors; or

''(v) a new approach.

''(H) APPLICATION.—The efficiency descriptor and accompanying test method established under the final rule shall apply, to the maximum extent practicable, to all water heating technologies in use as of the date of enactment of this paragraph and to future water heating technologies.

''(I) PARTICIPATION.—The Secretary shall invite interested stakeholders to participate in the rulemaking process used to establish the final rule.

''(J) TESTING OF ALTERNATIVE DESCRIPTORS.—In establishing the final rule, the Secretary shall contract with the National Institute of Standards and Technology, as necessary, to conduct testing and simulation of alternative descriptors identified for consideration.

''(K) EXISTING COVERED WATER HEATERS.—A covered water heater shall be considered to comply with the final rule on and after the effective date of the final rule and with any revised labeling requirements established by the Federal Trade Commission to carry out the final rule if the covered water heater—

''(i) was manufactured prior to the effective date of the final rule; and

''(ii) complied with the efficiency standards and labeling requirements in effect prior to the final rule.''.

SEC. 15. CLOTHES DRYERS.

Section 325(g)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(4)) is amended by adding at the end the following:

''(D) MINIMUM ENERGY FACTORS FOR CLOTHES DRYERS.—

''(i) IN GENERAL.—Based on the test procedure in effect as of July 9, 2010, clothes dryers manufactured on or after January 1, 2015, shall comply with the minimum energy factors specified in the table contained in clause (ii).

''(ii) NEW STANDARDS.—The minimum energy factors referred to in clause (i) are as follows:

''Product Description	EF
Vented Electric Standard	3.17
Vented Electric Compact 120V	3.29
Vented Electric Compact 240V	3.05
Vented Gas	2.81
Vent-Less Electric Compact 240V	2.37
Vent-Less Electric Combination Washer/Dryer	1.95

''(iii) FINAL RULE.—

''(I) REQUIREMENTS.—

''(aa) IN GENERAL.—Except as provided in item (bb), the final rule to amend the clothes dryer test procedure adopted pursuant to section 323(b)(20)(B) shall amend the energy factors standards specified in the table contained in clause (ii) in accordance with the procedures described in section 323(e)(2).

''(bb) EXCEPTION.—To establish a representative sample of compliant products, the Secretary shall select a sample of minimally compliant dryers that automatically terminate the drying cycle at not less than 4 percent remaining moisture content.

''(II) STANDBY AND OFF MODE ENERGY CONSUMPTION.—

''(aa) INTEGRATION.—The Secretary shall integrate standby and off mode energy consumption into the amended standards required under subclause (I).

''(bb) REQUIREMENTS.—The amended standards described in item (aa) shall reflect levels of standby and off mode energy consumption that meet the criteria described in section 325(o).

''(III) APPLICABILITY.—

''(aa) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in subclause (I).

''(bb) AMENDED STANDARDS.—The amended standards required by this clause shall apply to products manufactured on or after January 1, 2015.''.

SEC. 16. STANDARDS FOR CLOTHES WASHERS.

Section 325(g)(9) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(9)) is amended by striking subparagraph (B) and inserting the following:

''(B) AMENDMENT OF STANDARDS.—

''(i) PRODUCTS MANUFACTURED AS OF JANUARY 1, 2015.—

''(I) IN GENERAL.—Based on the test procedure in effect as of July 9, 2010, clothes washers manufactured as of January 1, 2015, shall comply with the minimum modified energy factors and maximum water factors specified in the table contained in subclause (II).

''(II) STANDARDS.—The minimum modified energy factors and maximum water factors referred to in subclause (I) are as follows:

	''MEF	WF
Top Loading—Standard	1.72	8.0
Top Loading—Compact	1.26	14.0
Front Loading—Standard	2.2	4.5
Front Loading—Compact (less than 1.6 cu. ft. capacity)	1.72	8.0

''(ii) PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2018.—

''(I) IN GENERAL.—Based on the test procedure in effect as of July 9, 2010, top-loading clothes washers manufactured on or after January 1, 2018, shall comply with the minimum modified energy factors and maximum water factors specified in the table contained in subclause (II).

''(II) STANDARDS.—The minimum modified energy factors and maximum water factors referred to in subclause (I) are as follows:

	''MEF	WF
Top Loading—Standard	2.0	6.0
Top Loading—Compact	1.81	11.6

''(iii) FINAL RULE.—

''(I) IN GENERAL.—The final rule to amend the clothes washer test procedure adopted pursuant to section 323(b)(20)(A) shall amend the standards described in clauses (i) and (ii) in accordance with the procedures described in section 323(e)(2).

''(II) STANDBY AND OFF MODE ENERGY CONSUMPTION.—

''(aa) INTEGRATION.—The Secretary shall integrate standby and off mode energy consumption into the amended modified energy factor standards required under subclause (I).

''(bb) REQUIREMENTS.—The amended modified energy factor standards described in item (aa) shall reflect levels of standby and off mode energy consumption that meet the criteria described in section 325(o).

''(III) APPLICABILITY.—

''(aa) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in subclause (I).

''(bb) AMENDED STANDARDS FOR PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2015.—Amended standards required by this clause that are based on clause (i) shall apply to products manufactured on or after January 1, 2015.

''(cc) AMENDED STANDARDS FOR PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2018.—Amended standards required by this clause that are based on clause (ii) shall apply to products manufactured on or after January 1, 2018.''.

SEC. 17. DISHWASHERS.

Section 325(g)(10) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(10)) is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D); and

(3) by inserting before subparagraph (D) (as redesignated by paragraph (2)) the following:

''(A) DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2010.—A dishwasher manufactured on or after January 1, 2010, shall—

''(i) for a standard size dishwasher, not exceed 355 kilowatt hours per year and 6.5 gallons per cycle; and

''(ii) for a compact size dishwasher, not exceed 260 kilowatt hours per year and 4.5 gallons per cycle.

''(B) DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2013.—A dishwasher manufactured on or after January 1, 2013, shall—

''(i) for a standard size dishwasher, not exceed 307 kilowatt hours per year and 5.0 gallons per cycle; and

''(ii) for a compact size dishwasher, not exceed 222 kilowatt hours per year and 3.5 gallons per cycle.

''(C) REQUIREMENTS OF FINAL RULES.—

''(i) IN GENERAL.—Any final rule to amend the dishwasher test procedure after July 9, 2010, and before January 1, 2013, shall amend the standards described in subparagraph (B) in accordance with the procedures described in section 323(e)(2).

''(ii) APPLICABILITY.—

''(I) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in clause (i).

''(II) AMENDED STANDARDS.—The amended standards required by this subparagraph shall apply to products manufactured on or after January 1, 2013.''.

SEC. 18. STANDARDS FOR CERTAIN INCANDESCENT REFLECTOR LAMPS AND REFLECTOR LAMPS.

Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(i)) is amended by adding at the end the following:

''(9) CERTAIN INCANDESCENT REFLECTOR LAMPS.—

''(A) IN GENERAL.—Not later than July 1, 2011, the Secretary shall publish a final rule establishing standards for incandescent reflector lamp types described in paragraph (1)(D)(i).

''(B) EFFECTIVE DATE.—The standards described in subparagraph (A) shall take effect on July 1, 2013.

''(C) STANDARDS.—In conducting a rulemaking for incandescent reflector lamps under this paragraph after the date of enactment of this paragraph, the Secretary shall consider the standards for all incandescent reflector lamps, including lamp types described in paragraph (1)(D)(i).

''(10) REFLECTOR LAMPS.—

''(A) IN GENERAL.—Not later than January 1, 2015, the Secretary shall publish a final rule establishing and amending standards for reflector lamps, including incandescent reflector lamps.

''(B) ADMINISTRATION.—In conducting the rulemaking for reflector lamps under this paragraph, the Secretary shall consider—

''(i) incandescent and nonincandescent technologies; and

''(ii) a new metric, other than lumens per watt, that is based on the photometric distribution of those lamps.

''(C) EFFECTIVE DATE.—The standards described in subparagraph (A) shall take effect not earlier than the date that is 3 years after the date of publication of the final rule, as determined by the Secretary.''.

SEC. 19. PETITION FOR AMENDED STANDARDS.

Section 325(n) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)) is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

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

''(3) NOTICE OF DECISION.—Not later than 180 days after the date of receiving a petition, the Secretary shall publish in the Federal Register a notice of, and explanation for, the decision of the Secretary to grant or deny the petition.

''(4) NEW OR AMENDED STANDARDS.—Not later than 3 years after the date of granting a petition for new or amended standards, the Secretary shall publish in the Federal Register—

''(A) a final rule that contains the new or amended standards; or

''(B) a determination that no new or amended standards are necessary.''.

SEC. 20. EFFICIENCY STANDARDS FOR CLASS A EXTERNAL POWER SUPPLIES.

Section 325(u)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)(3)) is amended—

(1) in subparagraph (A), by striking ''(D)'' and inserting ''(E)''; and

(2) by adding at the end the following:

''(E) NONAPPLICATION OF NO-LOAD MODE ENERGY EFFICIENCY STANDARDS TO EXTERNAL POWER SUPPLIES FOR CERTAIN SECURITY OR LIFE SAFETY ALARMS OR SURVEILLANCE SYSTEMS.—

''(i) DEFINITION OF SECURITY OR LIFE SAFETY ALARM OR SURVEILLANCE SYSTEM.—In this subparagraph:

''(I) IN GENERAL.—The term 'security or life safety alarm or surveillance system' means equipment designed and marketed to perform any of the following functions (on a continuous basis):

''(aa) Monitor, detect, record, or provide notification of intrusion or access to real property or physical assets or notification of threats to life safety.

''(bb) Deter or control access to real property or physical assets, or prevent the unauthorized removal of physical assets.

''(cc) Monitor, detect, record, or provide notification of fire, gas, smoke, flooding, or other physical threats to real property, physical assets, or life safety.

''(II) EXCLUSION.—The term 'security or life safety alarm or surveillance system' does not include any product with a principal function other than life safety, security, or surveillance that—

''(aa) is designed and marketed with a built-in alarm or theft-deterrent feature; or

''(bb) does not operate necessarily and continuously in active mode.

''(ii) NONAPPLICATION OF NO-LOAD MODE REQUIREMENTS.—The No-Load Mode energy efficiency standards established by this paragraph shall not apply to an external power supply manufactured before July 1, 2017, that—

''(I) is an AC-to-AC external power supply;

''(II) has a nameplate output of 20 watts or more;

''(III) is certified to the Secretary as being designed to be connected to a security or life safety alarm or surveillance system component; and

''(IV) on establishment within the External Power Supply International Efficiency Marking Protocol, as referenced in the 'Energy Star Program Requirements for Single Voltage External Ac–Dc and Ac–Ac Power Supplies', published by the Environmental Protection Agency, of a distinguishing mark for products described in this clause, is permanently marked with the distinguishing mark.

''(iii) ADMINISTRATION.—In carrying out this subparagraph, the Secretary shall—

''(I) require, with appropriate safeguard for the protection of confidential business information, the submission of unit shipment data on an annual basis; and

''(II) restrict the eligibility of external power supplies for the exemption provided under this subparagraph on a finding that a substantial number of the external power supplies are being marketed to or installed in applications other than security or life safety alarm or surveillance systems.''.

SEC. 21. PROHIBITED ACTS.

Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraph (1), by striking ''for any manufacturer or private labeler to distribute'' and inserting ''for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler to offer for sale or distribute'';

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

''(5) for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler—

''(A) to offer for sale or distribute in commerce any new covered product that is not in conformity with an applicable energy conservation standard established in or prescribed under this part; or

''(B) if the standard is a regional standard that is more stringent than the base national standard, to offer for sale or distribute in commerce any new covered product having knowledge (consistent with the definition of 'knowingly' in section 333(b)) that the product will be installed at a location covered by a regional standard established in or prescribed under this part and will not be in conformity with the standard;'';

(3) in paragraph (6) (as added by section 306(b)(2) of Public Law 110–140 (121 Stat. 1559)), by striking the period at the end and inserting a semicolon;

(4) by redesignating paragraph (6) (as added by section 321(e)(3) of Public Law 110–140 (121 Stat. 1586)) as paragraph (7);

(5) in paragraph (7) (as so redesignated)—

(A) by striking ''for any manufacturer, distributor, retailer, or private labeler to distribute'' and inserting ''for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler to offer for sale or distribute''; and

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

(6) by inserting after paragraph (7) (as so redesignated) the following:

''(8) for any manufacturer or private labeler to distribute in commerce any new covered product that has not been properly certified in accordance with the requirements established in or prescribed under this part;

''(9) for any manufacturer or private labeler to distribute in commerce any new covered product that has not been properly tested in accordance with the requirements established in or prescribed under this part; and

''(10) for any manufacturer or private labeler to violate any regulation lawfully promulgated to implement any provision of this part.''.

SEC. 22. OUTDOOR LIGHTING.

(a) DEFINITIONS.—

(1) COVERED EQUIPMENT.—Section 340(1) of the Energy Policy and Conservation Act (42 U.S.C. 6311(1)) is amended—

(A) by redesignating subparagraph (L) as subparagraph (O); and

(B) by inserting after subparagraph (K) the following:

''(L) Pole-mounted outdoor luminaires.

''(M) High light output double-ended quartz halogen lamps.

''(N) General purpose mercury vapor lamps.''.

(2) INDUSTRIAL EQUIPMENT.—Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311(2)(B)) is amended—

(A) by striking ''and'' before ''unfired hot water''; and

(B) by inserting after ''tanks'' the following: '', pole-mounted outdoor luminaires, high light output double-ended quartz halogen lamps, and general purpose mercury vapor lamps''.

(3) NEW DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(A) by redesignating paragraphs (22) and (23) (as amended by sections 312(a)(2) and 314(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1564, 1569)) as paragraphs (23) and (24), respectively; and

(B) by adding at the end the following:

''(25) AREA LUMINAIRE.—The term 'area luminaire' means a luminaire intended for lighting parking lots and general areas that—

''(A) is designed to mount on a pole using an arm, pendant, or vertical tenon;

''(B) has an opaque top or sides, but may contain a transmissive ornamental element;

''(C) has an optical aperture that is open or enclosed with a flat, sag, or drop lens;

''(D) is mounted in a fixed position with the optical aperture near horizontal, or tilted up; and

''(E) has photometric output measured using Type C photometry per IESNA LM–75–01.

''(26) DECORATIVE POSTTOP LUMINAIRE.—The term 'decorative posttop luminaire' means a luminaire with—

''(A) open or transmissive sides that is designed to be mounted directly over a pole using a vertical tenon or by fitting the luminaire directly into the pole; and

''(B) photometric output measured using Type C photometry per IESNA LM–75–01.

''(27) DUSK-TO-DAWN LUMINAIRE.—The term 'dusk-to-dawn luminaire' means a fluorescent, induction, or high intensity discharge luminaire that—

''(A) is designed to be mounted on a horizontal or horizontally slanted tenon or arm;

''(B) has an optical assembly that is coaxial with the axis of symmetry of the light source;

''(C) has an optical assembly that is—

''(i) a reflector or lamp enclosure that surrounds the light source with an open lower aperture; or

''(ii) a refractive optical assembly surrounding the light source with an open or closed lower aperture;

''(D) contains a receptacle for a photocontrol that enables the operation of the light source and is either coaxial with both the axis of symmetry of the light source and the optical assembly or offset toward the mounting bracket by less than 3 inches, or contains an integral photocontrol; and

''(E) has photometric output measured using Type C photometry per IESNA LM–75–01.

''(28) FLOODLIGHT LUMINAIRE.—The term 'floodlight luminaire' means an outdoor luminaire designed with a yoke, knuckle, or other mechanism allowing the luminaire to be aimed 40 degrees or more with its photometric distributions established with only Type B photometry in accordance with IESNA LM–75, revised 2001.

''(29) GENERAL PURPOSE MERCURY VAPOR LAMP.—The term 'general purpose mercury vapor lamp' means a mercury vapor lamp (as defined in section 321) that—

''(A) has a screw base;

''(B) is designed for use in general lighting applications (as defined in section 321);

''(C) is not a specialty application mercury vapor lamp; and

''(D) is designed to operate on a mercury vapor lamp ballast (as defined in section 321) or is a self-ballasted lamp.

''(30) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMP.—The term 'high light output double-ended quartz halogen lamp' means a lamp that—

''(A) is designed for general outdoor lighting purposes;

''(B) contains a tungsten filament;

''(C) has a rated initial lumen value of greater than 6,000 and less than 40,000 lumens;

''(D) has at each end a recessed single contact, R7s base;

''(E) has a maximum overall length (MOL) between 4 and 11 inches;

''(F) has a nominal diameter less than ¾ inch (T6);

''(G) is designed to be operated at a voltage not less than 110 volts and not greater than 200 volts or is designed to be operated at a voltage between 235 volts and 300 volts;

''(H) is not a tubular quartz infrared heat lamp; and

''(I) is not a lamp marked and marketed as a Stage and Studio lamp with a rated life of 500 hours or less.

''(31) MEAN RATED LAMP LUMENS.—The term 'mean rated lamp lumens' means the rated lumens at—

''(A) 40 percent of rated lamp life for metal halide, induction, and fluorescent lamps; or

''(B) 50 percent of rated lamp life for high pressure sodium lamps.

''(32) OUTDOOR LUMINAIRE.—The term 'outdoor luminaire' means a luminaire that—

''(A) is intended for outdoor use and suitable for wet locations; and

''(B) may be shipped with or without a lamp.

''(33) POLE-MOUNTED OUTDOOR LUMINAIRE.—

''(A) IN GENERAL.—The term 'pole-mounted outdoor luminaire' means an outdoor luminaire that is designed to be mounted on an outdoor pole and is—

''(i) an area luminaire;

''(ii) a roadway and highmast luminaire;

''(iii) a decorative posttop luminaire; or

''(iv) a dusk-to-dawn luminaire.

''(B) EXCLUSIONS.—The term 'pole-mounted outdoor luminaire' does not include—

''(i) a portable luminaire designed for use at construction sites;

''(ii) a luminaire designed to be used in emergency conditions that—

''(I) incorporates a means of storing energy and a device to switch the stored energy supply to emergency lighting loads automatically on failure of the normal power supply; and

''(II) is listed and labeled as Emergency Lighting Equipment;

''(iii) a decorative gas lighting system;

''(iv) a luminaire designed explicitly for lighting for theatrical purposes, including performance, stage, film production, and video production;

''(v) a luminaire designed as theme elements in theme or amusement parks and that cannot be used in most general lighting applications;

''(vi) a luminaire designed explicitly for hazardous locations meeting the requirements of Underwriters Laboratories Standard 844—2006, 'Luminaires for Use in Hazardous (Classified) Locations';

''(vii) a residential pole-mounted luminaire that is not rated for commercial use utilizing 1 or more lamps meeting the energy conservation standards established under section 325(i) and mounted on a post or pole not taller than 10.5 feet above ground and not rated for a power draw of more than 145 watts;

''(viii) a floodlight luminaire;

''(ix) an outdoor luminaire designed for sports and recreational area use in accordance with IESNA RP–6 and utilizing an 875 watt or greater metal halide lamp;

''(x) a decorative posttop luminaire designed for using high intensity discharge lamps with total lamp wattage of 150 or less, or designed for using other lamp types with total lamp wattage of 50 watts or less;

''(xi) an area luminaire, roadway and highmast luminaire, or dusk-to-dawn luminaire designed for using high intensity discharge lamps or pin-based compact fluorescent lamps with total lamp wattage of 100 or less, or other lamp types with total lamp wattage of 50 watts or less; and

''(xii) an area luminaire, roadway and highmast luminaire, or dusk-to-dawn luminaire with a backlight rating less than 2 and with the maximum of the uplight or glare rating 3 or less.

''(34) ROADWAY AND HIGHMAST LUMINAIRE.—The term 'roadway and highmast luminaire' means a luminaire intended for lighting streets and roadways that—

''(A) is designed to mount on a pole by clamping onto the exterior of a horizontal or horizontally slanted, circular cross-section pipe tenon;

''(B) has opaque tops or sides;

''(C) has an optical aperture that is open or enclosed with a flat, sag or drop lens;

''(D) is mounted in a fixed position with the optical aperture near horizontal, or tilted up; and

''(E) has photometric output measured using Type C photometry per IESNA LM–75–01.

''(35) SPECIALTY APPLICATION MERCURY VAPOR LAMP.—The term 'specialty application mercury vapor lamp' means a mercury vapor lamp (as defined in section 321) that is—

''(A) designed only to operate on a specialty application mercury vapor lamp ballast (as defined in section 321); and

''(B) is marked and marketed for specialty applications only.

''(36) TARGET EFFICACY RATING.—The term 'target efficacy rating' means a measure of luminous efficacy of a luminaire (as defined in NEMA LE–6–2009).

''(37) TUBULAR QUARTZ INFRARED HEAT LAMP.—The term 'tubular quartz infrared heat lamp' means a double-ended quartz halogen lamp that—

''(A) is marked and marketed as an infrared heat lamp; and

''(B) radiates predominately in the infrared radiation range and in which the visible radiation is not of principle interest.''.

(b) STANDARDS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

''(g) POLE-MOUNTED OUTDOOR LUMINAIRES.—

''(1) TARGET EFFICACY RATING, LUMEN MAINTENANCE AND POWER FACTOR REQUIREMENTS.—

''(A) DEFINITION OF MAXIMUM OF UPLIGHT OR GLARE RATING.—In this paragraph, the term 'maximum of uplight or glare rating' means, for any specific outdoor luminaire, the higher of the uplight rating or glare rating of the luminaire.

''(B) REQUIREMENTS.—Each pole-mounted outdoor luminaire manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

''(i) meet or exceed the target efficacy ratings in the following table when tested at full system input watts:

''Area, Roadway or Highmast luminaires

	Maximum of Uplight or Glare rating		
Backlight Rating	0 or 1	2 or 3	4 or 5
0 or 1	38	38	38
2 or 3	38	38	42
4 or 5	38	42	43

''Decorative Posttop or Dusk-to-Dawn luminaires

	Maximum of Uplight or Glare rating		
Backlight Rating	0 or 1	2 or 3	4 or 5
0 or 1	25	25	25
2 or 3	25	25	28
4 or 5	25	28	28;

''(ii) use lamps that have a minimum of 0.6 lumen maintenance, as determined in accordance with IESNA LM–80 for Solid State Lighting sources or calculated as mean rated lamp lumens divided by initial rated lamp lumens for other light sources; and

''(iii) have a power factor equal to or greater than 0.9 at ballast full power, except in the case of pole-mounted outdoor luminaires designed for using high intensity discharge lamps with a total rated lamp wattage of 150 watts or less, which shall have no power factor requirement.

''(2) CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each area luminaire manufactured on or after the date that is 3 years after the date of enactment of this subsection shall be sold—

''(i) with integral controls that shall have the capability of operating the luminaire at full power and a minimum of 1 reduced power level plus off, in which case the power reduction shall be at least 30 percent of the rated lamp power; or

''(ii) with internal electronics and connective wiring or hardware (including wire leads, pigtails, inserts for wires, pin bases, or the equivalent) that—

''(I) collectively enable the area luminaire, if properly connected to an appropriate control system, to operate at full power and a minimum of 1 reduced power level plus off, in which case the reduced power level shall be at least 30 percent lower than the rated lamp power in response to signals sent by controls not integral to the luminaire as sold, that may be connected in the field; and

''(II) have connections from the components that are easily accessible in the luminaire housing and have instructions applicable to appropriate control system connections that are included with the luminaire.

''(B) NONAPPLICATION.—The control requirements of this paragraph shall not apply to—

''(i) pole-mounted outdoor luminaires utilizing probe-start metal halide lamps with rated lamp power greater than 500 watts operating in non-base-up positions; or

''(ii) pole-mounted outdoor luminaires utilizing induction lamps.

''(C) INTEGRAL PHOTOSENSORS.—Each pole-mounted outdoor luminaire sold with an integral photosensor shall use an electronic-type photocell.

''(3) RULEMAKING COMMENCING NOT LATER THAN 60 DAYS AFTER THE DATE OF ENACTMENT.—

''(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall initiate a rulemaking procedure to determine whether the standards in effect for pole-mounted outdoor luminaires should be amended.

''(B) FINAL RULE.—

''(i) PUBLICATION.—The Secretary shall publish a final rule containing the amendments, if any, not later than January 1, 2013, or the date that is 33 months after the date of enactment of this subsection, whichever is later.

''(ii) APPLICATION.—Any amendments shall apply to products manufactured on or after January 1, 2016, or the date that is 3 years after the final rule is published in the Federal Register, whichever is later.

''(C) REVIEW.—

''(i) IN GENERAL.—As part of the rulemaking required under this paragraph, the Secretary shall review and may amend the definitions, exclusions, test procedures, power factor standards, lumen maintenance requirements, labeling requirements, and additional control requirements, including dimming functionality, for all pole-mounted outdoor luminaires.

''(ii) FACTORS.—The review of the Secretary shall include consideration of—

''(I) obstacles to compliance and whether compliance is evaded by substitution of non-regulated luminaires for regulated luminaires or allowing luminaires to comply with the standards established under this part based on use of non-standard lamps, as provided for in section 343(a)(10)(D)(i)(II);

''(II) statistical data relating to pole-mounted outdoor luminaires that—

''(aa) the Secretary shall request not later than 120 days after the date of enactment of this subsection from all identifiable manufacturers of pole-mounted outdoor luminaires, directly from manufacturers of pole-mounted outdoor luminaires or, in the case of members of the National Electrical Manufacturers Association, from the National Electrical Manufacturers Association;

''(bb) is considered necessary for the rulemaking; and

''(cc) shall be made publicly available in a manner that does not reveal manufacturer identity or confidential business information, in a timely manner for discussion at any public proceeding at which comment is solicited from the public in connection with the rulemaking, except that nothing in this subclause restricts the Secretary from seeking additional information during the course of the rulemaking; and

''(III) phased-in effective dates for different types of pole-mounted outdoor luminaires that are submitted to the Secretary in the manner provided for in section 325(p)(4), except that the phased-in effective dates shall not be subject to subparagraphs (A) and (B) of this paragraph.

''(4) RULEMAKING BEFORE FEBRUARY 1, 2015.—

''(A) IN GENERAL.—Not later than February 1, 2015, the Secretary shall initiate a rulemaking procedure to determine whether the standards in effect for pole-mounted outdoor luminaires should be amended.

''(B) FINAL RULE.—

''(i) PUBLICATION.—The Secretary shall publish a final rule containing the amendments, if any, not later than January 1, 2018.

''(ii) APPLICATION.—Any amendments shall apply to products manufactured on or after January 1, 2021.

''(C) REVIEW.—

''(i) IN GENERAL.—As part of the rulemaking required under this paragraph, the Secretary shall review and may amend the definitions, exclusions, test procedures, power factor standards, lumen maintenance requirements, labeling requirements, and additional control requirements, including dimming functionality, for all pole-mounted outdoor luminaires.

''(ii) FACTORS.—The review of the Secretary shall include consideration of—

''(I) obstacles to compliance and whether compliance is evaded by substitution of non-regulated luminaires for regulated luminaires or allowing luminaires to comply with the standards established under this part based on use of nonstandard lamps, as provided for in section 343(a)(10)(D)(i)(II);

''(II) statistical data relating to pole-mounted outdoor luminaires that—

''(aa) the Secretary considers necessary for the rulemaking and requests not later than June 1, 2015, from all identifiable manufacturers of pole-mounted outdoor luminaires, directly from manufacturers of pole-mounted outdoor luminaires and, in the case of

members of the National Electrical Manufacturers Association, from the National Electrical Manufacturers Association; and

''(bb) shall be made publicly available in a manner that does not reveal manufacturer identity or confidential business information, in a timely manner for discussion at any public proceeding at which comment is solicited from the public in connection with the rulemaking, except that nothing in this subclause restricts the Secretary from seeking additional information during the course of the rulemaking; and

''(III) phased-in effective dates for different types of pole-mounted outdoor luminaires that are submitted to the Secretary in the manner provided for in section 325(p)(4), except that the phased-in effective dates shall not be subject to subparagraphs (A) and (B) of this paragraph.

''(h) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMPS.—A high light output double-ended quartz halogen lamp manufactured on or after January 1, 2016, shall have a minimum efficiency of—

''(1) 27 LPW for lamps with a minimum rated initial lumen value greater than 6,000 and a maximum initial lumen value of 15,000; and

''(2) 34 LPW for lamps with a rated initial lumen value greater than 15,000 and less than 40,000.

''(i) GENERAL PURPOSE MERCURY VAPOR LAMPS.—A general purpose mercury vapor lamp shall not be manufactured on or after January 1, 2016.''.

(c) TEST METHODS.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by adding at the end the following:

''(10) POLE-MOUNTED OUTDOOR LUMINAIRES.—

''(A) IN GENERAL.—With respect to pole-mounted outdoor luminaires to which standards are applicable under section 342, the test methods shall be those described in this paragraph.

''(B) PHOTOMETRIC TEST METHODS.—For photometric test methods, the methods shall be those specified in—

''(i) IES LM–10–96—Approved Method for Photometric Testing of Outdoor Fluorescent Luminaires;

''(ii) IES LM–31–95—Photometric Testing of Roadway Luminaires Using Incandescent Filament and High Intensity Discharge Lamps;

''(iii) IES LM–79–08—Electrical and Photometric Measurements of Solid-State Lighting Products;

''(iv) IES LM–80–08—Measuring Lumen Maintenance of LED Light Sources;

''(v) IES LM–40–01—Life testing of Fluorescent Lamps;

''(vi) IES LM–47–01—Life testing of High Intensity Discharge (HID) Lamps;

''(vii) IES LM–49–01—Life testing of Incandescent Filament Lamps;

''(viii) IES LM–60–01—Life testing of Low Pressure Sodium Lamps; and

''(ix) IES LM–65–01—Life testing of Compact Fluorescent Lamps.

''(C) OUTDOOR BACKLIGHT, UPLIGHT, AND GLARE RATINGS.—For determining outdoor backlight, uplight, and glare ratings, the classifications shall be those specified in IES TM–15–07—Luminaire Classification System for Outdoor Luminaires with Addendum A.

''(D) TARGET EFFICACY RATING.—For determining the target efficacy rating, the procedures shall be those specified in NEMA LE–6–2009—'Procedure for Determining Target Efficacy Ratings (TER) for Commercial, Industrial and Residential Luminaires,' and all of the following additional criteria (as applicable):

''(i) The target efficacy rating shall be calculated based on the initial rated lamp lumen and rated watt value equivalent to the lamp with which the luminaire is shipped, or, if not shipped with a lamp, the target efficacy rating shall be calculated based on—

''(I) the applicable standard lamp as established by subparagraph (E); or

''(II) a lamp that has a rated wattage and rated initial lamp lumens that are the same as the maximum lamp watts and minimum lamp lumens labeled on the luminaire, in accordance with section 344(f).

''(ii) If the luminaire is designed to operate at more than 1 nominal input voltage, the ballast input watts used in the target efficacy rating calculation shall be the highest value for any nominal input voltage for which the ballast is designed to operate.

''(iii) If the luminaire is a pole-mounted outdoor luminaire that contains a ballast that is labeled to operate lamps of more than 1 wattage, the luminaire shall—

''(I) meet or exceed the target efficacy rating in the table in section 342(g)(1)(B) calculated in accordance with clause (i) for all lamp wattages that the ballast is labeled to operate;

''(II) be constructed such that the luminaire is only capable of accepting lamp wattages that produce target efficacy ratings that meet or exceed the values in the table in section 342(g)(1)(B) calculated in accordance with clause (i); or

''(III) be rated and prominently labeled for a maximum lamp wattage that results in the luminaire meeting or exceeding the target efficacy rating in the table in section 342(g)(1)(B) when calculated and labeled in accordance with clause (i).

''(iv) If the luminaire is a pole-mounted outdoor luminaire that is constructed such that the luminaire will only accept an ANSI Type–O lamp, the luminaire shall meet or exceed the target efficacy rating in the table in section 342(g)(1)(B) when tested with an ANSI Type–O lamp.

''(v) If the luminaire is a pole-mounted outdoor luminaire that is marketed to use a coated lamp, the luminaire shall meet or exceed the target efficacy rating in the table in section 342(g)(1)(B) when tested with a coated lamp.

''(vi) If the luminaire is a solid state lighting pole-mounted outdoor luminaire, the luminaire shall have its target efficacy rating calculated based on the combination of absolute luminaire lumen values and input wattages that results in the lowest possible target efficacy rating for any light source, including ranges of correlated color temperature and color rendering index values, for which the luminaire is marketed by the luminaire manufacturer.

''(vii) If the luminaire is a high intensity discharge pole-mounted outdoor luminaire using a ballast that has a ballast factor different than 1, the target efficacy rating of the luminaire shall be calculated by using the input watts needed to operate the lamp at full rated power, or by using the actual ballast factor of the ballast.

''(E) TABLE OF STANDARD LAMP TYPES.—

''(i) IN GENERAL.—The National Electrical Manufacturers Association shall develop and publish not later than 1 year after the date of enactment of this paragraph and thereafter maintain and regularly update on a publicly available website a table including standard lamp types by wattage, ANSI code, initial lamp lumen value, lamp orientation, and lamp finish.

''(ii) INITIAL LAMP LUMEN VALUES.—The initial lamp lumen values shall—

''(I) be determined according to a uniform rating method and tested according to accepted industry practice for each lamp that is considered for inclusion in the table; and

''(II) in each case contained in the table, be the lowest known initial lamp lumen value that approximates typical performance in representative general outdoor lighting applications.

''(iii) ACTIONS.—On completion of the table required by this subparagraph and any updates to the table—

''(I) the National Electrical Manufacturers Association shall submit the table and any updates to the Secretary; and

''(II) the Secretary shall—

''(aa) publish the table and any comments that are included with the table in the Federal Register;

''(bb) solicit public comment on the table; and

''(cc) not later than 180 days after date of receipt of the table, after considering the factors described in clause (iv), adopt the table for purposes of this part.

''(iv) REBUTTABLE PRESUMPTION.—

''(I) IN GENERAL.—There shall be a rebuttable presumption that the table and any updates to the table transmitted by the National Electrical Manufacturers Association to the Secretary meets the requirements of this subparagraph, which may be rebutted only if the Secretary finds by clear and substantial evidence that—

''(aa) data have been included that were not the result of having applied applicable industry standards; or

''(bb) lamps have been included in the table that are not representative of general outdoor lighting applications.

''(II) CONFORMING CHANGES.—If subclause (I) applies, the National Electrical Manufacturers Association shall conform the published table of the Association to the table adopted by the Secretary.

''(v) NONTRANSMISSION OF TABLE.—If the National Electrical Manufacturers Association has not submitted the table to the Secretary within 1 year after the date of enactment of this paragraph, the Secretary shall develop, publish, and adopt the table not later than 18 months after the date of enactment of this paragraph and update the table regularly.

''(F) AMENDMENT OF TEST METHODS.—The Secretary may, by rule, adopt new or additional test methods for pole-mounted outdoor luminaires in accordance with this section.''.

(d) LABELING.—Section 344 of the Energy Policy and Conservation Act (42 U.S.C. 6315) is amended—

(1) in subsections (d) and (e), by striking ''(h)'' each place it appears and inserting ''(i)'';

(2) by redesignating subsections (f) through (k) as subsections (g) through (l), respectively; and

(3) by inserting after subsection (e) the following:

''(f) LABELING RULES FOR POLE-MOUNTED OUTDOOR LUMINAIRES.—

''(1) IN GENERAL.—Subject to subsection (i), not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish labeling rules under this part for pole-mounted outdoor luminaires manufactured on or after the date on which standards established under section 342(g) take effect.

''(2) RULES.—The rules shall require—

''(A) for pole-mounted outdoor luminaires, that the luminaire, be marked with a capital letter 'P' printed within a circle in a conspicuous location on both the pole-mounted luminaire and its packaging to indicate that the pole-mounted outdoor luminaire conforms to the energy conservation standards established in section 342(g); and

''(B) for pole-mounted outdoor luminaires that do not contain a lamp in the same shipment with the luminaire and are tested with a lamp with a lumen rating exceeding the

standard lumen value specified in the table established under section 343(a)(10)(E), that the luminaire—

''(i) be labeled to identify the minimum rated initial lamp lumens and maximum rated lamp watts required to conform to the energy conservation standards established in section 342(g); and

''(ii) bear a statement on the label that states: 'Product violates Federal law when installed with a standard lamp. Use only a lamp that meets the minimum lumens and maximum watts provided on this label.'.''.

(e) PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) in the first sentence of subsection (a), by striking ''The'' and inserting ''Except as otherwise provided in this section, the''; and

(2) by adding at the end the following:

''(i) POLE-MOUNTED OUTDOOR LUMINAIRES AND HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMPS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), section 327 shall apply to pole-mounted outdoor luminaires and high light output double-ended quartz halogen lamps to the same extent and in the same manner as the section applies under part B.

''(2) STATE ENERGY CONSERVATION STANDARDS.—Any State energy conservation standard that is adopted on or before January 1, 2015, pursuant to a statutory requirement to adopt efficiency standard for reducing outdoor lighting energy use enacted prior to January 31, 2008, shall not be preempted.''.

SEC. 23. STANDARDS FOR COMMERCIAL FURNACES.

Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended by adding at the end the following:

''(11) Warm air furnaces with an input rating of 225,000 Btu per hour or more and manufactured after January 1, 2011, shall meet the following standard levels:

''(A) Gas-fired units shall—

''(i) have a minimum combustion efficiency of 80 percent;

''(ii) include an interrupted or intermittent ignition device;

''(iii) have jacket losses not exceeding 0.75 percent of the input rating; and

''(iv) have power venting or a flue damper.

''(B) Oil-fired units shall have—

''(i) a minimum thermal efficiency of 81 percent;

''(ii) jacket losses not exceeding 0.75 percent of the input rating; and

''(iii) power venting or a flue damper.''.

SEC. 24. SERVICE OVER THE COUNTER, SELF-CONTAINED, MEDIUM TEMPERATURE COMMERCIAL REFRIGERATORS.

Section 342(c) of the Energy Policy and Conservation Act (42 U.S.C. 6313(c)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

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

''(C) The term 'service over the counter, self-contained, medium temperature commercial refrigerator' or '(SOC-SC-M)' means a medium temperature commercial refrigerator—

''(i) with a self-contained condensing unit and equipped with sliding or hinged doors in the back intended for use by sales personnel, and with glass or other transparent material in the front for displaying merchandise; and

''(ii) that has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers.

''(D) The term 'TDA' means the total display area (ft^2) of the refrigerated case, as defined in AHRI Standard 1200.'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

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

''(4) Each SOC-SC-M manufactured on or after January 1, 2012, shall have a total daily energy consumption (in kilowatt hours per day) of not more than 0.6 x TDA + 1.0.''.

SEC. 25. MOTOR MARKET ASSESSMENT AND COMMERCIAL AWARENESS PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) electric motor systems account for about half of the electricity used in the United States;

(2) electric motor energy use is determined by both the efficiency of the motor and the system in which the motor operates;

(3) Federal Government research on motor end use and efficiency opportunities is more than a decade old; and

(4) the Census Bureau has discontinued collection of data on motor and generator importation, manufacture, shipment, and sales.

(b) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INTERESTED PARTIES.—The term ''interested parties'' includes—

(A) trade associations;

(B) motor manufacturers;

(C) motor end users;

(D) electric utilities; and

(E) individuals and entities that conduct energy efficiency programs.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, in consultation with interested parties.

(c) ASSESSMENT.—The Secretary shall conduct an assessment of electric motors and the electric motor market in the United States that shall—

(1) include important subsectors of the industrial and commercial electric motor market (as determined by the Secretary), including—

(A) the stock of motors and motor-driven equipment;

(B) efficiency categories of the motor population; and

(C) motor systems that use drives, servos, and other control technologies;

(2) characterize and estimate the opportunities for improvement in the energy efficiency of motor systems by market segment, including opportunities for—

(A) expanded use of drives, servos, and other control technologies;

(B) expanded use of process control, pumps, compressors, fans or blowers, and material handling components; and

(C) substitution of existing motor designs with existing and future advanced motor designs, including electronically commutated permanent magnet, interior permanent magnet, and switched reluctance motors; and

(3) develop an updated profile of motor system purchase and maintenance practices, including surveying the number of companies that have motor purchase and repair specifications, by company size, number of employees, and sales.

(d) RECOMMENDATIONS; UPDATE.—Based on the assessment conducted under subsection (c), the Secretary shall—

(1) develop—

(A) recommendations to update the detailed motor profile on a periodic basis;

(B) methods to estimate the energy savings and market penetration that is attributable to the Save Energy Now Program of the Department; and

(C) recommendations for the Director of the Census Bureau on market surveys that should be undertaken in support of the motor system activities of the Department; and

(2) prepare an update to the Motor Master+ program of the Department.

(e) PROGRAM.—Based on the assessment, recommendations, and update required under subsections (c) and (d), the Secretary shall establish a proactive, national program targeted at motor end-users and delivered in cooperation with interested parties to increase awareness of—

(1) the energy and cost-saving opportunities in commercial and industrial facilities using higher efficiency electric motors;

(2) improvements in motor system procurement and management procedures in the selection of higher efficiency electric motors and motor-system components, including drives, controls, and driven equipment; and

(3) criteria for making decisions for new, replacement, or repair motor and motor system components.

SEC. 26. STUDY OF COMPLIANCE WITH ENERGY STANDARDS FOR APPLIANCES.

(a) IN GENERAL.—The Secretary shall conduct a study of the degree of compliance with energy standards for appliances, including an investigation of compliance rates and options for improving compliance, including enforcement.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report describing the results of the study, including any recommendations.

SEC. 27. STUDY OF DIRECT CURRENT ELECTRICITY SUPPLY IN CERTAIN BUILDINGS.

(a) IN GENERAL.—The Secretary shall conduct a study—

(1) of the costs and benefits (including significant energy efficiency, power quality, and other power grid, safety, and environmental benefits) of requiring high-quality, direct current electricity supply in certain buildings; and

(2) to determine, if the requirement described in paragraph (1) is imposed, what the policy and role of the Federal Government should be in realizing those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report describing the results of the study, including any recommendations.

SEC. 28. TECHNICAL CORRECTIONS.

(a) TITLE III OF ENERGY INDEPENDENCE AND SECURITY ACT OF 2007—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCES AND LIGHTING.—

(1) Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) (as amended by section 301(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1550)) is amended—

(A) by redesignating paragraph (7) as paragraph (4); and

(B) in paragraph (4) (as so redesignated), by striking ''supplies is'' and inserting ''supply is''.

(2) Section 302(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1551)) is amended by striking ''6313(a)'' and inserting ''6314(a)''.

(3) Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)) is amended—

(A) in subparagraph (B)—

(i) by striking ''If the Secretary'' and inserting the following:

''(i) IN GENERAL.—If the Secretary'';

(ii) by striking ''clause (ii)(II)'' and inserting ''subparagraph (A)(ii)(II)'';

(iii) by striking ''clause (i)'' and inserting ''subparagraph (A)(i)''; and

(iv) by adding at the end the following:

''(ii) FACTORS.—In determining whether a standard is economically justified for the

purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

''(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to the standard;

''(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

''(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

''(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

''(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

''(VI) the need for national energy conservation; and

''(VII) other factors the Secretary considers relevant.

''(iii) ADMINISTRATION.—

''(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

''(II) UNAVAILABILITY.—

''(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

''(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the other types or classes.''; and

(B) in subparagraph (C)(iv), by striking ''An amendment prescribed under this subsection'' and inserting ''Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph''.

(4) Section 342(a)(6)(B)(iii) of the Energy Policy and Conservation Act (as added by section 306(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1559)) is transferred and redesignated as clause (vi) of section 342(a)(6)(C) of the Energy Policy and Conservation Act (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554).

(5) Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) (as amended by section 312(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1567)) is amended—

(A) by striking ''subparagraphs (B) through (G)'' each place it appears and inserting ''subparagraphs (B), (C), (D), (I), (J), and (K)'';

(B) by striking ''part A'' each place it appears and inserting ''part B''; and

(C) in subsection (h)(3), by striking ''section 342(f)(3)'' and inserting ''section 342(f)(4)''.

(6) Section 340(13) of the Energy Policy and Conservation Act (42 U.S.C. 6311(13)) (as amended by section 313(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1568)) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following:

''(A) IN GENERAL.—The term 'electric motor' means any of the following:

''(i) A motor that is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987.

''(ii) A motor incorporating the design elements described in clause (i), but is configured to incorporate 1 or more of the following variations:

''(I) U-frame motor.

''(II) NEMA Design C motor.

''(III) Close-coupled pump motor.

''(IV) Footless motor.

''(V) Vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

''(VI) 8-pole motor.

''(VII) Poly-phase motor with a voltage rating of not more than 600 volts (other than 230 volts or 460 volts, or both, or can be operated on 230 volts or 460 volts, or both).''; and

(B) by redesignating subparagraphs (C) through (I) as subparagraphs (B) through (H), respectively.

(7)(A) Section 342(b) of the Energy Policy and Conservation Act (42 U.S.C. 6313(b)) is amended—

(i) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraph (3)'';

(ii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4);

(iii) by inserting after paragraph (1) the following:

''(2) STANDARDS EFFECTIVE BEGINNING DECEMBER 19, 2010.—

''(A) IN GENERAL.—Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (3) and except as provided for in subparagraphs (B), (C), and (D), each electric motor manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–12.

''(B) FIRE PUMP ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each fire pump electric motor manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency that is not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–11.

''(C) NEMA DESIGN B ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each NEMA Design B electric motor with power ratings of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–11.

''(D) MOTORS INCORPORATING CERTAIN DESIGN ELEMENTS.—Except for those motors exempted by the Secretary under paragraph (3), each electric motor described in section 340(13)(A)(ii) manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–11.''; and

(iv) in paragraph (3) (as redesignated by clause (ii)), by striking ''paragraph (1)'' each place it appears in subparagraphs (A) and (D) and inserting ''paragraphs (1) and (2)''.

(B) Section 313 of the Energy Independence and Security Act of 2007 (121 Stat. 1568) is repealed.

(C) The amendments made by—

(i) subparagraph (A) take effect on December 19, 2010; and

(ii) subparagraph (B) take effect on December 19, 2007.

(8) Section 321(30)(D)(i)(III) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(D)(i)(III)) (as amended by section 321(a)(1)(A) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended by inserting before the semicolon the following: ''or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens''.

(9) Section 321(30)(T) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(T) (as amended by section 321(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended—

(A) in clause (i)—

(i) by striking the comma after ''household appliance'' and inserting ''and''; and

(ii) by striking ''and is sold at retail,''; and

(B) in clause (ii), by inserting ''when sold at retail,'' before ''is designated''.

(10) Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(i)) (as amended by sections 321(a)(3)(A) and 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1577, 1588)) is amended by striking the subsection designation and all that follows through the end of paragraph (8) and inserting the following:

''(i) GENERAL SERVICE FLUORESCENT LAMPS, GENERAL SERVICE INCANDESCENT LAMPS, INTERMEDIATE BASE INCANDESCENT LAMPS, CANDELABRA BASE INCANDESCENT LAMPS, AND INCANDESCENT REFLECTOR LAMPS.—

''(1) ENERGY EFFICIENCY STANDARDS.—

''(A) IN GENERAL.—Each of the following general service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this subparagraph shall meet or exceed the standards established in the following tables:

''FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	>35 W	45	75.0	36

''FLUORESCENT LAMPS—Continued

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	>65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

''INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36

''INCANDESCENT REFLECTOR LAMPS—Continued

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
67–85	12.5	36
86–115	14.0	36

''INCANDESCENT REFLECTOR LAMPS—Continued

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
116–155	14.5	36
156–205	15.0	36

''GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rated Wattage	Minimum Rated Lifetime	Effective Date
1490–2600	72	1,000 hrs	1/1/2012
1050–1489	53	1,000 hrs	1/1/2013
750–1049	43	1,000 hrs	1/1/2014
310–749	29	1,000 hrs	1/1/2014

''MODIFIED SPECTRUM GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rated Wattage	Minimum Rated Lifetime	Effective Date
1118–1950	72	1,000 hrs	1/1/2012
788–1117	53	1,000 hrs	1/1/2013
563–787	43	1,000 hrs	1/1/2014
232–562	29	1,000 hrs	1/1/2014

''(B) APPLICATION.—

''(i) APPLICATION CRITERIA.—This subparagraph applies to each lamp that—

''(I) is intended for a general service or general illumination application (whether incandescent or not);

''(II) has a medium screw base or any other screw base not defined in ANSI C81.61–2006;

''(III) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

''(IV) is manufactured or imported after December 31, 2011.

''(ii) REQUIREMENT.—For purposes of this paragraph, each lamp described in clause (i) shall have a color rendering index that is greater than or equal to—

''(I) 80 for nonmodified spectrum lamps; or

''(II) 75 for modified spectrum lamps.

''(C) CANDELABRA INCANDESCENT LAMPS AND INTERMEDIATE BASE INCANDESCENT LAMPS.—

''(i) CANDELABRA BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, a candelabra base incandescent lamp shall not exceed 60 rated watts.

''(ii) INTERMEDIATE BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, an intermediate base incandescent lamp shall not exceed 40 rated watts.

''(D) EXEMPTIONS.—

''(i) STATUTORY EXEMPTIONS.—The standards specified in subparagraph (A) shall not apply to the following types of incandescent reflector lamps:

''(I) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

''(II) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

''(III) R20 incandescent reflector lamps rated 45 watts or less.

''(ii) ADMINISTRATIVE EXEMPTIONS.—

''(I) PETITION.—Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subsection.

''(II) CRITERIA.—The Secretary may grant an exemption under subclause (I) only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety, or certified historic lighting application) using a lamp that meets the requirements of this subsection.

''(III) ADDITIONAL CRITERION.—To grant an exemption for a product under this clause , the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

''(E) EXTENSION OF COVERAGE.—

''(i) PETITION.—Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps.

''(ii) INCREASED SALES OF EXEMPTED LAMPS.—The petition shall include evidence that the availability or sales of exempted incandescent lamps have increased significantly since the date on which the standards on general service incandescent lamps were established.

''(iii) CRITERIA.—The Secretary shall grant a petition under clause (i) if the Secretary finds that—

''(I) the petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since the standards on general service lamps were established and likely are being widely used in general lighting applications; and

''(II) significant energy savings could be achieved by covering exempted products, as determined by the Secretary based in part on sales data provided to the Secretary from manufacturers and importers.

''(iv) NO PRESUMPTION.—The grant of a petition under this subparagraph shall create no presumption with respect to the determination of the Secretary with respect to any criteria under a rulemaking conducted under this section.

''(v) EXPEDITED PROCEEDING.—If the Secretary grants a petition for a lamp shape or base under this subparagraph, the Secretary shall—

''(I) conduct a rulemaking to determine standards for the exempted lamp shape or base; and

''(II) complete the rulemaking not later than 18 months after the date on which notice is provided granting the petition.

''(F) EFFECTIVE DATES.—

''(i) IN GENERAL.—In this paragraph, except as otherwise provided in a table contained in subparagraph (A) or in clause (ii), the term 'effective date' means the last day of the month specified in the table that follows October 24, 1992.

''(ii) SPECIAL EFFECTIVE DATES.—

''(I) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (A) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

''(II) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (A) shall apply with respect to incandescent reflector lamps with a diameter of

more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

''(2) COMPLIANCE WITH EXISTING LAW.—Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp that is in compliance with the law at the time the lamp was manufactured.

''(3) RULEMAKING BEFORE OCTOBER 24, 1995.—

''(A) IN GENERAL.—Not later than 36 months after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on October 24, 1992, to determine whether the standards established under paragraph (1) should be amended.

''(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

''(4) RULEMAKING BEFORE OCTOBER 24, 2000.—

''(A) IN GENERAL.—Not later than 8 years after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than 9 years and 6 months after October 24, 1992, to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended.

''(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

''(5) RULEMAKING FOR ADDITIONAL GENERAL SERVICE FLUORESCENT LAMPS.—

''(A) IN GENERAL.—Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall—

''(i) initiate a rulemaking procedure to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended so that the standards would be applicable to additional general service fluorescent lamps; and

''(ii) publish, not later than 18 months after initiating the rulemaking, a final rule including the amended standards, if any.

''(B) ADMINISTRATION.—The rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date on which the rule is published.

''(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

''(A) RULEMAKING BEFORE JANUARY 1, 2014.—

''(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended; and

''(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking—

''(I) shall not be limited to incandescent lamp technologies; and

''(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the manufacture of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

''(vi) STATE PREEMPTION.—Neither section 327 nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

''(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

''(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

''(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect as of the date of enactment of the Energy Independence and Security Act of 2007.

''(B) RULEMAKING BEFORE JANUARY 1, 2020.—

''(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended; and

''(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales data collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(7) FEDERAL ACTIONS.—

''(A) COMMENTS OF SECRETARY.—

''(i) IN GENERAL.—With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions that would adversely impact the energy consumption or energy efficiency of the lamp of the energy conservation consequences of the action.

''(ii) CONSIDERATION.—The Federal entity shall carefully consider the comments of the Secretary.

''(B) AMENDMENT OF STANDARDS.—Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if the action is warranted as a result of other Federal action (including restrictions on materials or processes) that would have the effect of either increasing the energy use or decreasing the energy efficiency of the product.

''(8) COMPLIANCE.—

''(A) IN GENERAL.—Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to that section, each manufacturer of a product to which the standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type.

''(B) CONTENTS.—The report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period.

''(C) OTHER LAMP TYPES.—With respect to lamp types that are not manufactured during the 12-month period preceding the date on which the standards become effective, the report shall—

''(i) be filed with the Secretary not later than the date that is 12 months after the date on which manufacturing is commenced; and

''(ii) include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during the 12-month period.''.

(11) Section 325(l)(4)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as amended by section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1581)) is amended by striking ''only''.

(12) Section 327(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as amended by section 321(d)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1585) and section 240(d)) is amended—

(A) in clause (i), by inserting ''and'' after the semicolon at the end;

(B) in clause (ii), by striking ''; and'' and inserting a period; and

(C) by striking clause (iii).

(13) Section 321(30)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(C)(ii)) (as amended by section 322(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1587)) is amended by inserting a period after ''40 watts or higher''.

(14) Section 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1588)) is amended by striking ''6995(i)'' and inserting ''6295(i)''.

(15) Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) (as amended by sections 324(f) of the Energy Independence and Security Act of 2007 (121 Stat. 1594) and section 6(e)(2)) is amended—

(A) in paragraph (6), by striking ''or'' after the semicolon at the end;

(B) in paragraph (9)(B), by striking ''or'' at the end;

(C) in paragraph (10), by striking the period at the end and inserting a semicolon;

(D) by adding at the end the following:

''(11) is a regulation for general service lamps that conforms with Federal standards and effective dates; or

''(12) is an energy efficiency standard for general service lamps enacted into law by the State of Nevada prior to December 19, 2007, if the State has not adopted the Federal

standards and effective dates pursuant to subsection (b)(1)(B)(ii).''.

(16) Section 325(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1596)) is amended by striking ''6924(c)'' and inserting ''6294(c)''.

(17) This subsection and the amendments made by this subsection take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492).

(b) ENERGY POLICY ACT OF 2005.—

(1) Section 325(g)(8)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B) of the Energy Policy Act of 2005) is amended by striking ''20°F'' and inserting ''−20°F''.

(2) This subsection and the amendment made by this subsection take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594).

(c) ENERGY POLICY AND CONSERVATION ACT.—Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by striking ''Air-Conditioning and Refrigeration Institute'' each place it appears in paragraphs (4)(A) and (7) and inserting ''Air-Conditioning, Heating, and Refrigeration Institute''.

AUGUST 13, 2010.

Hon. HARRY REID,
Hart Senate Office Building,
Washington, DC.
Hon. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATE MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: We are writing today to support and urge the Senate to quickly pass several consensus appliance and equipment efficiency standards this session of Congress. These standards were negotiated between industry and energy-efficiency supporters and reported out of the Senate Energy and Natural Resources Committee on a bipartisan basis. Some of these standards take effect as soon as January 2012. If enactment is delayed until the next Congress, some of the effective dates will need to be delayed, reducing the energy savings and emissions reductions achieved. In addition, prompt enactment will allow manufacturers to better prepare for these new standards. Manufacturers are also very concerned that if Congress does not enact these standards soon, more states will enact their own standards for certain products, making it more difficult for manufacturers to sell the same products nationwide. We are not aware of any controversy on the pending versions of these bills, so they should continue to have bipartisan support while providing substantial energy savings and other benefits for the country.

Based on analysis by the American Council for an Energy Efficient Economy, these consensus standards will:

Reduce annual U.S. energy use by more than 1.2 quadrillion Btu (''quads'') by 2030, which is about 160% of the current annual energy use of Nevada and 60% of the current annual energy use of Kentucky.

Reduce annual U.S. CO2 emissions by about 71 million metric tons, providing a downpayment on our climate change emission reduction goals.

Provide net present value benefits to consumers of more than $90 billion from products sold by 2030. (This figure is the sum of benefits minus sum of costs, expressed in 2010 dollars.)

These consensus agreements cover the following products:

Residential appliances—refrigerators, freezers, clothes washers, clothes dryers, dishwashers and room air conditioners;

Residential heating and cooling equipment—furnaces, central air conditioners and heat pumps;

Pole-mounted outdoor lighting fixtures;

Residential portable lighting fixtures (e.g. floor and table lamps); and,

Drinking water dispensers, hot food holding cabinets and portable electric spas.

In addition, the agreements include some important changes to improve and expedite the Department of Energy appliance standards program and needed technical corrections to standards enacted in 2005 and 2007.

The potential energy, economic and environmental benefits are not the only positive facet. The consensus provisions contained in these bills represent a significant step forward in the relationship between many industries which produce energy-using products and advocates for improved efficiency and environmental protection. If enacted they will not only save energy and water but will also serve as a model for future collaboration between various parties by demonstrating that it is possible to balance manufacturer interests and consumer needs while advancing national goals of energy efficiency and environmental stewardship.

The undersigned parties urge your active support for passing this legislation during this Congress. If you have any questions please contact any of the individuals listed below for additional information on this legislation.

Sincerely,

Stephen R. Yurek, President, Air-Conditioning, Heating and Refrigeration Institute; Richard D. Upton, President & CEO, American Lighting Association; Steve Nadel, Executive Director, American Council for an Energy-Efficient Economy; Floyd DesChamps, Senior Vice President of Policy and Research, Alliance to Save Energy; Carvin DiGiovanni, Senior Technical Director, Association of Pool and Spa Professionals; Joseph K. Doss, President and CEO, International Bottled Water Association; Evan R. Gaddis, President & CEO, National Electrical Manufacturers Association; Andrew deLaski, Executive Director, Appliance Standards Awareness Project; Karen Douglas, Chairman, California Energy Commission; Mell Hall-Crawford, Energy Projects Director, Consumer Federation of America; Charles Harak, Esq., National Consumer Law Center, (On behalf of its low-income clients); Scott Slesinger, Legislative Director, Natural Resources Defense Council; Susan E. Coakley, Executive Director, Northeast Energy Efficiency Partnerships; Claire Fulenwider, Executive Director, Northwest Energy Efficiency Alliance; Stephen L. Crow, Executive Director, Northwest Power and Conservation Council.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 3927. A bill to establish the Sacramento-San Joaquin Delta National Heritage Area; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senator BOXER to introduce legislation to establish a National Heritage Area in the California Sacramento-San Joaquin Delta. This legislation will create the first Heritage Area in California. I am pleased that I have had the opportunity to work with Senator BOXER, Representatives JOHN GARAMENDI, GEORGE MILLER, MIKE THOMPSON, DORIS MATSUI, JERRY MCNERNEY and the County Supervisors from the five Delta Counties to prepare this legislation and support their efforts to fully partner with the State, the Federal agencies, and other local governments to improve and care for the Delta.

This bill will establish the Sacramento-San Joaquin Delta as a National Heritage Area.

The Delta Protection Commission, created by California law and responsible to the citizens of the Delta and California, will manage the Heritage Area. It will ensure an open and public process, working with all levels of Federal, State, and local government, tribes, local stakeholders, and private property owners as it develops and implements the management plan for the Heritage Area. The goal is to conserve and protect the Delta, its communities, its resources, and its history.

This bill does not create any new layers of government.

It does not infringe on private property rights. Nothing in this bill gives any governmental agency any more regulatory power than it already has.

In short, this bill provides no additional burden on local government or residents. Instead, it authorizes Federal assistance to a local process already required by State law that will elevate the Delta, providing a means to conserve and protect its valued communities, resources, and history.

The Sacramento-San Joaquin Delta is the largest estuary on the West Coast. It is the most extensive inland delta in the world, and a unique national treasure.

Today, it is a labyrinth of sloughs, wetlands, and deepwater channels that connect the waters of the high Sierra mountain streams to the Pacific Ocean through the San Francisco Bay. Its approximately 60 islands are protected by 1,100 miles of levees, and are home to 3,500,000 residents, including 2,500 family farmers. The Delta and its farmers produce some of the highest quality specialty crops in the United States.

The Delta offers recreational opportunities to the two million Californians that visit the Delta each year for boating, fishing, hunting, visiting historic sites, and viewing wildlife. It provides habitat for more than 750 species of plants and wildlife. These include sand hill cranes that migrate to the Delta wetland from places as far away as Siberia. The Delta also provides habitat for 55 species of fish, including Chinook salmon—some as large as 60 pounds-that return each year to travel through the Delta to spawn in the tributaries.

These same waterways also channel fresh water to the Federal and State-owned pumps in the South Delta that provide water to 23 million Californians and three million acres of irrigated agricultural land elsewhere in the State.

Before the Delta was reclaimed for farmland in the 19th Century, the Delta flooded regularly with snow melt each spring, and provided the rich environment that, by 1492, supported the

largest settlement of Native Americans in North America.

The Delta was the gateway to the gold fields in 1849, after which Chinese workers built hundreds of miles of levees throughout the waterways of the Delta to make its rich peat soils available for farming and to control flooding.

Japanese, Italians, German, Portuguese, Dutch, Greeks, South Asians and other immigrants began the farming legacy, and developed technologies specifically adapted to the unique environment, including the Caterpillar Tractor, which later contributed to agriculture and transportation internationally.

Delta communities created a river culture befitting their dependence on water transport, a culture which has attracted the attention of authors from Mark Twain and Jack London to Joan Didion.

The Delta is in crisis due to many factors, including invasive species, urban and agricultural run-off, wastewater discharges, channelization, dredging, water export operations, and other stressors.

Many of the islands of the Delta are between 10 and 20 feet below sea level, and the levee system is presently inadequate to provide reliable flood protection for historic communities, significant habitats, agricultural enterprises, water resources, transportation and other infrastructure.

Existing levees have not been engineered to withstand earthquakes. Should levees fail for any reason, a rush of seawater into the interior of the Delta could damage the already fragile ecosystem, contaminate drinking water for many Californians, flood agricultural land, inundate towns, and damage roads, power lines, and water project infrastructure.

The State of California has been working for decades on a resolution to the water supply and ecosystem crisis in the State, and has a long history of partnerships with Federal agencies, working together to resolve challenges to the Delta's historic communities, ecosystem and the water it supplies so many Californians.

The Delta Protection Commission, established under state law, has been tasked by the California State Legislature with providing a forum for Delta residents to engage in decisions regarding actions to recognize and enhance the unique cultural, recreational, agricultural resources, infrastructure and legacy communities of the Delta and to serve as the facilitating agency for the implementation of a National Heritage Area in the Delta.

This legislation authorizes the creation of the Delta Heritage Area and federal assistance to the Delta Protection Commission in implementing the Area. This legislation is just a small part of the commitment the Federal government must make to the Delta and to California's ecosystem and water supply. I look forward to continuing to work with my colleagues at every level of government to restore and sustain the ecosystem in the Delta, to provide for reliable water supply in the State of California, to recover the native species of the Delta, protect communities in the Delta from flood risk, ensure economic sustainability in the Delta, improve water quality in the Delta, and; sustain the unique cultural, historical, recreational, agricultural and economic values of the Delta.

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. 3927

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 ''Sacramento-San Joaquin Delta National Heritage Area Establishment Act''.

SEC. 2. SACRAMENTO-SAN JOAQUIN DELTA NATIONAL HERITAGE AREA.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Sacramento-San Joaquin Delta Heritage Area established by this section.

(2) HERITAGE AREA MANAGEMENT PLAN.—The term ''Heritage Area management plan'' means the plan developed and adopted by the management entity under this section.

(3) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by subsection (b)(4).

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

(b) SACRAMENTO-SAN JOAQUIN DELTA HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established the ''Sacramento-San Joaquin Delta Heritage Area'' in the State of California.

(2) BOUNDARIES.—The boundaries of the Heritage Area shall be in the counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo in the State of California, as generally depicted on the map entitled ''Sacramento-San Joaquin Delta National Heritage Area Proposed Boundary'', numbered T27/105,030, and dated September 2010.

(3) AVAILABILITY OF MAP.—The map described in paragraph (2) shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Delta Protection Commission.

(4) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Delta Protection Commission established by section 29735 of the California Public Resources Code.

(5) ADMINISTRATION; MANAGEMENT PLAN.—

(A) ADMINISTRATION.—For purposes of carrying out the Heritage Area management plan, the Secretary, acting through the management entity, may use amounts made available under this section in accordance with section 8001(c) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 991).

(B) MANAGEMENT PLAN.—

(i) IN GENERAL.—Subject to clause (ii), the management entity shall submit to the Secretary for approval a proposed management plan for the Heritage Area in accordance with section 8001(d) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 991).

(ii) RESTRICTIONS.—The Heritage Area management plan submitted under this paragraph shall—

(I) ensure participation by appropriate Federal, State, tribal, and local agencies, including the Delta Stewardship Council, special districts, natural and historical resource protection and agricultural organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners; and

(II) not be approved until the Secretary has received certification from the Delta Protection Commission that the Delta Stewardship Council has reviewed the Heritage Area management plan for consistency with the plan adopted by the Delta Stewardship Council pursuant to State law.

(6) RELATIONSHIP TO OTHER FEDERAL AGENCIES; PRIVATE PROPERTY.—

(A) RELATIONSHIP TO OTHER FEDERAL AGENCIES.—The provisions of section 8001(e) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 991) shall apply to the Heritage Area.

(B) PRIVATE PROPERTY.—

(i) IN GENERAL.—Subject to clause (ii), the provisions of section 8001(f) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 991) shall apply to the Heritage Area.

(ii) OPT OUT.—An owner of private property within the Heritage Area may opt out of participating in any plan, project, program, or activity carried out within the Heritage Area under this section, if the property owner provides written notice to the management entity.

(7) EVALUATION; REPORT.—The provisions of section 8001(g) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 991) shall apply to the Heritage Area.

(8) EFFECT OF DESIGNATION.—Nothing in this section—

(A) precludes the management entity from using Federal funds made available under other laws for the purposes for which those funds were authorized; or

(B) affects any water rights or contracts.

(9) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $20,000,000, of which not more than $2,000,000 may be made available for any fiscal year.

(B) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity under this section shall be determined by the Secretary, but shall be not more than 50 percent.

(C) NON-FEDERAL SHARE.—The non-Federal share of the total cost of any activity under this section may be in the form of—

(i) in-kind contributions of goods or services; or

(ii) State or local government fees, taxes, or assessments.

(10) TERMINATION OF AUTHORITY.—If a proposed management plan has not been submitted to the Secretary by the date that is 5 years after the date of enactment of this title, the Heritage Area designation shall be rescinded.

By Mr. ROCKEFELLER:

S. 3931. A bill to amend title 10, United States Code, to enhance the roles and responsibilities of the Chief of the National Guard Bureau; to the Committee on Armed Services.

Mr. ROCKEFELLER. Mr. President, I thank you for allowing me to speak on this important legislation, the Guardians of Freedom Act of 2010, that will make the Chief of the National Guard Bureau a member of the Joint Chiefs of Staff.

As the former Governor of West Virginia, I recognize the importance of the

National Guard. I can tell you that the National Guard is always there. Whether it is flooding, snow storms, tornados, or other disasters, the National Guard comes to the rescue of the community. And I would bet there is a member of the National Guard living in every congressional district and every community in our country. These citizen-soldiers are the Governor's 911 force.

The National Guard is the oldest element of our Armed Forces. Our Guard members celebrate their 374th birthday on December 13, 2010. For 374 years they have served this country with great distinction.

Unlike our active-duty forces, the National Guard has both a state and federal mission. Now I'm not taking anything away from our active-duty military as they have always performed, and will continue to perform, in an outstanding fashion. However, the National Guard is unique in that it serves each State's governor as well as the President and Commander-in-Chief.

The National Guard's state mission includes responding to invasions, insurrections, natural and man-made disasters, and domestic emergencies. In recent times, the National Guard has been called to assist with border security, to respond to hurricanes, floods, snow storms, and to provide support for other operations, such as the G20 summit and the Presidential Inauguration.

Perhaps the best example of our Guard members' domestic responsibilities is their historic response Hurricane Katrina. There the National Guard, in the largest and swiftest response to a domestic disaster in history, deployed more than 50,000 troops in support of the Gulf States.

As I have mentioned, the National Guard also has its Federal mission. Among those responsibilities are providing Homeland Defense and defense support to civil authorities. It accomplishes its federal mission through a variety of programs. One of those programs is the Chemical, Biological, Radiological, Nuclear, or High-Yield Explosive Teams, which respond to incidents and support local, state, and federal agencies as they conduct decontamination, medical support, and casualty search and extraction. Much of this training is performed at the Joint Interagency Education and Training Center in West Virginia.

Other programs include the Counterdrug Program, which bridges the gap between the Department of Defense and local, State, and Federal law enforcement agencies in the fight against illicit drugs, and the Civil Support Teams, responsible for assessing suspected Weapons of Mass Destruction attacks.

These Federal programs, along with the National Guard's state mission, clearly show that it has always been here to protect the home front. I have yet to even mention our Guard members' tremendous contributions to military operations outside of the United States.

They have bravely fought in every war this country has declared. They have been subjected to activation more and more often in order to respond to global crises. Prior to 9/11 the National Guard participated in operations in Haiti, Bosnia, Kosovo, and in the skies over Iraq. Since 9/11 more than 50,000 Guard members have been called up by both their states and the Federal Government to provide security at home and combat terrorism in Iraq, Afghanistan and elsewhere around the world.

Today, tens of thousands of Guard members are serving here at home and in harm's way as they fulfill the obligations of their dual mission. They continue to train with first responders and protect life and property here at home, while also engaging in combat operations in far-off, dangerous locations.

Given the National Guard's role in defending our country, it is important that it be resourced and equipped to fulfill its dual mission. Our Guard members must be assured of the ability to meet their obligations to their governors and their next door neighbors.

The relationship between the active-duty forces and the National Guard is one of great mutual respect and dependence—a relationship that has only become stronger since 9/11. Each knows why the other is so important to the nation. The repeated deployments of both the National Guard and active-duty units has built a bond between the two. You cannot tell the difference between a member of the National Guard and an active-duty servicemember.

By making the Chief of the National Guard Bureau a member of the Joint Chiefs of Staff, the Guardians of Freedom Act of 2010 will guarantee that the National Guard is a part of the discussion as the nation prepares to respond to threats both domestic and foreign. It also makes certain that the concerns of the nation's governors are considered when resources are scarce. It will build upon the relationship developed between the active-duty forces and the National Guard, a bond has been strengthened as a result of the ongoing wars.

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. 3931

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 ''Guardians of Freedom Act of 2010''.

SEC. 2. CHIEF OF NATIONAL GUARD BUREAU.

(a) ROLE AS ADVOCATE AND LIAISON.—Section 10502 of title 10, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

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

''(d) ADVOCATE AND LIAISON FOR STATE NATIONAL GUARDS.—The Chief of the National Guard Bureau shall serve as an advocate and liaison for the National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands and inform such National Guards of all actions that could affect their Federal or State missions, including any equipment level or force structure changes.''.

(b) INCLUSION AS MEMBER OF JOINT CHIEFS OF STAFF.—

(1) IN GENERAL.—Such section is further amended by inserting after subsection (d), as added by subsection (a) of this section, the following new subsection:

''(e) MEMBER OF JOINT CHIEFS OF STAFF.—(1) The Chief of the National Guard Bureau shall be a member of the Joint Chiefs of Staff under section 151 of this title.

''(2) As a member of the Joint Chiefs of Staff, the Chief of the National Guard Bureau has the specific responsibility of advocating for the National Guards of the States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands and coordinate the efforts of the National Guard warfighting support and force provider mission with the homeland defense, defense support to civil authorities, and State emergency response missions of the National Guard to ensure the National Guard has the resources to perform its multiple missions.

''(3) The Chief of the National Guard Bureau shall consult with the Governors and their Adjutant Generals before any changes are made in National Guard force structure or equipment levels (or both) to determine the impact those changes may have on the homeland defense, defense support to civil authorities, and State emergency response missions of the National Guard.''.

(2) CONFORMING AMENDMENT.—Section 151(a) of such title is amended by adding at the end the following new paragraph:

''(7) The Chief of the National Guard Bureau.''.

By Mr. MENENDEZ (for himself and Mr. LEAHY):

S. 3932. A bill to provide comprehensive immigration reform, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in the opening days of this Congress, I expressed my steadfast commitment to reform of our Nation's broken immigration system. The Senate passed a bill in the 109th Congress and debated one in the 110th. Action is long overdue, but until today, no truly comprehensive immigration package has been introduced in the Senate in the 111th Congress.

I congratulate Senator MENENDEZ on the introduction of the Comprehensive Immigration Reform Act of 2010, and am pleased to join him as an original cosponsor. The bill protects the rights and opportunities of American workers, while simultaneously ensuring that our Nation's employers and American farms can find the workers they need to prosper. The bill will increase national security by adding personnel and equipment where they are most needed in border communities. And by bringing undocumented immigrants out of the shadows, the bill will help to make our towns and cities safer. These are goals we can all share.

The Comprehensive Immigration Reform Act of 2010 includes several provisions that are priorities for Vermont,

such as AgJOBS, which will provide critically needed workers for farms in Vermont and across the Nation. The bill would permanently extend the EB–5 Regional Center program, which generates investment capital and creates jobs. The Comprehensive Immigration Reform Act also includes one of my top civil rights priorities, the Uniting American Families Act, and a bill I have long supported, the DREAM Act. And, the bill includes measures from my bill, the Refugee Protection Act. Improving protections for refugees will honor the American tradition of offering safety to victims of persecution.

There is bipartisan agreement that immigration reform is needed. I hope that the bill we introduce today will gain support from both sides of the aisle. I strongly believe that Congress is capable of finding a realistic solution to our immigration problems. Our friend the late Senator Ted Kennedy believed that, President Bush believed that, and I know President Obama believes that.

I commend Senator MENENDEZ for his leadership and urge all Senators to join us in supporting the Comprehensive Immigration Reform Act of 2010.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 663—SUPPORTING THE GOALS AND IDEALS OF NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH AND EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD CONTINUE TO RAISE AWARENESS OF DOMESTIC VIOLENCE IN THE UNITED STATES AND ITS DEVASTATING EFFECTS ON FAMILIES AND COMMUNITIES, AND SUPPORT PROGRAMS DESIGNED TO END DOMESTIC VIOLENCE

Ms. KLOBUCHAR (for herself, Mr. LEAHY, Mr. CRAPO, Mr. SPECTER, Mr. KOHL, Mr. WHITEHOUSE, Ms. LANDRIEU, Mrs. GILLIBRAND, Mr. FRANKEN, Mr. BROWN of Ohio, Mr. DURBIN, Mr. HATCH, Mr. LAUTENBERG, Mr. FEINGOLD, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 663

Whereas National Domestic Violence Awareness Month will be observed during October 2010;

Whereas domestic violence affects people of all ages and all racial, ethnic, gender, economic, and religious backgrounds;

Whereas females are disproportionately victims of domestic violence, and 1 in 4 women will experience domestic violence at some point in her life;

Whereas, on average, more than 3 women are murdered by their husbands or boyfriends in the United States every day;

Whereas, in 2007, 1,640 women were murdered by an intimate partner, and were the victims of 70 percent of all intimate partner homicides that year;

Whereas women from 16 to 24 years of age experience the highest rates, per capita, of intimate partner violence;

Whereas 1 out of 3 Native American women will be raped and 6 out of 10 will be physically assaulted in their lifetimes;

Whereas, in 2003, the Centers for Disease Control and Prevention estimated that the costs of intimate partner violence exceeded $8,300,000,000, including the cost of medical care, mental health services, and lost productivity;

Whereas ¼ to ½ of domestic violence victims report that they have lost a job due, at least in part, to domestic violence;

Whereas the annual cost of lost productivity due to domestic violence is estimated at $727,800,000 with more than 7,900,000 paid workdays lost per year;

Whereas some landlords deny housing to victims of domestic violence who have protection orders or evict victims of domestic violence who seek help after a domestic violence incident, such as by calling 911, or who have other indications that they are domestic violence victims;

Whereas 92 percent of homeless women experience severe physical or sexual abuse at some point in their lifetimes;

Whereas approximately 40 to 60 percent of men who abuse women also abuse children;

Whereas it is critical to ensure that children who are exposed to domestic violence are placed in the protective care of a responsible and loving parent or guardian;

Whereas a study of over 17,000 adults by the Centers for Disease Control and Prevention and Kaiser Permanente found that children who live with their abusers are at high risk for grave medical, psychological, and behavioral disorders and even death;

Whereas approximately 15,500,000 children are exposed to domestic violence every year;

Whereas children exposed to domestic violence are more likely to attempt suicide, abuse drugs and alcohol, run away from home, and engage in teenage prostitution;

Whereas one large study found that men exposed to physical abuse, sexual abuse, and adult domestic violence as children were almost 4 times more likely than other men to have perpetrated domestic violence as adults;

Whereas nearly 1,500,000 high school students nationwide experienced physical abuse from a dating partner in a single year;

Whereas 13 percent of teenage girls who have been in a relationship report being hit or hurt by their partners and 1 in 4 teenage girls has been in a relationship in which she was pressured by her partner into performing sexual acts;

Whereas adolescent girls who reported dating violence were 60 percent more likely to report one or more suicide attempts in the past year;

Whereas there is a need for middle schools, secondary schools, and post-secondary schools to educate students about the issues of domestic violence, sexual assault, dating violence, and stalking;

Whereas 88 percent of men in a national poll reported that they think that our society should do more to respect women and girls;

Whereas a multi-State study shows conclusively that the domestic violence shelters in the United States are addressing urgent and long-term needs of victims and are helping victims protect themselves and their children;

Whereas a 2009 National Census Survey reported that 65,321 adults and children were served by domestic violence shelters and programs around the United States in a single day and those same understaffed programs were unable to meet 9,280 requests for help on that same day;

Whereas there is a need to support programs aimed at intervening and preventing domestic violence in the United States; and

Whereas individuals and organizations that are dedicated to preventing and ending domestic violence should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of National Domestic Violence Awareness Month; and

(2) expresses the sense of the Senate that Congress should continue to raise awareness of domestic violence in the United States and its devastating effects on families and communities, and support programs designed to end domestic violence.

SENATE RESOLUTION 664—EXPRESSING THE SENSE OF THE SENATE IN OPPOSITION TO PRIVATIZING SOCIAL SECURITY, RAISING THE RETIREMENT AGE, OR OTHER SIMILAR CUTS TO BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT

Mr. SANDERS (for himself, Ms. STABENOW, Mr. BROWN of Ohio, Mr. HARKIN, Mr. WHITEHOUSE, Mr. INOUYE, Mr. FEINGOLD, Mrs. BOXER, Mr. AKAKA, Mrs. GILLIBRAND, Ms. MIKULSKI, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 664

Whereas Social Security is America's most successful and reliable retirement program and continues to serve Americans well;

Whereas Social Security is not in crisis or going bankrupt and has been running surpluses for the last quarter-century;

Whereas Social Security, which currently has a $2,600,000,000,000 surplus, has not contributed a dime to the Federal budget deficit or national debt, and benefit cuts should not be proposed as a solution to reducing the Federal deficit;

Whereas for 75 years, through good times and bad, Social Security has succeeded in protecting working persons and their families from precipitous drops in household income because of lost wages;

Whereas Social Security has kept millions of Americans out of poverty, including senior citizens, widows, and disabled and dependent children whose parents have died, become disabled, or retired;

Whereas before President Franklin Roosevelt signed the Social Security Act into law on August 14, 1935, approximately half of the senior citizens in America lived in poverty, while less than 10 percent of seniors presently live in poverty;

Whereas more than 53,000,000 Americans receive Social Security benefits, including 36,500,000 retirees and their spouses, 8,200,000 disabled persons and their spouses, 4,500,000 surviving spouses of deceased workers, and 4,300,000 dependent children;

Whereas according to the Congressional Budget Office, even if no changes are made to the Social Security program, full benefits will still be available to every recipient until 2039, with enough funding remaining after that date to pay about 80 percent of promised benefits;

Whereas seniors have put in a lifetime of hard work, helping to make our economy grow and make our Nation great, and they deserve a dignified and secure retirement;

Whereas Social Security provides the majority of income for two-thirds of the elderly population in the United States, with approximately one-third of elderly individuals receiving nearly all of their income from Social Security;