''(1) IN GENERAL.—The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit—

''(A) before the lessee drills a well in accordance with the plan; and

''(B) before the lessee significantly modifies the well design originally approved by the Secretary.

''(2) SAFETY REVIEW REQUIRED.—The Secretary shall not issue a permit under paragraph (1) until the date on which the Secretary determines that the proposed drilling operations meet all—

''(A) critical safety system requirements (including requirements relating to blowout prevention); and

''(B) oil spill response and containment requirements.

''(3) APPROVAL OR DENIAL OF PERMIT.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 30 days after the date on which the Secretary receives an application for a permit under paragraph (1), the Secretary shall approve or deny the application.

''(B) EXTENSIONS.—

''(i) IN GENERAL.—The Secretary may extend the deadline under subparagraph (A) by an additional 15 days on not more than 2 occasions, if the Secretary provides to the applicant prior written notice of the delay in accordance with clause (ii).

''(ii) NOTICE REQUIREMENTS.—The written notice required under clause (i) shall—

''(I) be in the form of a letter from the Secretary or a designee of the Secretary; and

''(II) include the names and titles of the persons processing the application, the specific reasons for the delay, and the date on which a final decision on the application is expected.

''(C) DENIAL.—If the Secretary denies an application under subparagraph (A), the Secretary shall provide the applicant—

''(i) written notice that includes—

''(I) a clear and comprehensive description of the reasons for denying the application; and

''(II) detailed information concerning any deficiencies in the application; and

''(ii) an opportunity—

''(I) to address the reasons identified under clause (i)(I); and

''(II) to remedy the deficiencies identified under clause (i)(II).

''(D) FAILURE TO APPROVE OR DENY APPLICATION.—If the Secretary has not approved or denied the application by the date that is 60 days after the date on which the application was received by the Secretary, the application shall be considered to be approved.''.

(b) DEADLINE FOR CERTAIN PERMIT APPLICATIONS UNDER EXISTING LEASES.—

(1) DEFINITION OF COVERED APPLICATION.—In this subsection, the term ''covered application'' means an application for a permit to drill under an oil and gas lease under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) in effect on the date of enactment of this Act, that—

(A) represents a resubmission of an approved permit to drill (including an application for a permit to sidetrack) that was approved by the Secretary before May 27, 2010; and

(B) is received by the Secretary after October 12, 2010, and before the end of the 30-day period beginning on the date of enactment of this Act.

(2) IN GENERAL.—Notwithstanding the amendment made by subsection (a), a lease under which a covered application is submitted to the Secretary of the Interior shall be considered to be in directed suspension during the period beginning May 27, 2010, and ending on the date on which the Secretary issues a final decision on the application, if the Secretary does not issue a final decision on the application—

(A) before the end of the 30-day period beginning on the date of enactment of this Act, in the case of a covered application submitted before the date of enactment of this Act; or

(B) before the end of the 30-day period beginning on the date on which the application is received by the Secretary, in the case of a covered application submitted on or after the date of enactment of this Act.

SEC. 5. EXTENSION OF CERTAIN OUTER CONTINENTAL SHELF LEASES.

(a) DEFINITION OF COVERED LEASE.—In this section, the term ''covered lease'' means each oil and gas lease for the Gulf of Mexico outer Continental Shelf region issued under section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) that—

(1)(A) was not producing as of April 30, 2010; or

(B) was suspended from operations, permit processing, or consideration, in accordance with the moratorium set forth in the Minerals Management Service Notice to Lessees and Operators No. 2010–N04, dated May 30, 2010, or the decision memorandum of the Secretary of the Interior entitled ''Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf'' and dated July 12, 2010; and

(2) by the terms of the lease, would expire on or before December 31, 2011.

(b) EXTENSION OF COVERED LEASES.—The Secretary of the Interior shall extend the term of a covered lease by 1 year.

(c) EFFECT ON SUSPENSIONS OF OPERATIONS OR PRODUCTION.—The extension of covered leases under this section is in addition to any suspension of operations or suspension of production granted by the Minerals Management Service or Bureau of Ocean Energy Management, Regulation and Enforcement after May 1, 2010.

SEC. 6. JUDICIAL REVIEW OF AGENCY ACTIONS RELATING TO OUTER CONTINENTAL SHELF ACTIVITIES IN THE GULF OF MEXICO.

(a) DEFINITIONS.—In this section:

(1) COVERED CIVIL ACTION.—The term ''covered civil action'' means a civil action containing a claim under section 702 of title 5, United States Code, regarding ''agency action'' (as the term is used in that section) affecting a covered energy project.

(2) COVERED ENERGY PROJECT.—

(A) IN GENERAL.—The term ''covered energy project'' mean the leasing of Federal land of the outer Continental Shelf (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, wind, or any other source of energy in the Gulf of Mexico, including any action under such a lease.

(B) EXCLUSIONS.—The term ''covered energy project'' does not include any disputes between the parties to a lease regarding the obligations under a lease described in subparagraph (A), including regarding any alleged breach of the lease.

(b) EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS RELATING TO COVERED ENERGY PROJECTS IN THE GULF OF MEXICO.—Venue for any covered civil action shall be in the United States Court of Appeals for the Fifth Circuit, unless there is no proper venue in any court within the United States Court of Appeals for the Fifth Circuit.

(c) TIME LIMITATION ON FILING.—A covered civil action shall be barred unless the covered civil action is filed not later than the end of the 60-day period beginning on the date of the final Federal agency action to which the covered civil action relates.

(d) EXPEDITION IN HEARING AND DETERMINING THE ACTION.—The court shall endeavor to hear and determine any covered civil action as expeditiously as possible.

(e) STANDARD OF REVIEW.—In any judicial review of a covered civil action—

(1) administrative findings and conclusions relating to the challenged Federal action or decision shall be presumed to be correct; and

(2) the presumption under paragraph (1) may be rebutted only by the preponderance of the evidence contained in the administrative record.

(f) LIMITATION ON PROSPECTIVE RELIEF.—In a covered civil action, the court shall not grant or approve any prospective relief unless the court finds that the relief—

(1) is narrowly drawn;

(2) extends no further than necessary to correct the violation of a legal requirement; and

(3) is the least intrusive means necessary to correct that violation.

(g) LIMITATION ON ATTORNEYS' FEES.—

(1) IN GENERAL.—Sections 504 of title 5, United States Code, and 2412 of title 28, United States Code, shall not apply to a covered civil action.

(2) PROHIBITION.—No party to a covered civil action shall receive payment from the Federal Government for attorneys' fees, expenses, or other court costs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CASEY (for himself, Mr. ISAKSON, Mr. BROWN of Ohio, Mr. BLUNT, Mr. KERRY, Mr. BROWN of Massachusetts, Mr. BLUMENTHAL, and Mr. ROBERTS):

S. 958. A bill to amend the Public Health Service Act to reauthorize the program of payments to children's hospitals that operate graduate medical education programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. CASEY. Mr. President, today Senator ISAKSON and I are introducing the Children's Hospital GME Support Reauthorization Act of 2011. Since its creation in 1999, this program has provided freestanding children's hospitals with funding to support the training of medical residents. While most hospitals receive support through the Medicare program, freestanding children's hospitals are not eligible for that funding. That is why reauthorizing this program is vital.

Prior to the enactment of CHGME, the number of residents in children's hospitals' residency programs had declined over 13 percent. The enactment of CHGME has enabled children's hospitals to reverse this trend and to increase their training by 35 percent.

In Pennsylvania, we have three hospitals who participate in this important program. This is a critical investment in our country's medical future and guarantees that children will have continuing access to the care they need across provider settings. Children are not little adults. We must continue to ensure we have the specialized workforce to care for them.

Perhaps the benefit of this program is best told in the words of the residents themselves. Gabriela Marein-Efron is a resident at the Children's

Hospital of Philadelphia. She shared this story with us.

''One of the most powerful experiences I've had during my training has been in my primary care continuity clinic. Many of my patients are now almost 3 years old, and I've been taking care of them since they were newborns. My connection to these families, who are often especially vulnerable because of barriers such as poverty or language differences has influenced my ultimate career choice. In a few months I'll become an Attending Physician at this urban clinic and continue to take care of these underserved families and serve as their medical home full-time.''

Chief Resident Dustin Haferbecker had an equally meaningful experience. ''My training at CHOP allowed me the unique opportunity to discover a need in the community, and ultimately help meet that need. During residency, I was exposed to extreme lack of adequate health care that was available to the large number of refugees that continue to pour into the city, brought here by our government. Our CHGME funded curriculum made it possible for myself and a group of residents to investigate this problem, identify support from within the institution, and establish a clinic dedicated to meeting their unique health care needs. A family of three children that have spent their life a refugee camp in Nepal, are now being treated for their vitamin D deficiency and newly discovered latent tuberculosis.''

Pamela Puthoor is a resident at the Children's Hospital of Pittsburgh. ''I had had almost zero exposure to pediatric specialists before coming to Children's,'' she says. ''I knew that Children's Hospital offered a rigorous primary care program and the depth and breadth of specialty care, so I would be able to make an educated choice. I have been able to learn from leaders in their fields, and from that I have decided to go into pediatric gastroenterology.'' Dr. Puthoor says that Children's also encouraged her to pursue her interest in public health policy. ''Children's attracts passionate, altruistic people devoted to taking care of kids. The support and encouragement we receive is extraordinary,'' she says.

These residents and the stories they share are a testament of why we must continue this program.

I want to thank Senator ISAKSON for leading this legislation with me. I also want to thank Senators SHERROD BROWN, ROY BLUNT, JOHN KERRY, SCOTT BROWN, RICHARD BLUMENTHAL and PAT ROBERTS for signing on as original cosponsors. I look forward to working with my colleagues to get this legislation passed this year.

By Mr. KERRY (for himself, Mr. ALEXANDER, and Mr. WYDEN):

S. 960. A bill to provide for a study on issues relating to access to intravenous immune globulin (IVG) for Medicare beneficiaries in all care settings and a demonstration project to examine the benefits of providing coverage and payment for items and services necessary to administer IVG in the home; to the Committee on Finance.

Mr. KERRY. Mr. President, today along with Senator ALEXANDER I am introducing the Medicare IVIG Access Act to help patients with primary immunodeficiency diseases, PIDD, who currently face a number of health challenges. Today, Medicare beneficiaries with PIDD already have a Part B benefit for home-based intravenous immune globulin, IVIG, treatment. Unfortunately a gap in coverage exists so no payments are available for the items and services necessary to administer the treatment.

Treatment in the home is more cost effective and also protects the patient from the risk of exposure to additional illnesses in other health care settings. This is of particular concern to PIDD patients, since they already have weakened immune systems. A 2007 report from the Department of Health and Human Services, HHS, Office of Inspector General and the HHS Assistant Secretary for Planning and Evaluation found that problems with payment exist, namely the absence of coverage for required items and services associated with IVIG home infusion.

That is why I have worked with my colleague Senator ALEXANDER to introduce the Medicare IVIG Access Act to create a 3-year demonstration project to provide for and evaluate the benefits of providing a payment for items and services necessary to administer IVIG in the home. The bill includes a study to explore issues surrounding IVIG treatment, including the impact of the demonstration project on access to care, and an analysis of the appropriateness of new payment methodology for IVIG treatment in all settings.

This legislation is supported by a number of organizations including the Immune Deficiency Foundation and the Clinical Immunology Society. I ask all of my colleagues to support this important legislation.

By Mr. KERRY (for himself, Mrs. MURRAY, and Mr. BEGICH):

S. 961. A bill to create the income security conditions and family supports needed to ensure permanency for the Nation's unaccompanied youth, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Reconnecting Youth to Prevent Homelessness Act to improve training, educational opportunities, and permanency planning for older foster youth and reduce homelessness among our young people.

This year approximately 3.5 million people, including 1.5 million children in the United States will experience homelessness at some point. That is one out of every 50 kids. For children who were in the foster system the chances of becoming homeless are even greater. Every year approximately 30,000 children age out of the foster care system—many with no family and nowhere to go. These children were placed in the foster system at absolutely no fault of their own and too often they leave the system without a place to call home.

We have a responsibility to take care of our young people and make sure families have the resources they need to be able to keep a roof over their heads. I developed this legislation after hearing troubling stories from teenagers in Massachusetts. For example, I heard from one 15-year-old who has been in multiple foster care placements and is expected to eventually age out of the system. He told me ''. . . I feel the age 18 is too young, some of us don't always have somewhere to go . . . if this bill gets passed it will greatly help a lot of people in so many different ways . . . I thank you for giving us the opportunity to help us better ourselves and letting us know that we are heard in this world and someone cares deeply and truly about us.'' That is why I am introducing the Reconnecting Youth to Prevent Homelessness Act. This legislation will help ensure that regardless of where in the country a foster child lives, they will not face the prospect of becoming a homeless teenager by allowing them to remain in care until their 21st birthday and improving permanency planning.

It provides support for States to work together to decrease barriers that prohibit cooperation across State lines for placing foster children in loving homes outside their state of residence. It provides support for programs that improve family relationships and reduce homelessness among youth who are lesbian, gay, bisexual, or transgender. This legislation ensures that children in foster care receive Social Security benefits they qualify for due to the death of a parent or a disability.

The bill makes significant improvements to the Temporary Assistance to Needy Families, TANF, program such as enhancing efforts to connect families with education, training and housing resources. It also increases the time frame for young parents to qualify for TANF benefits if they are in an education or training program. Finally, it provides more flexibility for states to work with young families to become compliant with TANF requirements.

This legislation is supported by over 40 organizations, including the American Bar Association, the National Coalition for the Homeless, National Network for Youth, and Voice for Adoption. I thank my colleagues Senator MURRAY and Senator BEGICH for their support and co-sponsorship of this bill. It is my hope that we can move forward in a bipartisan manner. I ask all of my colleagues to support this important legislation.

By Mr. ALEXANDER (for himself, Mr. GRAHAM, Mr. DEMINT,

Mr. PAUL, Mr. CORNYN, Mr. LUGAR, Mr. SHELBY, Mr. ISAKSON, Mr. RISCH, Mr. BOOZMAN, Mr. LEE, Mr. KYL, Mr. VITTER, Mr. COCHRAN, Mr. COBURN, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. HOEVEN, Mr. JOHANNS, Mr. JOHNSON of Wisconsin, Mr. MCCONNELL, Mr. BARRASSO, Mr. BURR, Mr. ROBERTS, Mr. SESSIONS, Mr. HATCH, Mr. ENZI, Mr. CHAMBLISS, Mr. INHOFE, Mr. HELLER, Mr. MCCAIN, Mr. WICKER, Mr. RUBIO, and Mr. CORKER):

S. 964. A bill to amend the National Labor Relations Act to clarify the applicability of such Act with respect to States that have right to work laws in effect; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, I have come to the Senate floor today to introduce, on behalf of 34 Senators, the Job Protection Act.

The Job Protection Act is occasioned by a decision by the acting general counsel of the National Labor Relations Board that filed a complaint to stop the Boeing Company from building airplanes at a nonunion plant in South Carolina, suggesting that a unionized American company cannot expand its operations in 1 of 22 States with a right-to-work law.

The right-to-work law protects workers' rights to join or not join a union. For example, in Tennessee we are a right-to-work State. In the case of a Saturn employee, where United Auto Workers is the bargaining agent, a worker doesn't have to join the union or pay dues, but he has to accept the UAW as his bargaining agent.

At the Nissan plant a few miles away from the General Motors plant, workers have three times elected not to have a union as their bargaining agent. That is what a right-to-work State is. There are 22 of them. The State of New Hampshire is in the process of deciding whether to become the 23rd. Their legislature is of one view, and their Governor is of the other view.

The Job Protection Act, which I introduce today on behalf of 34 Senators, would preserve the Federal law's current protection of State right-to-work laws in the National Labor Relations Act and provide necessary clarity to prevent the NLRB from moving forward in their case against Boeing or attempting a similar strategy against other companies.

Specifically, the Job Protection Act would, first, explicitly clarify that the board cannot order an employer to relocate jobs from one location to another; two, it guarantees an employer the right to decide where to do business within the United States; and, three, it protects an employer's free speech regarding the costs associated with having a unionized workforce without fear of such communication being used as evidence in an anti-union discrimination suit.

Mr. President, I ask unanimous consent to have printed in the RECORD the names of the 34 Senators who are original cosponsors of the Job Protection Act.

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

JOB PROTECTION ACT—COSPONSOR LIST

Lamar Alexander, Lindsey Graham, Jim DeMint, Rand Paul, John Cornyn, Richard Lugar, Richard Shelby, Johnny Isakson, James Risch, John Boozman, Mike Lee, Jon Kyl, David Vitter, Thad Cochran, Tom Coburn, Chuck Grassley, Kay Bailey Hutchison.

John Hoeven, Mike Johanns, Ron Johnson, Mitch McConnell, John Barrasso, Richard Burr, Pat Roberts, Jeff Sessions, Orrin Hatch, Mike Enzi, Saxby Chambliss, Jim Inhofe, Dean Heller, John McCain, Roger Wicker, Marco Rubio, Bob Corker.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks two articles by the Wall Street Journal, the first written by me on April 29 and the second written by the president of the Boeing Company, Jim McNerney, who is also chairman of President Obama's Export Council.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, now to make a few remarks about the actions that have caused this.

I just left a hearing in the Health, Education, Labor, and Pensions Committee on the middle class. One of the witnesses was the general counsel of the Boeing Company. As might be expected, given the notoriety of this case and the breathtaking scope of it, he got a lot of questions.

Let me first say why there is such a breathtaking scope here. Up until the filing of the complaint, one would assume that a manufacturing company, such as Boeing or a smaller company that wanted to open a new plant to create new jobs could make its own decision about where to do that. Then in doing so, it could take into account such factors as the cost of labor. It could take into account such factors as the labor relations within a State, as well as the geographical location of the State and many other factors.

The reason the decision by the acting general counsel has attracted so much attention is it basically says—or at least it suggests—to any company manufacturing a product in a State which is not a right-to-work State, such as Washington, that you better think twice before you open a new production line in one of the right-to-work States.

Let me talk for a moment about why that has an impact on the middle class in America. Thirty years ago I was Governor of Tennessee. We were the third poorest State. My goal was to raise family incomes and to create an environment in which they could be raised. I was a young Governor, but I knew enough to know the government did not raise the incomes but it might create a good environment for that to happen.

I went to my first White House dinner with the President of the United States. The President was then Jimmy Carter. The President said to us Governors at a very nice dinner—just the Governors and their spouses and the President and Mrs. Carter: Governors, go to Japan. Persuade them to make in the United States what they sell in the United States. I remember I called Dean Rusk, who had been Secretary of State, and asked him to visit with me. I talked to him about how to do this.

Off I went to Japan, which is not something I planned to do when I was walking across Tennessee trying to be the Governor. I met with the Nissan officials in Tokyo in the fall of 1979. At that time, Japanese companies seemed so powerful that there were books coming out saying they might take over the United States economy, but they were not making here what they sold here. They were making Nissan cars and trucks in Japan. They were making a decision about where to locate in our country. I took with me a photograph of the United States at night taken from a satellite. They asked: Where is Tennessee? I said: It is right in the middle of the lights. That reduced the shipping and transportation costs. Then the next decision was: Where in the center did they want to go? Every State north of us did not have a right-to-work law. Tennessee and the States around us did. Nissan chose Tennessee, and they and the General Motors plant that later came and the Volkswagen plant and thousands of suppliers have helped our middle class raise incomes over the last 30 years. A third of our jobs are auto manufacturing jobs because we provided an environment in which automakers can compete in the world marketplace.

Nissan said today that soon they will be making in the United States 85 percent of what they sell in the United States, which makes them a very American company. That is what we want. But this decision says we throw a big wet blanket over all the auto suppliers and manufacturers who might be thinking about moving into Tennessee or opening new plants in Tennessee or suppliers who might be wishing to follow Boeing to South Carolina because it says you cannot make that decision.

We have never had that kind of law in the United States. We have had a right-to-work law on the books since 1947. States have a right to adopt it or not to adopt it. The legislation I am offering today on behalf of 34 Senators does not change that, but it does preserve the right of States to adopt a right-to-work law, the right of employees to join or not to join a union, and the right of employers to make decisions about where to locate their plants and their ability to speak in public about what they are doing.

This is a most consequential decision. It is one that deserves the attention of every Senator because as the Boeing chairman, who is the head of President Obama's Export Council,

wrote in the Wall Street Journal this week, a union State would not be able to attract a manufacturer because a manufacturer might be afraid that any expansion could never be done in a right-to-work State. By simple mathematics, if Boeing, which is our largest exporter—155,000 employees in the United States, another 15,000 around the world—has a disincentive or if it cannot expand a new production line in a right-to-work State and if it might think twice about expanding in any other State, then where is it going to go? It is going to go to some other country.

This decision by the acting general counsel of the National Labor Relations Board is the single most important action I have seen in years that would rush American jobs overseas in pursuit of an environment in which they can build and manufacture competitively. It is just the reverse of what President Carter said to the Governors 30 years ago when he said: Governors, go to Japan. Persuade them to make here what they sell here.

We did that. They came here. They are making 85 percent of what they sell here. We want Volkswagen to do that. We want General Motors to do that. We want Ford to do that. We want Boeing to do that. And if we say to them, But we are going to tell you, the Federal Government is going to tell you where you have to locate your plants, you are going to override section 14(b) of the Taft-Hartley Act which was passed in 1947 and which has created an environment which has permitted American manufacturing to succeed.

All one has to do is read David Halberstam's book ''The Reckoning'' in the late 1980s to see that if our entire auto industry were still locked in Detroit, it would not be as competitive as it is today—cars made in America. I know that firsthand because I saw it happen when Nissan came to Tennessee. They did not hire a bunch of people from Japan to run the plant. They went to Detroit. They got Ford executives who knew how to run a plant but were not allowed to by the environment there, and they put them at a start-from-scratch place and created the most efficient automobile plant in North America.

We welcome also the General Motors plant and the United Auto Workers to their Spring Hill location in Tennessee. That is what a right-to-work State is where you can choose to join a union or not to join a union. Both can operate. Employees make the decision.

But when the Federal Government starts telling any company—a Boeing or a Boeing supplier, an auto company or an auto supplier or any manufacturing company—you cannot locate in a right-to-work State, they probably will not locate in a non-right-to-work State. Where are they likely to go? Mexico, Europe, Japan. Boeing sells airplanes all around the world. It can make airplanes all around the world. If we persist in policies such as this, instead of having a situation where our largest exporter has 170,000 employees, more than 150,000 of which are in the United States, we will turn that right upside down and they will be making 85 percent of their airplanes in the countries where they sell them, and the United States will have a lot fewer jobs.

This is a consequential matter that I hope attracts Democratic as well as Republican support. It preserves the right-to-work law. It preserves the choices of employees. It preserves the decision of corporations to make their own decisions about where to locate. It would stop a Federal Government regulation which is the single most effective action I know about to chase American jobs overseas and lower family incomes.

EXHIBIT 1

[From the Wall Street Journal, Apr. 29, 2011]

THE WHITE HOUSE VS. BOEING: A TENNESSEE TALE

(By Lamar Alexander)

The National Labor Relations Board has moved to stop Boeing from building airplanes at a nonunion plant in South Carolina, suggesting that a unionized American company cannot expand its operations into one of the 22 states with right-to-work laws, which protect a worker's right to join or not join a union. (New Hampshire's legislature has just approved its becoming the 23rd.)

This reminds me of a White House state dinner in February 1979, when I was governor of Tennessee. President Jimmy Carter said, ''Governors, go to Japan. Persuade them to make here what they sell here.''

''Make here what they sell here'' was then the union battle cry, part of an effort to slow the tide of Japanese cars and trucks entering the U.S. market.

Off I flew to Tokyo to meet with Nissan executives who were deciding where to put their first U.S. manufacturing plant. I carried with me a photograph taken at night from a satellite showing the country at night with all its lights on.

''Where is Tennessee?'' the executives asked. ''Right in the middle of the lights,'' I answered, pointing out that locating a plant in the population center reduces the cost of transporting cars to customers. That center had migrated south from the Midwest, where most U.S. auto plants were, to Kentucky and Tennessee.

Then the Japanese examined a second consideration: Tennessee has a right-to-work law and Kentucky does not. This meant that in Kentucky workers would have to join the United Auto Workers union. Workers in Tennessee had a choice.

In 1980 Nissan chose Tennessee, a state with almost no auto jobs. Today auto assembly plants and suppliers provide one-third of our state's manufacturing jobs. Tennessee is the home for production of the Leaf, Nissan's all-electric vehicle, and the batteries that power it. Recently Nissan announced that 85% of the cars and trucks it sells in the U.S. will be made in the U.S.—making it one of the largest ''American'' auto companies and nearly fulfilling Mr. Carter's request of 30 years ago.

But now unions want to make it illegal for a company that has experienced repeated strikes to move production to a state with a right-to-work law. What would this mean for the future of American auto jobs? Jobs would flee overseas as manufacturers look for a competitive environment in which to make and sell cars around the world.

It's happened before. David Halberstam's 1986 book, ''The Reckoning''—about the decline of the domestic American auto industry—tells the story. Halberstam quotes American Motors President George Romney, who criticized the ''shared monopoly'' consisting of the Big Three Detroit auto manufacturers and the UAW. ''There is nothing more vulnerable than entrenched success,'' Romney warned. Detroit ignored upstarts like Nissan who in the 1960s began selling funny little cars to American consumers. We all know what happened to employment in the Big Three companies.

Even when Detroit sought greener pastures in a right-to-work state, its ''partnership'' with the United Auto Workers could not compete. In 1985, General Motors located its $5 billion Saturn plant in Spring Hill, Tenn., 40 miles from Nissan, hoping side-by-side competition would help the Americans beat the Japanese. After 25 years, nonunion Nissan operated the most efficient auto plant in North America. The Saturn/UAW partnership never made a profit. GM closed Saturn last year.

Nissan's success is one reason why Volkswagen recently located in Chattanooga, and why Honda, Toyota, BMW, Kia, Mercedes-Benz, Hyundai and thousands of suppliers have chosen southeastern right-to-work states for their plants. Under right-to-work laws, employees may join unions, but mostly they have declined. Three times workers at the Nissan plant in Smyrna, Tenn., rejected organizing themselves like Saturn employees a few miles away.

Our goal should be to make it easier and cheaper to create private-sector jobs in this country. Giving workers the right to join or not to join a union helps to create a competitive environment in which more manufacturers like Nissan can make here 85% of what they sell here.

[From the Wall Street Journal, May 11, 2011]

BOEING IS PRO-GROWTH, NOT ANTI-UNION

(By Jim McNerney)

Deep into the recent recession, Boeing decided to invest more than $1 billion in a new factory in South Carolina. Surging global demand for our innovative, new 787 Dreamliner exceeded what we could build on one production line and we needed to open another.

This was good news for Boeing and for the economy. The new jetliner assembly plant would be the first one built in the U.S. in 40 years. It would create new American jobs at a time when most employers are hunkered down. It would expand the domestic footprint of the nation's leading exporter and make it more competitive against emerging plane makers from China, Russia and elsewhere. And it would bring hope to a state burdened by double-digit unemployment—with the construction phase alone estimated to create more than 9,000 total jobs.

Eighteen months later, a North Charleston swamp has been transformed into a state-of-the-art, green-energy powered, 1.2 million square-foot airplane assembly plant. One thousand new workers are hired and being trained to start building planes in July.

It is an American industrial success story by every measure. With 9% unemployment nationwide, we need more of them—and soon.

Yet the National Labor Relations Board (NLRB) believes it was a mistake and that our actions were unlawful. It claims we improperly transferred existing work, and that our decision reflected ''animus'' and constituted ''retaliation'' against union-represented employees in Washington state. Its remedy: Reverse course, Boeing, and build the assembly line where we tell you to build it.

The NLRB is wrong and has far overreached its authority. Its action is a fundamental assault on the capitalist principles that have sustained America's competitiveness since it became the world's largest economy nearly 140 years ago. We've made a rational, legal business decision about the allocation of our capital and the placement of new work within the U.S. We're confident the federal courts will reject the claim, but only after a significant and unnecessary expense to taxpayers.

More worrisome, though, are the potential implications of such brazen regulatory activism on the U.S. manufacturing base and long-term job creation. The NLRB's overreach could accelerate the overseas flight of good, middle-class American jobs.

Contrary to the NLRB's claim, our decision to expand in South Carolina resulted from an objective analysis of the same factors we use in every site selection. We considered locations in several states but narrowed the choice to either North Charleston (where sections of the 787 are built already) or Everett, Wash., which won the initial 787 assembly line in 2003.

Our union contracts expressly permit us to locate new work at our discretion. However, we viewed Everett as an attractive option and engaged voluntarily in talks with union officials to see if we could make the business case work. Among the considerations we sought were a long-term ''no-strike clause'' that would ensure production stability for our customers, and a wage and benefit growth trajectory that would help in our cost battle against Airbus and other state-sponsored competitors.

Despite months of effort, no agreement was reached. Union leaders couldn't meet expectations on our key issues, and we couldn't accept their demands that we remain neutral in all union-organizing campaigns and essentially guarantee to build every future Boeing airplane in the Puget Sound area. In October 2009, we made the Charleston selection.

Important to our case is the basic fact that no existing work is being transferred to South Carolina, and not a single union member in Washington has been adversely affected by this decision. In fact, we've since added more than 2,000 union jobs there, and the hiring continues. The 787 production line in Everett has a planned capacity of seven airplanes per month. The line in Charleston will build three additional airplanes to reach our 10-per-month capacity plan. Production of the new U.S. Air Force aerial refueling tanker will sustain and grow union jobs in Everett, too.

Before and after the selection, we spoke openly to employees and investors about our competitive realities and the business considerations of the decision. The NLRB now is selectively quoting and mischaracterizing those comments in an attempt to bolster its case. This is a distressing signal from one arm of the government when others are pushing for greater openness and transparency in corporate decision making.

It is no secret that over the years Boeing and union leaders have struggled to find the right way to work together. I don't blame that all on the union, or all on the company. Both sides are working to improve that dynamic, which is also a top concern for customers. Virgin Atlantic founder Richard Branson put it this way following the 2008 machinists' strike that shut down assembly for eight weeks: ''If union leaders and management can't get their act together to avoid strikes, we're not going to come back here again. We're already thinking, 'Would we ever risk putting another order with Boeing?' It's that serious.''

Despite the ups-and-downs, we hold no animus toward union members, and we have never sought to threaten or punish them for exercising their rights, as the NLRB claims. To the contrary, union members are part of our company's fabric and key to our success. About 40% of our 155,000 U.S. employees are represented by unions—a ratio unchanged since 2003.

Nor are we making a mass exodus to right-to-work states that forbid compulsory union membership. We have a sizable presence in 34 states; half are unionized and half are right-to-work. We make decisions on work placement based on business principles—not out of emotion or spite. For example, last year we added new manufacturing facilities in Illinois and Montana. One work force is union-represented, the other is not. Both decisions made business sense.

The world the NLRB wants to create with its complaint would effectively prevent all companies from placing new plants in right-to-work states if they have existing plants in unionized states. But as an unintended consequence, forward-thinking CEOs also would be reluctant to place new plants in unionized states—lest they be forever restricted from placing future plants elsewhere across the country.

U.S. tax and regulatory policies already make it more attractive for many companies to build new manufacturing capacity overseas. That's something the administration has said it wants to change and is taking steps is to address. It appears that message hasn't made it to the front offices of the NLRB.

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. 964

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 ''Job Protection Act''.

SEC. 2. APPLICATION TO CERTAIN SPEECH, BUSINESS DECISIONS.

(a) UNFAIR LABOR PRACTICES.—Section 8(a)(3) of the National Labor Relations Act (29 U.S.C. 158(a)(3)) is amended by inserting before the semicolon at the end the following: '': *Provided further,* That an employer's expression of any views, argument, or opinion related to the costs associated with collective bargaining, work stoppages, or strikes, or the dissemination of such views, arguments, or opinions, whether in written, printed, graphic, digital, or visual form, shall not constitute or be evidence of antiunion animus or unlawful motive, if such expression contains no threat of reprisal or force or promise of benefit''.

(b) PREVENTION OF UNFAIR LABOR PRACTICES.—Section 10 of the National Labor Relations Act (29 U.S.C. 160) is amended—

(1) in subsection (a), by inserting after the period at the end the following: '': *Provided further,* That the Board shall have no power to order any employer to relocate, shut down, or transfer any existing or planned facility or work or employment opportunity, or prevent any employer from making such relocations, transfers, or expansions to new or existing facilities in the future, or prevent any employer from closing a facility, not developing a facility, or eliminating any employment opportunity unless and until the employer has been adjudicated finally to have unlawfully undertaken such actions—

''(1) without advance notice to the labor organization, if any, representing the bargaining unit of the affected employees, of the economic reason(s) for the relocation, shut down, or transfer of existing or future work; or

''(2) as a primary and direct response to efforts by a labor organization to organize a previously unrepresented workplace''; and

(2) by adding at the end the following:

''(n) Nothing in this Act shall prevent an employer from choosing where to locate, develop, or expand its business or facilities, or require any employer to move, transfer, or relocate any facility, production line, or employment opportunity, or require that an employer cease or refrain from doing so, or prevent any employer from closing a facility or eliminating any employment opportunity unless the employer has been adjudicated finally to have unlawfully undertaken such actions—

''(1) without advance notice to the labor organization, if any, representing the bargaining unit of the affected employees, of the economic reason(s) for the relocation, shut down, or transfer of existing or future work; or

''(2) as a primary and direct response to efforts by a labor organization to organize a previously unrepresented workplace.''.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. SCHUMER, Mrs. FEINSTEIN, Mr. WHITEHOUSE, Mr. GRAHAM, Mr. KOHL, Mr. COONS, Mr. BLUMENTHAL, Ms. KLOBUCHAR, and Mr. FRANKEN):

S. 968. A bill to prevent online threats to economic creativity and theft of intellectual property, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, few things are more important to the future of the American economy and job creation than protecting our intellectual property. At a time where our country is beginning to regain its economic footing, businesses face an additional hurdle, the severity of which is increasing by the day—digital theft.

Copyright infringement and the sale of counterfeit goods are reported to cost American businesses billions of dollars, and result in hundreds of thousands of lost jobs. Further, the Institute for Policy Innovation estimates that copyright piracy online alone costs Federal, state and local governments $2.6 billion in tax revenue. In today's business and fiscal climate, the harm that intellectual property infringement causes to the U.S. economy is unacceptable.

While the growth of the digital marketplace has been extraordinary, and benefits businesses by enabling new opportunities to reach consumers, it also brings with it the threat of copyright infringement and counterfeiting. Internet purchases have become so commonplace that consumers are less wary of online shopping and therefore more easily victimized by online counterfeit products that may have health, safety or other quality concerns when they are counterfeit.

Today, I am introducing the bipartisan PROTECT IP Act, which is based on last year's Combating Online Infringements and Counterfeits Act. It will provide the Justice Department

and rights holders with important new tools to crack down on rogue websites dedicated to infringing activities. This legislation will protect the investment American companies make in developing brands and creating content and will protect the jobs associated with those investments. It will also protect American consumers, who should feel confident that the goods they purchase are of the type and quality they expect.

Both law enforcement and rights holders are currently limited in the remedies available to combat websites dedicated to offering infringing content and products. These rogue websites are often foreign-owned and operated, or reside at domain names that are not registered through a U.S.-based registry or registrar. American consumers are too often deceived into thinking the products they are purchasing at these websites are legitimate because they are easily accessed through their home's Internet service provider, found through well known search engines, and are complete with corporate advertising, credit card acceptance, and advertising links that make them appear legitimate.

The PROTECT IP Act authorizes the Justice Department to file a civil action against the registrant or owner of a domain name that accesses a foreign rogue website, or the foreign-registered domain name itself, and to seek a preliminary order from the court that the site is dedicated to infringing activities. The court is authorized to issue a cease and desist order against a rogue website. If the court issues that order, the Attorney General is authorized to serve that order, with permission of the court, on specified U.S. based third-parties, including Internet service providers, payment processors, online advertising network providers, and search engines. These third parties would then be required to take appropriate action to either prevent access to the Internet site, in the case of an Internet service provider or search engine, or cease doing business with the Internet site, in the case of a payment processor or advertising network.

The act authorizes a rights holder who is the victim of the infringement from a rogue website to bring a similar action against the rogue site, whether domestic or foreign. If the court issues a cease and desist order, the rights holder is authorized to serve that order, if authorized by the court, on payment processors and online advertising networks, to cut off the financial viability of the criminal activity.

The legislation will also encourage voluntary action by Internet partners that have credible evidence a rogue website is threatening the public health by trafficking in counterfeit, adulterated, or misbranded prescription medication.

Finally, the PROTECT IP Act will help law enforcement identify and prevent counterfeit products from being imported into the United States by ensuring law enforcement can share samples of packaging or labels of suspected counterfeits with the relevant rights holders to determine whether the shipment should be seized at the border. Similarly, it ensures that law enforcement can share anti-circumvention devices that have been seized with affected parties.

This legislation will provide law enforcement and rights holders with an increased ability to protect American intellectual property. This will benefit American consumers, American businesses, and American jobs. We should not expect that enactment of the legislation will completely solve the problem of online infringement, but it will make it more difficult for foreign entities to profit off American hard work and ingenuity. This bill targets the most egregious actors, and is an important first step to putting a stop to online piracy and sale of counterfeit goods.

Protecting intellectual property is not uniquely a Democratic or Republican priority it is a bipartisan priority. I look forward to working with all Senators to pass this important, bipartisan 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. 968

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 ''Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act of 2011'' or the ''PROTECT IP Act of 2011''.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term ''domain name'' has the same meaning as in section 45 of the Lanham Act (15 U.S.C. 1127);

(2) the term ''domain name system server'' means a server or other mechanism used to provide the Internet protocol address associated with a domain name;

(3) the term ''financial transaction provider'' has the same meaning as in section 5362(4) of title 31, United States Code;

(4) the term ''information location tool'' has the same meaning as described in subsection (d) of section 512 of title 17, United States Code;

(5) the term ''Internet advertising service'' means a service that for compensation sells, purchases, brokers, serves, inserts, verifies, or clears the placement of an advertisement, including a paid or sponsored search result, link, or placement that is rendered in viewable form for any period of time on an Internet site;

(6) the term ''Internet site'' means the collection of digital assets, including links, indexes, or pointers to digital assets, accessible through the Internet that are addressed relative to a common domain name;

(7) the term ''Internet site dedicated to infringing activities'' means an Internet site that—

(A) has no significant use other than engaging in, enabling, or facilitating the—

(i) reproduction, distribution, or public performance of copyrighted works, in complete or substantially complete form, in a manner that constitutes copyright infringement under section 501 of title 17, United States Code;

(ii) violation of section 1201 of title 17, United States Code; or

(iii) sale, distribution, or promotion of goods, services, or materials bearing a counterfeit mark, as that term is defined in section 34(d) of the Lanham Act; or

(B) is designed, operated, or marketed by its operator or persons operating in concert with the operator, and facts or circumstances suggest is used, primarily as a means for engaging in, enabling, or facilitating the activities described under clauses (i), (ii), or (iii) of subparagraph (A);

(8) the term ''Lanham Act'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'');

(9) the term ''nondomestic domain name'' means a domain name for which the domain name registry that issued the domain name and operates the relevant top level domain, and the domain name registrar for the domain name, are not located in the United States;

(10) the term ''owner'' or ''operator'' when used in connection with an Internet site shall include, respectively, any owner of a majority interest in, or any person with authority to operate, such Internet site; and

(11) the term ''qualifying plaintiff'' means—

(A) the Attorney General of the United States; or

(B) an owner of an intellectual property right, or one authorized to enforce such right, harmed by the activities of an Internet site dedicated to infringing activities occurring on that Internet site.

SEC. 3. ENHANCING ENFORCEMENT AGAINST ROGUE WEBSITES OPERATED AND REGISTERED OVERSEAS.

(a) COMMENCEMENT OF AN ACTION.—

(1) IN PERSONAM.—The Attorney General may commence an in personam action against—

(A) a registrant of a nondomestic domain name used by an Internet site dedicated to infringing activities; or

(B) an owner or operator of an Internet site dedicated to infringing activities accessed through a nondomestic domain name.

(2) IN REM.—If through due diligence the Attorney General is unable to find a person described in subparagraphs (A) or (B) of paragraph (1), or no such person found has an address within a judicial district of the United States, the Attorney General may commence an in rem action against a nondomestic domain name used by an Internet site dedicated to infringing activities.

(b) ORDERS OF THE COURT.—

(1) IN GENERAL.—On application of the Attorney General following the commencement of an action under this section, the court may issue a temporary restraining order, a preliminary injunction, or an injunction, in accordance with rule 65 of the Federal Rules of Civil Procedure, against the nondomestic domain name used by an Internet site dedicated to infringing activities, or against a registrant of such domain name, or the owner or operator of such Internet site dedicated to infringing activities, to cease and desist from undertaking any further activity as an Internet site dedicated to infringing activities, if—

(A) the domain name is used within the United States to access such Internet site; and

(B) the Internet site—

(i) conducts business directed to residents of the United States; and

(ii) harms holders of United States intellectual property rights.

(2) DETERMINATION BY THE COURT.—For purposes of determining whether an Internet site conducts business directed to residents of the United States under paragraph (1)(B)(i), a court may consider, among other indicia, whether—

(A) the Internet site is providing goods or services described in section 2(7) to users located in the United States;

(B) there is evidence that the Internet site is not intended to provide—

(i) such goods and services to users located in the United States;

(ii) access to such goods and services to users located in the United States; and

(iii) delivery of such goods and services to users located in the United States;

(C) the Internet site has reasonable measures in place to prevent such goods and services from being accessed from or delivered to the United States;

(D) the Internet site offers services obtained in the United States; and

(E) any prices for goods and services are indicated in the currency of the United States.

(c) NOTICE AND SERVICE OF PROCESS.—

(1) IN GENERAL.—Upon commencing an action under this section, the Attorney General shall send a notice of the alleged violation and intent to proceed under this Act to the registrant of the domain name of the Internet site—

(A) at the postal and e-mail address appearing in the applicable publicly accessible database of registrations, if any and to the extent such addresses are reasonably available;

(B) via the postal and e-mail address of the registrar, registry, or other domain name registration authority that registered or assigned the domain name, to the extent such addresses are reasonably available; and

(C) in any other such form as the court finds necessary, including as may be required by Rule 4(f) of the Federal Rules of Civil Procedure.

(2) RULE OF CONSTRUCTION.—For purposes of this section, the actions described in this subsection shall constitute service of process.

(d) REQUIRED ACTIONS BASED ON COURT ORDERS.—

(1) SERVICE.—A Federal law enforcement officer, with the prior approval of the court, may serve a copy of a court order issued pursuant to this section on similarly situated entities within each class described in paragraph (2). Proof of service shall be filed with the court.

(2) REASONABLE MEASURES.—After being served with a copy of an order pursuant to this subsection:

(A) OPERATORS.—

(i) IN GENERAL.—An operator of a non-authoritative domain name system server shall take the least burdensome technically feasible and reasonable measures designed to prevent the domain name described in the order from resolving to that domain name's Internet protocol address, except that—

(I) such operator shall not be required—

(aa) other than as directed under this subparagraph, to modify its network, software, systems, or facilities;

(bb) to take any measures with respect to domain name lookups not performed by its own domain name server or domain name system servers located outside the United States; or

(cc) to continue to prevent access to a domain name to which access has been effectively disable by other means; and

(II) nothing in this subparagraph shall affect the limitation on the liability of such an operator under section 512 of title 17, United States Code.

(ii) TEXT OF NOTICE.—The Attorney General shall prescribe the text of the notice displayed to users or customers of an operator taking an action pursuant to this subparagraph. Such text shall specify that the action is being taken pursuant to a court order obtained by the Attorney General.

(B) FINANCIAL TRANSACTION PROVIDERS.—A financial transaction provider shall take reasonable measures, as expeditiously as reasonable, designed to prevent, prohibit, or suspend its service from completing payment transactions involving customers located within the United States and the Internet site associated with the domain name set forth in the order.

(C) INTERNET ADVERTISING SERVICES.—An Internet advertising service that contracts with the Internet site associated with the domain name set forth in the order to provide advertising to or for that site, or which knowingly serves advertising to or for such site, shall take technically feasible and reasonable measures, as expeditiously as reasonable, designed to—

(i) prevent its service from providing advertisements to the Internet site associated with such domain name; or

(ii) cease making available advertisements for that site, or paid or sponsored search results, links or other placements that provide access to the domain name.

(D) INFORMATION LOCATION TOOLS.—An information location tool shall take technically feasible and reasonable measures, as expeditiously as possible, to—

(i) remove or disable access to the Internet site associated with the domain name set forth in the order; or

(ii) not serve a hypertext link to such Internet site.

(3) COMMUNICATION WITH USERS.—Except as provided under paragraph (2)(A)(ii), an entity taking an action described in this subsection shall determine whether and how to communicate such action to the entity's users or customers.

(4) RULE OF CONSTRUCTION.—For purposes of an action commenced under this section, the obligations of an entity described in this subsection shall be limited to the actions set out in each paragraph or subparagraph applicable to such entity, and no order issued pursuant to this section shall impose any additional obligations on, or require additional actions by, such entity.

(5) ACTIONS PURSUANT TO COURT ORDER.—

(A) IMMUNITY FROM SUIT.—No cause of action shall lie in any Federal or State court or administrative agency against any entity receiving a court order issued under this subsection, or against any director, officer, employee, or agent thereof, for any act reasonably designed to comply with this subsection or reasonably arising from such order, other than in an action pursuant to subsection (e).

(B) IMMUNITY FROM LIABILITY.—Any entity receiving an order under this subsection, and any director, officer, employee, or agent thereof, shall not be liable to any party for any acts reasonably designed to comply with this subsection or reasonably arising from such order, other than in an action pursuant to subsection (e), and any actions taken by customers of such entity to circumvent any restriction on access to the Internet domain instituted pursuant to this subsection or any act, failure, or inability to restrict access to an Internet domain that is the subject of a court order issued pursuant to this subsection despite good faith efforts to do so by such entity shall not be used by any person in any claim or cause of action against such entity, other than in an action pursuant to subsection (e).

(e) ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—In order to compel compliance with this section, the Attorney General may bring an action for injunctive relief against any party receiving a court order issued pursuant to this section that knowingly and willfully fails to comply with such order.

(2) RULE OF CONSTRUCTION.—The authority granted the Attorney General under paragraph (1) shall be the sole legal remedy for enforcing the obligations under this section of any entity described in subsection (d).

(3) DEFENSE.—A defendant in an action under paragraph (1) may establish an affirmative defense by showing that the defendant does not have the technical means to comply with the subsection without incurring an unreasonable economic burden, or that the order is inconsistent with this Act. This showing shall serve as a defense only to the extent of such inability to comply or to the extent of such inconsistency.

(f) MODIFICATION OR VACATION OF ORDERS.—

(1) IN GENERAL.—At any time after the issuance of an order under subsection (b), a motion to modify, suspend, or vacate the order may be filed by—

(A) any person, or owner or operator of property, bound by the order;

(B) any registrant of the domain name, or the owner or operator of the Internet site subject to the order;

(C) any domain name registrar or registry that has registered or assigned the domain name of the Internet site subject to the order; or

(D) any entity that has received a copy of an order pursuant to subsection (d) requiring such entity to take action prescribed in that subsection.

(2) RELIEF.—Relief under this subsection shall be proper if the court finds that—

(A) the Internet site associated with the domain name subject to the order is no longer, or never was, an Internet site dedicated to infringing activities; or

(B) the interests of justice require that the order be modified, suspended, or vacated.

(3) CONSIDERATION.—In making a relief determination under paragraph (2), a court may consider whether the domain name has expired or has been re-registered by a different party.

(g) RELATED ACTIONS.—The Attorney General, if alleging that an Internet site previously adjudicated to be an Internet site dedicated to infringing activities is accessible or has been reconstituted at a different domain name, may commence a related action under this section against the additional domain name in the same judicial district as the previous action.

SEC. 4. ELIMINATING THE FINANCIAL INCENTIVE TO STEAL INTELLECTUAL PROPERTY ONLINE.

(a) COMMENCEMENT OF AN ACTION.—

(1) IN PERSONAM.—A qualifying plaintiff may commence an in personam action against—

(A) a registrant of a domain name used by an Internet site dedicated to infringing activities; or

(B) an owner or operator of an Internet site dedicated to infringing activities accessed through a domain name.

(2) IN REM.—If through due diligence a qualifying plaintiff is unable to find a person described in subparagraphs (A) or (B) of paragraph (1), or no such person found has an address within a judicial district of the United States, the Attorney General may commence an in rem action against a domain name used by an Internet site dedicated to infringing activities.

(b) ORDERS OF THE COURT.—

(1) IN GENERAL.—On application of a qualifying plaintiff following the commencement of an action under this section, the court

may issue a temporary restraining order, a preliminary injunction, or an injunction, in accordance with rule 65 of the Federal Rules of Civil Procedure, against the domain name used by an Internet site dedicated to infringing activities, or against a registrant of such domain name, or the owner or operator of such Internet site dedicated to infringing activities, to cease and desist from undertaking any further activity as an Internet site dedicated to infringing activities, if—

(A) the domain name is registered or assigned by a domain name registrar or domain name registry that located or doing business in the United States; or

(B)(i) the domain name is used within the United States to access such Internet site; and

(ii) the Internet site—

(I) conducts business directed to residents of the United States; and

(II) harms holders of United States intellectual property rights.

(2) DETERMINATION BY THE COURT.—For purposes of determining whether an Internet site conducts business directed to residents of the United States under paragraph (1)(B)(ii)(I), a court may consider, among other indicia, whether—

(A) the Internet site is providing goods or services described in section 2(7) to users located in the United States;

(B) there is evidence that the Internet site is not intended to provide—

(i) such goods and services to users located in the United States;

(ii) access to such goods and services to users located in the United States; and

(iii) delivery of such goods and services to users located in the United States;

(C) the Internet site has reasonable measures in place to prevent such goods and services from being accessed from or delivered to the United States;

(D) the Internet site offers services obtained in the United States; and

(E) any prices for goods and services are indicated in the currency of the United States.

(c) NOTICE AND SERVICE OF PROCESS.—

(1) IN GENERAL.—Upon commencing an action under this section, the qualifying plaintiff shall send a notice of the alleged violation and intent to proceed under this Act to the registrant of the domain name of the Internet site—

(A) at the postal and e-mail address appearing in the applicable publicly accessible database of registrations, if any and to the extent such addresses are reasonably available;

(B) via the postal and e-mail address of the registrar, registry, or other domain name registration authority that registered or assigned the domain name, to the extent such addresses are reasonably available; and

(C) in any other such form as the court finds necessary, including as may be required by Rule 4(f) of the Federal Rules of Civil Procedure.

(2) RULE OF CONSTRUCTION.—For purposes of this section, the actions described in this subsection shall constitute service of process.

(d) REQUIRED ACTIONS BASED ON COURT ORDERS.—

(1) SERVICE.—A qualifying plaintiff, with the prior approval of the court, may, serve a copy of a court order issued pursuant to this section on similarly situated entities within each class described in paragraph (2). Proof of service shall be filed with the court.

(2) REASONABLE MEASURES.—After being served with a copy of an order pursuant to this subsection:

(A) FINANCIAL TRANSACTION PROVIDERS.—A financial transaction provider shall take reasonable measures, as expeditiously as reasonable, designed to prevent, prohibit, or suspend its service from completing payment transactions involving customers located within the United States and the Internet site associated with the domain name set forth in the order.

(B) INTERNET ADVERTISING SERVICES.—An Internet advertising service that contracts with the Internet site associated with the domain name set forth in the order to provide advertising to or for that site, or which knowingly serves advertising to or for such site, shall take technically feasible and reasonable measures, as expeditiously as reasonable, designed to—

(i) prevent its service from providing advertisements to the Internet site associated with such domain name; or

(ii) cease making available advertisements for that site, or paid or sponsored search results, links, or placements that provide access to the domain name.

(3) COMMUNICATION WITH USERS.—An entity taking an action described in this subsection shall determine how to communicate such action to the entity's users or customers.

(4) RULE OF CONSTRUCTION.—For purposes of an action commenced under this section, the obligations of an entity described in this subsection shall be limited to the actions set out in each paragraph or subparagraph applicable to such entity, and no order issued pursuant to this section shall impose any additional obligations on, or require additional actions by, such entity.

(5) ACTIONS PURSUANT TO COURT ORDER.—

(A) IMMUNITY FROM SUIT.—No cause of action shall lie in any Federal or State court or administrative agency against any entity receiving a court order issued under this subsection, or against any director, officer, employee, or agent thereof, for any act reasonably designed to comply with this subsection or reasonably arising from such order, other than in an action pursuant to subsection (e).

(B) IMMUNITY FROM LIABILITY.—Any entity receiving an order under this subsection, and any director, officer, employee, or agent thereof, shall not be liable to any party for any acts reasonably designed to comply with this subsection or reasonably arising from such order, other than in an action pursuant to subsection (e), and any actions taken by customers of such entity to circumvent any restriction on access to the Internet domain instituted pursuant to this subsection or any act, failure, or inability to restrict access to an Internet domain that is the subject of a court order issued pursuant to this subsection despite good faith efforts to do so by such entity shall not be used by any person in any claim or cause of action against such entity, other than in an action pursuant to subsection (e).

(e) ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—In order to compel compliance with this section, the qualifying plaintiff may bring an action for injunctive relief against any party receiving a court order issued pursuant to this section that knowingly and willfully fails to comply with such order.

(2) RULE OF CONSTRUCTION.—The authority granted a qualifying plaintiff under paragraph (1) shall be the sole legal remedy for enforcing the obligations under this section of any entity described in subsection (d).

(3) DEFENSE.—A defendant in an action commenced under paragraph (1) may establish an affirmative defense by showing that the defendant does not have the technical means to comply with the subsection without incurring an unreasonable economic burden, or that the order is inconsistent with this Act. This showing shall serve as a defense only to the extent of such inability to comply or to the extent of such inconsistency.

(f) MODIFICATION OR VACATION OF ORDERS.—

(1) IN GENERAL.—At any time after the issuance of an order under subsection (b), a motion to modify, suspend, or vacate the order may be filed by—

(A) any person, or owner or operator of property, bound by the order;

(B) any registrant of the domain name, or the owner or operator of the Internet site subject to the order;

(C) any domain name registrar or registry that has registered or assigned the domain name of the Internet site subject to the order; or

(D) any entity that has received a copy of an order pursuant to subsection (d) requiring such entity to take action prescribed in that subsection.

(2) RELIEF.—Relief under this subsection shall be proper if the court finds that—

(A) the Internet site associated with the domain name subject to the order is no longer, or never was, dedicated to infringing activities as defined in this Act; or

(B) the interests of justice require that the order be modified, suspended, or vacated.

(3) CONSIDERATION.—In making a relief determination under paragraph (2), a court may consider whether the domain name has expired or has been re-registered by a different party.

(g) RELATED ACTIONS.—A qualifying plaintiff, if alleging that an Internet site previously adjudicated to be an Internet site dedicated to infringing activities is accessible or has been reconstituted at a different domain name, may commence a related action under this section against the additional domain name in the same judicial district as the previous action.

SEC. 5. VOLUNTARY ACTION AGAINST WEBSITES STEALING AMERICAN INTELLECTUAL PROPERTY.

(a) IN GENERAL.—No financial transaction provider or Internet advertising service shall be liable for damages to any person for voluntarily taking any action described in section 3(d) or 4(d) with regard to an Internet site if the entity acting in good faith and based on credible evidence has a reasonable belief that the Internet site is an Internet site dedicated to infringing activities.

(b) INTERNET SITES ENGAGED IN INFRINGING ACTIVITIES THAT ENDANGER THE PUBLIC HEALTH.—

(1) REFUSAL OF SERVICE.—A domain name registry, domain name registrar, financial transaction provider, information location tool, or Internet advertising service, acting in good faith and based on credible evidence, may stop providing or refuse to provide services to an infringing Internet site that endangers the public health.

(2) IMMUNITY FROM LIABILITY.—An entity described in paragraph (1), including its directors, officers, employees, or agents, that ceases or refused to provide services under paragraph (1) shall not be liable to any party under any Federal or State law for such action.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term ''adulterated'' has the same meaning as in section 501 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351);

(B) an ''infringing Internet site that endangers the public health'' means—

(i) an Internet site dedicated to infringing activities for which the counterfeit products that it offers, sells, dispenses, or distributes are controlled or non-controlled prescription medication; or

(ii) an Internet site that has no significant use other than, or is designed, operated, or marketed by its operator or persons operating in concert with the operator, and facts or circumstances suggest is used, primarily as a means for—

(I) offering, selling, dispensing, or distributing any controlled or non-controlled prescription medication, and does so regularly without a valid prescription; or

(II) offering, selling, dispensing, or distributing any controlled or non-controlled prescription medication, and does so regularly for medication that is adulterated or misbranded;

(C) the term ''misbranded'' has the same meaning as in section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352); and

(D) the term ''valid prescription'' has the same meaning as in section 309(e)(2)(A) of the Controlled Substances Act (21 U.S.C. 829(e)(2)(A)).

SEC. 6. SAVINGS CLAUSES.

(a) RULE OF CONSTRUCTION RELATING TO CIVIL AND CRIMINAL REMEDIES.—Nothing in this Act shall be construed to limit or expand civil or criminal remedies available to any person (including the United States) for infringing activities on the Internet pursuant to any other Federal or State law.

(b) RULE OF CONSTRUCTION RELATING TO VICARIOUS OR CONTRIBUTORY LIABILITY.—Nothing in this Act shall be construed to enlarge or diminish vicarious or contributory liability for any cause of action available under title 17, United States Code, including any limitations on liability under section 512 of such title 17, or to create an obligation to take action pursuant to section 5 of this Act.

(c) RELATIONSHIP WITH SECTION 512 OF TITLE 17.—Nothing in this Act, and no order issued or served pursuant to sections 3 or 4 of this Act, shall serve as a basis for determining the application of section 512 of title 17, United States Code.

SEC. 7. GUIDELINES AND STUDIES.

(a) GUIDELINES.—The Attorney General shall—

(1) publish procedures developed in consultation with other relevant law enforcement agencies, including the United States Immigration and Customs Enforcement, to receive information from the public about Internet sites dedicated to infringing activities;

(2) provide guidance to intellectual property rights holders about what information such rights holders should provide law enforcement agencies to initiate an investigation pursuant to this Act;

(3) provide guidance to intellectual property rights holders about how to supplement an ongoing investigation initiated pursuant to this Act;

(4) establish standards for prioritization of actions brought under this Act;

(5) provide appropriate resources and procedures for case management and development to affect timely disposition of actions brought under this Act; and

(6) develop a deconfliction process in consultation with other law enforcement agencies, including the United States Immigration and Customs Enforcement, to coordinate enforcement activities brought under this Act.

(b) REPORTS.—

(1) REPORT ON EFFECTIVENESS OF CERTAIN MEASURES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, in coordination with the Attorney General, the Secretary of Homeland Security, and the Intellectual Property Enforcement Coordinator, shall conduct a study and report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the following:

(A) An assessment of the effects, if any, of the implementation of section 3(d)(2)(A) on the accessibility of Internet sites dedicated to infringing activity.

(B) An assessment of the effects, if any, of the implementation of section 3(d)(2)(A) on the deployment, security, and reliability of the domain name system and associated Internet processes, including Domain Name System Security Extensions.

(C) Recommendations, if any, for modifying or amending this Act to increase effectiveness or ameliorate any unintended effects of section 3(d)(2)(A).

(2) REPORT ON OVERALL EFFECTIVENESS.—The Register of Copyrights shall, in consultation with the appropriate departments and agencies of the United States and other stakeholders—

(A) conduct a study on—

(i) the enforcement and effectiveness of this Act; and

(ii) the need to modify or amend this Act to apply to emerging technologies; and

(B) not later than 2 years after the date of enactment of this Act, submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on—

(i) the results of the study conducted under subparagraph (A); and

(ii) any recommendations that the Register may have as a result of the study.

Mr. HATCH. Mr. President, I rise to express support for S. 968, the Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property, PROTECT, Act as introduced by my colleague, Senator LEAHY. Chairman LEAHY and I have worked together on the protection of intellectual property rights on a number of occasions over the years and I am pleased to partner with him once again on this important bill. I also want to recognize the efforts of Senator GRASSLEY, the distinguished Ranking Minority Member of the Senate Judiciary Committee. He is a valued friend and his support is greatly appreciated as we move forward.

With this legislation, we are sending a strong message to those selling or distributing counterfeit goods online, namely that the United States will strongly protect its intellectual property, IP, rights. Despite what seems to be a common assumption, just because something is available on the Internet does not mean it is free. Fake pharmaceuticals threaten people's lives. Stolen movies, music, and other products threaten the jobs and livelihoods of many people. Every year, these online thieves are making hundreds of millions of dollars by stealing American IP, and this undermines legitimate commerce. This is why protecting property rights is a critical imperative and is why we have come together to introduce the PROTECT IP Act.

Utah is considered a very popular State for film and television production activity. Indeed, many American classics have been filmed in my home State. Nothing compares to the red rock of Southern Utah or the sweeping grandeur of the Wasatch Mountains. Not to mention Utah's workforce, which is one of the most highly educated and hardworking in our country. It is estimated that the motion picture and television industries are responsible for thousands of jobs and tens of millions of dollars in wages in Utah. So, IP theft has a direct, negative impact on Utah's economy and its workforce, and this same impact can be seen nationwide.

There is no question that the legislative process can be tedious at times, and often it takes multiple Congresses to get things right. We witnessed this first hand in the patent reform debate. It took three Congresses for the Senate to pass patent reform legislation. I was pleased to be the lead Republican sponsor of the America Invents Act, S. 23, which passed the Senate in March by a vote of 95 to 5. I can confirm that the final Senate-passed bill was a product of countless hours of negotiation and legislative fine-tuning. While I hope the bill before us will not take nearly as long, I can confirm that significant and positive changes have already occurred since we introduced the bipartisan legislation last year. These changes include a narrower definition of the type of Internet sites to which the bill applies, specifically those ''dedicated to infringing activities;'' authorization for the Attorney General to serve an issued court order on a search engine, in addition to payment processors, advertising networks and Internet service providers; authorization for both the Attorney General and rights holders to bring actions against online infringers operating an Internet site or domain where the site is ''dedicated to infringing activities,'' but with remedies limited to eliminating the financial viability of the site, not blocking access; requirement of plaintiffs to attempt to bring an action against the owner or registrant of the domain name used to access an Internet site ''dedicated to infringing activities'' before bringing an action against the domain name itself; protection for domain name registries, registrars, search engines, payment processors, and advertising networks from damages resulting from their voluntary action against an Internet site ''dedicated to infringing activities,'' where that site also ''endangers the public health,'' by offering controlled or non-controlled prescription medication.

It is worth underscoring that the purpose of the PROTECT IP Act is to take down Internet sites dedicated to infringing activities, or in other words, the most egregious offenders in the world of online IP theft. Indeed, the bill authorizes the Department of Justice, DOJ, to file a civil action against the registrant or owner of a domain name that accesses a foreign infringing Internet site, or the foreign-registered domain name itself. However, DOJ officials must seek approval from a Federal court before taking any action. I trust that a Federal judge will weigh all of the facts carefully before issuing an order, in accordance with the Federal Rules of Civil Procedure, to shut down a Web site dedicated to infringing activities.

There is no quick fix to this problem. But doing nothing is not an option. We must explore ways, albeit in incremental steps, to take down offending

Web sites. For this reason, I believe the PROTECT IP Act is a critical step in our ongoing fight against online piracy and counterfeiting. I am pleased with the progress that we have made so far on this bill and look forward to working with my colleagues on further refinements as it moves through the legislative process.

We must take steps to combat those Web sites that are profiting from stolen American intellectual property.

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

S. 971. A bill to promote neutrality, simplicity, and fairness in the taxation of digital goods and digital services; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise today to introduce the Digital Goods and Services Tax Fairness Act. I am pleased to be joined by my colleague from South Dakota, Senator THUNE, in introducing this needed legislation.

The creation and consumption of downloadable digital goods, like books, songs, ringtones and video games, and the provision of digital services, like health care monitoring and cloud computing, represent a rapidly growing segment of our national economy. These goods and services, which are supporting a growing number of American jobs, are sold over communications networks that transcend numerous state and local boundaries. Tax law, not surprisingly, has failed to keep pace with the rapidly changing technology and economy. The lack of a national framework addressing how State and local taxes can be imposed upon these products has led to a confusing process that will only grow more burdensome for consumers and the providers of digital commerce as new, innovative and emerging technologies become available.

Since digital goods and services can be downloaded in a mobile environment, there is a significant question as to which jurisdiction has the authority to tax such purchases. In fact, there is substantial risk that, without a national framework, multiple States and localities will claim they have authority to tax the same digital transaction. For example, if a consumer is on vacation in another State and downloads a song, the State the consumer is visiting, the State that houses the server providing the song, and the consumer's home State could all claim the authority to tax the purchase. This is not only an unfair tax burden on the consumer, but also for the seller that is responsible for identifying the jurisdiction on whose behalf it should be collecting taxes. Left unchecked, these multiple taxes could stifle the digital commerce and crush a growing industry that is creating the good jobs that our country needs.

We can't let that happen. We need a uniform solution that will modernize our State and local tax system to appropriately address the inherent complexities that digital commerce presents.

Neutrality should guide tax policy and administration in the area of digital commerce. Transactions involving similar types of goods and services should be taxed fairly, regardless of the method and means of distribution, whether through electronic transfer or through other channels of commerce. To ensure neutrality and avoid multiple taxation, rules should be adopted to reflect the unique nature of electronic commerce and how digital goods and digital services are provided.

I am introducing the Digital Goods and Services Tax Fairness Act to establish a framework for when and how local governments can tax digital goods and services. The framework put forward in the legislation respects States' authority to tax these products while also fostering innovation and growth in this segment of global commerce.

In most cases, this legislation will use the address of the consumer to determine which jurisdiction has the authority to tax a digital purchase, as long as the State has passed a law to do so and is lawfully able under the Internet Tax Freedom Act and the Supreme Court's Quill decision. Similar to mobile phones, digital purchases should be taxed by the State the consumer resides, not the State that they may have been traveling through while they downloaded the digital product.

This legislation would also preclude discriminatory taxes from being imposed on digital goods and services solely because they are transmitted over communication networks. Additionally, this legislation would ensure that if States tax digital goods and services, they should only be taxed at the same rate imposed upon other tangible goods taxed under the general sales tax.

The Digital Goods and Services Tax Fairness Act of 2011 is structured to provide discipline, but also certainty to States and local governments that wish to tax digital commerce and to the businesses and consumers that are engaged in this marketplace. Our economy is changing in a variety of exciting ways. Congress must be responsive to this reality and consider this legislation soon.

By Mr. WHITEHOUSE (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mr. NELSON of Florida, Ms. LANDRIEU, and Ms. STABENOW):

S. 973. A bill to create the National Endowment for the Oceans to promote the protection and conservation of the United States ocean, coastal, and Great Lakes ecosystems, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WHITEHOUSE. Mr. President, I rise this afternoon to discuss an important piece of bipartisan legislation that I am introducing today with my friend and fellow New Englander, Senator SNOWE, to establish a national endowment for the study, conservation, and restoration of our Nation's oceans, coasts, and Great Lakes.

Let me begin with a particular thank-you to our original cosponsors: the chairman of the Commerce Committee, Senator ROCKEFELLER of West Virginia; the chairman of the Appropriations Committee, Senator INOUYE of Hawaii; my colleague from the great State of Michigan, Senator STABENOW; and two colleagues from the Gulf of Mexico region, Senator BILL NELSON of Florida and Senator LANDRIEU from Louisiana.

As any Rhode Islander can tell you, the ocean is central to our State's way of life. I tell colleagues that Rhode Island's coast is one of the most beautiful places on Earth. But we don't call Rhode Island the Ocean State just because it is beautiful. We are the Ocean State because from our earliest days we have relied on the ocean and our beloved Narragansett Bay for trade, for food, for recreation, and for jobs in the shipbuilding, shipping, fishing, and tourism industries.

And we are not alone—across America, our oceans and coasts directly provide over $130 billion to our country's gross domestic product, and support 2.3 million America jobs. But one impact goes far beyond that.

Our coastal zone areas generate nearly 50 percent of our Nation's gross domestic product and support more than 28 million jobs.

In part, it is Americans' love of and reliance on the oceans that drives the need now to protect and restore them. Coastal America is experiencing a huge population boom, leading to more and more construction that puts significant pressure on our natural coastline and our wetlands.

Worldwide demand for seafood grows at a pace that our fish stocks cannot keep pace with, and our demand for energy leads us ever deeper into the ocean in search of fuel.

There is an old adage, that nothing focuses the mind like a crisis. If this is true, it must be time to focus on taking care of our oceans, because I believe that our oceans are facing what can be characterized as nothing less than a crisis. Our oceans are facing an array of threats, from marine debris aggregating in gyres the size of Texas, to whales so full of bio-accumulative toxins that they constitute swimming hazardous waste.

These are just a few of the headlines from just the past year:

This spring, we have watched in horror as Japan, already suffering from a terrible earthquake and tsunami—and our hearts go out to them—battled to keep the Fukushima Nuclear Plant intact. Leaks from the plant have sent harmful levels of radiation into the ocean.

In July of 2010, the Midwest experienced its largest oil spill ever, after a leaking Michigan pipeline poured oil into the Kalamazoo River and thence into the Great Lakes.

Last June, the journal Science published a literature review by researchers from the University of Queensland

and UNC Chapel Hill, revealing mounting evidence that:

Rapidly rising greenhouse gas concentrations are driving ocean systems toward conditions not seen for millions of years, with an associated risk of fundamental and irreversible ecological transformation.

In my home State of Rhode Island, the Narragansett Bay has witnessed a 4-degree increase in average annual winter water temperature, causing what amounts to a full ecosystem shift.

And of course, in April 2010, we witnessed the horrific explosion of the Deepwater Horizon, the tragic loss of life, and the unfolding of the largest environmental disaster our country has ever seen. The Gulf of Mexico, and the people who depend on this ecosystem for their sustenance and livelihoods, are still struggling to recover.

We are now 13 months beyond the Deepwater Horizon explosion. Lives are still shattered; livelihoods reliant on the gulf ecosystem are still threatened. But we are within the window of action. It is not too late to provide for short-term restoration of the gulf coast to enact legislation that reduces the risk of future oilspills, and as my cosponsors and I seek to provide dedicated funding to study, protect, and restore the marine and coastal ecosystems within the United States' boundaries.

The National Endowment for the Oceans is our proposal to meet this last challenge. The Endowment would make grants available to coastal and Great Lakes States, local government agencies, regional planning bodies, academic institutions, and nonprofit organizations so these entities could embark on projects to learn more about and do a better job of protecting our precious natural resource. Projects that allow researchers to hire technicians, mechanics, computer scientists and students. Projects that put people to work relocating critical public infrastructure jeopardized by sea level rise. Projects that solve resource management problems and restore our natural ecosystems. Projects that protect jobs by restoring commercial fisheries habitat, and creating new fisheries gear for sustainable and profitable fishing.

The National Oceanic Atmospheric Administration received $167 million for coastal restoration projects under the Recovery Act. More than 800 proposals for shovel-ready construction and engineering projects came in, totaling $3 billion worth of work. But NOAA could only fund 50 of the 800.

The National Endowment for the Oceans would help us move forward with these projects and others that protect our oceans and drive our economy. As I stand here today, more than a year after the beginning of the oilspill in the gulf, and in the face of mounting evidence that our oceans and coasts are truly facing a crisis, I understand the feelings of concern and frustration. But, again, I believe it is not too late.

In fact, I believe the time is now to pass legislation that will help to restore the gulf ecosystem. The time is now to pass legislation that will reduce the risk of future oilspills. And it is time now to provide dedicated funding for the study, restoration, and protection of our Nation's ocean and coastal resources.

We need to put the stewardship of our natural resources, our ocean resources, at the forefront of our national agenda. The National Endowment for the Oceans, as I said, is bipartisan. I thank Senator OLYMPIA SNOWE for her leadership in this effort. This legislation is science based, with much of the money made available through a competitive grant program. This legislation is cost effective, coordinating existing efforts of Federal, local, and private programs, reducing duplication of research efforts, and crossing political borders to ensure that every dollar is spent with the greatest possible effect.

Finally, this legislation is appropriately paid for with revenue generated from the Oil Spill Liability Trust Fund, a portion of royalties from Outer Continental Shelf energy development, and fines and damages collected for violations of Federal law off our coastline. Put simply, a small portion of the revenue we extract from our oceans and great waters will be reinvested to now protect the long-term viability of those oceans and great waters.

The ocean provides us with great bounty, and we will continue to take advantage of that, as we should. We will fish, we will sail, and we will trade. We will dispose of waste. We will extract fuel and construct wind farms. Navies and cruise ships, sail boats and supertankers will plow the ocean surface. We cannot change how reliant we are on our ocean. What we can change is what we do in return.

We can for the first time give back. We can become stewards of our oceans, not just takers but caretakers. The oceans contain immense potential for new discoveries, immense potential for new jobs, and immense potential for new solutions to the emerging oceans crisis. But to meet the demands of this moment, we must respond to the challenges before us. We must heed the alarm bells that are ringing from the arctic seas to our tropic oceans, from the top of the food chain to the bottom, alarm bells indeed are ringing.

I urge my colleagues to join Senator SNOWE and myself in support of the National Endowment for the Oceans. Let ours be the generation that tips the increasingly troubling balance between mankind and our oceans a little bit back toward the benefit of our oceans for the long-term benefit of mankind.

By Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 974. A bill to amend the Internal Revenue Code of 1986 to expand the tip tax credit to employers of cosmetologists and to promote tax compliance in the cosmetology sector; to the Committee on Finance.

Ms. SNOWE. Mr. President, as ranking member of the Senate Small Business Committee, I am delighted to rise today, on the eve of National Small Business Week, with Senator LANDRIEU, who is Chair of the Committee, to introduce the Small Business Tax Equalization and Compliance Act.

Our bipartisan measure is a pro-small business bill and would allow the salon industry to have the same tax rules on tips paid to employees as is permitted in the restaurant industry. The legislation would increase compliance with payroll tax obligations and will make sure that the women who work in the salon industry earn all the Social Security retirement and disability benefits they should be entitled to. It would also help to prevent salons that do not follow the tax law from gaining a competitive disadvantage against those that do follow the law. Congressman SAM JOHNSON, R–TX, is leading the charge on a companion bill in the House.

Clearly this legislation will help all parts of the salon industry, big and small, men and women. But the reality is that because 84 percent of the workforce in the salon industry is female, this issue has special relevance for women. When women work as independent contractors at hair salons, they are less likely to disclose all of their tips for purposes of paying Social Security taxes. As a result, they reduce their future right to earn retirement and disability benefits in the Social Security system and reduce the size of any benefit they do ultimately earn. Making sure that working women are correctly paying into Social Security is critical to their future retirement security because many of these women will have had no other retirement benefits available to them.

We know that women are disproportionately dependent on Social Security for their retirement benefits, a March 2010 study by the Women for Women's Policy Research showed that women's Social Security benefits in 2008 were only about 75 percent of the benefits earned by men and it comprised about half of their total retirement income. By contrast, Social Security benefits comprised roughly one-third of men's retirement income. Earning the right to collect a decent Social Security benefit is vital to women.

As a small business issue, salons are a quintessential small business on Main Streets across America. According to the U.S. Census Bureau, 98 percent of salon industry firms have only one establishment; 92 percent of salon establishments have sales of less than $500,000; and 82 percent of salon establishments have fewer than 10 employees. Extending the tip tax credit to salon owners would allow them to reinvest in their businesses and employees,

create new jobs, granting new economic and employment opportunities in their local communities.

I specifically want to explain what this legislation would do. First, it would provide to the salon industry with the same type of tax credit currently available in the restaurant industry. The credit is for employers to offset the matching Social Security and Medicare taxes that the salon pays on the tips that employees receive from customers. Next, the bill would help to make more even-handed IRS enforcement of laws on payroll and income taxes. Without this legislation it is often the lopsided practice of the IRS to seek back taxes from the employer but rarely from the employee or independent contractor despite the requirement that taxes be paid in equal measure.

The legislation will protect both legitimate independent contractors and employees who pay their taxes but frees up IRS resources to focus on those bad actors who are not complying with the law. Although non-employer salons comprise 87 percent of establishments, their reported sales represent only 36 percent of total salon industry revenues, implying a significant underreporting of income in the non-employer segment. This legislation includes education and reporting requirements which will help address the ''tax gap'' and reveal a valuable new source of tax revenues for the federal government. This is a win-win-win for the salons, for employees, and for the government.

This bill is supported by the Professional Beauty Association, the largest association in the professional beauty industry, which is comprised of salon and spa owners, manufacturers and distributors of salon and spa products, and individual licensed cosmetologists.

Finally, I want to thank two salon owners who brought this issue to my attention, Alan Labos of Akari Salon in Portland, ME, Tiffany Conway of bei capelli salon in Scarborough, ME.

In conclusion, I urge my colleagues on both sides of the aisle to support our 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. 974

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 ''Small Business Tax Equalization and Compliance Act of 2011''.

SEC. 2. EXPANSION OF CREDIT FOR PORTION OF SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE TIPS.

(a) EXPANSION OF CREDIT TO OTHER LINES OF BUSINESS.—Paragraph (2) of section 45B(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) APPLICATION ONLY TO CERTAIN LINES OF BUSINESS.—In applying paragraph (1), there shall be taken into account only tips received from customers or clients in connection with—

''(A) the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary, or

''(B) the providing of any cosmetology service for customers or clients at a facility licensed to provide such service if the tipping of employees providing such service is customary.''.

(b) DEFINITION OF COSMETOLOGY SERVICE.—Section 45B of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) COSMETOLOGY SERVICE.—For purposes of this section, the term 'cosmetology service' means—

''(1) hairdressing,

''(2) haircutting,

''(3) manicures and pedicures,

''(4) body waxing, facials, mud packs, wraps, and other similar skin treatments, and

''(5) any other beauty-related service provided at a facility at which a majority of the services provided (as determined on the basis of gross revenue) are described in paragraphs (1) through (4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tips received for services performed after December 31, 2010.

SEC. 3. INFORMATION REPORTING AND TAXPAYER EDUCATION FOR PROVIDERS OF COSMETOLOGY SERVICES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6050W the following new section:

''SEC. 6050X. RETURNS RELATING TO COSMETOLOGY SERVICES AND INFORMATION TO BE PROVIDED TO COSMETOLOGISTS.

''(a) IN GENERAL.—Every person (referred to in this section as a 'reporting person') who—

''(1) employs 1 or more cosmetologists to provide any cosmetology service,

''(2) rents a chair to 1 or more cosmetologists to provide any cosmetology service on at least 5 calendar days during a calendar year, or

''(3) in connection with its trade or business or rental activity, otherwise receives compensation from, or pays compensation to, 1 or more cosmetologists for the right to provide cosmetology services to, or for cosmetology services provided to, third-party patrons,

shall comply with the return requirements of subsection (b) and the taxpayer education requirements of subsection (c).

''(b) RETURN REQUIREMENTS.—The return requirements of this subsection are met by a reporting person if the requirements of each of the following paragraphs applicable to such person are met.

''(1) EMPLOYEES.—In the case of a reporting person who employs 1 or more cosmetologists to provide cosmetology services, the requirements of this paragraph are met if such person meets the requirements of sections 6051 (relating to receipts for employees) and 6053(b) (relating to tip reporting) with respect to each such employee.

''(2) INDEPENDENT CONTRACTORS.—In the case of a reporting person who pays compensation to 1 or more cosmetologists (other than as employees) for cosmetology services provided to third-party patrons, the requirements of this paragraph are met if such person meets the applicable requirements of section 6041 (relating to returns filed by persons making payments of $600 or more in the course of a trade or business), section 6041A (relating to returns to be filed by service-recipients who pay more than $600 in a calendar year for services from a service provider), and each other provision of this subpart that may be applicable to such compensation.

''(3) CHAIR RENTERS.—

''(A) IN GENERAL.—In the case of a reporting person who receives rent or other fees or compensation from 1 or more cosmetologists for use of a chair or for rights to provide any cosmetology service at a salon or other similar facility for more than 5 days in a calendar year, the requirements of this paragraph are met if such person—

''(i) makes a return, according to the forms or regulations prescribed by the Secretary, setting forth the name, address, and TIN of each such cosmetologist and the amount received from each such cosmetologist, and

''(ii) furnishes to each cosmetologist whose name is required to be set forth on such return a written statement showing—

''(I) the name, address, and phone number of the information contact of the reporting person,

''(II) the amount received from such cosmetologist, and

''(III) a statement informing such cosmetologist that (as required by this section), the reporting person has advised the Internal Revenue Service that the cosmetologist provided cosmetology services during the calendar year to which the statement relates.

''(B) METHOD AND TIME FOR PROVIDING STATEMENT.—The written statement required by clause (ii) of subparagraph (A) shall be furnished (either in person or by first-class mail which includes adequate notice that the statement or information is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under clause (i) of subparagraph (A) is to be made.

''(c) TAXPAYER EDUCATION REQUIREMENTS.—In the case of a reporting person who is required to provide a statement pursuant to subsection (b), the requirements of this subsection are met if such person provides to each such cosmetologist annually a publication, as designated by the Secretary, describing—

''(1) in the case of an employee, the tax and tip reporting obligations of employees, and

''(2) in the case of a cosmetologist who is not an employee of the reporting person, the tax obligations of independent contractors or proprietorships.

The publications shall be furnished either in person or by first-class mail which includes adequate notice that the publication is enclosed.

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

''(1) COSMETOLOGIST.—

''(A) IN GENERAL.—The term 'cosmetologist' means an individual who provides any cosmetology service.

''(B) ANTI-AVOIDANCE RULE.—The Secretary may by regulation or ruling expand the term 'cosmetologist' to include any entity or arrangement if the Secretary determines that entities are being formed to circumvent the reporting requirements of this section.

''(2) COSMETOLOGY SERVICE.—The term 'cosmetology service' has the meaning given to such term by section 45B(c).

''(3) CHAIR.—The term 'chair' includes a chair, booth, or other furniture or equipment from which an individual provides a cosmetology service (determined without regard to whether the cosmetologist is entitled to use a specific chair, booth, or other similar furniture or equipment or has an exclusive right to use any such chair, booth, or other similar furniture or equipment).

''(e) EXCEPTIONS FOR CERTAIN EMPLOYEES.—Subsection (c) shall not apply to a reporting person with respect to an employee who is employed in a capacity for which tipping (or sharing tips) is not customary.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6724(d)(1)(B) of such Code (relating to the definition of information returns) is amended by striking ''or'' at the end of clause (xxiv), by striking ''and'' at the end of clause (xxv) and inserting ''or'', and by inserting after clause (xxv) the following new clause:

''(xvi) section 6050X(a) (relating to returns by cosmetology service providers), and''.

(2) Section 6724(d)(2) of such Code is amended by striking ''or'' at the end of subparagraph (GG), by striking the period at the end of subparagraph (HH) and inserting '', or'', and by inserting after subparagraph (HH) the following new subparagraph:

''(II) subsections (b)(3)(A)(ii) and (c) of section 6050X (relating to cosmetology service providers) even if the recipient is not a payee.''.

(3) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding after the item relating to section 6050W the following new item:

''Sec. 6050X. Returns relating to cosmetology services and information to be provided to cosmetologists.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2010.

By Mr. DURBIN (for himself, Mr. LIEBERMAN, Mr. WHITEHOUSE, Mr. CARDIN, and Mr. REED):

S. 979. A bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States; to the Committee on Energy and Natural Resources.

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

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

S. 979

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 ''America's Red Rock Wilderness Act of 2011''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Land Management.

(2) STATE.—The term ''State'' means the State of Utah.

TITLE I—DESIGNATION OF WILDERNESS AREAS

SEC. 101. GREAT BASIN WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—

(1) the Great Basin region of western Utah is comprised of starkly beautiful mountain ranges that rise as islands from the desert floor;

(2) the Wah Wah Mountains in the Great Basin region are arid and austere, with massive cliff faces and leathery slopes speckled with piñon and juniper;

(3) the Pilot Range and Stansbury Mountains in the Great Basin region are high enough to draw moisture from passing clouds and support ecosystems found nowhere else on earth;

(4) from bristlecone pine, the world's oldest living organism, to newly-flowered mountain meadows, mountains of the Great Basin region are islands of nature that—

(A) support remarkable biological diversity; and

(B) provide opportunities to experience the colossal silence of the Great Basin; and

(5) the Great Basin region of western Utah should be protected and managed to ensure the preservation of the natural conditions of the region.

(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Antelope Range (approximately 17,000 acres).

(2) Barn Hills (approximately 20,000 acres).

(3) Black Hills (approximately 9,000 acres).

(4) Bullgrass Knoll (approximately 15,000 acres).

(5) Burbank Hills/Tunnel Spring (approximately 92,000 acres).

(6) Conger Mountains (approximately 21,000 acres).

(7) Crater Bench (approximately 35,000 acres).

(8) Crater and Silver Island Mountains (approximately 121,000 acres).

(9) Cricket Mountains Cluster (approximately 62,000 acres).

(10) Deep Creek Mountains (approximately 126,000 acres).

(11) Drum Mountains (approximately 39,000 acres).

(12) Dugway Mountains (approximately 24,000 acres).

(13) Essex Canyon (approximately 1,300 acres).

(14) Fish Springs Range (approximately 64,000 acres).

(15) Granite Peak (approximately 19,000 acres).

(16) Grassy Mountains (approximately 23,000 acres).

(17) Grouse Creek Mountains (approximately 15,000 acres).

(18) House Range (approximately 201,000 acres).

(19) Keg Mountains (approximately 38,000 acres).

(20) Kern Mountains (approximately 15,000 acres).

(21) King Top (approximately 110,000 acres).

(22) Ledger Canyon (approximately 9,000 acres).

(23) Little Goose Creek (approximately 1,200 acres).

(24) Middle/Granite Mountains (approximately 80,000 acres).

(25) Mount Escalante (approximately 18,000 acres).

(26) Mountain Home Range (approximately 90,000 acres).

(27) Newfoundland Mountains (approximately 22,000 acres).

(28) Ochre Mountain (approximately 13,000 acres).

(29) Oquirrh Mountains (approximately 9,000 acres).

(30) Painted Rock Mountain (approximately 26,000 acres).

(31) Paradise/Steamboat Mountains (approximately 144,000 acres).

(32) Pilot Range (approximately 45,000 acres).

(33) Red Tops (approximately 28,000 acres).

(34) Rockwell-Little Sahara (approximately 21,000 acres).

(35) San Francisco Mountains (approximately 39,000 acres).

(36) Sand Ridge (approximately 73,000 acres).

(37) Simpson Mountains (approximately 42,000 acres).

(38) Snake Valley (approximately 100,000 acres).

(39) Spring Creek Canyon (approximately 4,000 acres).

(40) Stansbury Island (approximately 10,000 acres).

(41) Stansbury Mountains (approximately 24,000 acres).

(42) Thomas Range (approximately 36,000 acres).

(43) Tule Valley (approximately 159,000 acres).

(44) Wah Wah Mountains (approximately 167,000 acres).

(45) Wasatch/Sevier Plateaus (approximately 29,000 acres).

(46) White Rock Range (approximately 5,200 acres).

SEC. 102. GRAND STAIRCASE-ESCALANTE WILDERNESS AREAS.

(a) GRAND STAIRCASE AREA.—

(1) FINDINGS.—Congress finds that—

(A) the area known as the Grand Staircase rises more than 6,000 feet in a series of great cliffs and plateaus from the depths of the Grand Canyon to the forested rim of Bryce Canyon;

(B) the Grand Staircase—

(i) spans 6 major life zones, from the lower Sonoran Desert to the alpine forest; and

(ii) encompasses geologic formations that display 3,000,000,000 years of Earth's history;

(C) land managed by the Secretary lines the intricate canyon system of the Paria River and forms a vital natural corridor connection to the deserts and forests of those national parks;

(D) land described in paragraph (2) (other than East of Bryce, Upper Kanab Creek, Moquith Mountain, Bunting Point, and Vermillion Cliffs) is located within the Grand Staircase-Escalante National Monument; and

(E) the Grand Staircase in Utah should be protected and managed as a wilderness area.

(2) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(A) Bryce View (approximately 4,500 acres).

(B) Bunting Point (approximately 11,000 acres).

(C) Canaan Mountain (approximately 16,000 acres in Kane County).
(D) Canaan Peak Slopes (approximately 2,300 acres).
(E) East of Bryce (approximately 750 acres).
(F) Glass Eye Canyon (approximately 24,000 acres).
(G) Ladder Canyon (approximately 14,000 acres).
(H) Moquith Mountain (approximately 16,000 acres).
(I) Nephi Point (approximately 14,000 acres).
(J) Orderville Canyon (approximately 9,200 acres)
(K) Paria-Hackberry (approximately 188,000 acres).
(L) Paria Wilderness Expansion (approximately 3,300 acres).
(M) Parunuweap Canyon (approximately 43,000 acres).
(N) Pine Hollow (approximately 11,000 acres).
(O) Slopes of Bryce (approximately 2,600 acres).
(P) Timber Mountain (approximately 51,000 acres).
(Q) Upper Kanab Creek (approximately 49,000 acres).
(R) Vermillion Cliffs (approximately 26,000 acres).
(S) Willis Creek (approximately 21,000 acres).

(b) KAIPAROWITS PLATEAU.—
(1) FINDINGS.—Congress finds that—
(A) the Kaiparowits Plateau east of the Paria River is 1 of the most rugged and isolated wilderness regions in the United States;
(B) the Kaiparowits Plateau, a windswept land of harsh beauty, contains distant vistas and a remarkable variety of plant and animal species;
(C) ancient forests, an abundance of big game animals, and 22 species of raptors thrive undisturbed on the grassland mesa tops of the Kaiparowits Plateau;
(D) each of the areas described in paragraph (2) (other than Heaps Canyon, Little Valley, and Wide Hollow) is located within the Grand Staircase-Escalante National Monument; and
(E) the Kaiparowits Plateau should be protected and managed as a wilderness area.
(2) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(A) Andalex Not (approximately 18,000 acres).
(B) The Blues (approximately 21,000 acres).
(C) Box Canyon (approximately 2,800 acres).
(D) Burning Hills (approximately 80,000 acres).
(E) Carcass Canyon (approximately 83,000 acres).
(F) The Cockscomb (approximately 11,000 acres).
(G) Fiftymile Bench (approximately 12,000 acres).
(H) Fiftymile Mountain (approximately 203,000 acres).
(I) Heaps Canyon (approximately 4,000 acres).
(J) Horse Spring Canyon (approximately 31,000 acres).
(K) Kodachrome Headlands (approximately 10,000 acres).
(L) Little Valley Canyon (approximately 4,000 acres).
(M) Mud Spring Canyon (approximately 65,000 acres).
(N) Nipple Bench (approximately 32,000 acres).
(O) Paradise Canyon-Wahweap (approximately 262,000 acres).
(P) Rock Cove (approximately 16,000 acres).
(Q) Warm Creek (approximately 23,000 acres).
(R) Wide Hollow (approximately 6,800 acres).

(c) ESCALANTE CANYONS.—
(1) FINDINGS.—Congress finds that—
(A) glens and coves carved in massive sandstone cliffs, spring-watered hanging gardens, and the silence of ancient Anasazi ruins are examples of the unique features that entice hikers, campers, and sightseers from around the world to Escalante Canyon;
(B) Escalante Canyon links the spruce fir forests of the 11,000-foot Aquarius Plateau with winding slickrock canyons that flow into Glen Canyon;
(C) Escalante Canyon, 1 of Utah's most popular natural areas, contains critical habitat for deer, elk, and wild bighorn sheep that also enhances the scenic integrity of the area;
(D) each of the areas described in paragraph (2) is located within the Grand Staircase-Escalante National Monument; and
(E) Escalante Canyon should be protected and managed as a wilderness area.
(2) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(A) Brinkerhof Flats (approximately 3,000 acres).
(B) Colt Mesa (approximately 28,000 acres).
(C) Death Hollow (approximately 49,000 acres).
(D) Forty Mile Gulch (approximately 6,600 acres).
(E) Hurricane Wash (approximately 9,000 acres).
(F) Lampstand (approximately 7,900 acres).
(G) Muley Twist Flank (approximately 3,600 acres).
(H) North Escalante Canyons (approximately 176,000 acres).
(I) Pioneer Mesa (approximately 11,000 acres).
(J) Scorpion (approximately 53,000 acres).
(K) Sooner Bench (approximately 390 acres).
(L) Steep Creek (approximately 35,000 acres).
(M) Studhorse Peaks (approximately 24,000 acres).

SEC. 103. MOAB-LA SAL CANYONS WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the canyons surrounding the La Sal Mountains and the town of Moab offer a variety of extraordinary landscapes;
(2) outstanding examples of natural formations and landscapes in the Moab-La Sal area include the huge sandstone fins of Behind the Rocks, the mysterious Fisher Towers, and the whitewater rapids of Westwater Canyon; and
(3) the Moab-La Sal area should be protected and managed as a wilderness area.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Arches Adjacent (approximately 12,000 acres).
(2) Beaver Creek (approximately 41,000 acres).
(3) Behind the Rocks and Hunters Canyon (approximately 22,000 acres).
(4) Big Triangle (approximately 20,000 acres).
(5) Coyote Wash (approximately 28,000 acres).
(6) Dome Plateau-Professor Valley (approximately 35,000 acres).
(7) Fisher Towers (approximately 18,000 acres).
(8) Goldbar Canyon (approximately 9,000 acres).
(9) Granite Creek (approximately 5,000 acres).
(10) Mary Jane Canyon (approximately 25,000 acres).
(11) Mill Creek (approximately 14,000 acres).
(12) Porcupine Rim and Morning Glory (approximately 20,000 acres).
(13) Renegade Point (approximately 6,600 acres).
(14) Westwater Canyon (approximately 37,000 acres).
(15) Yellow Bird (approximately 4,200 acres).

SEC. 104. HENRY MOUNTAINS WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the Henry Mountain Range, the last mountain range to be discovered and named by early explorers in the contiguous United States, still retains a wild and undiscovered quality;
(2) fluted badlands that surround the flanks of 11,000-foot Mounts Ellen and Pennell contain areas of critical habitat for mule deer and for the largest herd of free-roaming buffalo in the United States;
(3) despite their relative accessibility, the Henry Mountain Range remains 1 of the wildest, least-known ranges in the United States; and
(4) the Henry Mountain range should be protected and managed to ensure the preservation of the range as a wilderness area.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Bull Mountain (approximately 16,000 acres).
(2) Bullfrog Creek (approximately 35,000 acres).
(3) Dogwater Creek (approximately 3,400 acres).
(4) Fremont Gorge (approximately 20,000 acres).
(5) Long Canyon (approximately 16,000 acres).
(6) Mount Ellen-Blue Hills (approximately 140,000 acres).
(7) Mount Hillers (approximately 21,000 acres).
(8) Mount Pennell (approximately 147,000 acres).
(9) Notom Bench (approximately 6,200 acres).
(10) Oak Creek (approximately 1,700 acres).
(11) Ragged Mountain (approximately 28,000 acres).

SEC. 105. GLEN CANYON WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the side canyons of Glen Canyon, including the Dirty Devil River and the Red, White and Blue Canyons, contain some of the most remote and outstanding landscapes in southern Utah;
(2) the Dirty Devil River, once the fortress hideout of outlaw Butch Cassidy's Wild Bunch, has sculpted a maze of slickrock canyons through an imposing landscape of monoliths and inaccessible mesas;
(3) the Red and Blue Canyons contain colorful Chinle/Moenkopi badlands found nowhere else in the region; and
(4) the canyons of Glen Canyon in the State should be protected and managed as wilderness areas.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) Cane Spring Desert (approximately 18,000 acres).
(2) Dark Canyon (approximately 134,000 acres).
(3) Dirty Devil (approximately 242,000 acres).
(4) Fiddler Butte (approximately 92,000 acres).
(5) Flat Tops (approximately 30,000 acres).
(6) Little Rockies (approximately 64,000 acres).
(7) The Needle (approximately 11,000 acres).
(8) Red Rock Plateau (approximately 213,000 acres).
(9) White Canyon (approximately 98,000 acres).

SEC. 106. SAN JUAN-ANASAZI WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) more than 1,000 years ago, the Anasazi Indian culture flourished in the slickrock canyons and on the piñon-covered mesas of southeastern Utah;
(2) evidence of the ancient presence of the Anasazi pervades the Cedar Mesa area of the San Juan-Anasazi area where cliff dwellings, rock art, and ceremonial kivas embellish sandstone overhangs and isolated benchlands;
(3) the Cedar Mesa area is in need of protection from the vandalism and theft of its unique cultural resources;
(4) the Cedar Mesa wilderness areas should be created to protect both the archaeological heritage and the extraordinary wilderness, scenic, and ecological values of the United States; and
(5) the San Juan-Anasazi area should be protected and managed as a wilderness area to ensure the preservation of the unique and valuable resources of that area.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Allen Canyon (approximately 5,900 acres).
(2) Arch Canyon (approximately 30,000 acres).
(3) Comb Ridge (approximately 15,000 acres).
(4) East Montezuma (approximately 45,000 acres).
(5) Fish and Owl Creek Canyons (approximately 73,000 acres).
(6) Grand Gulch (approximately 159,000 acres).
(7) Hammond Canyon (approximately 4,400 acres).
(8) Nokai Dome (approximately 93,000 acres).
(9) Road Canyon (approximately 63,000 acres).
(10) San Juan River (Sugarloaf) (approximately 15,000 acres).
(11) The Tabernacle (approximately 7,000 acres).
(12) Valley of the Gods (approximately 21,000 acres).

SEC. 107. CANYONLANDS BASIN WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) Canyonlands National Park safeguards only a small portion of the extraordinary red-hued, cliff-walled canyonland region of the Colorado Plateau;
(2) areas near Arches National Park and Canyonlands National Park contain canyons with rushing perennial streams, natural arches, bridges, and towers;
(3) the gorges of the Green and Colorado Rivers lie on adjacent land managed by the Secretary;
(4) popular overlooks in Canyonlands Nations Park and Dead Horse Point State Park have views directly into adjacent areas, including Lockhart Basin and Indian Creek; and
(5) designation of those areas as wilderness would ensure the protection of this erosional masterpiece of nature and of the rich pockets of wildlife found within its expanded boundaries.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Bridger Jack Mesa (approximately 33,000 acres).
(2) Butler Wash (approximately 27,000 acres).
(3) Dead Horse Cliffs (approximately 5,300 acres).
(4) Demon's Playground (approximately 3,700 acres).
(5) Duma Point (approximately 14,000 acres).
(6) Gooseneck (approximately 9,000 acres).
(7) Hatch Point Canyons/Lockhart Basin (approximately 149,000 acres).
(8) Horsethief Point (approximately 15,000 acres).
(9) Indian Creek (approximately 28,000 acres).
(10) Labyrinth Canyon (approximately 150,000 acres).
(11) San Rafael River (approximately 101,000 acres).
(12) Shay Mountain (approximately 14,000 acres).
(13) Sweetwater Reef (approximately 69,000 acres).
(14) Upper Horseshoe Canyon (approximately 60,000 acres).

SEC. 108. SAN RAFAEL SWELL WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the San Rafael Swell towers above the desert like a castle, ringed by 1,000-foot ramparts of Navajo Sandstone;
(2) the highlands of the San Rafael Swell have been fractured by uplift and rendered hollow by erosion over countless millennia, leaving a tremendous basin punctuated by mesas, buttes, and canyons and traversed by sediment-laden desert streams;
(3) among other places, the San Rafael wilderness offers exceptional back country opportunities in the colorful Wild Horse Badlands, the monoliths of North Caineville Mesa, the rock towers of Cliff Wash, and colorful cliffs of Humbug Canyon;
(4) the mountains within these areas are among Utah's most valuable habitat for desert bighorn sheep; and
(5) the San Rafael Swell area should be protected and managed to ensure its preservation as a wilderness area.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:
(1) Cedar Mountain (approximately 15,000 acres).
(2) Devils Canyon (approximately 23,000 acres).
(3) Eagle Canyon (approximately 38,000 acres).
(4) Factory Butte (approximately 22,000 acres).
(5) Hondu Country (approximately 20,000 acres).
(6) Jones Bench (approximately 2,800 acres).
(7) Limestone Cliffs (approximately 25,000 acres).
(8) Lost Spring Wash (approximately 37,000 acres).
(9) Mexican Mountain (approximately 100,000 acres).
(10) Molen Reef (approximately 33,000 acres).
(11) Muddy Creek (approximately 240,000 acres).
(12) Mussentuchit Badlands (approximately 25,000 acres).
(13) Pleasant Creek Bench (approximately 1,100 acres).
(14) Price River-Humbug (approximately 120,000 acres).
(15) Red Desert (approximately 40,000 acres).
(16) Rock Canyon (approximately 18,000 acres).
(17) San Rafael Knob (approximately 15,000 acres).
(18) San Rafael Reef (approximately 114,000 acres).
(19) Sids Mountain (approximately 107,000 acres).
(20) Upper Muddy Creek (approximately 19,000 acres).
(21) Wild Horse Mesa (approximately 92,000 acres).

SEC. 109. BOOK CLIFFS AND UINTA BASIN WILDERNESS AREAS.

(a) FINDINGS.—Congress finds that—
(1) the Book Cliffs and Uinta Basin wilderness areas offer—
(A) unique big game hunting opportunities in verdant high-plateau forests;
(B) the opportunity for float trips of several days duration down the Green River in Desolation Canyon; and
(C) the opportunity for calm water canoe weekends on the White River;
(2) the long rampart of the Book Cliffs bounds the area on the south, while seldom-visited uplands, dissected by the rivers and streams, slope away to the north into the Uinta Basin;
(3) bears, Bighorn sheep, cougars, elk, and mule deer flourish in the back country of the Book Cliffs; and
(4) the Book Cliffs and Uinta Basin areas should be protected and managed to ensure the protection of the areas as wilderness.
(b) DESIGNATION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System.
(1) Bourdette Draw (approximately 15,000 acres).
(2) Bull Canyon (approximately 2,800 acres).
(3) Chipeta (approximately 95,000 acres).
(4) Dead Horse Pass (approximately 8,000 acres).
(5) Desbrough Canyon (approximately 13,000 acres).
(6) Desolation Canyon (approximately 555,000 acres).
(7) Diamond Breaks (approximately 9,000 acres).
(8) Diamond Canyon (approximately 166,000 acres).
(9) Diamond Mountain (also known as ''Wild Mountain'') (approximately 27,000 acres).
(10) Dinosaur Adjacent (approximately 10,000 acres).
(11) Goslin Mountain (approximately 4,900 acres).
(12) Hideout Canyon (approximately 12,000 acres).
(13) Lower Bitter Creek (approximately 14,000 acres).
(14) Lower Flaming Gorge (approximately 21,000 acres).
(15) Mexico Point (approximately 15,000 acres).
(16) Moonshine Draw (also known as ''Daniels Canyon'') (approximately 10,000 acres).
(17) Mountain Home (approximately 9,000 acres).
(18) O-Wi-Yu-Kuts (approximately 13,000 acres).
(19) Red Creek Badlands (approximately 3,600 acres).

(20) Seep Canyon (approximately 21,000 acres).

(21) Sunday School Canyon (approximately 18,000 acres).

(22) Survey Point (approximately 8,000 acres).

(23) Turtle Canyon (approximately 39,000 acres).

(24) White River (approximately 23,000 acres).

(25) Winter Ridge (approximately 38,000 acres).

(26) Wolf Point (approximately 15,000 acres).

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. GENERAL PROVISIONS.

(a) NAMES OF WILDERNESS AREAS.—Each wilderness area named in title I shall—

(1) consist of the quantity of land referenced with respect to that named area, as generally depicted on the map entitled ''Utah BLM Wilderness Proposed by S. [_____], 112th Congress''; and

(2) be known by the name given to it in title I.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated by this Act with—

(A) the Committee on Natural Resources of the House of Representatives; and

(B) the Committee on Energy and Natural Resources of the Senate.

(2) FORCE OF LAW.—A map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be filed and made available for public inspection in the Office of the Director of the Bureau of Land Management.

SEC. 202. ADMINISTRATION.

Subject to valid rights in existence on the date of enactment of this Act, each wilderness area designated under this Act shall be administered by the Secretary in accordance with—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) the Wilderness Act (16 U.S.C. 1131 et seq.).

SEC. 203. STATE SCHOOL TRUST LAND WITHIN WILDERNESS AREAS.

(a) IN GENERAL.—Subject to subsection (b), if State-owned land is included in an area designated by this Act as a wilderness area, the Secretary shall offer to exchange land owned by the United States in the State of approximately equal value in accordance with section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) and section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)).

(b) MINERAL INTERESTS.—The Secretary shall not transfer any mineral interests under subsection (a) unless the State transfers to the Secretary any mineral interests in land designated by this Act as a wilderness area.

SEC. 204. WATER.

(a) RESERVATION.—

(1) WATER FOR WILDERNESS AREAS.—

(A) IN GENERAL.—With respect to each wilderness area designated by this Act, Congress reserves a quantity of water determined by the Secretary to be sufficient for the wilderness area.

(B) PRIORITY DATE.—The priority date of a right reserved under subparagraph (A) shall be the date of enactment of this Act.

(2) PROTECTION OF RIGHTS.—The Secretary and other officers and employees of the United States shall take any steps necessary to protect the rights reserved by paragraph (1)(A), including the filing of a claim for the quantification of the rights in any present or future appropriate stream adjudication in the courts of the State—

(A) in which the United States is or may be joined; and

(B) that is conducted in accordance with section 208 of the Department of Justice Appropriation Act, 1953 (66 Stat. 560, chapter 651).

(b) PRIOR RIGHTS NOT AFFECTED.—Nothing in this Act relinquishes or reduces any water rights reserved or appropriated by the United States in the State on or before the date of enactment of this Act.

(c) ADMINISTRATION.—

(1) SPECIFICATION OF RIGHTS.—The Federal water rights reserved by this Act are specific to the wilderness areas designated by this Act.

(2) NO PRECEDENT ESTABLISHED.—Nothing in this Act related to reserved Federal water rights—

(A) shall establish a precedent with regard to any future designation of water rights; or

(B) shall affect the interpretation of any other Act or any designation made under any other Act.

SEC. 205. ROADS.

(a) SETBACKS.—

(1) MEASUREMENT IN GENERAL.—A setback under this section shall be measured from the center line of the road.

(2) WILDERNESS ON 1 SIDE OF ROADS.—Except as provided in subsection (b), a setback for a road with wilderness on only 1 side shall be set at—

(A) 300 feet from a paved Federal or State highway;

(B) 100 feet from any other paved road or high standard dirt or gravel road; and

(C) 30 feet from any other road.

(3) WILDERNESS ON BOTH SIDES OF ROADS.—Except as provided in subsection (b), a setback for a road with wilderness on both sides (including cherry-stems or roads separating 2 wilderness units) shall be set at—

(A) 200 feet from a paved Federal or State highway;

(B) 40 feet from any other paved road or high standard dirt or gravel road; and

(C) 10 feet from any other roads.

(b) SETBACK EXCEPTIONS.—

(1) WELL-DEFINED TOPOGRAPHICAL BARRIERS.—If, between the road and the boundary of a setback area described in paragraph (2) or (3) of subsection (a), there is a well-defined cliff edge, stream bank, or other topographical barrier, the Secretary shall use the barrier as the wilderness boundary.

(2) FENCES.—If, between the road and the boundary of a setback area specified in paragraph (2) or (3) of subsection (a), there is a fence running parallel to a road, the Secretary shall use the fence as the wilderness boundary if, in the opinion of the Secretary, doing so would result in a more manageable boundary.

(3) DEVIATIONS FROM SETBACK AREAS.—

(A) EXCLUSION OF DISTURBANCES FROM WILDERNESS BOUNDARIES.—In cases where there is an existing livestock development, dispersed camping area, borrow pit, or similar disturbance within 100 feet of a road that forms part of a wilderness boundary, the Secretary may delineate the boundary so as to exclude the disturbance from the wilderness area.

(B) LIMITATION ON EXCLUSION OF DISTURBANCES.—The Secretary shall make a boundary adjustment under subparagraph (A) only if the Secretary determines that doing so is consistent with wilderness management goals.

(C) DEVIATIONS RESTRICTED TO MINIMUM NECESSARY.—Any deviation under this paragraph from the setbacks required under in paragraph (2) or (3) of subsection (a) shall be the minimum necessary to exclude the disturbance.

(c) DELINEATION WITHIN SETBACK AREA.—The Secretary may delineate a wilderness boundary at a location within a setback under paragraph (2) or (3) of subsection (a) if, as determined by the Secretary, the delineation would enhance wilderness management goals.

SEC. 206. LIVESTOCK.

Within the wilderness areas designated under title I, the grazing of livestock authorized on the date of enactment of this Act shall be permitted to continue subject to such reasonable regulations and procedures as the Secretary considers necessary, as long as the regulations and procedures are consistent with—

(1) the Wilderness Act (16 U.S.C. 1131 et seq.); and

(2) section 101(f) of the Arizona Desert Wilderness Act of 1990 (Public Law 101–628; 104 Stat. 4469).

SEC. 207. FISH AND WILDLIFE.

Nothing in this Act affects the jurisdiction of the State with respect to wildlife and fish on the public land located in the State.

SEC. 208. MANAGEMENT OF NEWLY ACQUIRED LAND.

Any land within the boundaries of a wilderness area designated under this Act that is acquired by the Federal Government shall—

(1) become part of the wilderness area in which the land is located; and

(2) be managed in accordance with this Act and other laws applicable to wilderness areas.

SEC. 209. WITHDRAWAL.

Subject to valid rights existing on the date of enactment of this Act, the Federal land referred to in title I is withdrawn from all forms of—

(1) entry, appropriation, or disposal under public law;

(2) location, entry, and patent under mining law; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

By Mr. LEVIN (for himself and Mr. MCCAIN) (by request):

S. 981. A bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for fiscal year 2012, and for other purposes; to the Committee on Armed Services.

Mr. LEVIN. Mr. President, Senator MCCAIN and I are today introducing, by request, the Obama administration's proposed National Defense Authorization Act for fiscal year 2012. As is the case with any bill that is introduced by request, we introduce this bill for the purpose of placing the Administration's proposals before Congress and the public without expressing our own views on the substance of these proposals. As Chairman and Ranking Member of the Armed Services Committee, we look forward to giving the Administration's requested legislation our most careful review and thoughtful consideration.

By Ms. AYOTTE (for herself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. CHAMBLISS, Mr. BROWN of Massachusetts, Mr. RUBIO, and Mr. WEBB):

S. 982. A bill to reaffirm the authority of the Department of Defense to maintain United States Naval Station, Guantanamo Bay, Cuba, as a location for the detention of unprivileged enemy belligerents held by the Department of Defense, and for other purposes; to the Committee on Armed Services.

Ms. AYOTTE. 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. 982

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 ''Detaining Terrorists to Secure America Act of 2011.''

SEC. 2. FINDINGS.

Congress makes the following finding:

(1) The United States and its international partners are in an armed conflict with violent Islamist extremist groups, including al Qaeda and associated terrorist organizations, that are committed to killing Americans and our allies.

(2) In the last 2 years, terrorists have repeatedly attempted to kill Americans both here at home and abroad, including the following attacks, plots, or alleged plots and attacks:

(A) A September 2009 plot by Najibullah Zazi—who received training from al Qaeda in Pakistan—to conduct a suicide bomb attack on the New York, New York, subway system.

(B) A November 2009 attack by Nidal Malik Hasan at Fort Hood, Texas, that killed 13 people and wounded 32.

(C) A Christmas Day 2009 attempt by Umar Farouk Abdulmutallab to detonate a bomb sewn into his underwear on an international flight to Detroit, Michigan.

(D) A May 2010 attempt by Faisal Shahzad to bomb Times Square in New York, New York, on a crowded Saturday evening, an attack that was unsuccessful only because the car bomb failed to detonate.

(E) An October 2010 attempt by terrorists in Yemen to send, via commercial cargo flights, 2 packages of explosives to Jewish centers in Chicago, Illinois.

(F) A February 2011 plot by Khaled Aldawsari, a Saudi-born student, to manufacture explosives and potentially attack New York, New York, the Dallas, Texas, home of former President George W. Bush, as well as hydroelectric dams, nuclear power plants, and a nightclub.

(3) Since the September 11, 2001, attacks on our Nation, the United States and allied forces have captured thousands of individuals fighting for or supporting al Qaeda and associated terrorist organizations that do not abide by the law of war, including detainees at United States Naval Station, Guantanamo Bay, Cuba, who served as planners of those attacks, trainers of terrorists, financiers of terrorists, bomb makers, bodyguards for Osama bin Laden, recruiters of terrorists, and facilitators of terrorism.

(4) Many of the detainees at United States Naval Station, Guantanamo Bay provided valuable intelligence that gave the United States insight into al Qaeda and its methods, prevented terrorist attacks, and saved lives.

(5) Intelligence obtained from detainees at United States Naval Station, Guantanamo Bay was critical to eventually identifying the location of Osama bin Laden.

(6) In a February 17, 2011, hearing of the Committee on Armed Services of the Senate, the Secretary of Defense confirmed that approximately 25 percent of detainees released from the detention facility at United States Naval Station, Guantanamo Bay are confirmed to have reengaged in hostilities or are suspected of having reengaged in hostilities against the United States or our allies.

(7) Al Qaeda in the Arabian Peninsula, an organization that includes former detainees at United States Naval Station, Guantanamo Bay among its leadership and ranks, has claimed responsibility for several of the recent plots and attacks against the United States.

(8) Detention according to the law of war is a matter of national security and military necessity and has long been recognized as legitimate under international law.

(9) Detaining unprivileged enemy belligerents prevents them from returning to the battlefield to attack United States and allied military personnel and engaging in future terrorist attacks against innocent civilians.

(10) The Joint Task Force-Guantanamo provides for the humane, legal, and transparent care and custody of detainees at United States Naval Station, Guantanamo Bay, notwithstanding regular assaults on the guard force by some detainees.

(11) The International Committee of the Red Cross visits detainees at United States Naval Station, Guantanamo Bay on a quarterly basis.

(12) The detention facility at United States Naval Station, Guantanamo Bay benefits from robust oversight by Congress.

SEC. 3. REAFFIRMATION OF AUTHORITY TO MAINTAIN UNITED STATES NAVAL STATION, GUANTANAMO BAY, CUBA, AS A LOCATION FOR THE DETENTION OF UNPRIVILEGED ENEMY BELLIGERENTS HELD BY THE DEPARTMENT OF DEFENSE.

(a) REAFFIRMATION OF AUTHORITY AS LOCATION FOR DETENTION OF UNPRIVILEGED ENEMY BELLIGERENTS.—United States Naval Station, Guantanamo Bay, Cuba, is and shall be a location for the detention of individuals in the custody or under the control of the Department of Defense who have engaged in, or supported, hostilities against the United States or its coalition partners on behalf of al Qaeda, the Taliban, or an affiliated group to which the Authorization for Use of Military Force (Public Law 107–40) applies.

(b) MAINTENANCE AS AN OPERATIONAL FACILITY FOR DETENTION.—The Secretary of Defense shall take appropriate actions to maintain United States Naval Station, Guantanamo Bay, Cuba, as an open and operating facility for the detention of current and future individuals as described in subsection (a).

(c) PERMANENT EXTENSION AND EXPANSION OF CERTAIN LIMITATIONS RELATING TO DETAINEES AND DETENTION FACILITIES.—

(1) LIMITATION ON TRANSFER OF DETAINEES TO FOREIGN ENTITIES.—Section 1033 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4351) is amended—

(A) in subsection (a)(1), by striking ''during the one-year period'' and all that follows through ''by this Act'' and inserting ''the Secretary of Defense may not use any amounts authorized to be appropriated''; and

(B) in subsection (d)(1), by striking ''as of October 1, 2009,'' and inserting ''as of or after October 1, 2009,''.

(2) PROHIBITION ON CONSTRUCTION OF DETENTION FACILITIES IN UNITED STATES.—Section 1034 of such Act (124 Stat. 4353) is amended—

(A) in subsection (a), by striking ''None of the funds authorized to be appropriated by this Act'' and inserting ''No funds authorized to be appropriated or otherwise made available to the Department of Defense, or to or for any other department or agency of the United States Government,''; and

(B) in subsection (c), by striking ''as of October 1, 2009,'' and inserting ''as of or after October 1, 2009,''.

(d) SUPERSEDURE OF EXECUTIVE ORDER.—Sections 3, 4(c)(2), 4(c)(3), 4(c)(5), and 7 of Executive Order No. 13492, dated January 22, 2009, shall have no further force or effect.

By Mr. HARKIN (for himself, Ms. MIKULSKI, Mrs. MURRAY, Mr. SANDERS, Mr. CASEY, Mr. MERKLEY, Mr. FRANKEN, Mr. WHITEHOUSE, Mr. BLUMENTHAL, Mr. INOUYE, Mr. LEVIN, Mr. KERRY, Mr. AKAKA, Mr. DURBIN, Mr. SCHUMER, Mr. LAUTENBERG, Mr. BROWN of Ohio, and Mrs. GILLIBRAND):

S. 984. A bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, last weekend we observed Mother's Day and celebrated our families. When we reflect on our own mothers, many of us think about the woman who nursed us when we were sick, took us to the doctor for checkups, and cared for our grandparents as they aged, while at the same time working to put food on the table.

These balancing acts are hard enough. But for many moms, and dads, across the country, juggling all these roles means making impossible choices. This is especially true for people who do not have the basic right of paid sick days. For these workers, missing work due to an illness, injury, or doctor's appointment can mean putting their job and their family's financial security in jeopardy. So they are forced to choose between the jobs they need and the families they love. In these difficult economic times, no one should have to make that choice.

But for a huge segment of the American workforce, these difficult choices are a daily reality. Four in ten U.S. workers have no paid sick days, they cannot miss a day of work with the guarantee of their pay or the assurance that their job will be there when they come back. What is more, 2/3 of low-wage workers, those who can least afford to lose a paycheck or a job, have no paid sick days. This means many of these workers report to work sick or send their children to school or day care sick, spreading their illness to others.

This robs workers of their basic dignity, and that shouldn't happen in a country as wealthy and successful as America. In fact, the U.S. is the only developed country that does not guarantee paid sick days to its workers, and our workers are the most productive in the world! America's workers deserve to earn a decent living; a living where they can provide for their families without being punished when they or their children catch the flu. America's workers deserve paid sick days.

Lack of access to paid sick days isn't just a crisis for individual families—it's a public health crisis as well. Health officials urge people with contagious illnesses to stay home from work to avoid spreading disease. But the workers in industries with the most contact with the public, such as food service and hospitality, are the least likely to have paid sick days. A recent survey shows that nearly two-thirds of restaurant workers, 3/4 of whom don't have paid sick days, report cooking or serving food while sick. This puts the health of all of us in jeopardy. And not having paid sick days puts these workers in the terrible position of choosing between the health of their customers and their family's health and economic security.

But this doesn't have to be the case. We can give working people the tools they need to protect their health and their families' health while also safeguarding the public health. Workers want to do the right thing and stay home when they are ill or stay home with their sick children rather than sending them to school. But our current laws simply do not protect them.

This is why Congresswoman ROSA DELAURO and I are introducing the Healthy Families Act, which will allow U.S. workers to earn up to 7 paid sick days per year to recover from short-term illness, care for a sick family member, seek routine medical care, or seek help if they are victims of domestic violence. This important legislation will provide much-needed security for hardworking families struggling to balance the obligations of work and family. It will improve public health and decrease health costs by preventing the spread of disease and giving employees the access they need to obtain preventive care and treatment. It will also help victims of domestic violence to protect their families and their futures.

Providing paid sick days to workers will be good for working people and their families, and good for our businesses and our economy as well. Allowing workers to tend to their health or their families' engenders good will and loyalty, and boosts morale at the workplace. Businesses will save because the greatest cause of lost productivity due to illness is not absenteeism but ''presenteeism,'' the practice of sick workers coming to work, infecting their colleagues, and being less productive themselves. Businesses whose workers have paid sick days will also benefit from reduced turnover, and its high associated costs, when workers can hold on to their jobs. Experience bears this out, in San Francisco, where workers have had guaranteed paid sick days since 2007, surveys show that 6 out of 7 employers found no negative effect on profit. Indeed, 4 years after implementation, two-thirds of surveyed employers were supportive of the city's paid sick days law.

The overall economy will benefit from reduced health costs as well. Ensuring that workers are able to seek preventive care as well as care in a doctor's office, rather than the ER, will minimize health care costs. Reducing the spread of contagious illnesses by allowing workers or children to stay at home where they won't infect their coworkers or classmates will also reduce health costs by keeping more people healthy in the first place.

Most of all, workers will have peace of mind and financial security. They won't be faced with a potentially long search for new work, while collecting unemployment benefits. They won't face reduced income and having to cut back on their spending on food, medicine, and other necessities bought in their local communities. Working people will have the security of knowing that if illness strikes, they will be able to tend to their families without losing their jobs or their paychecks.

The Healthy Families Act has had the strongest of Senate champions who have led the fight for workers' rights, Senator Kennedy and Senator Dodd. I am proud to be the new leader for this vital piece of legislation. I thank my colleagues who are joining me today as original cosponsors, and I encourage all Senators to join us in supporting the Healthy Families Act. This bill will provide health, peace of mind, and security for America's workers and their families. At a time when the American Dream and the middle class seem to be slipping away, these goals could never be more important.

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. 984

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 ''Healthy Families Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Working Americans need time to meet their own health care needs and to care for family members, including their children, spouse, parents, and parents-in-law, and other children and adults for whom they are caregivers.

(2) Health care needs include preventive health care, diagnostic procedures, medical treatment, and recovery in response to short- and long-term illnesses and injuries.

(3) Providing employees time off to meet health care needs ensures that they will be healthier in the long run. Preventive care helps avoid illnesses and injuries and routine medical care helps detect illnesses early and shorten their duration.

(4) When parents are available to care for their children who become sick, children recover faster, more serious illnesses are prevented, and children's overall mental and physical health improve. In a 2009 study published in the American Journal of Public Health, 81 percent of parents of a child with special health care needs reported that taking leave from work to be with their child had a ''good'' or ''very good'' effect on their child's physical health. Similarly, 85 percent of parents of such a child found that taking such leave had a ''good'' or ''very good'' effect on their child's emotional health.

(5) When parents cannot afford to miss work and must send children with contagious illnesses to child care centers or schools, infection can spread rapidly through child care centers and schools.

(6) Providing paid sick time improves public health by reducing infectious disease. Policies that make it easier for sick adults and children to be isolated at home reduce the spread of infectious disease.

(7) Routine medical care reduces medical costs by detecting and treating illness and injury early, decreasing the need for emergency care. These savings benefit public and private payers of health insurance, including private businesses.

(8) The provision of individual and family sick time by large and small businesses, both here in the United States and elsewhere, demonstrates that policy solutions are both feasible and affordable in a competitive economy. A 2009 study by the Center for Economic and Policy Research found that, of 22 countries with comparable economies, the United States was 1 of only 3 countries that did not provide any paid time off for workers with short-term illnesses.

(9) Measures that ensure that employees are in good health and do not need to worry about unmet family health problems help businesses by promoting productivity and reducing employee turnover.

(10) The American Productivity Audit completed in 2003 found that lost productivity due to illness costs $226,000,000,000 annually, and that 71 percent of that cost stems from presenteeism, the practice of employees coming to work despite illness. Studies in the Journal of Occupational and Environmental Medicine, the Employee Benefit News, and the Harvard Business Review show that presenteeism is a larger productivity drain than either absenteeism or short-term disability.

(11) The absence of paid sick time has forced Americans to make untenable choices between needed income and jobs on the one hand and caring for their own and their family's health on the other.

(12) Nearly 40 percent of the private-sector workforce (about 40,000,000 workers) lack paid sick time. Another 4,000,000 theoretically have access to sick time, but have not been on the job long enough to use it. Millions more lack sick time they can use to care for a sick child or ill family member.

(13) Workers' access to paid sick time varies dramatically by wage level. For private-sector workers in the lowest quartile of earners, 68 percent lack paid sick time. For workers in the next 2 quartiles, 34 and 25 percent, respectively, lack paid sick time. Even for workers in the highest income quartile, 16 percent lack paid sick time. In addition, millions of workers cannot use paid sick time to care for ill family members.

(14) Due to the roles of men and women in society, the primary responsibility for family caregiving often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men.

(15) An increasing number of men are also taking on caregiving obligations, and men who request paid time for caregiving purposes are often denied accommodation or penalized because of stereotypes that caregiving is only ''women's work''.

(16) Employers' reliance on persistent stereotypes about the ''proper'' roles of both men and women in the workplace and in the home continues a cycle of discrimination and fosters stereotypical views about women's commitment to work and their value as employees.

(17) Employment standards that apply to only one gender have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(18) It is in the national interest to ensure that all Americans can care for their own health and the health of their families while prospering at work.

(19) Nearly 1 in 3 American women report physical or sexual abuse by a husband or boyfriend at some point in their lives. Domestic violence also affects men. Women account for about 85 percent of the victims of domestic violence and men account for approximately 15 percent of the victims. Therefore, women disproportionately need time off to care for their health or to find solutions, such as obtaining a restraining order or finding housing, to avoid or prevent physical or sexual abuse.

(20) One study showed that 85 percent of domestic violence victims at a women's shelter who were employed missed work because of abuse. The mean number of days of paid work lost by a rape victim is 8.1 days, by a victim of physical assault is 7.2 days, and by a victim of stalking is 10.1 days. Nationwide, domestic violence victims lose almost 8,000,000 days of paid work per year.

(21) Without paid sick days that can be used to address the effects of domestic violence, these victims are in grave danger of losing their jobs. One survey found that 96 percent of employed domestic violence victims experienced problems at work related to the violence. The Government Accountability Office similarly found that 24 to 52 percent of victims report losing a job due, at least in part, to domestic violence. The loss of employment can be particularly devastating for victims of domestic violence, who often need economic security to ensure safety.

(22) The Centers for Disease Control and Prevention has estimated that domestic violence costs over $700,000,000 annually due to the victims' lost productivity in employment.

(23) Efforts to assist abused employees result in positive outcomes for employers as well as employees because employers can retain workers who might otherwise be compelled to leave.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that all working Americans can address their own health needs and the health needs of their families by requiring employers to permit employees to earn up to 56 hours of paid sick time including paid time for family care;

(2) to diminish public and private health care costs by enabling workers to seek early and routine medical care for themselves and their family members;

(3) to assist employees who are, or whose family members are, victims of domestic violence, sexual assault, or stalking, by providing the employees with paid time away from work to allow the victims to receive treatment and to take the necessary steps to ensure their protection;

(4) to accomplish the purposes described in paragraphs (1) through (3) in a manner that is feasible for employers; and

(5) consistent with the provision of the 14th amendment to the Constitution relating to equal protection of the laws, and pursuant to Congress' power to enforce that provision under section 5 of that amendment—

(A) to accomplish the purposes described in paragraphs (1) through (3) in a manner that minimizes the potential for employment discrimination on the basis of sex by ensuring generally that paid sick time is available for eligible medical reasons on a gender-neutral basis; and

(B) to promote the goal of equal employment opportunity for women and men.

SEC. 4. DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means a biological, foster, or adopted child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(2) DOMESTIC VIOLENCE.—The term ''domestic violence'' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)), except that the reference in such section to the term ''jurisdiction receiving grant monies'' shall be deemed to mean the jurisdiction in which the victim lives or the jurisdiction in which the employer involved is located.

(3) EMPLOYEE.—The term ''employee'' means an individual who is—

(A)(i) an employee, as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who is not covered under subparagraph (E), including such an employee of the Library of Congress, except that a reference in such section to an employer shall be considered to be a reference to an employer described in clauses (i)(I) and (ii) of paragraph (4)(A); or

(ii) an employee of the Government Accountability Office;

(B) a State employee described in section 304(a) of the Government Employee Rights Act of 1991 (42 U.S.C. 2000e–16c(a));

(C) a covered employee, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), other than an applicant for employment;

(D) a covered employee, as defined in section 411(c) of title 3, United States Code; or

(E) a Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code.

(4) EMPLOYER.—

(A) IN GENERAL.—The term ''employer'' means a person who is—

(i)(I) a covered employer, as defined in subparagraph (B), who is not covered under subclause (V);

(II) an entity employing a State employee described in section 304(a) of the Government Employee Rights Act of 1991;

(III) an employing office, as defined in section 101 of the Congressional Accountability Act of 1995;

(IV) an employing office, as defined in section 411(c) of title 3, United States Code; or

(V) an employing agency covered under subchapter V of chapter 63 of title 5, United States Code; and

(ii) is engaged in commerce (including government), or an industry or activity affecting commerce (including government), as defined in subparagraph (B)(iii).

(B) COVERED EMPLOYER.—

(i) IN GENERAL.—In subparagraph (A)(i)(I), the term ''covered employer''—

(I) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(II) includes—

(aa) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(bb) any successor in interest of an employer;

(III) includes any ''public agency'', as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)); and

(IV) includes the Government Accountability Office and the Library of Congress.

(ii) PUBLIC AGENCY.—For purposes of clause (i)(III), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(iii) DEFINITIONS.—For purposes of this subparagraph:

(I) COMMERCE.—The terms ''commerce'' and ''industry or activity affecting commerce'' mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include ''commerce'' and any ''industry affecting commerce'', as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(II) EMPLOYEE.—The term ''employee'' has the same meaning given such term in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(III) PERSON.—The term ''person'' has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

(5) EMPLOYMENT BENEFITS.—The term ''employment benefits'' means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an ''employee benefit plan'', as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(6) HEALTH CARE PROVIDER.—The term ''health care provider'' means a provider who—

(A)(i) is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(ii) is any other person determined by the Secretary to be capable of providing health care services; and

(B) is not employed by an employer for whom the provider issues certification under this Act.

(7) PAID SICK TIME.—The term ''paid sick time'' means an increment of compensated leave that can be earned by an employee for use during an absence from employment for any of the reasons described in paragraphs (1) through (4) of section 5(b).

(8) PARENT.—The term ''parent'' means a biological, foster, or adoptive parent of an employee, a stepparent of an employee, or a legal guardian or other person who stood in loco parentis to an employee when the employee was a child.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(10) SEXUAL ASSAULT.—The term ''sexual assault'' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(11) SPOUSE.—The term ''spouse'', with respect to an employee, has the meaning given such term by the marriage laws of the State in which the employee resides.

(12) STALKING.—The term ''stalking'' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

(13) VICTIM SERVICES ORGANIZATION.—The term ''victim services organization'' means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, sexual assault, or stalking or advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence, sexual assault, or stalking prevention or treatment program, an organization operating a shelter or providing

counseling services, or a legal services organization or other organization providing assistance through the legal process.

SEC. 5. PROVISION OF PAID SICK TIME.

(a) ACCRUAL OF PAID SICK TIME.—

(1) IN GENERAL.—An employer shall permit each employee employed by the employer to earn not less than 1 hour of paid sick time for every 30 hours worked, to be used as described in subsection (b). An employer shall not be required to permit an employee to earn, under this section, more than 56 hours of paid sick time in a calendar year, unless the employer chooses to set a higher limit.

(2) EXEMPT EMPLOYEES.—

(A) IN GENERAL.—Except as provided in paragraph (3), for purposes of this section, an employee who is exempt from overtime requirements under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)) shall be assumed to work 40 hours in each workweek.

(B) SHORTER NORMAL WORKWEEK.—If the normal workweek of such an employee is less than 40 hours, the employee shall earn paid sick time based upon that normal work week.

(3) DATES OF ACCRUAL AND USE.—Employees shall begin to earn paid sick time under this section at the commencement of their employment. An employee shall be entitled to use the earned paid sick time beginning on the 60th calendar day following commencement of the employee's employment. After that 60th calendar day, the employee may use the paid sick time as the time is earned. An employer may, at the discretion of the employer, loan paid sick time to an employee in advance of the earning of such time under this section by such employee.

(4) CARRYOVER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paid sick time earned under this section shall carry over from 1 calendar year to the next.

(B) CONSTRUCTION.—This Act shall not be construed to require an employer to permit an employee to accrue more than 56 hours of earned paid sick time at a given time.

(5) EMPLOYERS WITH EXISTING POLICIES.—Any employer with a paid leave policy who makes available an amount of paid leave that is sufficient to meet the requirements of this section and that may be used for the same purposes and under the same conditions as the purposes and conditions outlined in subsection (b) shall not be required to permit an employee to earn additional paid sick time under this section.

(6) CONSTRUCTION.—Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for earned paid sick time that has not been used.

(7) REINSTATEMENT.—If an employee is separated from employment with an employer and is rehired, within 12 months after that separation, by the same employer, the employer shall reinstate the employee's previously earned paid sick time. The employee shall be entitled to use the earned paid sick time and earn additional paid sick time at the recommencement of employment with the employer.

(8) PROHIBITION.—An employer may not require, as a condition of providing paid sick time under this Act, that the employee involved search for or find a replacement worker to cover the hours during which the employee is using paid sick time.

(b) USES.—Paid sick time earned under this section may be used by an employee for any of the following:

(1) An absence resulting from a physical or mental illness, injury, or medical condition of the employee.

(2) An absence resulting from obtaining professional medical diagnosis or care, or preventive medical care, for the employee.

(3) An absence for the purpose of caring for a child, a parent, a spouse, or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship, who—

(A) has any of the conditions or needs for diagnosis or care described in paragraph (1) or (2); and

(B) in the case of someone who is not a child, is otherwise in need of care.

(4) An absence resulting from domestic violence, sexual assault, or stalking, if the time is to—

(A) seek medical attention for the employee or the employee's child, parent, or spouse, or an individual related to the employee as described in paragraph (3), to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(B) obtain or assist a related person described in paragraph (3) in obtaining services from a victim services organization;

(C) obtain or assist a related person described in paragraph (3) in obtaining psychological or other counseling;

(D) seek relocation; or

(E) take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic violence, sexual assault, or stalking.

(c) SCHEDULING.—An employee shall make a reasonable effort to schedule a period of paid sick time under this Act in a manner that does not unduly disrupt the operations of the employer.

(d) PROCEDURES.—

(1) IN GENERAL.—Paid sick time shall be provided upon the oral or written request of an employee. Such request shall—

(A) include the expected duration of the period of such time;

(B) in a case in which the need for such period of time is foreseeable at least 7 days in advance of such period, be provided at least 7 days in advance of such period; and

(C) otherwise, be provided as soon as practicable after the employee is aware of the need for such period.

(2) CERTIFICATION IN GENERAL.—

(A) PROVISION.—

(i) IN GENERAL.—Subject to subparagraph (C), an employer may require that a request for paid sick time under this section for a purpose described in paragraph (1), (2), or (3) of subsection (b) be supported by a certification issued by the health care provider of the eligible employee or of an individual described in subsection (b)(3), as appropriate, if the period of such time covers more than 3 consecutive workdays.

(ii) TIMELINESS.—The employee shall provide a copy of such certification to the employer in a timely manner, not later than 30 days after the first day of the period of time. The employer shall not delay the commencement of the period of time on the basis that the employer has not yet received the certification.

(B) SUFFICIENT CERTIFICATION.—

(i) IN GENERAL.—A certification provided under subparagraph (A) shall be sufficient if it states—

(I) the date on which the period of time will be needed;

(II) the probable duration of the period of time;

(III) the appropriate medical facts within the knowledge of the health care provider regarding the condition involved, subject to clause (ii); and

(IV)(aa) for purposes of paid sick time under subsection (b)(1), a statement that absence from work is medically necessary;

(bb) for purposes of such time under subsection (b)(2), the dates on which testing for a medical diagnosis or care is expected to be given and the duration of such testing or care; and

(cc) for purposes of such time under subsection (b)(3), in the case of time to care for someone who is not a child, a statement that care is needed for an individual described in such subsection, and an estimate of the amount of time that such care is needed for such individual.

(ii) LIMITATION.—In issuing a certification under subparagraph (A), a health care provider shall make reasonable efforts to limit the medical facts described in clause (i)(III) that are disclosed in the certification to the minimum necessary to establish a need for the employee to utilize paid sick time.

(C) REGULATIONS.—Regulations prescribed under section 13 shall specify the manner in which an employee who does not have health insurance shall provide a certification for purposes of this paragraph.

(D) CONFIDENTIALITY AND NONDISCLOSURE.—

(i) PROTECTED HEALTH INFORMATION.—Nothing in this Act shall be construed to require a health care provider to disclose information in violation of section 1177 of the Social Security Act (42 U.S.C. 1320d–6) or the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(ii) HEALTH INFORMATION RECORDS.—If an employer possesses health information about an employee or an employee's child, parent, spouse or other individual described in subsection (b)(3), such information shall—

(I) be maintained on a separate form and in a separate file from other personnel information;

(II) be treated as a confidential medical record; and

(III) not be disclosed except to the affected employee or with the permission of the affected employee.

(3) CERTIFICATION IN THE CASE OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING.—

(A) IN GENERAL.—An employer may require that a request for paid sick time under this section for a purpose described in subsection (b)(4) be supported by 1 of the following forms of documentation:

(i) A police report indicating that the employee, or a member of the employee's family described in subsection (b)(4), was a victim of domestic violence, sexual assault, or stalking.

(ii) A court order protecting or separating the employee or a member of the employee's family described in subsection (b)(4) from the perpetrator of an act of domestic violence, sexual assault, or stalking, or other evidence from the court or prosecuting attorney that the employee or a member of the employee's family described in subsection (b)(4) has appeared in court or is scheduled to appear in court in a proceeding related to domestic violence, sexual assault, or stalking.

(iii) Other documentation signed by an employee or volunteer working for a victim services organization, an attorney, a police officer, a medical professional, a social worker, an antiviolence counselor, or a member of the clergy, affirming that the employee or a member of the employee's family described in subsection (b)(4) is a victim of domestic violence, sexual assault, or stalking.

(B) REQUIREMENTS.—The requirements of paragraph (2) shall apply to certifications under this paragraph, except that—

(i) subclauses (III) and (IV) of subparagraph (B)(i) and subparagraph (B)(ii) of such paragraph shall not apply;

(ii) the certification shall state the reason that the leave is required with the facts to

be disclosed limited to the minimum necessary to establish a need for the employee to be absent from work, and the employee shall not be required to explain the details of the domestic violence, sexual assault, or stalking involved; and

(iii) with respect to confidentiality under subparagraph (D) of such paragraph, any information provided to the employer under this paragraph shall be confidential, except to the extent that any disclosure of such information is—

(I) requested or consented to in writing by the employee; or

(II) otherwise required by applicable Federal or State law.

SEC. 6. POSTING REQUIREMENT.

(a) IN GENERAL.—Each employer shall post and keep posted a notice, to be prepared or approved in accordance with procedures specified in regulations prescribed under section 13, setting forth excerpts from, or summaries of, the pertinent provisions of this Act including—

(1) information describing paid sick time available to employees under this Act;

(2) information pertaining to the filing of an action under this Act;

(3) the details of the notice requirement for a foreseeable period of time under section 5(d)(1)(B); and

(4) information that describes—

(A) the protections that an employee has in exercising rights under this Act; and

(B) how the employee can contact the Secretary (or other appropriate authority as described in section 8) if any of the rights are violated.

(b) LOCATION.—The notice described under subsection (a) shall be posted—

(1) in conspicuous places on the premises of the employer, where notices to employees (including applicants) are customarily posted; or

(2) in employee handbooks.

(c) VIOLATION; PENALTY.—Any employer who willfully violates the posting requirements of this section shall be subject to a civil fine in an amount not to exceed $100 for each separate offense.

SEC. 7. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this Act, including—

(A) discharging or discriminating against (including retaliating against) any individual, including a job applicant, for exercising, or attempting to exercise, any right provided under this Act;

(B) using the taking of paid sick time under this Act as a negative factor in an employment action, such as hiring, promotion, or a disciplinary action; or

(C) counting the paid sick time under a no-fault attendance policy or any other absence control policy.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against (including retaliating against) any individual, including a job applicant, for opposing any practice made unlawful by this Act.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against (including retaliating against) any individual, including a job applicant, because such individual—

(1) has filed an action, or has instituted or caused to be instituted any proceeding, under or related to this Act;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this Act; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this Act.

(c) CONSTRUCTION.—Nothing in this section shall be construed to state or imply that the scope of the activities prohibited by section 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2615) is less than the scope of the activities prohibited by this section.

SEC. 8. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection:

(A) the term ''employee'' means an employee described in subparagraph (A) or (B) of section 4(3); and

(B) the term ''employer'' means an employer described in subclause (I) or (II) of section 4(4)(A)(i).

(2) INVESTIGATIVE AUTHORITY.—

(A) IN GENERAL.—To ensure compliance with the provisions of this Act, or any regulation or order issued under this Act, the Secretary shall have, subject to subparagraph (C), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)), with respect to employers, employees, and other individuals affected.

(B) OBLIGATION TO KEEP AND PRESERVE RECORDS.—An employer shall make, keep, and preserve records pertaining to compliance with this Act in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations prescribed by the Secretary.

(C) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not require, under the authority of this paragraph, an employer to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this Act or any regulation or order issued pursuant to this Act, or is investigating a charge pursuant to paragraph (4).

(D) SUBPOENA AUTHORITY.—For the purposes of any investigation provided for in this paragraph, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

(3) CIVIL ACTION BY EMPLOYEES OR INDIVIDUALS.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (B) may be maintained against any employer in any Federal or State court of competent jurisdiction by one or more employees or individuals or their representative for and on behalf of—

(i) the employees or individuals; or

(ii) the employees or individuals and others similarly situated.

(B) LIABILITY.—Any employer who violates section 7 (including a violation relating to rights provided under section 5) shall be liable to any employee or individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost, any actual monetary losses sustained as a direct result of the violation up to a sum equal to 56 hours of wages or salary for the employee or individual;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(C) FEES AND COSTS.—The court in an action under this paragraph shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 7 (including a violation relating to rights provided under section 5) in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (3)(B)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee or individual affected. Any such sums not paid to an employee or individual affected because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under paragraph (3), (4), or (6) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of an action brought for a willful violation of section 7 (including a willful violation relating to rights provided under section 5), such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced under paragraph (3), (4), or (6) for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(6) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of section 7 (including a violation relating to rights provided under section 5), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to employees or individuals eligible under this Act; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(7) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under paragraph (4) or (6).

(8) GOVERNMENT ACCOUNTABILITY OFFICE AND LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Government Accountability Office and the Library of Congress, the authority of the Secretary of Labor under this subsection shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—The powers, remedies, and procedures provided in the Congressional Accountability Act of 1995 (2 U.S.C. 1301 et seq.) to the Board (as defined in section 101 of that Act (2 U.S.C. 1301)), or any person, alleging a violation of section 202(a)(1) of that Act (2 U.S.C. 1312(a)(1)) shall be the powers, remedies, and procedures this

Act provides to that Board, or any person, alleging an unlawful employment practice in violation of this Act against an employee described in section 4(3)(C).

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—The powers, remedies, and procedures provided in chapter 5 of title 3, United States Code, to the President, the Merit Systems Protection Board, or any person, alleging a violation of section 412(a)(1) of that title, shall be the powers, remedies, and procedures this Act provides to the President, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this Act against an employee described in section 4(3)(D).

(d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE 5, UNITED STATES CODE.—The powers, remedies, and procedures provided in title 5, United States Code, to an employing agency, provided in chapter 12 of that title to the Merit Systems Protection Board, or provided in that title to any person, alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this Act provides to that agency, that Board, or any person, respectively, alleging an unlawful employment practice in violation of this Act against an employee described in section 4(3)(E).

(e) REMEDIES FOR STATE EMPLOYEES.—

(1) WAIVER OF SOVEREIGN IMMUNITY.—A State's receipt or use of Federal financial assistance for any program or activity of a State shall constitute a waiver of sovereign immunity, under the 11th amendment to the Constitution or otherwise, to a suit brought by an employee of that program or activity under this Act for equitable, legal, or other relief authorized under this Act.

(2) OFFICIAL CAPACITY.—An official of a State may be sued in the official capacity of the official by any employee who has complied with the procedures under subsection (a)(3), for injunctive relief that is authorized under this Act. In such a suit the court may award to the prevailing party those costs authorized by section 722 of the Revised Statutes (42 U.S.C. 1988).

(3) APPLICABILITY.—With respect to a particular program or activity, paragraph (1) applies to conduct occurring on or after the day, after the date of enactment of this Act, on which a State first receives or uses Federal financial assistance for that program or activity.

(4) DEFINITION OF PROGRAM OR ACTIVITY.—In this subsection, the term ''program or activity'' has the meaning given the term in section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

SEC. 9. COLLECTION OF DATA ON PAID SICK TIME AND FURTHER STUDY.

(a) COMPILATION OF INFORMATION.—Effective 90 days after the date of enactment of this Act, the Commissioner of Labor Statistics shall annually compile information on the following:

(1) The number of employees who used paid sick time.

(2) The number of hours of paid sick time used.

(3) The number of employees who used paid sick time for absences necessary due to domestic violence, sexual assault, or stalking.

(4) The demographic characteristics of employees who were eligible for and who used paid sick time.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall annually conduct a study to determine the following:

(A)(i) The number of days employees used paid sick time and the reasons for the use.

(ii) The number of employees who used the paid sick time for periods of time covering more than 3 consecutive workdays.

(B) The cost and benefits to employers of implementing the paid sick time policies.

(C) The cost to employees of providing certification to obtain the paid sick time.

(D) The benefits of the paid sick time to employees and their family members, including effects on employees' ability to care for their family members or to provide for their own health needs.

(E) Whether the paid sick time affected employees' ability to sustain an adequate income while meeting needs of the employees and their family members.

(F) Whether employers who administered paid sick time policies prior to the date of enactment of this Act were affected by the provisions of this Act.

(G) Whether other types of leave were affected by this Act.

(H) Whether paid sick time affected retention and turnover and costs of presenteeism.

(I) Whether the paid sick time increased the use of less costly preventive medical care and lowered the use of emergency room care.

(J) Whether the paid sick time reduced the number of children sent to school when the children were sick.

(2) AGGREGATING DATA.—The data collected under subparagraphs (A) and (D) of paragraph (1) shall be aggregated by gender, race, disability, earnings level, age, marital status, family type, including parental status, and industry.

(3) REPORTS.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report to the appropriate committees of Congress concerning the results of the study conducted pursuant to paragraph (1) and the data aggregated under paragraph (2).

(B) FOLLOWUP REPORT.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a followup report to the appropriate committees of Congress concerning the results of the study conducted pursuant to paragraph (1) and the data aggregated under paragraph (2).

SEC. 10. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this Act shall be construed to supersede (including preempting) any provision of any State or local law that provides greater paid sick time or leave rights (including greater paid sick time or leave, or greater coverage of those eligible for paid sick time or leave) than the rights established under this Act.

SEC. 11. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this Act shall be construed to diminish the obligation of an employer to comply with any contract, collective bargaining agreement, or any employment benefit program or plan that provides greater paid sick leave or other leave rights to employees or individuals than the rights established under this Act.

(b) LESS PROTECTIVE.—The rights established for employees under this Act shall not be diminished by any contract, collective bargaining agreement, or any employment benefit program or plan.

SEC. 12. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than policies that comply with the requirements of this Act.

SEC. 13. REGULATIONS.

(a) IN GENERAL.—

(1) AUTHORITY.—Except as provided in paragraph (2), not later than 180 days after the date of enactment of this Act, the Secretary shall prescribe such regulations as are necessary to carry out this Act with respect to employees described in subparagraph (A) or (B) of section 4(3) and other individuals affected by employers described in subclause (I) or (II) of section 4(4)(A)(i).

(2) GOVERNMENT ACCOUNTABILITY OFFICE; LIBRARY OF CONGRESS.—The Comptroller General of the United States and the Librarian of Congress shall prescribe the regulations with respect to employees of the Government Accountability Office and the Library of Congress, respectively and other individuals affected by the Comptroller General of the United States and the Librarian of Congress, respectively.

(b) EMPLOYEES COVERED BY CONGRESSIONAL ACCOUNTABILITY ACT OF 1995.—

(1) AUTHORITY.—Not later than 120 days after the date of enactment of this Act, the Board of Directors of the Office of Compliance shall prescribe (in accordance with section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384)) such regulations as are necessary to carry out this Act with respect to employees described in section 4(3)(C) and other individuals affected by employers described in section 4(4)(A)(i)(III).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this Act except insofar as the Board may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(c) EMPLOYEES COVERED BY CHAPTER 5 OF TITLE 3, UNITED STATES CODE.—

(1) AUTHORITY.—Not later than 120 days after the date of enactment of this Act, the President (or the designee of the President) shall prescribe such regulations as are necessary to carry out this Act with respect to employees described in section 4(3)(D) and other individuals affected by employers described in section 4(4)(A)(i)(IV).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this Act except insofar as the President (or designee) may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

(d) EMPLOYEES COVERED BY CHAPTER 63 OF TITLE 5, UNITED STATES CODE.—

(1) AUTHORITY.—Not later than 120 days after the date of enactment of this Act, the Director of the Office of Personnel Management shall prescribe such regulations as are necessary to carry out this Act with respect to employees described in section 4(3)(E) and other individuals affected by employers described in section 4(4)(A)(i)(V).

(2) AGENCY REGULATIONS.—The regulations prescribed under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary to carry out this Act except insofar as the Director may determine, for good cause shown and stated together with the regulations prescribed under paragraph (1), that a modification of such regulations would be more effective for the implementation of the rights and protections involved under this section.

SEC. 14. EFFECTIVE DATES.

(a) EFFECTIVE DATE.—This Act shall take effect 6 months after the date of issuance of regulations under section 13(a)(1).

(b) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by subsection (a), this Act shall take effect on the earlier of—

(1) the date of the termination of such agreement; or

(2) the date that occurs 18 months after the date of issuance of regulations under section 13(a)(1).

By Mrs. BOXER:

S. 992. A bill to amend the Public Health Service Act to establish direct care registered nurse-to-patient staffing ratio requirements in hospitals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, as we mark the end of National Nurses Week, I want to express my heartfelt appreciation to the nurses who serve on the front lines of our health care system. Nurses are heroes, not just to their patients, but to the families and loved ones who rely on their compassion and care.

While we celebrate nurses this week, we must also acknowledge that too many nurses are overworked because of staffing levels that are simply inadequate.

For decades nurses have been telling us that we need more of them to provide quality care to our loved ones, especially in hospitals. Study after study has been done, we know there is a nationwide nursing shortage.

By 2020, it is estimated that the demand for full time nurses will exceed supply by 1 million nurses.

That is why I am introducing the National Nursing Shortage Reform and Patient Advocacy Act, which will not only help address the nationwide shortage of skilled nurses, it will improve the quality of health care for all Americans.

The National Nursing Shortage Reform and Patient Advocacy Act champions nursing rights, nursing ratios, and nursing reform.

This bill protects the rights of nurses to speak out for their patients and to speak out for themselves, without the fear of discrimination or retaliation, because if there is a problem in a hospital nurses should be able to talk about it.

This bill sets minimum nurse to patient ratios, because if we expect nurses to give patients high quality care we need to give nurses the time to provide it. It lays out a transparent process for establishing staffing plans in hospitals and puts forward the tools for nurses to report inadequate staffing or care.

This bill reforms the role of hospitals not just in working with nurses to improve care, but also in training nurses. It creates mentorship and preceptorship programs to support nurses as they adapt to the hospital setting and grow in their profession.

Twelve years ago, nurses in California fought and won a major battle for their patients and for themselves, and the results were minimum nurse to patient ratios in California hospitals.

I am proud to join with nurses in their effort to improve care for their patients, and introduce Federal legislation that would extend these rights, ratios and reforms to nurses in hospitals across the country.

Reports on California ratios have only begun to show what so many of the nurses I meet already know, that setting a minimum standard for safe staffing can mean the difference between life and death of patients.

A 2002 study found that for every patient added to a nurse's workload there is a 7 percent increase in the chance of death following common surgeries.

In California, the hospitals that have seen the greatest effect in reduced mortality were the ones that started with the worst staffing ratios.

We also know that hospitals are losing good nurses because of these staffing shortages. A poll of nurses nationwide found that almost half of the nurses who plan to quit their job say that inadequate staffing is the reason they are leaving. The cost of replacing these valuable workers has been estimated at $25,000 to $60,000 per nurse. That is an added cost that we know our health care system cannot afford.

Too many nurses get burned out by being overloaded with too many patients. Too many nurses have given up on serving in hospitals because the hospitals have given up on providing a better environment for both nurses and patients.

Investing more in nursing staff will help hospitals avoid costly medical mistakes and provide better care for their patients and most importantly, will save lives.

I joined many of my colleagues in supporting provisions of health care reform that invested in our health care workforce. At 2.9 million strong, nurses are the largest health care workforce in our country, and this investment is long overdue.

I am pleased to share that this bill has the support of the California Nurses Association as well as AFSCME-United Nurses of America.

Nurses are not just the face of the movement to improve health care in our country, they are the face of health care in our country. This bill is for them and the patients they so faithfully serve.

By Mr. KIRK (for himself, Mr. MENENDEZ, Mr. LAUTENBERG, and Mr. DURBIN):

S. 994. A bill to amend title 23, United States Code, to protect States that have in effect laws or orders with respect to pay-to-play reform, and for other purposes; to the Committee on Environment and Public Works.

Mr. KIRK. Mr. President, I am pleased to join my colleagues Senators MENENDEZ, LAUTENBERG and DURBIN in introducing the State Ethics Law Protection Act. This legislation would ensure that States are allowed to pass meaningful ethics reform laws without being penalized by the Federal government.

Current law allows the Federal Highway Administration, FHWA, to withhold Federal highway funds from States that ban pay-to-play contracting. At least 9 States and 60 cities have enacted anti pay-to-play laws. These laws vary widely, but they generally limit political contributions from entities doing business with the state. The FHWA claims that these laws could reduce the number of potential bidders, thus violating an unrestricted bidding requirement set forth in Federal law. FHWA has selectively threatened to withhold money to certain States. In my home State of Illinois, the State legislature was forced to change its pay-to-play law just days after our former governor was indicted for allegedly engaging in numerous pay-to-play schemes. Illinois was forced to create a giant loophole in the ethics law so as not to lose out on millions in Federal transportation funds.

States have the right to ensure their contracting processes adhere to the highest ethical standards and offer the best protection to the taxpayers. Selected Federal intervention is an unwarranted and unhelpful power grab by Federal regulators. Pay-to-play laws are designed to enhance, not undermine, competitive bidding. They are designed to ensure that the competitive bidding process is open and fair, not motivated by political considerations.

Our legislation would allow States to pass ethics laws that are in their best interests, without fear of Federal retaliation, by amending FHWA's contracting requirements to explicitly provide that no State or locality shall be considered in violation of the competitive bidding requirements based on political contributions. The legislation does not prescribe any new requirements for states, nor does it advocate for the passage of any single ethics law. The bill simply allows States to enact meaningful anti-corruption laws if they choose to do so. As Federal budgets tighten in these challenging economic times, it is imperative that we not hamstring States even further by denying them Federal funds for trying to limit public corruption.

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. 994

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 ''State Ethics Law Protection Act of 2011''.

SEC. 2. PAY-TO-PLAY REFORM.

Section 112 of title 23, United States Code, is amended by adding at the end the following:

''(h) PAY-TO-PLAY REFORM.—A State transportation department shall not be considered to have violated a requirement of this section solely because the State in which that State transportation department is located, or a local government within that State, has in effect a law or an order that limits the amount of money an individual or entity that is doing business with a State or local agency with respect to a Federal-aid highway project may contribute to a political party, campaign, candidate, or elected official.''.

By Mr. KIRK:

S. 995. A bill to amend title 18, United States Code, to prohibit public officials from engaging in undisclosed self-dealing; to the Committee on the Judiciary.

Mr. KIRK. Mr. President, I am pleased to introduce the Public Officials Accountability Act, to ensure that our elected leaders cannot use their office for their own personal benefit. Public corruption has turned the ''Land of Honest Abe'' into the ''Land of Political Corruption.'' Illinois is the 6th most corrupt state in the Union, based on the number of public corruption convictions over the last decade. If just the northern district of Illinois were a state, it would have had the 7th highest number of public corruption convictions in the country in 2009. Illinois taxpayers pay the price for this in the form of a hidden public corruption tax. We need to make sure our laws help Federal prosecutors crack down on public corruption and restore integrity to Illinois. One such tool is the honest services law.

For the past 30 years, the Department of Justice has fought public corruption by convicting scores of public officials who deny citizens the right to ''honest services.'' We are all too familiar with politicians failing to perform their public duties honestly in Illinois.

The most famous Illinois politicians to be convicted of honest services fraud include former Governor Otto Kerner, late Congressman Dan Rostenkowski, former city of Chicago official Robert Sorich, and former Governor George Ryan. William Jefferson and Congressman Bob Ney are a few notable national figures to be convicted of this crime.

Back in Illinois, our former governor Rod Blagojevich is currently on trial after having turned Illinois into a corrupt political circus and a national joke. A number of charges in his original indictment were based on honest services fraud, including those related to his alleged scheme to sell President Obama's U.S. Senate seat for his own personal gain.

Unfortunately, last year the Supreme court drastically narrowed the scope of the honest services law in the famous 2010 Enron decision, Skilling v. U.S. The Court struck down a significant portion of the law because it was unconstitutionally vague. As a result of the Supreme Court review, U.S. prosecutors reindicted Blagojevich, leaving out all honest services charges so as not to complicate the case. Blagojevich later was convicted on just one charge.

The Blagojevich case was not the only one affected by the decision. According to the Wall Street Journal, ''In 2008 and 2009, the government brought honest services fraud charges in more than 100 cases a year,'' but in 2010 ''new prosecutions using the statute slowed to a trickle'' due to the Supreme Court review of the issue.

In order to continue fighting public corruption effectively, the Department of Justice asked Congress to enact a clear and specific honest services law to withstand any constitutional review. Our bill, the Public Officials Accountability Act, would do just that. It would very clearly reinstate the portion of the law the Supreme Court struck down in terms that remove all ambiguity. The Public Officials Accountability Act would restore one of prosecutors' most important tools and decades of congressional intent to ensure elected leaders cannot use their office to further their own careers or pocketbooks.

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. 995

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 ''Public Officials Accountability Act''.

SEC. 2. PROHIBITION ON UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1346 the following new section:

''§ 1346A. Undisclosed self-dealing by public officials

''(a) UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.—For purposes of this chapter, the term 'scheme or artifice to defraud' also includes a scheme or artifice by a public official to engage in undisclosed self-dealing.

''(b) DEFINITIONS.—As used in this section:

''(1) OFFICIAL ACT.—The term 'official act'—

''(A) includes any act within the range of official duty, and any decision, recommendation, or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit;

''(B) may be a single act, more than one act, or a course of conduct; and

''(C) includes a decision or recommendation that a government should not take action.

''(2) PUBLIC OFFICIAL.—The term 'public official' means an officer, employee, or elected or appointed representative, or person acting for or on behalf of, the United States, a State, or a subdivision of a State, or any department, agency or branch of government thereof, in any official function, under or by authority of any such department, agency, or branch of government.

''(3) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(4) UNDISCLOSED SELF-DEALING.—The term 'undisclosed self-dealing' means that—

''(A) a public official performs an official act for the purpose, in whole or in part, of benefitting or furthering a financial interest of—

''(i) the public official;

''(ii) the spouse or minor child of a public official;

''(iii) a general business partner of the public official;

''(iv) a business or organization in which the public official is serving as an employee, officer, director, trustee, or general partner; or

''(v) an individual, business, or organization with whom the public official is negotiating for, or has any arrangement concerning, prospective employment or financial compensation; and

''(B) the public official knowingly falsifies, conceals, covers up, or fails to disclose material information regarding that financial interest that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by inserting after the item relating to section 1346 the following new item:

''1346A. Undisclosed self-dealing by public officials.''.

(c) APPLICABILITY.—The amendments made by this section apply to acts engaged in on or after the date of the enactment of this Act.

By Mr. AKAKA (for himself, Mr. HARKIN, and Mr. DURBIN):

S. 998. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, today I am introducing the Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act to ensure fair treatment of commercial airline pilot retirees. Joining me in this effort are Senators HARKIN and DURBIN, as well as Representative GEORGE MILLER, who is introducing the companion bill in the House of Representatives today.

The Pension Benefit Guaranty Corporation, PBGC, is the Federal agency that assumes responsibility for pension plans that are terminated because they do not have enough money to pay all benefits. PBGC's insurance program pays monthly benefits to the retirees that the pension plan provided, up to the limits set by law. PBGC requires individuals to retire at age 65 to receive the maximum retirement benefit. For years, this law was in conflict with the Federal Aviation Administration, FAA, requirement that pilots retire by age 60. For commercial airline pilots caught between these conflicting policies, their retirement benefits were significantly reduced.

Congress partially addressed this issue with the passage of the Fair Treatment of Experienced Pilots Act, which was signed into law on December

13, 2007. The Act increased the FAA mandatory retirement age for pilots to age 65. However, the change did nothing to help those pilots who had already retired. As such, pilots who retired while the FAA age 60 rule was in effect are still denied the maximum pension benefit administered by the PBGC and are unable to rejoin the workforce as pilots.

The conflicting FAA and PBGC requirements have had a substantial adverse effect on thousands of retired pilots. In general, these pilots have had their maximum retirement benefit reduced by one-third. For example, the maximum benefit from the PBGC for someone that retired at age 65 in 2006 is $47,659 a year. For those who retired at age 60 of that same year, the maximum is $30,978. Our legislation ends this unfair penalty. The Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act would direct the PBGC to calculate pension benefits based on retirement eligibility beginning at age 60 instead of age 65 for retired pilots whose pensions are affected by the discrepancy between the FAA and PBGC retirement requirements. We must pass this bill to provide some relief for pilots from Aloha Airlines, Delta, TWA, United Airlines, and US Airways, as well as other pilots who have had their pensions terminated and taken over by the PBGC and suffer from this wrongly imposed penalty.

I urge my colleagues to support this bill so that we can finally correct this wrong.

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. 998

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 ''Pension Benefit Guaranty Corporation Pilots Equitable Treatment Act''.

SEC. 2. AGE REQUIREMENT FOR AIRLINE PILOTS.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(3)) is amended by inserting at the end the following: ''If, at the time of termination of a plan under this title, or at the time of freezing benefit accruals under a plan pursuant to subsections (a)(1) and (b) of section 402 of the Pension Protection Act of 2006, regulations prescribed by the Federal Aviation Administration required an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this paragraph shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65. The calculation of benefit liabilities and unfunded benefit liabilities under this section, and the allocation of assets under section 4044, shall not reflect any additional benefits the corporation must guarantee due to the application of the preceding sentence.''.

(b) AGGREGATE LIMIT ON BENEFITS GUARANTEED; CRITERIA APPLICABLE.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: ''If, at the time of termination of a plan under this title, or at the time of freezing benefit accrual under a plan pursuant to subsections (a)(1) and (b) of section 402 of the Pension Protection Act of 2006, regulations prescribed by the Federal Aviation Administration required an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to benefits payable on or after the date of enactment of this Act.

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

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution of the United States to give States the right to repeal Federal laws and regulations when ratified by the legislatures of two-thirds of the several States; to the Committee on the Judiciary.

Mr. ENZI. Mr. President, I rise today to discuss the growing burdens placed on states by our Federal Government in recent years and how we can stop this trend.

Our States have faced many Federal mandates in recent years that have hurt, not helped, the citizenry of our country. In 2009 alone, the Federal Government issued over 3,300 new rules and regulations. This puts the total number of Federal rules and regulations placed on our States and citizens at around 75,000 as of 2010. In addition, incredible price tags have been placed on our citizens due to these laws and regulations. Our country is facing trillions of dollars in debt and forcing further expenses onto our taxpayers is inexcusable.

This Federal top-down approach does not encourage a strong economy. States and local governments should have the ability to address the needs of their citizens in ways that actually fix the problem without their hands being tied by burdensome Federal rules, regulations, and laws. I have always believed that the ingenuity of individuals should not be hampered and top-down approaches do just that. As of now, states have one recourse, go through the court system which is already backlogged.

No matter who has the political power within our Federal Government, States need to have the ability to force the Federal Government to reconsider laws and regulations that do not support them. Providing states with the option of repealing any Federal law or regulation is the next step. Allowing a repeal option would also institute a check against egregious congressional actions and especially un-elected bureaucratic action.

Today, I am introducing the Repeal Amendment to address this issue. My colleague Representative ROB BISHOP of Utah is introducing this important piece of legislation in the House of Representatives so that we can give the states a real voice. Allowing States the option to say no will allow them the breathing room to decide what policies are best for them.

The Repeal Amendment would allow States to remove unnecessary and burdensome Federal laws and regulations. When 2/3 of the States collectively find a Federal law or regulation so out of touch and destructive, they will have the power to repeal it if they so choose.

States must be given back their role as an equal partner in addressing the needs and issues of the people of the United States. The growing Federal Government must be put in check and I believe that the Repeal Amendment will do just that.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 181—DESIGNATING MAY 15, 2011, AS ''NATIONAL MPS AWARENESS DAY''

Mr. GRAHAM (for himself, Mr. CONRAD, Mr. BURR, Mr. INOUYE, Mr. BEGICH, Mr. KERRY, and Ms. MURKOWSKI) submitted the following resolution, which was considered and agreed to:

S. RES. 181

Whereas mucopolysaccharidosis (referred to in this resolution as ''MPS'') are a group of genetically determined lysosomal storage diseases that render the human body incapable of producing certain enzymes needed to break down complex carbohydrates;

Whereas MPS diseases cause complex carbohydrates to be stored in almost every cell in the body and progressively cause cellular damage;

Whereas the cellular damage caused by MPS—

(1) adversely affects the human body by damaging the heart, respiratory system, bones, internal organs, and central nervous system; and

(2) often results in intellectual disabilities, short stature, corneal damage, joint stiffness, loss of mobility, speech and hearing impairment, heart disease, hyperactivity, chronic respiratory problems, and, most importantly, a drastically shortened life span;

Whereas symptoms of MPS are usually not apparent at birth;

Whereas, without treatment, the life expectancy of an individual afflicted with MPS begins to decrease at a very early stage in the life of the individual;

Whereas research has resulted in the development of limited treatments for some MPS diseases;

Whereas promising advancements in the pursuit of treatments for additional MPS diseases are underway as of the date of agreement to this resolution;

Whereas, despite the creation of new remedies, the blood-brain barrier continues to be a significant impediment to effectively treating the brain, which prevents the treatment of many of the symptoms of MPS;

Whereas the quality of life of the individuals afflicted with MPS, and the treatments available to those individuals, will be enhanced through the development of early detection techniques and early intervention;

Whereas treatments and research advancements for MPS are limited by a lack of awareness about MPS diseases;