

S. 877

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 877, a bill to prevent taxpayer-funded elective abortions by applying the longstanding policy of the Hyde amendment to the new health care law.

S. 906

At the request of Mr. WICKER, the names of the Senator from Tennessee (Mr. CORKER) and the Senator from Pennsylvania (Mr. TOOMEY) were added as cosponsors of S. 906, a bill to prohibit taxpayer funded abortions and to provide for conscience protections, and for other purposes.

S. 949

At the request of Mrs. SHAHEEN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 949, a bill to amend the National Oilheat Research Alliance Act of 2000 to reauthorize and improve that Act, and for other purposes.

S. 951

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 951, a bill to improve the provision of Federal transition, rehabilitation, vocational, and unemployment benefits to members of the Armed Forces and veterans, and for other purposes.

S. 958

At the request of Mr. CASEY, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from Kansas (Mr. MORAN), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of 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.

S. 960

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of 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.

S. 1002

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1006

At the request of Mr. RUBIO, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1006, a bill to allow seniors to file their Federal income tax on a new Form 1040SR.

S. 1009

At the request of Mr. RUBIO, the name of the Senator from Pennsyl-

vania (Mr. TOOMEY) was added as a cosponsor of S. 1009, a bill to rescind certain Federal funds identified by States as unwanted and use the funds to reduce the Federal debt.

S. 1045

At the request of Ms. LANDRIEU, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1045, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, burns, infection, tumor, or disease.

S. 1048

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. COONS), the Senator from Oregon (Mr. WYDEN) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 1048, a bill to expand sanctions imposed with respect to the Islamic Republic of Iran, North Korea, and Syria, and for other purposes.

S. 1053

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 1053, a bill to amend the National Agricultural Research, Extension and Teaching Policy Act of 1977 to establish a grant program to promote efforts to develop, implement, and sustain veterinary services, and for other purposes.

S. 1056

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1056, a bill to ensure that all users of the transportation system, including pedestrians, bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

S. 1064

At the request of Mr. REED, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1064, a bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes.

S. 1097

At the request of Mr. KYL, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 1097, a bill to strengthen the strategic force posture of the United States by implementing and supplementing certain provisions of the New START Treaty and the Resolution of Ratification, and for other purposes.

S. 1113

At the request of Ms. MURKOWSKI, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1113, a bill to facilitate

the reestablishment of domestic, critical mineral designation, assessment, production, manufacturing, recycling, analysis, forecasting, workforce, education, research, and international capabilities in the United States, and for other purposes.

S. RES. 185

At the request of Mr. CARDIN, the names of the Senator from Delaware (Mr. COONS), the Senator from New York (Mrs. GILLIBRAND), the Senator from Connecticut (Mr. BLUMENTHAL), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Idaho (Mr. CRAPO) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. Res. 185, a resolution reaffirming the commitment of the United States to a negotiated settlement of the Israeli-Palestinian conflict through direct Israeli-Palestinian negotiations, reaffirming opposition to the inclusion of Hamas in a unity government unless it is willing to accept peace with Israel and renounce violence, and declaring that Palestinian efforts to gain recognition of a state outside direct negotiations demonstrates absence of a good faith commitment to peace negotiations, and will have implications for continued United States aid.

S. RES. 199

At the request of Mr. REID, the names of the Senator from New York (Mr. SCHUMER), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 199, a resolution supporting the goals and ideals of "Crohn's and Colitis Awareness Week".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. ENZI, Mr. BARRASSO, and Mr. MERKLEY):

S. 1144. A bill to amend the Soda Ash Royalty Reduction Act of 2006 to extend the reduced royalty rate for soda ash; to the Committee on Energy and Natural Resources.

Mr. President, today my colleagues Sen. BARRASSO, Sen. ENZI, Sen. MERKLEY, and I are introducing the Soda Ash Competition Act. Soda ash, or "disodium carbonate", is an industrial mineral used in the production of glass and other products. In 2006, in response to efforts by foreign competitors to subsidize non-U.S. production and gain competitive advantages in the world market, including the partial suspension of value added taxes, VAT, by China, Congress enacted legislation to provide a partial suspension of Federal royalties on the ore mined to produce soda ash on Federal lands for 5 years. This royalty relief reduced the Federal royalty rate from 6 percent to 2 percent and helped U.S. soda ash producers to remain competitive in the international market. Over the past 5 years, the U.S. industry has been able

to invest hundreds of millions of dollars in production capacity and maintain its market here and abroad. As a result, American companies and workers have provided important economic activity here at home, provided a U.S. export valued at nearly \$1 billion a year, all while continuing to generate tens of millions of dollars to the Treasury in mineral royalties.

Foreign competition continues to be an issue for the U.S. soda ash industry, including unfair manipulation of value added taxes that would otherwise be levied on competing foreign supplies. In 2007, China resumed its practice of suspending part of the 17 percent VAT on synthetic soda ash to aid its domestic producers. On May 31, 2011, members of both the House and Senate wrote to Commerce Secretary Gary Locke and U.S. Trade Representative Ron Kirk requesting this unfair trade practice be raised with China through the Joint Commission on Commerce and Trade.

The current statutory royalty relief authority for soda ash expires on October 12, 2011, and this bill would extend that authority for five more years. The Department of Interior is currently preparing an analysis, which will provide further information on the impact of the current soda ash royalty relief and foreign competition on U.S. producers. This study is required by the same 2006 law that authorized the current royalty reduction in order to give Congress additional information to consider a future extension. We had hoped that this analysis would have been completed by now and first wrote to the Secretary of Interior over a year ago seeking to expedite completion of the Department's work. Unfortunately, the analysis has not been completed and the statutory clock is ticking. My colleagues and I are introducing the bill at this time because, given the looming deadline, the Senate needs to begin examination of this matter sooner rather than later.

We look forward to working with our colleagues on the Energy and Natural Resources Committee and the Senate to address this issue before time runs out on the current authority and U.S. soda ash production of this important mineral loses this tool to offset foreign production subsidies.

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

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

CONGRESS OF THE UNITED STATES,  
Washington, DC, May 31, 2011.

Hon. GARY LOCKE,  
U.S. Secretary of Commerce, Constitution Ave.,  
NW., Washington, DC.

Hon. RON KIRK,  
U.S. Trade Representative, 600 17th Street, NW.,  
Washington, DC.

DEAR SECRETARY LOCKE AND AMBASSADOR KIRK: We are writing to express our continued concerns about China's use of a Value-Added Tax (VAT) rebate to promote its soda ash industry at the expense of U.S. exports.

For over two years, China has provided its domestic manufacturers with an artificial incentive to export through a 9% rebate of the 17% VAT. For a number of reasons, we ask that the issue of the soda ash VAT rebate be specifically included on the JCCT agenda this fall.

After suspending its VAT rebate for soda ash in July 2007, China reinstated the soda ash rebate in April 2009 to encourage its own exports during the global economic crisis. China's state-supported soda ash industry is the largest in the world and this policy is harmful to its international competitors, particularly U.S. soda ash manufacturers. As you may know, U.S. soda ash has a natural advantage over Chinese soda ash, based on a manufacturing process that is much more sustainable in terms of environmental protection and energy use than the synthetic processes used in China. China's manipulation of the VAT rebate to support its domestic soda ash industry also has wider implications—not only is it economically unjustified, it contravenes China's own interests in shifting energy resources from more productive and efficient industries.

We must focus on Chinese policies that are a direct threat to U.S. exports and U.S. jobs. The soda ash VAT rebate is one such policy. Chinese exports compete directly with U.S. soda ash exports in the Asia-Pacific market and beyond. Although the VAT is just one part of China's overall industrial policy, the soda ash VAT rebate is a distinct threat to U.S. manufacturing in a sector where the United States enjoys a natural competitive advantage. If we don't stand up for the pillars of our export-based manufacturers like the soda ash industry—and the U.S. workers employed throughout the soda ash supply chain—we cannot seriously contend we are doing everything we can to support U.S. exports.

We ask that the Department of Commerce and the U.S. Trade Representative's Office ensure that the soda ash VAT rebate is raised at the highest levels with Chinese officials at the JCCT meetings this year. The message should be as clear as it is convincing; namely, China should live up to its repeated pledge to discourage the expansion of highly-polluting and energy-intensive sectors such as its own soda ash industry. Policies aimed at promoting soda ash exports, such as the VAT rebate, are inconsistent with China's own stated goals and a direct threat to U.S. interests.

We greatly appreciate your consideration of this request and look forward to your response.

Senator Michael B. Enzi; Senator John Barrasso, M.D.; Representative David Wu; Senator Joseph I. Lieberman; Senator Robert Menendez; Representative Cynthia Lummis; Senator Ron Wyden; Senator Jeff Merkley; Representative James A. Himes; Senator Frank Lautenberg.

By Mr. LEAHY (for himself, Mr. BLUMENTHAL, and Mr. FRANKEN):

S. 1145. A bill to amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I reintroduce the Civilian Extraterritorial Jurisdiction Act, CEJA. The United States has dramatically more Government employees and contractors working overseas than ever

before, but the legal framework governing them is unclear and outdated. To promote accountability, Congress must make sure that our criminal laws reach serious misconduct by American Government employees and contractors wherever they act. The Civilian Extraterritorial Jurisdiction Act accomplishes this important and common sense goal by allowing United States contractors and employees working overseas who commit specific crimes to be tried and sentenced under U.S. law.

Tragic events in Iraq and Afghanistan highlight the need to strengthen the laws providing for jurisdiction over American Government employees and contractors working abroad. In September 2007, Blackwater security contractors working for the State Department shot more than 20 unarmed civilians on the streets of Baghdad, killing at least 14 of them, and causing a rift in our relations with the Iraqi government. Efforts to prosecute those responsible for these shootings have been fraught with difficulties, and our ability to hold the wrongdoers in this case accountable remains in doubt.

I worked with Senator SESSIONS and others in 2000 to pass the Military Extraterritorial Jurisdiction Act, MEJA, and then, again, to amend it in 2004, so that U.S. criminal laws would extend to all members of the U.S. military, to those who accompany them, and to contractors who work with the military. That law provides criminal jurisdiction over Defense Department employees and contractors, but it does not explicitly cover people working for other Federal agencies, like the Blackwater security contractors. Had jurisdiction in the tragic Blackwater incident been clear, FBI agents likely would have been on the scene immediately, which could well have prevented some of the problems that have plagued the case.

Other incidents have made all too clear that the Blackwater case was not an isolated incident. Private security contractors have been involved in violent incidents and serious misconduct in Iraq and Afghanistan, including other shooting incidents in which civilians have been seriously injured or killed. As the military missions in Iraq and Afghanistan wind down, MEJA will no longer cover the thousands of contractors and employees who stay on. The legislation I introduce today fills this gap.

Last month, the Senate Judiciary Committee heard testimony from the Justice Department and from experts in the area of contractor accountability about the many diplomatic and national security benefits of expanding criminal jurisdiction over American employees and contractors overseas. The hearing also explored how best to ensure that our Nation's intelligence activities would not be impaired by CEJA. The legislation I propose today has been carefully crafted to ensure that the intelligence community can continue its activities unimpeded.

This bill would also provide greater protection to Americans, as it would lead to more accountability for crimes committed by U.S. government contractors and employees against Americans working abroad. In the last Congress, the Committee heard testimony from Jamie Leigh Jones, a young woman from Texas who took a job with Halliburton in Iraq in 2005 when she was 20 years old. In her first week on the job, she was drugged and gang-raped by coworkers. When she reported this assault, her employers moved her to a locked trailer, where she was kept by armed guards and freed only when the State Department intervened.

Ms. Jones testified about the arbitration clause in her contract that prevented her from suing Halliburton for this outrageous conduct, and Congress has moved to change the civil law to prevent that kind of injustice. Criminal jurisdiction over these kinds of atrocious crimes abroad, however, remains complicated and depends too greatly on the specific location of the crime, which makes prosecutions inconsistent and sometimes impossible. We must fix the law to help avoid arbitrary injustice and ensure that victims will not see their attackers escape accountability.

Ensuring criminal accountability will also improve our national security and protect Americans overseas. Importantly, in those instances where the local justice system may be less than fair, this explicit jurisdiction will also protect Americans by providing the option of prosecuting them in the United States, rather than leaving them subject to hostile and unpredictable local courts. Our allies, including those countries most essential to our counter-terrorism and national security efforts, work best with us when we hold our own accountable.

In the past, legislation in this area has been bipartisan. I hope Senators of both parties will work together to pass this important reform.

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. 1145

*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 “Civilian Extraterritorial Jurisdiction Act (CEJA) of 2011”.

#### SEC. 2. CLARIFICATION AND EXPANSION OF FEDERAL JURISDICTION OVER FEDERAL CONTRACTORS AND EMPLOYEES.

(a) EXTRATERRITORIAL JURISDICTION OVER FEDERAL CONTRACTORS AND EMPLOYEES.—

(1) IN GENERAL.—Chapter 212A of title 18, United States Code, is amended—

(A) by transferring the text of section 3272 to the end of section 3271, redesignating such text as subsection (c) of section 3271, and, in such text, as so redesignated, by striking “this chapter” and inserting “this section”;

(B) by striking the heading of section 3272; and

(C) by adding after section 3271, as amended by this paragraph, the following new sections:

#### “§ 3272. Offenses committed by Federal contractors and employees outside the United States

“(a) Whoever, while employed by or accompanying any department or agency of the United States other than the Department of Defense, knowingly engages in conduct (or conspires or attempts to engage in conduct) outside the United States that would constitute an offense enumerated in subsection (c) had the conduct been engaged in within the United States or within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

“(b) No prosecution for an offense may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting the offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.

“(c) The offenses covered by subsection (a) are the following:

“(1) Any offense under chapter 5 (arson) of this title.

“(2) Any offense under section 111 (assaulting, resisting, or impeding certain officers or employees), 113 (assault within maritime and territorial jurisdiction), or 114 (maiming within maritime and territorial jurisdiction) of this title, but only if the offense is subject to a maximum sentence of imprisonment of one year or more.

“(3) Any offense under section 201 (bribery of public officials and witnesses) of this title.

“(4) Any offense under section 499 (military, naval, or official passes) of this title.

“(5) Any offense under section 701 (official badges, identifications cards, and other insignia), 702 (uniform of armed forces and Public Health Service), 703 (uniform of friendly nation), or 704 (military medals or decorations) of this title.

“(6) Any offense under chapter 41 (extortion and threats) of this title, but only if the offense is subject to a maximum sentence of imprisonment of three years or more.

“(7) Any offense under chapter 42 (extortions credit transactions) of this title.

“(8) Any offense under section 924(c) (use of firearm in violent or drug trafficking crime) or 924(o) (conspiracy to violate section 924(c)) of this title.

“(9) Any offense under chapter 50A (genocide) of this title.

“(10) Any offense under section 1111 (murder), 1112 (manslaughter), 1113 (attempt to commit murder or manslaughter), 1114 (protection of officers and employees of the United States), 1116 (murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1117 (conspiracy to commit murder), or 1119 (foreign murder of United States nationals) of this title.

“(11) Any offense under chapter 55 (kidnapping) of this title.

“(12) Any offense under section 1503 (influencing or injuring officer or juror generally), 1505 (obstruction of proceedings before departments, agencies, and committees), 1510 (obstruction of criminal investigations), 1512 (tampering with a witness, victim, or informant), or 1513 (retaliating against a witness, victim, or an informant) of this title.

“(13) Any offense under section 1951 (interference with commerce by threats or violence), 1952 (interstate and foreign travel or transportation in aid of racketeering enter-

prises), 1956 (laundering of monetary instruments), 1957 (engaging in monetary transactions in property derived from specified unlawful activity), 1958 (use of interstate commerce facilities in the commission of murder for hire), or 1959 (violent crimes in aid of racketeering activity) of this title.

“(14) Any offense under section 2111 (robbery or burglary within special maritime and territorial jurisdiction) of this title.

“(15) Any offense under chapter 109A (sexual abuse) of this title.

“(16) Any offense under chapter 113B (terrorism) of this title.

“(17) Any offense under chapter 113C (torture) of this title.

“(18) Any offense under chapter 115 (treason, sedition, and subversive activities) of this title.

“(19) Any offense under section 2442 (child soldiers) of this title.

“(20) Any offense under section 401 (manufacture, distribution, or possession with intent to distribute a controlled substance) or 408 (continuing criminal enterprise) of the Controlled Substances Act (21 U.S.C. 841, 848), or under section 1002 (importation of controlled substances), 1003 (exportation of controlled substances), or 1010 (import or export of a controlled substance) of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 960), but only if the offense is subject to a maximum sentence of imprisonment of 20 years or more.

“(d) In this section:

“(1) The term ‘employed by any department or agency of the United States other than the Department of Defense’ means—

“(A) employed as a civilian employee, a contractor (including a subcontractor at any tier), an employee of a contractor (or a subcontractor at any tier), a grantee (including a contractor of a grantee or a subgrantee or subcontractor at any tier), or an employee of a grantee (or a contractor of a grantee or a subgrantee or subcontractor at any tier) of any department or agency of the United States other than the Department of Defense;

“(B) present or residing outside the United States in connection with such employment;

“(C) in the case of such a contractor, contractor employee, grantee, or grantee employee, such employment supports a program, project, or activity for a department or agency of the United States; and

“(D) not a national of or ordinarily resident in the host nation.

“(2) The term ‘accompanying any department or agency of the United States other than the Department of Defense’ means—

“(A) a dependant, family member, or member of household of—

“(i) a civilian employee of any department or agency of the United States other than the Department of Defense; or

“(ii) a contractor (including a subcontractor at any tier), an employee of a contractor (or a subcontractor at any tier), a grantee (including a contractor of a grantee or a subgrantee or subcontractor at any tier), or an employee of a grantee (or a contractor of a grantee or a subgrantee or subcontractor at any tier) of any department or agency of the United States other than the Department of Defense, which contractor, contractor employee, grantee, or grantee employee is supporting a program, project, or activity for a department or agency of the United States other than the Department of Defense;

“(B) residing with such civilian employee, contractor, contractor employee, grantee, or grantee employee outside the United States; and

“(C) not a national of or ordinarily resident in the host nation.

“(3) The term ‘grant agreement’ means a legal instrument described in section 6304 or 6305 of title 31, other than an agreement between the United States and a State, local, or foreign government or an international organization.

“(4) The term ‘grantee’ means a party, other than the United States, to a grant agreement.

“(5) The term ‘host nation’ means the country outside of the United States where the employee or contractor resides, the country where the employee or contractor commits the alleged offense at issue, or both.

#### “§ 3273. Regulations

“The Attorney General, after consultation with the Secretary of Defense, the Secretary of State, and the Director of National Intelligence, shall prescribe regulations governing the investigation, apprehension, detention, delivery, and removal of persons described in sections 3271 and 3272 of this title.”.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3267(1) of such title is amended to read as follows:

“(A) employed as a civilian employee, a contractor (including a subcontractor at any tier), or an employee of a contractor (or a subcontractor at any tier) of the Department of Defense (including a nonappropriated fund instrumentality of the Department);”.

(b) VENUE.—Chapter 211 of such title is amended by adding at the end the following new section:

#### “§ 3245. Optional venue for offenses involving Federal employees and contractors overseas

“In addition to any venue otherwise provided in this chapter, the trial of any offense involving a violation of section 3261, 3271, or 3272 of this title may be brought—

“(1) in the district in which is headquartered the department or agency of the United States that employs the offender, or any one of two or more joint offenders, or

“(2) in the district in which is headquartered the department or agency of the United States that the offender is accompanying, or that any one of two or more joint offenders is accompanying.”.

(c) SUSPENSION OF STATUTE OF LIMITATIONS.—Chapter 213 of such title is amended by inserting after section 3287 the following new section:

#### “§ 3287A. Suspension of limitations for offenses involving Federal employees and contractors overseas

“The time during which a person who has committed an offense constituting a violation of section 3272 of this title is outside the United States, or is a fugitive from justice within the meaning of section 3290 of this title, shall not be taken as any part of the time limited by law for commencement of prosecution of the offense.”.

(d) CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of chapter 212A of such title is amended to read as follows:

#### “CHAPTER 212A—EXTRATERRITORIAL JURISDICTION OVER OFFENSES OF CONTRACTORS AND CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT”.

(2) TABLES OF SECTIONS.—(A) The table of sections at the beginning of chapter 211 of such title is amended by adding at the end the following new item:

“3245. Optional venue for offenses involving Federal employees and contractors overseas.”.

(B) The table of sections at the beginning of chapter 212A of such title is amended by striking the item relating to section 3272 and inserting the following new items:

“3272. Offenses committed by Federal contractors and employees outside the United States.

“3273. Regulations.”.

(C) The table of sections at the beginning of chapter 213 of such title is amended by inserting after the item relating to section 3287 the following new item:

“3287A. Suspension of limitations for offenses involving Federal employees and contractors overseas.”.

(3) TABLE OF CHAPTERS.—The item relating to chapter 212A in the table of chapters at the beginning of part II of such title is amended to read as follows:

#### “212A. Extraterritorial Jurisdiction Over Offenses of Contractors and Civilian Employees of the Federal Government ..... 3271”.

#### SEC. 3. INVESTIGATIVE TASK FORCES FOR CONTRACTOR AND EMPLOYEE OVERSIGHT.

(a) ESTABLISHMENT OF INVESTIGATIVE TASK FORCES FOR CONTRACTOR AND EMPLOYEE OVERSIGHT.—

(1) IN GENERAL.—The Attorney General, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the heads of any other departments or agencies of the Federal Government responsible for employing contractors or persons overseas shall assign adequate personnel and resources, including through the creation of task forces, to investigate allegations of criminal offenses under chapter 212A of title 18, United States Code (as amended by section 2(a) of this Act), and may authorize the overseas deployment of law enforcement agents and other government personnel for that purpose.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit any authority of the Attorney General or any Federal law enforcement agency to investigate violations of Federal law or deploy personnel overseas.

(b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

(1) INVESTIGATION.—The Attorney General shall have principal authority for the enforcement of chapter 212A of title 18, United States Code (as so amended), and shall have the authority to initiate, conduct, and supervise investigations of any alleged offenses under such chapter.

(2) LAW ENFORCEMENT AUTHORITY.—With respect to violations of sections 3271 and 3272 of title 18, United States Code (as so amended), the Attorney General may authorize any person serving in a law enforcement position in any other department or agency of the Federal Government, including a member of the Diplomatic Security Service of the Department of State or a military police officer of the Armed Forces, to exercise investigative and law enforcement authority, including those powers that may be exercised under section 3052 of title 18, United States Code, subject to such guidelines or policies as the Attorney General considers appropriate for the exercise of such powers.

(3) PROSECUTION.—The Attorney General may establish such procedures the Attorney General considers appropriate to ensure that Federal law enforcement agencies refer offenses under section 3271 or 3272 of title 18, United States Code (as so amended), to the Attorney General for prosecution in a uniform and timely manner.

(4) ASSISTANCE ON REQUEST OF ATTORNEY GENERAL.—Notwithstanding any statute, rule, or regulation to the contrary, the Attorney General may request assistance from the Secretary of Defense, the Secretary of State, or the head of any other Executive agency to enforce section 3271 or 3272 of title

18, United States Code (as so amended). The assistance requested may include the following:

(A) The assignment of additional personnel and resources to task forces established by the Attorney General under subsection (a).

(B) An investigation into alleged misconduct or arrest of an individual suspected of alleged misconduct by agents of the Diplomatic Security Service of the Department of State present in the nation in which the alleged misconduct occurs.

(5) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter for five years, the Attorney General shall, in consultation with the Secretary of Defense and the Secretary of State, submit to Congress a report containing the following:

(A) The number of prosecutions under chapter 212A of title 18, United States Code (as so amended), including the nature of the offenses and any dispositions reached, during the previous year.

(B) The actions taken to implement subsection (a)(1), including the organization and training of personnel and the use of task forces, during the previous year.

(C) Such recommendations for legislative or administrative action as the President considers appropriate to enforce chapter 212A of title 18, United States Code (as so amended), and the provisions of this section.

(c) EXECUTIVE AGENCY.—In this section, the term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

#### SEC. 4. EFFECTIVE DATE.

(a) IMMEDIATE EFFECTIVENESS.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) IMPLEMENTATION.—The Attorney General and the head of any other department or agency of the Federal Government to which this Act applies shall have 90 days after the date of the enactment of this Act to ensure compliance with the provisions of this Act.

#### SEC. 5. RULES OF CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act or any amendment made by this Act shall be construed—

(1) to limit or affect the application of extraterritorial jurisdiction related to any other Federal law; or

(2) to limit or affect any authority or responsibility of a Chief of Mission as provided in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) INTELLIGENCE ACTIVITIES.—Nothing in this Act or any amendment made by this Act shall be construed—

(1) to apply to authorized intelligence activities that are carried out by or on behalf of any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)) and conducted in accordance with the United States laws, authorities, and regulations governing such intelligence activities; or

(2) to provide immunity or an affirmative defense to an individual solely on the basis that the individual is working for or on behalf of the intelligence community.

#### SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

For each of the fiscal years 2012 through 2017, there are authorized to be appropriated to the Attorney General such sums as are necessary to carry out this Act.

By Mrs. MURRAY:

S. 1148. A bill to amend title 38, United States Code, to improve the provision of assistance to homeless veterans, to improve the regulation of fiduciaries who represent individuals for

purposes of receiving benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

Mrs. MURRAY. Mr. President, today, as Chairman of the Senate Committee on Veterans' Affairs, I am pleased to introduce the Veterans Programs Improvement Act of 2011.

The bill I am introducing today would allow the Department of Veterans Affairs to continue the important work of ending veteran homelessness, improve the quality of the fiduciary program administered by VA, improve claims processing and make a number of other improvements to VA programs. This statement is not a full summary of all the provisions within this legislation. However, I would like to provide an overview of the major benefits this legislation would provide.

The administration recently reported that as many as 76,000 veterans experienced homelessness on a given night in 2009. Many of these veterans face significant challenges such as mental illness, physical disability, and substance abuse. In order to heal and remain in stable housing, these veterans will need a great deal of support. I want to commend the VA for working tirelessly to reduce the number of veterans sleeping in the streets. We are certainly off to a good start, but I recognize that there is still much more work to be done.

This bill will extend the life and improve upon several critical programs in the ongoing effort to get homeless veterans off the streets and into secure housing. Current law requires that VA diagnose "serious mental illness" or a "substance abuse issue" before it can use its authority to contract for emergency shelter services. In the tough economic times this country is experiencing, homeless veterans in need of these services do not always suffer from serious mental illness or substance abuse issues, and would not be eligible. This legislation will ensure that these services are available to all homeless veterans who need them.

One of the keys to ending veteran homelessness is VA's Grant and Per Diem program, which was established to assist public and nonprofit private entities in furnishing services to homeless veterans. This bill will enhance this essential program by allowing grant funds to be used for new construction, in addition to currently approved uses such as expansion, remodeling, and acquisition. It will also allow grant funds to be used as a match for funding from other sources, and will require VA to take a hard look at how per diem payments are made in order to recommend improvements. This bill also seeks to include male homeless veterans with minor dependents as an additional population with special needs, for eligibility under VA's special needs grant program.

The unemployment rate for returning veterans has reached as high as high as one in five this year. Sadly, we

are seeing some of these new veterans appearing in homeless shelters. This is not just a VA problem, nor is it just a HUD problem—we all have an obligation to collaborate and address these unmet needs. To better assist in the effort to end homelessness among veterans, Congress needs more details surrounding the plan to end veteran homelessness. This legislation would require the Administration to expand upon their existing plan and submit a plan that includes details, such as a timeline, benchmarks, and recommendations. We will only be successful if we can work together to provide the appropriate tools to ensure access to medical care, affordable housing, and education and jobs.

Committee oversight has identified claims where frustrated families of veterans and survivors with severe dementia, such as those who seek VA pension benefits for home or institutional care see months go by because VA refuses to accept signatures from representatives or family caregivers. The situation is sometimes resolved by having the claimant mark an "X" or sign a claims form even when the claimant lacks the ability to understand what is written on the form. In other cases, it appeared that the caregiver gave up and no benefits were paid to otherwise eligible beneficiaries. This is unacceptable treatment for some of our most vulnerable veterans, and my legislation would improve the quality of VA's fiduciary program.

This legislation would make a number of additional improvements to VA programs. It would grow certain servicemembers to be eligible for a VA guaranteed home loan. Right now, to satisfy the occupancy requirement for a VA home loan, a veteran or servicemember or their spouse must be living in the home. Under this standard, a servicemember who is a single parent and is away on active duty is not eligible for a guaranteed home loan, even if that veteran's child is living in the home. This is unfair and wrong. Under this bill, a servicemember or veteran's dependent child will now satisfy the occupancy requirement. This change will help our servicemen and women better use their VA home loan benefits.

It is important that our disabled veterans face as few barriers as possible when attempting to obtain VA home loans. My legislation would allow an individual to receive a fee waiver if, during a pre-discharge program, he or she receives a disability rating for purposes of VA compensation based on existing medical evidence, such as service medical and treatment records. This change would allow an eligible individual to purchase a home without having to pay a VA funding fee, even if he or she has not undergone a pre-discharge examination or a VA disability evaluation. Specially Adapted Housing assistance provides critical support for our veterans in need. This bill extends VA's authority to provide Specially Adapted Housing assistance to eligible

veterans who are residing temporarily with family members. In addition, the assistance provided to such veterans would be annually adjusted based on a cost-of-construction index already in effect for other Specially Adapted Housing grants.

By honoring servicemembers who have died while on active duty, we ensure that their sacrifice and service will never be forgotten. Providing a presidential memorial certificate to the survivors of fallen servicemembers is one such way for our country to honor their service. Under current law, survivors of active duty servicemembers who have died are not eligible to receive a presidential memorial certificate. This is because eligibility is limited to survivors of veterans who were discharged under honorable conditions. Because a servicemember who died in active service is not defined by law as a "veteran," his or her survivors are not eligible to receive a memorial certificate. This bill would authorize VA to provide a presidential memorial certificate to the next of kin, relatives, or friends of servicemembers who have fallen while on active duty. In so doing, we express our country's deepest thanks for that servicemember's ultimate sacrifice.

Addressing the claims backlog and ensuring veterans receive the benefits they have earned is one of my top priorities. One of the reasons for the unreasonably long delays that occur in VA decision-making is the time it takes, often in excess of one and a half years, for the VA to forward an appeal to the Board of Veterans' Appeals. This bill would waive agency of original jurisdiction review over new evidence submitted after a veteran has filed a substantive appeal, unless the veteran requests it. Presuming a waiver of AOJ review would improve the timeliness of processing appeals, while at the same time preserve the veteran's right to request initial review by the AOJ, should he or she so desire.

This is not a full summary of all the provisions within this legislation. However, I hope that I have provided an appropriate overview of the major benefits this legislation would provide.

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. 1148

*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 "Veterans Programs Improvement Act of 2011".

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

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

#### TITLE I—HOMELESS VETERANS MATTERS

Sec. 101. Enhancement of comprehensive service programs.

- Sec. 102. Modification of grant program for homeless veterans with special needs.
- Sec. 103. Modification of authority for provision of treatment and rehabilitation to certain veterans to include provision of treatment and rehabilitation to homeless veterans who are not seriously mentally ill.
- Sec. 104. Plan to end veteran homelessness.
- Sec. 105. Extension of certain authorities relating to homeless veterans.
- Sec. 106. Reauthorization of appropriations for homeless veterans reintegration program.
- Sec. 107. Reauthorization of appropriations for financial assistance for supportive services for very low-income veteran families in permanent housing.
- Sec. 108. Reauthorization of appropriations for grant program for homeless veterans with special needs.

#### TITLE II—FIDUCIARY MATTERS

- Sec. 201. Appointment of caregivers and persons named under durable power of attorney as fiduciaries for purposes of benefits under laws administered by Secretary of Veterans Affairs.
- Sec. 202. Access by Secretary of Veterans Affairs to financial records of individuals represented by fiduciaries and receiving benefits under laws administered by Secretary.
- Sec. 203. Confidential nature of credit reports and documents pertaining to the appointment of a fiduciary.
- Sec. 204. Authority for certain persons to sign claims filed with Secretary of Veterans Affairs on behalf of claimants.
- Sec. 205. Improvement of process for filing jointly for social security and dependency and indemnity compensation.
- Sec. 206. Durable power of attorney defined.

#### TITLE III—OTHER ADMINISTRATIVE AND BENEFITS MATTERS

- Sec. 301. Occupancy of property by dependent child of veteran for purposes of meeting occupancy requirement for Department of Veterans Affairs housing loans.
- Sec. 302. Waiver of loan fee for individuals with disability ratings issued during pre-discharge programs.
- Sec. 303. Extension of authority for assistance for individuals residing temporarily in housing owned by family members.
- Sec. 304. Indexing of levels of assistance for individuals residing temporarily in housing owned by family members.
- Sec. 305. Expansion of eligibility for presidential memorial certificates to persons who died in the active military, naval, or air service.
- Sec. 306. Automatic waiver of agency of original jurisdiction review of new evidence.
- Sec. 307. Extension of authorities of Secretary of Veterans Affairs to use information from other agencies.
- Sec. 308. Extension of authority for regional office of Department of Veterans Affairs in Republic of the Philippines.

#### SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or re-

peal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

#### TITLE I—HOMELESS VETERANS MATTERS

##### SEC. 101. ENHANCEMENT OF COMPREHENSIVE SERVICE PROGRAMS.

(a) ENHANCEMENT OF GRANTS.—Section 2011 is amended—

(1) in subsection (b)(1)(A), by striking “expansion, remodeling, or alteration of existing facilities, or acquisition of facilities,” and inserting “new construction of facilities, expansion, remodeling, or alteration of existing facilities, or acquisition of facilities”; and

(2) in subsection (c)—

(A) in the first sentence, by striking “A grant” and inserting “(1) A grant”;;

(B) in the second sentence of paragraph (1), as designated by subparagraph (A), by striking “The amount” and inserting the following:

“(2) The amount”; and

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

“(3)(A) The Secretary may not deny an application from an entity that seeks a grant under this section to carry out a project described in subsection (b)(1)(A) solely on the basis that the entity proposes to use funding from other private or public sources, if the entity demonstrates that a private nonprofit organization will provide oversight and site control for the project.

“(B) In this paragraph, the term ‘private nonprofit organization’ means the following:

“(i) An incorporated private institution, organization, or foundation—

“(I) that has received, or has temporary clearance to receive, tax-exempt status under paragraph (2), (3), or (19) of section 501(c) of the Internal Revenue Code of 1986;

“(II) for which no part of the net earnings of the institution, organization, or foundation inures to the benefit of any member, founder, or contributor of the institution, organization, or foundation; and

“(III) that the Secretary determines is financially responsible.

“(ii) A for-profit limited partnership or limited liability company, the sole general partner or manager of which is an organization that is described by subclauses (I) through (III) of clause (i).

“(iii) A corporation wholly owned and controlled by an organization that is described by subclauses (I) through (III) of clause (i).”.

(b) GRANT AND PER DIEM PAYMENTS.—

(1) STUDY AND DEVELOPMENT OF PAYMENT METHOD.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall—

(A) complete a study of all matters relating to the method used by the Secretary to make per diem payments under section 2012(a) of title 38, United States Code; and

(B) develop an improved method for adequately reimbursing recipients of grants under section 2011 of such title for services furnished to homeless veterans.

(2) CONSIDERATION.—In developing the method required by paragraph (1)(B), the Secretary may consider payments and grants received by recipients of grants described in such paragraph from other departments and agencies of Federal and local governments and from private entities.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on—

(A) the findings of the Secretary with respect to the study required by subparagraph (A) of paragraph (1);

(B) the method developed under subparagraph (B) of such paragraph; and

(C) any recommendations of the Secretary for revising the method described in subparagraph (A) of such paragraph and any legislative action the Secretary considers necessary to implement such method.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 2013 is amended by striking “subchapter” and all that follows through the period and inserting the following: “subchapter amounts as follows:

“(1) \$150,000,000 for each of fiscal years 2007 through 2009.

“(2) \$175,100,000 for fiscal year 2010.

“(3) \$217,700,000 for fiscal year 2011.

“(4) \$250,000,000 for fiscal year 2012 and each fiscal year thereafter.”.

##### SEC. 102. MODIFICATION OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.

(a) INCLUSION OF ENTITIES ELIGIBLE FOR COMPREHENSIVE SERVICE PROGRAM GRANTS AND PER DIEM PAYMENTS FOR SERVICES TO HOMELESS VETERANS.—Subsection (a) of section 2061 is amended—

(1) by striking “to grant and per diem providers” and inserting “to entities eligible for grants and per diem payments under sections 2011 and 2012 of this title”; and

(2) by striking “by those facilities and providers” and inserting “by those facilities and entities”.

(b) INCLUSION OF MALE HOMELESS VETERANS WITH MINOR DEPENDENTS.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking “, including women who have care of minor dependents”;

(2) in paragraph (3), by striking “or”;

(3) in paragraph (4), by striking the period at the end and inserting “; or”; and

(4) by adding at the end the following new paragraph:

“(5) individuals who have care of minor dependents.”.

(c) AUTHORIZATION OF PROVISION OF SERVICES TO DEPENDENTS.—Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

“(c) PROVISION OF SERVICES TO DEPENDENTS.—A recipient of a grant under subsection (a) may use amounts under the grant to provide services directly to a dependent of a homeless veteran with special needs who is under the care of such homeless veteran while such homeless veteran receives services from the grant recipient under this section.”.

##### SEC. 103. MODIFICATION OF AUTHORITY FOR PROVISION OF TREATMENT AND REHABILITATION TO CERTAIN VETERANS TO INCLUDE PROVISION OF TREATMENT AND REHABILITATION TO HOMELESS VETERANS WHO ARE NOT SERIOUSLY MENTALLY ILL.

Section 2031(a) is amended in the matter before paragraph (1) by striking “, including” and inserting “and to”.

##### SEC. 104. PLAN TO END VETERAN HOMELESSNESS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a comprehensive plan to end homelessness among veterans.

(b) ELEMENTS.—The plan required by subsection (a) shall include the following:

(1) An analysis of programs of the Department of Veterans Affairs and other departments and agencies of the Federal Government that are designed to prevent homelessness among veterans and assist veterans who are homeless.

(2) An evaluation of whether and how coordination between the programs described in paragraph (1) would contribute to ending homelessness among veterans.



(3) Recommendations for improving the programs described in paragraph (1), enhancing coordination between such programs, or eliminating programs that are no longer effective.

(4) Recommendations for new programs to prevent and end homelessness among veterans, including an estimate of the cost of such programs.

(5) A timeline for implementing the plan, including milestones to track the implementation of the plan.

(6) Benchmarks to measure the effectiveness of the plan and the efforts of the Secretary to implement the plan.

(7) Such other matters as the Secretary considers necessary.

(c) **CONSIDERATION OF VETERANS LOCATED IN RURAL AREAS.**—The analysis, evaluation, and recommendations included in the report required by subsection (a) shall include consideration of the circumstances and requirements that are unique to veterans located in rural areas.

#### **SEC. 105. EXTENSION OF CERTAIN AUTHORITIES RELATING TO HOMELESS VETERANS.**

(a) **HEALTH CARE FOR HOMELESS VETERANS.**—Section 2031(b) is amended by striking “December 31, 2011” and inserting “December 31, 2014”.

(b) **CENTERS FOR PROVISION OF COMPREHENSIVE SERVICES TO HOMELESS VETERANS.**—Section 2033(d) is amended by striking “December 31, 2011” and inserting “December 31, 2014”.

(c) **PROPERTY TRANSFERS FOR HOUSING ASSISTANCE FOR HOMELESS VETERANS.**—Section 2041(c) is amended by striking “December 31, 2011” and inserting “December 31, 2014”.

(d) **ADVISORY COMMITTEE ON HOMELESS VETERANS.**—Section 2066(d) is amended by striking “December 30, 2011” and inserting “December 30, 2013”.

#### **SEC. 106. REAUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS REINTEGRATION PROGRAM.**

Section 2021(e)(1) is amended adding at the end the following new subparagraph:

“(G) \$50,000,000 for each of fiscal years 2012 and 2013.”.

#### **SEC. 107. REAUTHORIZATION OF APPROPRIATIONS FOR FINANCIAL ASSISTANCE FOR SUPPORTIVE SERVICES FOR VERY LOW-INCOME VETERAN FAMILIES IN PERMANENT HOUSING.**

(a) **IN GENERAL.**—Section 2044(e) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

“(D) \$100,000,000 for fiscal year 2012.”; and

(2) in paragraph (3), by striking “2011” and inserting “2012”.

(b) **TECHNICAL AMENDMENT.**—Paragraph (1) of such section is further amended by striking “carry out subsection (a), (b), and (c)” and inserting “carry out subsections (a), (b), and (c)”.

#### **SEC. 108. REAUTHORIZATION OF APPROPRIATIONS FOR GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS.**

Section 2061(c)(1) is amended by striking “2011” and inserting “2013”.

### **TITLE II—FIDUCIARY MATTERS**

#### **SEC. 201. APPOINTMENT OF CAREGIVERS AND PERSONS NAMED UNDER DURABLE POWER OF ATTORNEY AS FIDUCIARIES FOR PURPOSES OF BENEFITS UNDER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.**

(a) **IN GENERAL.**—Subsection (a) of section 5502 is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) in paragraph (1) by striking “Where, in” and inserting the following:

“(2) In the absence of special circumstances the Secretary determines necessitate otherwise, payment to a fiduciary under paragraph (1) shall be made to the person or entity caring for or having primary custody of the beneficiary or the beneficiary’s estate, including a person or entity who has been named by the incompetent beneficiary under a durable power of attorney.

“(3) Where, in,”

(b) **CLARIFICATION REGARDING DISTRIBUTION OF BENEFITS WHEN PAYMENT SUSPENDED OR WITHHELD FROM FIDUCIARY.**—Subsection (d) of such section is amended to read as follows:

“(d)(1) All or any part of any benefits the payment of which is suspended or withheld under this section may, in the discretion of the Secretary, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary, to be used solely for the benefit of such beneficiary, or, in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any of such veteran.

“(2)(A)(i) Any part not so paid and any funds of a mentally incompetent veteran not paid to the chief officer of the institution in which such veteran is a patient nor apportioned to the veterans’ dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary.

“(ii) All funds so held shall be disbursed under the order and in the discretion of the Secretary for the benefit of such beneficiary or the beneficiary’s dependents.

“(B)(i) Except as provided in this subparagraph or as otherwise provided by law, any balance remaining in such fund to the credit of any beneficiary may be paid to the beneficiary if the beneficiary recovers and is found competent, or if a minor, attains majority, or otherwise to the beneficiary’s fiduciary, or, in the event of the beneficiary’s death, to the beneficiary’s personal representative.

“(ii) Payment shall not be made to the beneficiary’s personal representative under clause (i) if, under the law of the beneficiary’s last legal residence, the beneficiary’s estate would escheat to the State.

“(iii) In the event of the death of a mentally incompetent veteran, all gratuitous benefits under laws administered by the Secretary deposited before or after August 7, 1959, in the personal funds of patients trust fund on account of such veteran shall not be paid to the personal representative of such veteran, but shall be paid to the following persons living at the time of settlement, and in the order named:

“(I) The surviving spouse.

“(II) The children (without regard to age or marital status), in equal parts.

“(III) The dependent parents of such veteran, in equal parts.

“(iv) If any balance remains after the application of clause (iii), such balance shall be deposited to the credit of the applicable current appropriation, except that there may be paid only so much of such balance as may be necessary to reimburse a person (other than a political subdivision of the United States) who bore the expenses of last sickness or burial of the veteran for such expenses.

“(v) No payment shall be made under clauses (iii) or (iv) unless claim therefor is filed with the Secretary within five years after the death of the veteran, except that, if any person so entitled under such clauses is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.”.

(c) **CLARIFICATION THAT DEFINITION OF FIDUCIARY INCLUDES PERSONS NAMED UNDER DURABLE POWER OF ATTORNEY.**—Section 5506(1) is amended by inserting “, including a person named as an agent under a durable power of attorney” before “; or”.

#### **SEC. 202. ACCESS BY SECRETARY OF VETERANS AFFAIRS TO FINANCIAL RECORDS OF INDIVIDUALS REPRESENTED BY FIDUCIARIES AND RECEIVING BENEFITS UNDER LAWS ADMINISTERED BY SECRETARY.**

(a) **IN GENERAL.**—Section 5502, as amended by section 201, is further amended by adding at the end the following new subsection:

“(f)(1) The Secretary may require any person or State or local governmental entity appointed or recognized as a fiduciary for a Department beneficiary under this section to provide authorization for the Secretary to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3415)) from any financial institution any financial record held by the institution with respect to an account of the fiduciary or the beneficiary which contains an amount paid by the Secretary to the fiduciary for the benefit of the beneficiary whenever the Secretary determines that the financial record is necessary—

“(A) for the administration of a program administered by the Secretary; or

“(B) in order to safeguard the beneficiary’s benefits against neglect, misappropriation, misuse, embezzlement, or fraud.

“(2) Notwithstanding section 1104(a)(1) of such Act (12 U.S.C. 3404(a)(1)), an authorization provided by a fiduciary under paragraph (1) with respect to a beneficiary shall remain effective until the earliest of—

“(A) the approval by a court or the Secretary of a final accounting of payment of benefits under any law administered by the Secretary to a fiduciary on behalf of such beneficiary;

“(B) in the absence of any evidence of neglect, misappropriation, misuse, embezzlement, or fraud, the express revocation by the fiduciary of the authorization in a written notification to the Secretary; or

“(C) the date that is three years after the date of the authorization.

“(3)(A) An authorization obtained by the Secretary pursuant to this subsection shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) for purposes of section 1103(a) of such Act (12 U.S.C. 3403(a)), and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act (12 U.S.C. 3404(a)), if the Secretary provides a copy of the authorization to the financial institution.

“(B) The certification requirements of section 1103(b) of such Act (12 U.S.C. 3403(b)) shall not apply to requests by the Secretary pursuant to an authorization provided under this subsection.

“(C) A request for a financial record by the Secretary pursuant to an authorization provided by a fiduciary under this subsection is deemed to meet the requirements of section 1104(a)(3) of such Act (12 U.S.C. 3404(a)(3)) and the matter in section 1102 of such Act (12 U.S.C. 3402) that precedes paragraph (1) of such section if such request identifies the fiduciary and the beneficiary concerned.

“(D) The Secretary shall inform any person or State or local governmental entity who provides authorization under this subsection of the duration and scope of the authorization.

“(E) If a fiduciary of a Department beneficiary refuses to provide, or revokes, any authorization to permit the Secretary to obtain from any financial institution any financial record concerning benefits paid by the Secretary for such beneficiary, the Secretary may, on that basis, revoke the appointment or the recognition of the fiduciary for such beneficiary and for any other Department beneficiary for whom such fiduciary has been appointed or recognized. If

the appointment or recognition of a fiduciary is revoked, benefits may be paid as provided in subsection (d).

“(4) For purposes of section 1113(d) of such Act (12 U.S.C. 3413(d)), a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.

“(5) In this subsection:

“(A) The term ‘financial institution’ has the meaning given such term in section 1101 of such Act (12 U.S.C. 3401), except that such term shall also include any benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity authorized to do business in any State.

“(B) The term ‘financial record’ has the meaning given such term in such section.”.

(b) **MODIFICATION OF DEFINITION OF FIDUCIARY TO INCLUDE STATE AND LOCAL GOVERNMENTAL ENTITIES.**—Section 5506, as amended by section 201(c), is further amended—

(1) by inserting “or State or local governmental entity” after “person” each place it appears; and

(2) in paragraph (1), by striking “who” and inserting “that”.

(c) **CONFORMING AMENDMENT.**—Section 5508 is amended—

(1) by striking “or agency” both places it appears and inserting “or State or local governmental entity”; and

(2) in the heading, by striking “institutional”.

**SEC. 203. CONFIDENTIAL NATURE OF CREDIT REPORTS AND DOCUMENTS PERTAINING TO THE APPOINTMENT OF A FIDUCIARY.**

(a) **CREDIT REPORTS AND CRIMINAL BACKGROUND REPORTS.**—Section 5507 is amended by adding at the end the following new subsection:

“(e) Except as provided under section 5701 of this title, credit reports obtained under subsection (a)(1)(C) and criminal background reports obtained under subsection (b) shall be segregated from the claimant’s file and may be disclosed only by a signed release executed by the person to whom it relates.”.

(b) **FILES, RECORDS, AND REPORTS.**—Section 5701 is amended—

(1) in subsection (a)—

(A) by inserting “(1)” before “All”; and

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

“(2) All files, records, reports, and other papers and documents pertaining to any credit report, criminal background evaluation, or financial record obtained in connection with the evaluation, appointment, or removal of a person who is considered for appointment or has been appointed a fiduciary for a beneficiary under chapter 55 of this title and the names and addresses of such persons in the possession of the Department shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.”;

(2) in subsection (b)—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(B) by inserting after paragraph (1) the following new paragraph (2):

“(2) Except as otherwise provided by law, to a person who has submitted personal identifying information, financial information, or criminal background information to the Department in connection with an appointment as a fiduciary for a beneficiary as to matters concerning such person or duly authorized agent or representative of such person upon written request of the person or agent.”; and

(C) in paragraph (3), as redesignated by subparagraph (A)—

(i) by inserting “(A)” before “When”; and

(ii) by adding at the end the following new subparagraph:

“(B) Unless a court orders otherwise, in an electronic or paper filing with a court that contains an individual’s social security number, TIN (within the meaning of section 7701(a)(41) of the Internal Revenue Code of 1986), claim number, birth date, the name of an individual known to be a minor, the name of an individual who has been determined by the Secretary to be incompetent under chapter 55 of this title, or a financial-account number, a party or nonparty making the filing shall include only the following:

“(i) The last four digits of the person’s social-security number, TIN, or claim number.

“(ii) The year of the individual’s birth.

“(iii) The initials of the individual known to be a minor or determined to be incompetent.

“(iv) The last four digits of the financial account number.”; and

(3) in subsection (h)(2)—

(A) in subparagraph (A), by striking “who has” and all that follows through “an offer” and inserting the following: “who—

“(i) has applied for any benefit under chapter 37 of this title;

“(ii) is, or is being considered for an appointment as, a fiduciary for a beneficiary for monetary benefits provided under this title; or

“(iii) has submitted an offer”;

(B) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

“(B) verifying, either before or after the Secretary has approved a person to serve as a fiduciary for a beneficiary under chapter 55 of this title, the creditworthiness, credit capacity, income, or financial resources of such person.”.

**SEC. 204. AUTHORITY FOR CERTAIN PERSONS TO SIGN CLAIMS FILED WITH SECRETARY OF VETERANS AFFAIRS ON BEHALF OF CLAIMANTS.**

(a) **IN GENERAL.**—Section 5101 is amended—

(1) in subsection (a)—

(A) by striking “A specific” and inserting

“(1) A specific”; and

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

“(2) If an individual has not attained the age of 18 years, is mentally incompetent, or is physically unable to sign a form, a form filed under paragraph (1) for the individual may be signed by a court-appointed representative, a person who is responsible for the care of the individual, including a spouse or other relative, or an attorney in fact or agent authorized to act on behalf of the individual under a durable power of attorney. If the individual is in the care of an institution, the manager or principal officer of the institution may sign the form.”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting “, signs a form on behalf of an individual to apply for,” after “who applies for”; and

(ii) by inserting “, or TIN in the case that the person is not an individual,” after “of such person”; and

(B) in paragraph (2), by inserting “or TIN” after “social security number” each place it appears; and

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

“(d) In this section:

“(1) The term ‘mentally incompetent’ with respect to an individual means that the individual lacks the mental capacity—

“(A) to provide substantially accurate information needed to complete a form; or

“(B) to certify that the statements made on a form are true and complete.

“(2) The term ‘TIN’ has the meaning given the term in section 7701(a)(41) of the Internal Revenue Code of 1986.”.

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply with respect to claims filed on or after the date of the enactment of this Act.

**SEC. 205. IMPROVEMENT OF PROCESS FOR FILING JOINTLY FOR SOCIAL SECURITY AND DEPENDENCY AND INDEMNITY COMPENSATION.**

Section 5105 is amended—

(1) in subsection (a)—

(A) by striking “shall” and inserting “may”; and

(B) by striking “Each such form” and inserting “Such forms”; and

(2) in subsection (b), by striking “on such a form” and inserting “on any document indicating an intent to apply for survivor benefits”.

**SEC. 206. DURABLE POWER OF ATTORNEY DEFINED.**

Section 101 is amended by adding at the end the following new paragraph:

“(34) The term ‘durable power of attorney’ means a written document signed by a person appointing an individual to act on the person’s behalf for the purposes stated in the document and which contains words ‘This power of attorney is not affected by subsequent disability or incapacity of the principal’, ‘This power of attorney becomes effective on the disability or incapacity of the principal’, or similar words showing the principal’s intent that the authority conferred on the attorney in fact or agent shall be exercised notwithstanding the principal’s subsequent disability, incapacity, or incompetence.”.

**TITLE III—OTHER ADMINISTRATIVE AND BENEFITS MATTERS**

**SEC. 301. OCCUPANCY OF PROPERTY BY DEPENDENT CHILD OF VETERAN FOR PURPOSES OF MEETING OCCUPANCY REQUIREMENT FOR DEPARTMENT OF VETERANS AFFAIRS HOUSING LOANS.**

Paragraph (2) of section 3704(c) is amended to read as follows:

“(2) In any case in which a veteran is in active-duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of this chapter shall be considered to be satisfied if—

“(A) the spouse of the veteran occupies or intends to occupy the property as a home and the spouse makes the certification required by paragraph (1) of this subsection; or

“(B) a dependent child of the veteran occupies or will occupy the property as a home and the veteran’s attorney-in-fact or legal guardian of the dependent child makes the certification required by paragraph (1) of this subsection.”.

**SEC. 302. WAIVER OF LOAN FEE FOR INDIVIDUALS WITH DISABILITY RATINGS ISSUED DURING PRE-DISCHARGE PROGRAMS.**

Paragraph (2) of section 3729(c) is amended to read as follows:

“(2)(A) A veteran described in subparagraph (B) shall be treated as receiving compensation for purposes of this subsection as of the date of the rating described in such subparagraph without regard to whether an effective date of the award of compensation is established as of that date.

“(B) A veteran described in this subparagraph is a veteran who is rated eligible to receive compensation—

“(i) as the result of a pre-discharge disability examination and rating; or

“(ii) based on a pre-discharge review of existing medical evidence (including service medical and treatment records) that results in the issuance of a memorandum rating.”.



**SEC. 303. EXTENSION OF AUTHORITY FOR ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY FAMILY MEMBERS.**

Section 2102A(e) is amended by striking “December 31, 2011” and inserting “December 31, 2021”.

**SEC. 304. INDEXING OF LEVELS OF ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY FAMILY MEMBERS.**

Section 2102A(b) is amended—

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

(2) in the matter before subparagraph (A), as redesignated by paragraph (1), by inserting “(1)” before “The”; and

(3) by adding at the end the following new paragraph (2):

“(2) Effective on October 1 of each year (beginning in 2011), the Secretary shall use the same percentage calculated pursuant to section 2102(e) of this title to increase the amounts described in paragraph (1) of this subsection.”.

**SEC. 305. EXPANSION OF ELIGIBILITY FOR PRESIDENTIAL MEMORIAL CERTIFICATES TO PERSONS WHO DIED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE.**

Section 112(a) is amended—

(1) by inserting “and persons who died in the active military, naval, or air service,” after “under honorable conditions.”; and

(2) by striking “veteran’s” and inserting “deceased individual’s”.

**SEC. 306. AUTOMATIC WAIVER OF AGENCY OF ORIGINAL JURISDICTION REVIEW OF NEW EVIDENCE.**

(a) IN GENERAL.—Section 7105 is amended by adding at the end the following new subsection:

“(e)(1) If, either at the time or after the agency of original jurisdiction receives a substantive appeal, the claimant or the claimant’s representative, if any, submits evidence to either the agency of original jurisdiction or the Board of Veterans’ Appeals for consideration in connection with the issue or issues with which disagreement has been expressed, such evidence shall be subject to initial review by the Board unless the claimant or the claimant’s representative, as the case may be, requests in writing that the agency of original jurisdiction initially review such evidence.

“(2) A request for review of evidence under paragraph (1) shall accompany the submittal of the evidence.”.

(b) EFFECTIVE DATE.—Subsection (e) of such section, as added by subsection (a), shall take effect on the date that is 180 days after the date of the enactment of this Act, and shall apply with respect to claims for which a substantive appeal is filed on or after the date that is 180 days after the date of the enactment of this Act.

**SEC. 307. EXTENSION OF AUTHORITIES OF SECRETARY OF VETERANS AFFAIRS TO USE INFORMATION FROM OTHER AGENCIES.**

(a) AUTHORITY TO OBTAIN INFORMATION FROM SECRETARY OF TREASURY AND COMMISSIONER OF SOCIAL SECURITY FOR INCOME VERIFICATION PURPOSES.—Section 5317(g) is amended by striking “September 30, 2011” and inserting “September 30, 2016”.

(b) AUTHORITY TO USE DATA PROVIDED BY DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF ADJUSTING VETERANS BENEFITS.—

(1) IN GENERAL.—Section 5317A(d) is amended by striking “September 30, 2011” and inserting “September 30, 2021”.

(2) CONFORMING AMENDMENT.—Section 453(j)(11)(G) of the Social Security Act (42 U.S.C. 653(j)(11)(G)) is amended by striking “September 30, 2011” and inserting “September 30, 2021”.

**SEC. 308. EXTENSION OF AUTHORITY FOR REGIONAL OFFICE OF DEPARTMENT OF VETERANS AFFAIRS IN REPUBLIC OF THE PHILIPPINES.**

Section 315(b) is amended by striking “December 31, 2011” and inserting “December 31, 2012”.

**NOTICE OF HEARINGS**

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information 531 of the Senate and the public of an addition to a previously announced hearing before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, June 7, 2011, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

In addition to the other measures previously announced, the Committee will also consider S. 1067, a bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to [Abigail\\_Campbell@energy.senate.gov](mailto:Abigail_Campbell@energy.senate.gov).

For further information, please contact Jonathan Epstein or Abby Campbell.

**COMMITTEE ON INDIAN AFFAIRS**

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, June 9, 2011, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing entitled “Setting the Standard: Domestic Policy Implications of the UN Declaration on the Rights of Indigenous Peoples.”

Those wishing additional information may contact the Indian Affairs Committee.

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Energy of the Energy and Natural Resources Committee. The hearing will be held on Thursday, June 9, 2011, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on critical minerals and materials legislation, including S. 383, S. 421, and S. 1113.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony

for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150, or by email to [Abigail\\_Campbell@energy.senate.gov](mailto:Abigail_Campbell@energy.senate.gov).

For further information, please contact Allyson Anderson or Abigail Campbell.

**APPOINTMENT**

(Omitted from Thursday, May 26, 2011 RECORD)

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, and after consultation with the Republican leader, pursuant to Public Law 106-286, appoints the following Members to serve on the Congressional-Executive Commission on the People’s Republic of China; the Honorable SUSAN COLLINS of Maine, and the Honorable JAMES E. RISCH of Idaho.

**ORDERS FOR TUESDAY, JUNE 7, 2011**

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10:30 a.m., on Tuesday, June 7; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of the motion to proceed to S. 782, the Economic Development Act; further, that the Senate recess from 12:30 p.m. to 2:15 p.m. to allow for weekly caucus meetings.

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

**PROGRAM**

Mr. REID. Mr. President, tonight, I filed cloture on the motion to proceed to S. 782, the Economic Development Act. I hope it is not necessary that we vote to invoke cloture on this matter on Wednesday, and I hope we can get to it tomorrow. If we cannot move to it under consent, then we will have the cloture vote Wednesday morning.

**ORDER FOR ADJOURNMENT**

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order, following the remarks of Senator BROWN of Ohio.

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