of S. 1850, a bill to expand and improve opportunities for beginning farmers and ranchers, and for other purposes.

S. 1868

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 1868, a bill to establish within the Smithsonian Institution the Smithsonian American Latino Museum, and for other purposes.

S. 1871

At the request of Mr. BROWN of Massachusetts, the names of the Senator from Nevada (Mr. HELLER) and the Senator from Missouri (Mr. BLUNT) were added as cosponsors of S. 1871, a bill to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes.

S. 1872

At the request of Mr. CASEY, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from Missouri (Mr. BLUNT), the Senator from Massachusetts (Mr. BROWN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 1872, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1876

At the request of Ms. MIKULSKI, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1876, a bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act.

At the request of Mr. BROWN of Ohio, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1876, supra.

S. 1882

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1882, a bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that valid generic drugs may enter the market.

S. RES. 320

At the request of Ms. SNOWE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Res. 320, a resolution designating November 26, 2011, as ''Small Business Saturday'' and supporting efforts to increase awareness of the value of locally owned small businesses.

S. RES. 331

At the request of Mr. KIRK, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Delaware (Mr. COONS) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Res. 331, a resolution expressing the sense of the Senate that Congress should ''Go Big'' in its attempts toward deficit reduction.

AMENDMENT NO. 976

At the request of Mr. BLUNT, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of amendment No. 976 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 982

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of amendment No. 982 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1010

At the request of Mr. MENENDEZ, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of amendment No. 1010 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1039

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 1039 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1049

At the request of Mr. BAUCUS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 1049 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself and Mr. KIRK):

S. 1884. A bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools; to the Committee on Health, Education, Labor, and Pensions.

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. 1884

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 ''School Access to Emergency Epinephrine Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to research funded by the Food Allergy Initiative and conducted by Northwestern University and Children's Memorial Hospital, nearly 6,000,000 children in the United States have food allergies.

(2) Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within minutes.

(3) More than 15 percent of school-aged children with food allergies have had an allergic reaction in school.

(4) Teenagers and young adults with food allergies are at the highest risk of fatal food-induced anaphylaxis.

(5) Individuals with food allergies who also have asthma may be at increased risk for severe or fatal food allergy reactions.

(6) Studies have shown that 25 percent of epinephrine administrations in schools involve individuals with a previously unknown allergy.

(7) The National Institute of Allergy and Infectious Diseases (''NIAID'') has reported that delays in the administration of epinephrine to patients in anaphylaxis can result in rapid decline and death. NIAID recommends that epinephrine be given promptly to treat anaphylaxis.

(8) Physicians can provide standing orders to furnish a school with epinephrine for injection, and several States have passed laws to authorize this practice.

(9) The American Academy of Allergy, Asthma, and Immunology recommends that epinephrine injectors should be included in all emergency medical treatment kits in schools.

(10) The American Academy of Pediatrics recommends that an anaphylaxis kit should be kept with medications in each school and made available to trained staff for administration in an emergency.

(11) According to the Food Allergy and Anaphylaxis Network, there are no contraindications to the use of epinephrine for a life-threatening reaction.

SEC. 3. PREFERENCE FOR STATES REGARDING ADMINISTRATION OF EPINEPHRINE BY SCHOOL PERSONNEL.

Section 399L of the Public Health Service Act (42 U.S.C. 280g(d)) is amended—

(1) in subsection (a), by redesignating the second paragraph (2) and paragraph (3) as paragraphs (3) and (4), respectively; and

(2) by striking subsection (d) and inserting the following:

''(d) PREFERENCE FOR STATES REGARDING MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.—

''(1) PREFERENCE.—The Secretary, in making any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies each of the following requirements:

''(A) SELF-ADMINISTRATION OF MEDICATION.—

''(i) IN GENERAL.—The State shall require that each public elementary school and secondary school in that State will grant to any student in the school an authorization for the self-administration of medication to treat that student's asthma or anaphylaxis, if—

''(I) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

''(II) the student has demonstrated to the health care practitioner (or such practitioner's designee) and the school nurse (if available) the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed;

''(III) the health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

''(IV) the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan formulated under subclause (III) and other documents related to liability.

''(ii) SCOPE.—An authorization granted under clause (i) shall allow the student involved to possess and use the student's medication—

''(I) while in school;

''(II) while at a school-sponsored activity, such as a sporting event; and

''(III) in transit to or from school or school-sponsored activities.

''(iii) DURATION OF AUTHORIZATION.—An authorization granted under clause (i)—

''(I) shall be effective only for the same school and school year for which it is granted; and

''(II) must be renewed by the parent or guardian each subsequent school year in accordance with this subsection.

''(iv) BACKUP MEDICATION.—The State shall require that backup medication, if provided by a student's parent or guardian, be kept at a student's school in a location to which the student has prompt access in the event of an asthma or anaphylaxis emergency.

''(v) MAINTENANCE OF INFORMATION.—The State shall require that information described in clauses (i)(III) and (i)(IV) be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

''(vi) RULE OF CONSTRUCTION.—Nothing in this subparagraph creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

''(B) SCHOOL PERSONNEL ADMINISTRATION OF EPINEPHRINE.—

''(i) IN GENERAL.—The State shall require that each public elementary school and secondary school in the State—

''(I) permit authorized personnel to administer epinephrine to any student believed in good faith to be having an anaphylactic reaction; and

''(II) maintain in a secure and easily accessible location a supply of epinephrine that—

''(aa) are prescribed under a standing protocol from a licensed physician; and

''(bb) are accessible to authorized personnel for administration to a student having an anaphylactic reaction.

''(ii) LIABILITY AND STATE LAW.—

''(I) GOOD SAMARITAN LAW.—The State shall have a State law ensuring that elementary school and secondary school employees and agents, including a physician providing a prescription for school epinephrine, will incur no liability related to the administration of epinephrine to any student believed in good faith to be having an anaphylactic reaction, except in the case of willful or wanton conduct.

''(II) STATE LAW.—Nothing in this subparagraph shall be construed to preempt State law, including any State law regarding whether students with allergy or asthma may possess and self-administer medication.

''(2) DEFINITIONS.—For purposes of this subsection:

''(A) The terms 'elementary school' and 'secondary school' have the meaning given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965.

''(B) The term 'health care practitioner' means a person authorized under law to prescribe drugs subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

''(C) The term 'medication' means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act and includes inhaled bronchodilators and epinephrine.

''(D) The term 'self-administration' means a student's discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to a prescription or written direction from a health care practitioner.

''(E) The term 'authorized personnel' means the school nurse or, if the school nurse is absent, an individual who has been designated by the school nurse and has received training in the administration of epinephrine.''.

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

S. 1886. A bill to prevent trafficking in counterfeit drugs; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, few things are more important to consumer well being than ensuring the safety of our pharmaceutical supply chain. Yet today, the penalties for counterfeit drug offenses are outdated and insufficient to deter this epidemic problem. As a result, counterfeit medicines reportedly lead to 100,000 deaths globally each year, with upwards of 90 percent of drug sales estimated to be counterfeit.

Similarly, few things are more important to the American economy and long-term job creation than protecting our companies' intellectual property. Yet businesses manufacturing and selling counterfeit drugs reportedly generate more than $75 billion in annual revenue. This means lost profits for American businesses and lost jobs for American workers. Such staggering numbers would be unacceptable in any economic climate, and they are devastating today.

Combating the sale of counterfeit drugs is increasingly difficult. Whether it is the prevalence of Internet pharmacies, or the new and sophisticated methods of manufacturing, packaging and distributing counterfeit drugs, the obstacles to safeguarding the pharmaceutical supply chain in today's economy are many. As a result, large counterfeit drug enterprises are being funded on the backs of consumers, both in Vermont and around the country, whose health and safety are at stake.

Under current law, it is illegal to introduce counterfeit drugs into interstate commerce, but the penalties are no different than those assessed for trafficking other counterfeit products, such as handbags or sneakers. While the manufacture and sale of any counterfeit product is a serious crime, counterfeit medication poses a grave danger to public health that warrants a harsher punishment. Legislation is needed to raise counterfeit drug penalties to a level commensurate with the severity of the offense in order to deter an epidemic problem.

Today, I am introducing the bipartisan Counterfeit Drug Penalty Enhancement Act, which will raise the maximum penalties for counterfeit drug offenses, and direct the United States Sentencing Commission to consider amending its guidelines and policy statements to reflect the serious nature of these crimes.

This legislation will protect the safety of American consumers, and the investment that American pharmaceutical companies make in developing the quality medicines that lead to reputable brands. Ensuring patient safety and combating intellectual property theft are not uniquely Democratic or Republican priorities, these are bipartisan priorities, and I hope that we can quickly take up and consider this much needed legislation.

We should not expect that enactment of this or any legislation will completely deter this serious problem. But this bill is an important step towards countering a problem that harms American consumers, American businesses, and American jobs.

I thank Senator GRASSLEY and Senator BENNET for working with me on this legislation, and 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. 1886

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 ''Counterfeit Drug Penalty Enhancement Act of 2011''.

SEC. 2. COUNTERFEIT DRUG PREVENTION.

Section 2320(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

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

''(2) COUNTERFEIT DRUGS.—

''(A) IN GENERAL.—Whoever commits an offense in violation of paragraph (1) with respect to a drug (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)) shall—

''(i) if an individual, be fined not more than $4,000,000, imprisoned not more than 20 years, or both; and

''(ii) if a person other than an individual, be fined not more than $10,000,000.

''(B) MULTIPLE OFFENSES.—In the case of an offense by a person under this paragraph that occurs after that person is convicted of another offense under this paragraph, the person convicted—

''(i) if an individual, shall be fined not more than $8,000,000, imprisoned not more than 20 years, or both; and

''(ii) if other than an individual, shall be fined not more than $20,000,000.''; and

(3) in paragraph (3)(B), as redesignated, by striking ''paragraph (1)'' and inserting ''paragraph (1) or (2)''.

SEC. 3. SENTENCING COMMISSION DIRECTIVE.

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, if appropriate, its guidelines and its policy statements applicable to persons convicted of an offense under section

2320(a)(2) of title 18, United States Code, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by the guidelines and policy statements.

(b) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the intent of Congress that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a) and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for the potential and actual harm to the public resulting from the offense;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

By Mr. FRANKEN (for himself, Ms. COLLINS, and Ms. MIKULSKI):

S. 1892. A bill to protect the housing rights of victims of domestic violence, dating violence, sexual assault, and stalking, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. FRANKEN. Mr. President, nobody should have to choose between safety and shelter. Yet 48 percent of homeless women in Minnesota previously had stayed in abusive situations because they did not have safe housing options available to them. Twenty-nine percent of homeless adult women in my State are fleeing domestic violence, and more than half of those women are living with children. That simply is not acceptable.

This problem is not unique to Minnesota. Far from it. National studies establish an undeniable link between homelessness and domestic and sexual violence. By one account, two in five women who experience domestic violence will become homeless at some point in their lives.

Not surprisingly, once a woman becomes homeless, she becomes vulnerable to further violence and exploitation. In fact, nine in ten homeless women have experienced severe physical or sexual abuse. During a hearing last week, the Executive Director of the Minnesota Indian Women's Resource Center explained that perpetrators of sexual violence often prey on homeless women.

Of course, we all know that this problem is not about statistics. It is about the real people with real stories who are behind the numbers. It is about the woman in California who was evicted for ''causing a nuisance'' after the police responded to an incident of domestic violence in her Low Income Housing Tax Credit unit—where she was the victim.

It is about the mother of five in Florida who received a termination notice after her ex-husband broke down her door and assaulted her. It is about the 83-year-old woman in Minnesota who was threatened with eviction from her Section 202 housing unit because of disturbances caused by her abuser.

Though the link between homelessness and domestic and sexual violence is undeniable, it is not unbreakable. Advocates across the country work tirelessly to ensure that victims of domestic and sexual violence have the shelter and support they need. Local law enforcement officials and prosecutors are dedicated to ending the cycle of abuse and homelessness. Property owners, too, often work with victims, advocates, and local authorities to find solutions to the problem.

Here in Congress, we have made efforts to break the link between domestic and sexual violence and homelessness as well. The 2005 Violence Against Women Act included important protections that made it unlawful to deny someone housing assistance under certain federal prorams just because the individual is a victim of domestic violence, dating violence, or stalking. From conversations with experts in Minnesota, I know that those protections have been invaluable.

The Violence Against Women Act is now up for reauthorization. That occasion provides us an opportunity to build on the successes of the 2005 bill and to address its shortcomings. That is why today I have introduced the Housing Rights for Victims of Domestic and Sexual Violence Act. This bill is for every woman who has hesitated to call the police to enforce a protective order because she was afraid that she would be evicted if she did so. The bill rests on the simple premise that a woman should not lose her home just because she is a victim of domestic or sexual violence.

The Violence Against Women Act currently protects tenants of only two federal housing programs—those provided under Sections 6 and 8 of the U.S. Housing Act of 1937. These protections were an important first step. But we can do better. A woman's rights should not depend on the type of housing assistance she receives.

So my bill extends VAWA's housing protections to the Low Income Housing Tax Credit program, the Rural Housing Services program, the Housing Opportunities for Persons with AIDS program, the Section 811 Supportive Housing Program for persons with disabilities, and five additional Federal housing programs. The Congressional Research Service estimates that the bill will cover more than 4 million housing units that are not included in existing law.

In addition, current law fails to secure housing rights for victims of sexual assault. My bill fixes that problem. It makes it unlawful to deny a woman federally assisted housing just because she is a victim of sexual assault. As the National Alliance to End Sexual Violence explains, too many victims become homeless as a result of sexual assault, and, once homeless, they are further to sexual victimization. My bill recognizes that victims of sexual assault require safe housing just as do victims of domestic violence, dating violence, and stalking—groups that already are covered by existing law.

My bill also takes an important new step toward ensuring that victims of domestic and sexual violence do not end up on the streets. It requires managers of federally supported housing units to adopt emergency transfer policies for women who would be in imminent danger were they to stay in their current homes. Under these policies, a victim of domestic or sexual violence could move to safe, federally subsidized housing unit instead of staying in harm's way.

I am proud to introduce this legislation with Senator COLLINS and Senator MIKULSKI, both of whom are true champions of women's rights. Both are advocates for victims of domestic and sexual violence. In 2005, both cosponsored the Violenc Against Women Act reauthorization bill. They were leaders in this area then, and they have stepped forward to lead again today. I thank them for their help.

The Housing Rights for Victims of Domestic and Sexual Violence Act is preventive, proven, and precedented.

It is preventive because it will keep women and children in their homes at a time when they are vulnerable—when they need a roof over their heads the most. It is no secret that shelters and transitional housing programs are overextended. This legislation addresses a victim's housing needs before she becomes homeless and requires those services.

The protections contained in the bill are proven. Advocacy groups from Minnesota and throughout the country—the people most familiar with the problem—have weighed in on this bill. It already has been endorsed by 23 organizations, including the National Network to End Domestic Violence, the National Alliance to End Sexual Violence, the National Women's Law Center, the National Housing Law Project, and the National Low Income Housing Coalition.

The bill is unprecedented, too. We are not reinventing the wheel here. The bill builds upon housing protections that were incduded in the 2005 VAWA reauthorization bill, which passed the Senate with unanimous consent and was signed into law by President George W. Bush. Though many say the political climate here in Washington has changed for the worse in the years since then, I am hopeful that the goals underlying VAWA once again will transcend partisanship.

We have worked together to address the unique housing needs facing domestic and sexual violence victims in the past. We need to do so again today.

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

S. 1892

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 ''Housing Rights for Victims of Domestic and Sexual Violence Act of 2011''.

SEC. 2. DENIAL OR TERMINATION OF ASSISTANCE AND EVICTION PROTECTIONS.

(a) AMENDMENT.—Subtitle N of the Violence Against Women Act of 1994 (42 U.S.C. 14043e et seq.) is amended—

(1) by inserting after the subtitle heading the following:

''CHAPTER 1—GRANT PROGRAMS'';

(2) in section 41402 (42 U.S.C. 14043e–1), in the matter preceding paragraph (1), by striking ''subtitle'' and inserting ''chapter'';

(3) in section 41403 (42 U.S.C. 14043e–2), in the matter preceding paragraph (1), by striking ''subtitle'' and inserting ''chapter''; and

(4) by adding at the end the following:

''CHAPTER 2—HOUSING RIGHTS

''SEC. 41411. HOUSING RIGHTS FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.

''(a) DEFINITIONS.—In this chapter:

''(1) APPROPRIATE AGENCY.—The term 'appropriate agency' means, with respect to a covered housing program, the Executive department (as defined in section 101 of title 5, United States Code) that carries out the covered housing program.

''(2) COVERED HOUSING PROGRAM.—The term 'covered housing program' means—

''(A) the program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

''(B) the program under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013);

''(C) the program under subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.);

''(D) the program under subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.);

''(E) the program under subtitle A of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12741 et seq.);

''(F) the program under paragraph (3) of section 221(d) of the National Housing Act (12 U.S.C. 1715l(d)) that bears interest at a rate determined under the proviso under paragraph (5) of such section 221(d);

''(G) the program under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

''(H) the programs under sections 8 and 9 of the United States Housing Act of 1937 (42 U.S.C. 1437f and 1437g);

''(I) rural housing assistance provided under sections 514, 515, 516, 533, and 538 of the Housing Act of 1949 (42 U.S.C. 1484, 1485, 1486, 1490m, and 1490p–2); and

''(J) the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986.

''(3) IMMEDIATE FAMILY MEMBER.—The term 'immediate family member' means, with respect to an individual—

''(A) a spouse, parent, brother, sister, or child of that individual, or an individual to whom such individual stands in loco parentis;

''(B) any individual living in the household of such individual who is related to such individual by blood or marriage; or

''(C) any individual living in the household of such individual who is related to such individual by affinity whose close association or intimate relationship with such individual is the equivalent of a family relationship.

''(b) PROHIBITED BASIS FOR DENIAL OR TERMINATION OF ASSISTANCE OR EVICTION.—

''(1) IN GENERAL.—An applicant for or tenant of housing assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

''(2) CONSTRUCTION OF LEASE TERMS.—An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as—

''(A) a serious or repeated violation of a lease for housing assisted under a covered housing program by the victim or threatened victim of such incident; or

''(B) good cause for terminating the assistance, tenancy, or occupancy rights to housing assisted under a covered housing program of the victim or threatened victim of such incident.

''(3) TERMINATION ON THE BASIS OF CRIMINAL ACTIVITY.—

''(A) DENIAL OF ASSISTANCE, TENANCY, AND OCCUPANCY RIGHTS PROHIBITED.—No person may deny assistance, tenancy, or occupancy rights to housing assisted under a covered housing program to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or an immediate family member of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

''(B) BIFURCATION.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), an owner or manager of housing assisted under a covered housing program may bifurcate a lease for the housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an immediate family member or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing.

''(ii) EFFECT OF EVICTION ON OTHER TENANTS.—If an owner or manager of housing assisted under a covered housing program evicts, removes, or terminates assistance to an individual under clause (i), and the individual is the sole tenant eligible to receive assistance under a covered housing program, the owner or manager of housing assisted under the covered housing program shall provide any remaining tenant an opportunity to establish eligibility for the covered housing program. If a tenant described in the preceding sentence cannot establish eligibility, the owner or manager of the housing shall provide the tenant a reasonable time, as determined by the appropriate agency, to find new housing or to establish eligibility for housing under another covered housing program.

''(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) shall be construed—

''(i) to limit the authority of an owner or manager of housing assisted under a covered housing program, when notified of a court order, to comply with a court order with respect to—

''(I) the rights of access to or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

''(II) the distribution or possession of property among members of a household in a case;

''(ii) to limit any otherwise available authority of an owner or manager of housing assisted under a covered housing program to evict or terminate assistance to a tenant for any violation of a lease not premised on the act of violence in question against the tenant or an immediate family member of the tenant, if the owner or manager does not subject an individual who is or has been a victim of domestic violence, dating violence, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate;

''(iii) to limit the authority to terminate assistance to a tenant or evict a tenant from housing assisted under a covered housing program if the owner or manager of the housing can demonstrate that an actual and imminent threat to other tenants or individuals employed at or providing service to the property would be present if the assistance is not terminated or the tenant is not evicted; or

''(iv) to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, sexual assault, or stalking.

''(c) DOCUMENTATION.—

''(1) REQUEST FOR DOCUMENTATION.—If an applicant for or tenant of housing assisted under a covered housing program represents to the owner or manager of the housing that the individual is entitled to protection under subsection (b), the owner or manager may request, in writing, that the tenant submit to the owner or manager a form of documentation described in paragraph (3).

''(2) FAILURE TO PROVIDE CERTIFICATION.—If a tenant does not provide the documentation requested under paragraph (1) within 14 business days after the tenant receives a request in writing for such certification from the owner or manager of the housing, nothing in this chapter may be construed to limit the authority of the owner or manager to evict any tenant or lawful occupant that commits violations of a lease. The owner or manager of the housing may extend the 14-day deadline at its discretion.

''(3) FORM OF DOCUMENTATION.—A form of documentation described in this paragraph is—

''(A) a certification form approved by the appropriate agency that—

''(i) states that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

''(ii) states that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under subsection (b) meets the requirements under subsection (b); and

''(iii) at the option of the applicant or tenant, includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking;

''(B) a document that—

''(i) is signed by—

''(I) an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom an applicant or tenant has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of the abuse; and

''(II) the applicant or tenant; and

''(ii) states under penalty of perjury that the individual described in clause (i)(I) believes that the incident of domestic violence, dating violence, sexual assault, or stalking

that is the ground for protection under subsection (b) meets the requirements under subsection (b);

''(C) a record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency; or

''(D) at the discretion of an owner or manager of housing assisted under a covered housing program, a statement or other evidence provided by an applicant or tenant.

''(4) CONFIDENTIALITY.—Any information submitted to an owner or manager under this subsection, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking shall be maintained in confidence by the owner or manager and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is—

''(A) requested or consented to by the individual in writing;

''(B) required for use in an eviction proceeding under subsection (b); or

''(C) otherwise required by applicable law.

''(5) DOCUMENTATION NOT REQUIRED.—Nothing in this subsection shall be construed to require an owner or manager of housing assisted under a covered housing program to request that an individual submit documentation of the status of the individual as a victim of domestic violence, dating violence, sexual assault, or stalking.

''(6) COMPLIANCE NOT SUFFICIENT TO CONSTITUTE EVIDENCE OF UNREASONABLE ACT.—Compliance with subsection (b) by an owner or manager of housing assisted under a covered housing program based on documentation received under this subsection shall not be sufficient to constitute evidence of an unreasonable act or omission by the owner or manager or an employee or agent of the owner or manager. Nothing in this paragraph shall be construed to limit the liability of an owner or manager of housing assisted under a covered housing program for failure to comply with subsection (b).

''(7) PREEMPTION.—Nothing in this subsection shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.

''(d) NOTIFICATION.—Each owner or manager of housing assisted under a covered housing program shall provide to each applicant for or tenant of such housing notice of the rights of individuals under this section, including the right to confidentiality and the limits thereof, together with the form described in subsection (c)(3)(A)—

''(1) at the time the individual applies to live in a dwelling unit assisted under the covered housing program;

''(2) at the time the individual is admitted to a dwelling unit assisted under the covered housing program;

''(3) with any notification of eviction or notification of termination of assistance;

''(4) in multiple languages, consistent with guidance issued by the Secretary of Housing and Urban Development in accordance with Executive Order 13166 (42 U.S.C. 2000d–1 note; relating to access to services for persons with limited English proficiency); and

''(5) by posting the notification in a public area of such housing.

''(e) EMERGENCY TRANSFERS.—Notwithstanding any other provision of law, each owner or manager of housing assisted under a covered program shall adopt an emergency transfer policy for tenants who are victims of domestic violence, dating violence, sexual assault, or stalking that—

''(1) allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling unit assisted under a covered housing program if—

''(A) the tenant expressly requests the transfer; and

''(B)(i) the tenant reasonably believes that the tenant is threatened with imminent harm from further violence if the tenant remains within the same dwelling unit assisted under a covered housing program; or

''(ii) in the case of a tenant who is a victim of sexual assault, the sexual assault occurred on the premises during the 90 day period preceding the request for transfer; and

''(2) incorporates reasonable confidentiality measures to ensure that the owner or manager does not disclose the location of the dwelling unit of a tenant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

''(f) POLICIES AND PROCEDURES FOR EMERGENCY TRANSFER.—The Secretary of Housing and Urban Development shall establish policies and procedures under which a victim requesting an emergency transfer under subsection (e) may receive, subject to the availability of tenant protection vouchers, assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

''(g) IMPLEMENTATION.—The appropriate agency with respect to each covered housing program shall implement this section, as this section applies to the covered housing program.''.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 6.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended—

(A) in subsection (c)—

(i) by striking paragraph (3); and

(ii) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(B) in subsection (l)—

(i) in paragraph (5), by striking '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence''; and

(ii) in paragraph (6), by striking ''; except that'' and all that follows through ''stalking.''; and

(C) by striking subsection (u).

(2) SECTION 8.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(A) in subsection (c), by striking paragraph (9);

(B) in subsection (d)(1)—

(i) in subparagraph (A), by striking ''and that an applicant or participant is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission''; and

(ii) in subparagraph (B)—

(I) in clause (ii), by striking '', and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of the victim of such violence''; and

(II) in clause (iii), by striking '', except that:'' and all that follows through ''stalking.'';

(C) in subsection (f)—

(i) in paragraph (6), by adding ''and'' at the end;

(ii) in paragraph (7), by striking the semicolon at the end and inserting a period; and

(iii) by striking paragraphs (8), (9), (10), and (11);

(D) in subsection (o)—

(i) in paragraph (6)(B), by striking the last sentence;

(ii) in paragraph (7)—

(I) in subparagraph (C), by striking ''and that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking shall not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the tenancy or occupancy rights of the victim of such violence''; and

(II) in subparagraph (D), by striking ''; except that'' and all that follows through ''stalking.''; and

(iii) by striking paragraph (20);

(E) by striking subsection (ee).

(3) RULE OF CONSTRUCTION.—Nothing in this Act, or the amendments made by this Act, shall be construed—

(A) to limit the rights or remedies available to any person under section 6 or 8 of the United States Housing Act of 1937 (42 U.S.C. 1437d and 1437f), as in effect on the day before the date of enactment of this Act; or

(B) to limit any right, remedy, or procedure otherwise available under any provision of part 5, 91, 880, 882, 883, 884, 886, 891, 903, 960, 966, 982, or 983 of title 24, Code of Federal Regulations, that—

(i) was issued under the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109–162; 119 Stat. 2960) or an amendment made by that Act; and

(ii) provides greater protection for victims of domestic violence, dating violence, sexual assault, and stalking than this Act.

By Mr. REED:

S. 1893. A bill to amend titles 5, 10, and 32, United States Code, to eliminate inequities in the treatment of National Guard technicians, to reduce the eligibility age for retirement for non-Regular service, and for other purposes; to the Committee on Armed Services.

Mr. REED. Mr. President, today I introduce the National Guard Technician Equity Act to correct inconsistencies in the dual-status technician program.

Over 48,000 National Guard dual-status technicians serve our Nation. They are a distinct group of workers, as civilians, they work for the reserve components, performing administrative duties, providing training, and maintaining and repairing equipment. However, as a condition of their civilian position, they are also required to maintain military status, attending weekend drills and annual training, deploying to Iraq and Afghanistan, and responding to domestic disasters and emergencies, thereby creating their ''dual-status.''

Because of their unique position, dual-status technicians are caught between the provisions that govern the federal civilian workforce and the military in numerous ways. First, under existing law, a dual-status technician who is no longer fit for military duty must be fired from their technician position, even if they are still fully capable of performing their civilian duties. This bill would give technicians the option of remaining in their civilian position if they have 20 years of service as

a dual-status technician. This way we will retain the experience and skills of these dedicated employees.

Second, dual-status technicians do not have the same appeal rights as most other federal employees, including those civilians in other Department of Defense positions. Federal employees who are covered by a collective bargaining agreement have the right to file a grievance and proceed to arbitration, or file a case with the Merit Systems Protection Board, MSPB, a neutral Federal agency. Dual-status technicians may appeal to the Adjutant General in their state, but not to any neutral third party. This bill would allow them to also appeal to the MSPB for grievances unrelated to their military service.

Third, most reserve component members are able to obtain health care coverage through the TRICARE Reserve Select program. However, dual-status technicians are ineligible, despite their mandatory military status and reserve service, because they can participate in the Federal Employees Health Benefit Program, FEHBP. FEHBP plans can be more expensive than TRICARE Reserve Select, thereby adding costs and limiting health care options for these Guard technicians. My legislation simply calls for the Department of Defense to study the feasibility of converting the coverage for National Guard dual-status technicians from FEHBP to TRICARE Reserve Select.

The National Guard Technician Equity Act also corrects other inconsistencies by providing greater civilian and military retirement parity, providing eligibility to retain certain military bonuses and benefits, and increasing leave time for required military training.

I urge my colleagues to support and cosponsor the National Guard Technician Equity Act. I will also be working to include provisions of this bill in the National Defense Authorization Act, which the Senate has begun to consider, and I hope my colleagues can work together on this effort.

Mr. President, I ask unanimous consent that this 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. 1893

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 ''National Guard Technician Equity Act''.

SEC. 2. TITLES 10 AND 32, UNITED STATES CODE, AMENDMENTS REGARDING NATIONAL GUARD TECHNICIANS AND RELATED PROVISIONS.

(a) AUTHORITY TO EMPLOY TECHNICIAN AS NON-DUAL STATUS TECHNICIAN AFTER 20 YEARS OF CREDITABLE SERVICE.—Subsection (c) of section 709 of title 32, United States Code, is amended to read as follows:

''(c) A person shall have the right to be employed under subsection (a) as a non-dual status technician (as defined by section 10217 of title 10) if—

''(1) the technician position occupied by the person has been designated by the Secretary concerned to be filled only by a non-dual status technician; or

''(2) the person occupying the technician position has at least 20 years of creditable service as a military technician (dual status).''.

(b) EXCEPTION TO DUAL-STATUS EMPLOYMENT CONDITION OF MEMBERSHIP IN SELECTED RESERVE.—Section 10216 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(B), by inserting ''subject to subsection (d),'' before ''is required''; and

(2) in subsection (d)(1), by striking ''Unless specifically exempted by law'' and inserting ''Except as provided in section 709(c)(2) of title 32 or as otherwise specifically exempted by law''.

(c) CONTINUED COMPENSATION AFTER LOSS OF MEMBERSHIP IN SELECTED RESERVE.—Subsection (e) of section 10216 of title 10, United States Code, is amended to read as follows:

''(e) CONTINUED COMPENSATION AFTER LOSS OF MEMBERSHIP IN SELECTED RESERVE.—Funds appropriated for the Department of Defense may continue to be used to provide compensation to a military technician who was hired as a military technician (dual status), but who is no longer a member of the Selected Reserve.''.

(d) REPEAL OF PERMANENT LIMITATIONS ON NUMBER OF NON-DUAL STATUS TECHNICIANS.—Section 10217 of title 10, United States Code, is amended by striking subsection (c).

(e) TECHNICIAN RESTRICTED RIGHT OF APPEAL AND ADVERSE ACTIONS COVERED.—

(1) RIGHTS OF GRIEVANCE, ARBITRATION, APPEAL, AND REVIEW BEYOND AG.—Section 709 of title 32, United States Code, is amended—

(A) in subsection (f)—

(i) in the matter preceding paragraph (1), by striking ''Notwithstanding any other provision of law and under'' and inserting ''Under''; and

(ii) in paragraph (4), by striking ''a right of appeal'' and inserting ''subject to subsection (j), a right of appeal''; and

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

''(j)(1) Notwithstanding subsection (f)(4) or any other provision of law, a technician and a labor organization that is the exclusive representative of a bargaining unit including the technician shall have the rights of grievance, arbitration, appeal, and review extending beyond the adjutant general of the jurisdiction concerned and to the Merit Systems Protection Board and thereafter to the United States Court of Appeals for the Federal Circuit, in the same manner as provided in sections 4303, 7121, and 7701–7703 of title 5, with respect to a performance-based or adverse action imposing removal, suspension for more than 14 days, furlough for 30 days or less, or reduction in pay or pay band (or comparable reduction).

''(2) This subsection does not apply to a technician who is serving under a temporary appointment or in a trial or probationary period.''.

(2) ADVERSE ACTIONS COVERED.—Section 709(g) of title 32, United States Code, is amended by striking ''7511, and 7512''.

(3) CONFORMING AMENDMENT.—Section 7511(b) of title 5, United States Code, is amended—

(A) by striking paragraph (5); and

(B) by redesignating paragraphs (6) through (10) as paragraphs (5) through (9), respectively.

(f) TECHNICIAN SENIORITY RIGHTS DURING RIF.—Subsection (g) of section 709 of title 32, United States Code, as amended by subsection (e)(2), is amended to read as follows:

''(g) Section 2108 of title 5 does not apply to a person employed under this section.''.

(g) AVAILABILITY OF CERTAIN ENLISTMENT, REENLISTMENT, AND STUDENT LOAN BENEFITS FOR MILITARY TECHNICIANS.—Section 10216 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(h) ELIGIBILITY FOR BONUSES AND OTHER BENEFITS.—(1) If an individual becomes employed as a military technician (dual status) while the individual is already a member of a reserve component, the Secretary concerned may not require the individual to repay any enlistment, reenlistment, or affiliation bonus provided to the individual in connection with the individual's enlistment or reenlistment before such employment.

''(2) Even though an individual employed as a military technician (dual status) is required as a condition of that employment to maintain membership in the Selected Reserve, the individual shall not be precluded from receiving an enlistment, reenlistment, or affiliation bonus nor be denied the opportunity to participate in an educational loan repayment program under chapter 1609 of this title as an additional incentive for the individual to accept and maintain such membership''.

(h) REPEAL OF PROHIBITION AGAINST OVERTIME PAY FOR NATIONAL GUARD TECHNICIANS.—Section 709(h) of title 32, United States Code, is amended by striking the second sentence and inserting the following new sentence: ''The Secretary concerned shall pay a technician for irregular or overtime work at a rate equal to one and one-half times the rate of basic pay applicable to the technician, except that, at the request of the technician, the Secretary may grant the technician, instead of such pay, an amount of compensatory time off from the technician's scheduled tour of duty equal to the amount of time spent in such irregular or overtime work.''.

SEC. 3. TITLE 5, UNITED STATES CODE, AMENDMENTS REGARDING NATIONAL GUARD TECHNICIANS AND RELATED PROVISIONS.

(a) LOWERING RETIREMENT AGE.—

(1) AMENDMENT TO FERS.—Subsection (c) of section 8414 of title 5, United States Code, is amended to read as follows:

''(c)(1) Under the circumstances described in paragraph (2), an employee who is separated from service as a military technician (dual status) is entitled to an annuity if the separation is by reason of either—

''(A) separating from the Selected Reserve; or

''(B) ceasing to hold the military grade specified by the Secretary concerned for the position involved.

''(2) Except as provided in paragraph (3), paragraph (1) applies to a military technician (dual status) who is separated—

''(A) after completing 25 years of service as such a technician, or

''(B) after becoming 50 years of age and completing 20 years of service as such a technician.

''(3) Paragraph (1) does not apply if separation or removal is for cause on charges of misconduct or delinquency.''.

(2) AMENDMENT TO CSRS.—Section 8336 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(q)(1) Under the circumstances described in paragraph (2), an employee who is separated from service as a military technician (dual status) is entitled to an annuity if the separation is by reason of either—

''(A) separating from the Selected Reserve; or

''(B) ceasing to hold the military grade specified by the Secretary concerned for the position involved.

''(2) Except as provided in paragraph (3), paragraph (1) applies to a military technician (dual status) who is separated—

"(A) after completing 25 years of service as such a technician, or

"(B) after becoming 50 years of age and completing 20 years of service as such a technician.

"(3) Paragraph (1) does not apply if separation or removal is for cause on charges of misconduct or delinquency.".

(b) ADEQUATE LEAVE TIME FOR MILITARY ACTIVATIONS.—Section 6323(a)(1) of title 5, United States Code, is amended by striking the last sentence and inserting the following new sentence: "Leave under this subsection accrues for an employee or individual at the rate of 30 days per fiscal year and, to the extent that such leave is not used by the employee or individual during the fiscal year accrued, accumulates without limitation for use in succeeding fiscal years.".

(c) IMPROVED HEALTH CARE BENEFITS.—

(1) FEHBP CHANGES.—Subparagraph (B) of section 8906(e)(3) of title 5, United States Code, is amended to read as follows:

"(B) An employee referred to in subparagraph (A) is an employee who—

"(i) is enrolled in a health benefits plan under this chapter;

"(ii) is a member of a reserve component of the Armed Forces;

"(iii) is placed on leave without pay or separated from service to perform the active duty or other duties described in clause (iv); and

"(iv) is called or ordered to—

"(I) active duty in support of a contingency operation (as defined in section 101(a)(13) of title 10);

"(II) active duty for a period of more than 30 consecutive days;

"(III) active duty under section 12406 of title 10;

"(IV) perform training or other duties described under paragraph (1) or (2) of section 502(f) of title 32; or

"(V) while not in Federal service, perform duties related to an emergency declared by the chief executive of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) STUDY AND REPORT.—

(A) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Secretary of Defense and the Director of the Office of Personnel Management shall jointly conduct a study and submit to Congress a report—

(i) evaluating the feasibility of converting military technicians from FEHBP coverage to coverage provided under the TRICARE or TRICARE Reserve Select program (or both); and

(ii) identifying any problems associated with the conversion of military technicians from FEHBP coverage to coverage provided under chapter 55 of title 10, United States Code, during contingency operations.

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

(i) the term "FEHBP coverage" means coverage provided under chapter 89 of title 5, United States Code; and

(ii) the term "contingency operation" has the meaning given that term in section 101(a)(13) of title 10, United States Code.

SEC. 4. REDUCTION IN ELIGIBILITY AGE FOR RETIREMENT FOR NON-REGULAR SERVICE.

Section 12731(f) of title 10, United States Code, is amended by striking "60 years of age" both places it appears and inserting "55 years of age".

By Mr. SCHUMER (for himself, Mr. WHITEHOUSE, Mr. GRAHAM, Mr. KYL, Mr. HATCH, and Mr. CORNYN):

S. 1894. A bill to deter terrorism, provide justice for victims, and for other purposes, to the Committee on the Judiciary.

Mr. SCHUMER. Mr. President, I rise today to introduce the Justice Against Sponsors of Terrorism Act, or JASTA. JASTA is a bipartisan effort to make modest changes to the Foreign Sovereign Immunities Act, or FSIA, and the Anti-Terrorism Act, or ATA, in order to ensure that the victims of terrorism in the United States can hold the foreign sponsors of that terrorism to account in American courts.

I am especially proud to be introducing this measure with such a bipartisan and diverse group of Judiciary Committee colleagues: Myself and Senator WHITEHOUSE on the Democratic side, and Senators GRAHAM, HATCH, KYL, and CORNYN on the Republican side.

This legislation has become necessary due to flawed court decisions that have deprived the victims of terrorism on American soil, including those injured by the terrorist attacks of September 11, 2001, of their day in court. Unfortunately, and contrary to the clear intent of Congress, some courts have concluded that Americans who were injured due to terrorist attacks in the United States have no recourse against the foreign states that sponsor those attacks. This conclusion is contrary to the plain language of the FSIA and ATA, and it is bad policy.

Let me explain the legal background. Originally passed in 1976, the FSIA abrogates the sovereign immunity of foreign countries and permits suit against them in Federal court when, among other things, a foreign country or its instrumentalities commit a tort that results in injury on our soil, this is known as the "tort exception" to the FSIA. In addition, the ATA authorizes suit in Federal court by any U.S. national injured "by reason of an act of international terrorism" and permits the recovery of damages in U.S. courts.

Thus, taken together, the FSIA and ATA were designed to enable terrorism victims to bring suit against foreign states and terror sponsors when they support terrorism against the United States. I am introducing this bill because I want the survivors of the 9/11 tragedy to have their day in court—and they were deprived of this by a court ruling that contorted the language and purpose of the FSIA and the ATA. As we all know, nearly 3,000 innocent victims died that day, and the Nation suffered $10 billion in property and other commercial damage alone—all at the hands of al-Qaeda and its funders.

In 2002, these plaintiffs sued, among other defendants, the Kingdom of Saudi Arabia, several Saudi officials, and a purported charity under the control of the Kingdom known as the Saudi High Commission for Relief of Bosnia and Herzegovina. Substantial evidence establishes that these defendants had provided funding and sponsorship to al-Qaeda without which it could not have carried out the attacks.

But the Second Circuit threw out this case, based on two flawed conclusions. First, the court ruled that the tort exception to the FSIA did not apply, and barred their case because the Saudi entities and individuals were not on the State Department's list. Second, the court ruled that there was no personal jurisdiction over the Saudis because while they certainly could "foresee" that their support would lead to terrorist acts, they did not "direct" the terrorist acts. There is another reason that I am introducing this bill. I am introducing this bill because we need to cut off the flow of money to terrorists by shutting down the reservoir—not just turning off the faucet. We need to use every tool at our disposal to hit terrorism at its very root, including the United States Federal courts.

You don't have to take my word for it. This focus on terrorist financing channels has been a major national security priority since the September 11 attacks. As the Treasury Department's former Under Secretary for Terrorism and Financial Intelligence has observed, "the terrorist operative who is willing to strap on a suicide belt is not susceptible to deterrence, but the individual donor who wants to support violent jihad may well be," Testimony of Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, before the Senate Committee on Finance, April 1, 2008.

It should be clear that the public interest is served when American citizens have the right to seek compensation for their injuries and that this right serves a dual purpose of deterring bad conduct. Yet we are here today introducing this bill, JASTA, because the courts have misconstrued our statutes.

Before closing, let me address one concern I have heard that deserves a response. There are those who worry that restoring Americans' right to bring these suits will interfere with our foreign affairs. I simply do not think that is the case. First of all, if Americans have been injured in the United States by foreign terrorism, they have the right to seek redress. But it is also important to remember that this law does not prevent the Executive Branch from espousing claims brought by Americans against foreign states and settling them through an executive agreement. This is an executive authority that has been recognized and utilized going back to the administration of George Washington, and nothing in JASTA interferes with it. Nothing in this act would interfere with the execution of our foreign policy.

To conclude, JASTA will restore the rights of the victims of terrorism and deter international terrorist financing, and it will have the related benefit of enabling the victims of the September 11 Attacks to proceed with their case, as Congress had intended. It does so without in any way threatening sensitive National security or diplomatic priorities of the nation. In fact, it makes the Nation stronger.

I urge my colleagues to support these modest, but critical, amendments.

By Mr. CASEY:

S. 1897. A bill to amend Public Law 101–377 to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes, to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, this Saturday, November 19, marks the 148 Anniversary of the Gettysburg Address. In this address, President Abraham Lincoln famously said, ''The world will little note nor long remember what we say here, but it can never forget what they did here. It is for us the living rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain, that this nation under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth.''

In advance of this important historic occasion, I am introducing the Gettysburg National Military Park Expansion Act. If enacted, this legislation would expand the boundaries of Gettysburg National Military Park to include the historic Gettysburg Railroad Station and an additional 45 acres of land at the southern end of the battlefield. Through these acquisitions, the between 1.5 to 3 million people that visit Gettysburg each year will enjoy a more complete experience. Passage of this legislation is very important, especially right now as the Park prepares for the 150 Anniversary of the Battle of Gettysburg.

The Gettysburg Railroad Station, which is also known as the Lincoln Train Station, is located in downtown Gettysburg, Pennsylvania. It was built in 1858 and is listed in the National Register of Historic Places. During the Battle of Gettysburg, the building served as a train station to transport thousands of troops and also as a hospital. Perhaps more important historically, this station was the site to which President Lincoln arrived on the day before he delivered the Gettysburg Address in 1863. This station is currently operated by the National Trust for Historic Gettysburg and is open to the public year round. It also serves as the home to the Pennsylvania Abraham Lincoln Bicentennial Commission, which organized and held events in 2009 to commemorate the 200th anniversary of Lincoln's birth. The station was renovated in 2006 using state grant money to serve as an information and orientation center, but currently does not serve as such because of a lack of funds to manage its day-to-day operations. The Gettysburg Borough Council voted in 2008 to transfer the station to the National Park Service so that it could be used as a visitor center for tourists coming to the Gettysburg area.

The Gettysburg National Military Park Expansion Act would also expand the boundary of the Gettysburg National Military Park to include 45 acres of land at the southern end of the battlefield. This area is both historically and environmentally significant. It was where cavalry skirmishes during the Battle for Gettysburg occurred and is also home to wetlands and wildlife habitat related to the Plum Run stream that runs through the National Park. The forty five acres were donated in April of 2009 and as a result no federal funding or land acquisition would be required to obtain the property and incorporate it into the National Park.

The Gettysburg National Military Park Expansion Act would help preserve different sites that are historically significant while protecting the environment. The Civil War was a monumental moment in our Nation's history and because of this we must take steps to preserve the area's historical sites.

By Mr. KIRK (for himself and Mr. DURBIN):

S. 1902. A bill to authorize the Secretary of the Interior to conduct a special resource study of the archeological site and surrounding land of the New Philadelphia town site in the State of Illinois, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KIRK. Mr. President, today I am pleased to join with Senator DURBIN to introduce a bill in support of New Philadelphia, the first town founded by a freed African-American. This bipartisan legislation would initiate a feasibility study in order to determine whether or not this area should be designated as a unit of the National Park System.

The town of New Philadelphia, Illinois, established in 1836, became the first known town platted and officially registered by an African-American prior to the Civil War. New Philadelphia became a place where European Americans, free-born African-Americans, and formerly enslaved individuals could live together in community during a time of intense racial strife that transpired before, during, and after the Civil War.

Frank McWorter, the founder of New Philadelphia and a former slave himself, saved money from neighboring labor jobs to purchase his own freedom and the freedom of fifteen other family members. Subsequently, Mr. McWorter purchased a sparse plot of land between the Illinois and Mississippi Rivers in Pike County, Illinois to establish the town of New Philadelphia, which also became a station along the Underground Railroad.

In 2005, the town of New Philadelphia is designated a National Historic Place and more recently, it was designated a National Historic Landmark in 2009. Being designated a unit of the National Park System will preserve the historical significance of New Philadelphia and allow its legacy to continue to inspire current and future generations to understand the struggle for freedom and opportunity.

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. 1902

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 ''New Philadelphia, Illinois, Study Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Frank McWorter, an enslaved man, bought his freedom and the freedom of 15 family members by mining for crude niter in Kentucky caves and processing the mined material into saltpeter;

(2) New Philadelphia, founded in 1836 by Frank McWorter, was the first town planned and legally registered by a free African-American before the Civil War;

(3) the first railroad constructed in the area of New Philadelphia bypassed New Philadelphia, which led to the decline of New Philadelphia; and

(4) the New Philadelphia site—

(A) is a registered National Historic Landmark;

(B) is covered by farmland; and

(C) does not contain any original buildings of the town or the McWorter farm and home that are visible above ground.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STUDY AREA.—The term ''Study Area'' means the New Philadelphia archeological site and the surrounding land in the State of Illinois.

SEC. 4. SPECIAL RESOURCE STUDY.

(a) STUDY.—The Secretary shall conduct a special resource study of the Study Area.

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the Study Area;

(2) determine the suitability and feasibility of designating the Study Area as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Study Area by—

(A) Federal, State, or local governmental entities; or

(B) private and nonprofit organizations;

(4) consult with—

(A) interested Federal, State, or local governmental entities;

(B) private and nonprofit organizations; or

(C) any other interested individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under paragraph (3).

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the

Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

(e) FUNDING.—The study authorized under this section shall be carried out using existing funds of the National Park Service.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 332—SUPPORTING THE GOALS AND IDEALS OF AMERICAN EDUCATION WEEK

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

S. RES. 332

Whereas the National Education Association has designated November 13 through November 19, 2011, as the 90th annual observance of American Education Week;

Whereas public schools are the backbone of the Nation's democracy, providing young people with the tools they need to maintain the Nation's precious values of freedom, civility, and equality;

Whereas by equipping young people in the United States with both practical skills and broader intellectual abilities, public schools give them hope for, and access to, a productive future;

Whereas people working in the field of public education, be they teachers, principals, higher education faculty and staff, custodians, substitute educators, bus drivers, clerical workers, food service professionals, workers in skilled trades, health and student service workers, security guards, technical employees, or librarians, work tirelessly to serve children and communities throughout the Nation with care and professionalism; and

Whereas public schools are community linchpins, bringing together adults, children, educators, volunteers, business leaders, and elected officials in a common enterprise: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of American Education Week; and

(2) encourages the people of the United States to observe National Education Week by reflecting on the positive impact of all those who work together to educate children.

SENATE RESOLUTION 333—WELCOMING AND COMMENDING THE GOVERNMENT OF JAPAN FOR EXTENDING AN OFFICIAL APOLOGY TO ALL UNITED STATES FORMER PRISONERS OF WAR FROM THE PACIFIC WAR AND ESTABLISHING IN 2010 A VISITATION PROGRAM TO JAPAN FOR SURVIVING VETERANS, FAMILY MEMBERS, AND DESCENDANTS

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

S. RES. 333

Whereas the United States and Japan have enjoyed a productive and successful peace for over six decades, which has nurtured a strong and critical alliance and deep economic ties that are vitally important to both countries, the Asia-Pacific region, and the world;

Whereas the United States-Japan alliance is based on shared interests, responsibilities, and values and the common support for political and economic freedoms, human rights, and international law;

Whereas the United States-Japan alliance has been maintained by the contributions and sacrifices of members of the United States Armed Forces dedicated to Japan's defense and democracy;

Whereas, from December 7, 1941, to August 15, 1945, the Pacific War caused profound damage and suffering to combatants and noncombatants alike;

Whereas, among those who suffered and sacrificed greatly were the men and women of the United States Armed Forces who were captured by Imperial Japanese forces during the Pacific War;

Whereas many United States prisoners of war were subject to brutal and inhumane conditions and forced labor;

Whereas, according to the Congressional Research Service, an estimated 27,000 United States prisoners of war were held by Imperial Japanese forces and nearly 40 percent perished;

Whereas the American Defenders of Bataan and Corregidor and its subsequent Descendants Group have worked tirelessly to represent the thousands of United States veterans who were held by Imperial Japanese forces as prisoners of war during the Pacific War;

Whereas, on May 30, 2009, an official apology from the Government of Japan was delivered by Japan's Ambassador to the United States Ichiro Fujisaki to the last convention of the American Defenders of Bataan and Corregidor stating, ''Today, I would like to convey to you the position of the government of Japan on this issue. As former Prime Ministers of Japan have repeatedly stated, the Japanese people should bear in mind that we must look into the past and to learn from the lessons of history. We extend a heartfelt apology for our country having caused tremendous damage and suffering to many people, including prisoners of wars, those who have undergone tragic experiences in the Bataan Peninsula, Corregidor Island, in the Philippines, and other places.'';

Whereas, in 2010, the Government of Japan through its Ministry of Foreign Affairs has established a new program of remembrance and understanding that, for the first time, includes United States former prisoners of war and their family members or other caregivers by inviting them to Japan for exchange and friendship;

Whereas six United States former prisoners of war, each of whom was accompanied by a family member, and two descendants of prisoners of war participated in Japan's first Japanese/American POW Friendship Program from September 12, 2010, to September 19, 2010;

Whereas Japan's Foreign Minister Katsuya Okada on September 13, 2010, apologized to all United States former prisoners of war on behalf of the Government of Japan stating, ''You have all been through hardships during World War II, being taken prisoner by the Japanese military, and suffered extremely inhumane treatment. On behalf of the Japanese government and as the foreign minister, I would like to offer you my heartfelt apology.'';

Whereas Foreign Minister Okada stated that he expects the former prisoners of war exchanges with the people of Japan will ''become a turning point in burying their bitter feelings about the past and establishing a better relationship between Japan and the United States'';

Whereas Japan's Deputy Chief Cabinet Secretary Tetsuro Fukuyama on September 13, 2010, apologized to United States former prisoners of war for the ''immeasurable damage and suffering'' they experienced;

Whereas the participants of the first Japanese/American POW Friendship Program appreciated the generosity and hospitality they received from the Government and people of Japan during the Program and welcomed the apology offered by Foreign Minister Okada and Deputy Chief Cabinet Secretary Fukuyama;

Whereas the participants encourage the Government of Japan to continue this program of visitation and friendship and expand it to support projects for remembrance, documentation, and education; and

Whereas the United States former prisoners of war of Japan still await apologies and remembrance from the successor firms of those private entities in Japan that, in violation of the Third Geneva Convention and in unmerciful conditions, used their labor for economic gain to sustain war production: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes and commends the Government of Japan for extending an official apology to all United States former prisoners of war from the Pacific War and establishing in 2010 a visitation program to Japan for surviving veterans, their families, and descendants;

(2) appreciates the recent efforts by the Government of Japan toward historic apologies for the maltreatment of United States former prisoners of war;

(3) requests that the Government of Japan continue its new Japanese/American POW Friendship Program of reconciliation and remembrance and expand it to educate the public and its school children about the history of prisoners of war in Imperial Japan;

(4) requests that the Government of Japan respect the wishes and sensibilities of the United States former prisoners of war by supporting and encouraging programs for lasting remembrance and reconciliation that recognize their sacrifices, history, and forced labor;

(5) acknowledges the work of the Department of State in advocating for the United States prisoners of war from the Pacific War; and

(6) applauds the persistence, dedication, and patriotism of the members and descendants of the American Defenders of Bataan and Corregidor for their pursuit of justice and lasting peace.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1062. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 1063. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 1867, supra; which was ordered to lie on the table.

SA 1064. Mr. PAUL (for himself, Mrs. GILLIBRAND, Mr. WYDEN, Mr. LEAHY, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1867, supra.