S. 50

At the request of Mr. INOUYE, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 50, a bill to strengthen Federal consumer product safety programs and activities with respect to commercially-marketed seafood by directing the Secretary of Commerce to coordinate with the Federal Trade Commission and other appropriate Federal agencies to strengthen and coordinate those programs and activities.

S. 133

At the request of Mrs. MCCASKILL, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 133, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 195

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 195, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 210

At the request of Mr. COBURN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 210, a bill to amend title 44, United States Code, to eliminate the mandatory printing of bills and resolutions for the use of offices of Members of Congress.

S. 217

At the request of Mr. DEMINT, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. TOOMEY) were added as cosponsors of S. 217, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret ballot election conducted by the National Labor Relations Board.

S. 222

At the request of Mr. WHITEHOUSE, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 222, a bill to limit investor and homeowner losses in foreclosures, and for other purposes.

S. 244

At the request of Mr. BARRASSO, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 244, a bill to enable States to opt out of certain provisions of the Patient Protection and Affordable Care Act.

S. 281

At the request of Mrs. HUTCHISON, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 281, a bill to delay the implementation of the health reform law in the United States until there is a final resolution in pending lawsuits.

S. 282

At the request of Mr. COBURN, the names of the Senator from Missouri (Mrs. MCCASKILL) and the Senator from Illinois (Mr. KIRK) were added as cosponsors of S. 282, a bill to rescind unused earmarks.

S. 299

At the request of Mr. PAUL, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 299, a bill to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law.

S. 311

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 311, a bill to provide for the coverage of medically necessary food under Federal health programs and private health insurance.

S. 339

At the request of Mr. BAUCUS, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 339, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 344

At the request of Mr. REID, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 344, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes.

S. 358

At the request of Mr. ROBERTS, the names of the Senator from Arizona (Mr. KYL), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Hampshire (Ms. AYOTTE), the Senator from Texas (Mr. CORNYN), the Senator from Iowa (Mr. GRASSLEY) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 358, a bill to codify and modify regulatory requirements of Federal agencies.

S.J. RES. 3

At the request of Mr. HATCH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S.J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States relative to balancing the budget.

S. RES. 51

At the request of Mr. MENENDEZ, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Res. 51, a resolution recognizing the 190th anniversary of the independence of Greece and celebrating Greek and American democracy.

AMENDMENT NO. 22

At the request of Mr. PRYOR, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of amendment No. 22 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 64

At the request of Mr. COBURN, the names of the Senator from Missouri (Mrs. MCCASKILL), the Senator from Illinois (Mr. KIRK) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 64 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 71

At the request of Mrs. GILLIBRAND, her name was added as a cosponsor of amendment No. 71 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 86

At the request of Mr. INHOFE, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 86 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 97

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 97 intended to be proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Ms. SNOWE, and Ms. COLLINS):

S. 374. A bill to amend title XVIII of the Social Security Act to eliminate

the 190-day lifetime limit on inpatient psychiatric hospital services under the Medicare program; to the Committee on Finance.

Mr. KERRY. Mr. President, our country has recently taken great steps forward to support the principles of mental health parity. In 2008, Congress has enacted two important pieces of legislation to end discrimination against people suffering from mental illnesses.

Congress passed the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, MHPAEA, to prohibit the establishment of discriminatory benefit caps or cost-sharing requirements for mental health and substance use disorders. That same year Congress also passed the Medicare Improvements for Patients and Protections Act, MIPPA, which included legislation introduced by Senator SNOWE and myself, the Medicare Mental Health Copayment Equity Act. This legislation prevented Medicare beneficiaries from being charged higher copayments for outpatient mental health services than for all other outpatient physician services.

Unfortunately, even with the passage of MIPPA, a serious mental health inequity remains in Medicare. Medicare beneficiaries are currently limited to only 190 days of inpatient psychiatric hospital care in their lifetime. This lifetime limit directly impacts Medicare beneficiaries' access to psychiatric hospitals, although it does not apply to psychiatric units in general hospitals. This arbitrary cap on benefits is discriminatory to the mentally ill as there is no such lifetime limit for any other Medicare specialty inpatient hospital service. The 190-day lifetime limit is problematic for patients being treated in psychiatric hospitals as they may easily exceed the 190 days if they have a chronic mental illness.

That is why Senator SNOWE and I are working together once again to address the last remaining mental health parity issue in Medicare. Today, we are introducing the Medicare Mental Health Inpatient Equity Act. Our legislation would eliminate the Medicare 190-day lifetime limit for inpatient psychiatric hospital care. It would equalize Medicare mental health coverage with private health insurance coverage, expand beneficiary choice of inpatient psychiatric care providers, increase access for the seriously ill, and improve continuity of care.

This legislation is supported by eighty national organizations that represent hospital associations, seniors' organizations, disability organizations, and the mental health community. I would like to thank a number of organizations who have been integral to the development of the Medicare Mental Health Inpatient Equity Act and who have endorsed our legislation today, including the AARP, the American Hospital Association, the National Association of Psychiatric Health Systems, and the American Psychological Association.

Congress has now acted to address mental health parity issues for group health plans and for outpatient Medicare services. It's time to end this outmoded law and ensure that beneficiaries with mental illnesses have access to a range of appropriate settings for their care. I look forward to working with my colleagues in the Senate to achieve mental health parity in Medicare.

By Mr. CARDIN (for himself and Ms. MIKULSKI):

S. 377. A bill to authorize the Secretary of the Interior to conduct a special resource study of President Station in Baltimore, Maryland, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CARDIN. Mr. President, today I am proud to introduce the President Street Station Study Act. President Street Station, located in my hometown of Baltimore, played a crucial role in the Civil War, the Underground Railroad, the growth of Baltimore's railroad industry, and is a historically significant landmark to the Lincoln presidency.

The station was constructed for the Philadelphia, Wilmington, and Baltimore, PW&B, Railroad in 1849 and remains the oldest surviving big city railroad terminal in the United States. This historical structure is a unique architectural gem, arguably the first example and last survivor of the early barrel-vault train shed arches, also known as the Howe Truss. The arch-rib design became the blueprint for railroad bridges and roofs well into the 20th century and was replicated for every similarly designed train shed and roof for the next 20 years.

The growth of President Street Station and the PW&B railroad mirror the expansion of the railroad industry throughout the country in the latter half of the 19th century. This station played an essential role in making Baltimore the first railroad and sea-rail link in the nation and helped the city become the international port hub it remains to this day.

In its heyday, President Street Station was the key link connecting Washington DC and with the northeast states. Hundreds of passengers traveling north passed through this station and, by the start of the Civil War, Baltimore had become our nation's major southern railroad hub. Not surprisingly, the station played a critical role in both the Civil War and the Underground Railroad.

Perhaps its most famous passenger was Abraham Lincoln, who traveled through the station at least four times, including secretly on his way to his first inauguration. In 1861, President-elect Lincoln was warned by a PW&B private detective of a possible assassination plot in Baltimore as he transferred trains. While it is unclear if this plot existed and posed a serious threat, Lincoln nevertheless was secretly smuggled aboard a train in the dead of night to complete his trip to Washington.

Just a few months later, President Street Station served as a backdrop for what many historians claim was the first bloodshed of the Civil War. The Baltimore Riot of 1861 occurred when Lincoln called for Union volunteers to quell the rebellion at Fort Sumter in Charleston. On April 19, Massachusetts and Pennsylvania volunteers were met and attacked by a mob of secessionist and Confederate sympathizers. The bloody confrontation left four dead and thirty-six wounded. As the war continued, the Station remained a critical link for the Union. Troops and supplies from the north were regularly shuttled through the station to support Union soldiers.

It is well known that Maryland was a common starting point along the Underground Railroad and that many escaped slaves from Maryland's Eastern Shore plantations were destined for Baltimore and the President Street Station to travel North to freedom. A few weeks ago, I introduced a bill, The Harriet Tubman National Historical Parks Act, S. 247, to honor Maryland's own Harriet Tubman, the Underground Railroad's most famous ''conductor.'' While she personally led dozens of people to freedom, her courage and fortitude also inspired others to find their own strength to seek freedom. President Street Station was indeed a station on this secret network. Prior to emancipation in 1863, several renowned escapees, including Frederick Douglass, William and Ellen Craft, and Henry Box Brown, traveled through the station, risking their lives for a better and freer life.

Others' journeys for a better life also passed through President Street Station. From its beginning and into the 20th century, Baltimore was both a destination and departure point for immigrants. New arrivals from Ireland, Russia, and Europe arriving on the eastern seaboard traveled by way of the PW&B railroads to the west.

For decades, President Street Station has long been recognized as having an important place in history: In 1992, it was listed on the National Register of Historic places and the city of Baltimore has dedicated it a local historical landmark. For many years it served as the Baltimore Civil War Museum, educating generations of people about the role Maryland and Baltimore played in the Civil War and the early history of the city. In recent years, the museum, run by dedicated volunteers from the Maryland Historical Society and Friends of President Street Station, have struggled to keep the station's doors open and keeping the station's character true to its historical roots. The area around President Street Station has changed dramatically over the decades, but the Station has worked to preserve its history. It has been many years since trains passed through the President Street Station and it is clear that the best use for this building

today is to preserve the building and use it tell Station's American story.

President Street Station is one of America's historical treasures. As we celebrate President's Day this weekend, we honor some of our country's greatest leaders and remember our own rich and innovative history. This bill authorizes the Secretary of the Interior to conduct a special resource study of President Street Station to evaluate the suitability and feasibility of establishing the Station as a unit of the National Park Service. President Street Station, a contributor to the growth of the railroad, and a vital player in the Underground Railroad, Lincoln's Presidency and Civil War, is part of this history. I urge my colleagues to join me in giving this station the recognition it deserves and support this bill.

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

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

S. 377

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 ''President Street Station Study Act''.

SEC. 2. DEFINITIONS.

In this Act:

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

(2) STUDY AREA.—The term ''study area'' means the President Street Station, a railroad terminal in Baltimore, Maryland, the history of which is tied to the growth of the railroad industry in the 19th century, the Civil War, the Underground Railroad, and the immigrant influx of the early 20th century.

SEC. 3. 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 the Federal Government, State or local government entities, or private and nonprofit organizations;

(4) consult with interested Federal agencies, State or local governmental entities, private and nonprofit organizations, or any other interested individuals;

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives; and

(6) identify any authorities that would compel or permit the Secretary to influence local land use decisions under the alternatives.

(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 that describes—

(1) the results of the study; and

(2) any conclusions and recommendations of the Secretary.

By Mr. ROCKEFELLER:

S. 378. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board for Professional Teaching standards; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am introducing the Incentives to Educate American Children Act of 2011—I TEACH. This bill provides important tax incentives to promote the quality of all public school teachers by encouraging them to achieve certification from the National Board for Professional Teaching Standards. It provides further incentives to teachers in rural and high-poverty schools.

We all know that teachers are the front line for the education of our nation's children. Still, teachers continue to earn less than other college graduates. A recent study found that teachers only earn 77 percent as much as other college graduates. It is even worse for teachers in rural schools. Rural schools struggle with many unique challenges, and one of them is how to pay competitive salaries when transportation costs are necessarily higher than for urban schools. The Department of Education has reported that rural school districts have the lowest base salaries for starting teachers. This bill helps combat this inequity by providing a tax incentive to public school teachers in rural and high-poverty schools.

All schools today are struggling with the recruitment and retention of qualified teachers. Due to retirements and decreasing retention of beginning teachers, the experience level of our teachers is decreasing. In the 1987–1988 academic year, the most common number of years of experience for our teachers was 15 years. The most recent data from the 2007–2008 shows the most common years of experience is now just 1 year. The distribution of teaching experience in the data shows the strong need for incentives to encourage teachers to stay in the profession. We know that more experienced teachers help our students learn.

States are responsible for certifying teachers in their own states, but teachers have had the additional opportunity since 1987 to earn a certification from the National Board for Professional Teaching Standards. This independent, nonprofit, and nonpartisan organization provides teachers with a national board certification similar to those in other professions. Since 1987, more than 91,000 teachers have completed the rigorous process of National Board Certification. The National Research Council of the National Academies recently affirmed that students taught by National Board certified teachers make higher gains on achievement tests than students taught by teachers who have not applied or have not achieved this certification. This bill provides an incentive to public school teachers to achieve this certification and stay in the classroom.

The I TEACH Act of 2011 provides important incentives for teachers to serve in rural and high-poverty schools as well as for all public school teachers to demonstrate the accomplishment of National Board Certification. I urge my colleagues to support this bill.

By Mr. WEBB (for himself and Mr. WARNER):

S. 379. A bill to extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe-Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe; to the Committee on Indian Affairs.

Mr. WEBB. Mr. President, I rise to reintroduce the Indian Tribes of Virginia Federal Recognition Act of 2011. This legislation passed the Senate Committee on Indian Affairs and the U.S. House of Representatives in 2009. It would grant Federal recognition to 6 Native American tribes from the Commonwealth of Virginia. I am pleased to be joined by Senator MARK WARNER and in the U.S. House of Representatives Congressman MORAN, Congressman SCOTT and Congressman CONNOLLY, all of whom have been strong advocates for Virginia's Native American Tribes in past Congresses.

The 6 Virginia tribes covered under this bill began seeking Federal recognition more than 15 years ago. They are the Chickahominy, Chickahominy Indian Tribe Eastern Division, the Upper Mattaponi, the Rappahannock, the Monacan, and the Nansemond Indian Tribe.

The 6 Virginia Tribes covered in this legislation are the direct descendants of the tribes that helped ensure the survival of the first permanent English colony in the New World.

These 6 tribes have received State recognition as early as 1983, and have received strong bipartisan support from the Virginia General Assembly for Federal recognition. It is appropriate for them to finally receive the Federal recognition that has been denied for far too long.

I understand the reluctance from some in Congress to grant any Native American tribe Federal recognition through legislation rather than through the Bureau of Indian Affairs administrative process. I have not embraced this issue lightly, and agree in principle that Congress generally should not have to determine whether or not Native American tribes deserve Federal recognition.

Within the last 2 years the BIA's Office of Federal Acknowledgment came

out with new guidelines on implementing the criteria to determine Federal recognition. While I applaud improvements to the process, new guidelines still do not change the impact that racially hostile laws formerly in effect in Virginia had on these tribes' ability to meet the BIA's seven established recognition criteria.

Virginia's unique history and its harsh policies of the past have created a barrier for Virginia's Native American Tribes to meet the BIA criteria, even with the new guidelines. Many Western tribes experienced government neglect during the 20th century, but Virginia's story was different.

First, Virginia passed ''race laws'' in 1705, which regulated the activity of Virginia Indians. In 1924, Virginia passed the Racial Integrity Law, and the Virginia Bureau of Vital Statistics went so far as to eliminate an individual's identity as a Native American on many birth, death and marriage certificates. The shameful elimination of racial identity records had a devastating impact on Virginia's tribes when they began seeking Federal recognition.

Second, Virginia tribes signed a treaty with England, predating the practices of most tribes that signed a treaty with the Federal Government and therefore were not granted Federal recognition upon signing treaties with the Federal Government like tribes in other States did.

For these reasons, recognition of these 6 Virginia tribes is justified based on principles of dignity and fairness. As I mentioned, I have spent several years examining this issue in great detail, including the rich history and culture of Virginia's tribes. My staff and I asked a number of tough questions before we first introduced this bill in 2009, and great care and deliberation were put into arriving at this conclusion. After meeting with leaders of Virginia's Indian tribes and months of thorough investigation of the facts, I concluded that legislative action is needed for recognition of Virginia's tribes. Congressional hearings and reports over the last several Congresses demonstrate the ancestry and status of these tribes.

This bill has advanced in the past several Congresses with the strong support and tireless efforts of Congressman JIM MORAN. Every living Virginia Governor, Republican and Democrat including our current Governor, Robert McDonnell supports Federal recognition for these tribes. I look forward to working with my colleagues in the Senate, especially those on the Indian Affairs Committee, to push for passage of this important bill. Congress has exercised its power to recognize tribes in the past and I ask you to use this power to grant Federal recognition to these 6 Virginia tribes.

In 2007, we celebrated the 400th Anniversary of Jamestown—America's first colony. After 400 years since the founding of Jamestown, these 6 tribes deserve to join our Nation's other 562 federally-recognized tribes.

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

S. 379

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 ''Indian Tribes of Virginia Federal Recognition Act of 2011''.

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

TITLE I—CHICKAHOMINY INDIAN TRIBE

SEC. 101. FINDINGS.

Congress finds that—

(1) in 1607, when the English settlers set shore along the Virginia coastline, the Chickahominy Indian Tribe was 1 of about 30 tribes that received them;

(2) in 1614, the Chickahominy Indian Tribe entered into a treaty with Sir Thomas Dale, Governor of the Jamestown Colony, under which—

(A) the Chickahominy Indian Tribe agreed to provide 2 bushels of corn per man and send warriors to protect the English; and

(B) Sir Thomas Dale agreed in return to allow the Tribe to continue to practice its own tribal governance;

(3) in 1646, a treaty was signed which forced the Chickahominy from their homeland to the area around the York Mattaponi River in present-day King William County, leading to the formation of a reservation;

(4) in 1677, following Bacon's Rebellion, the Queen of Pamunkey signed the Treaty of Middle Plantation on behalf of the Chickahominy;

(5) in 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base;

(6) in 1711, the College of William and Mary in Williamsburg established a grammar school for Indians called Brafferton College;

(7) a Chickahominy child was 1 of the first Indians to attend Brafferton College;

(8) in 1750, the Chickahominy Indian Tribe began to migrate from King William County back to the area around the Chickahominy River in New Kent and Charles City Counties;

(9) in 1793, a Baptist missionary named Bradby took refuge with the Chickahominy and took a Chickahominy woman as his wife;

(10) in 1831, the names of the ancestors of the modern-day Chickahominy Indian Tribe began to appear in the Charles City County census records;

(11) in 1901, the Chickahominy Indian Tribe formed Samaria Baptist Church;

(12) from 1901 to 1935, Chickahominy men were assessed a tribal tax so that their children could receive an education;

(13) the Tribe used the proceeds from the tax to build the first Samaria Indian School, buy supplies, and pay a teacher's salary;

(14) in 1919, C. Lee Moore, Auditor of Public Accounts for Virginia, told Chickahominy Chief O.O. Adkins that he had instructed the Commissioner of Revenue for Charles City County to record Chickahominy tribal members on the county tax rolls as Indian, and not as white or colored;

(15) during the period of 1920 through 1930, various Governors of the Commonwealth of Virginia wrote letters of introduction for Chickahominy Chiefs who had official business with Federal agencies in Washington, DC;

(16) in 1934, Chickahominy Chief O.O. Adkins wrote to John Collier, Commissioner of Indian Affairs, requesting money to acquire land for the Chickahominy Indian Tribe's use, to build school, medical, and library facilities and to buy tractors, implements, and seed;

(17) in 1934, John Collier, Commissioner of Indian Affairs, wrote to Chickahominy Chief O.O. Adkins, informing him that Congress had passed the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 461 et seq.), but had not made the appropriation to fund the Act;

(18) in 1942, Chickahominy Chief O.O. Adkins wrote to John Collier, Commissioner of Indian Affairs, asking for help in getting the proper racial designation on Selective Service records for Chickahominy soldiers;

(19) in 1943, John Collier, Commissioner of Indian Affairs, asked Douglas S. Freeman,

editor of the Richmond News-Leader newspaper of Richmond, Virginia, to help Virginia Indians obtain proper racial designation on birth records;

(20) Collier stated that his office could not officially intervene because it had no responsibility for the Virginia Indians, ''as a matter largely of historical accident'', but was ''interested in them as descendants of the original inhabitants of the region'';

(21) in 1948, the Veterans' Education Committee of the Virginia State Board of Education approved Samaria Indian School to provide training to veterans;

(22) that school was established and run by the Chickahominy Indian Tribe;

(23) in 1950, the Chickahominy Indian Tribe purchased and donated to the Charles City County School Board land to be used to build a modern school for students of the Chickahominy and other Virginia Indian tribes;

(24) the Samaria Indian School included students in grades 1 through 8;

(25) In 1961, Senator Sam Ervin, Chairman of the Subcommittee on Constitutional Rights of the Committee on the Judiciary of the Senate, requested Chickahominy Chief O.O. Adkins to provide assistance in analyzing the status of the constitutional rights of Indians ''in your area'';

(26) in 1967, the Charles City County school board closed Samaria Indian School and converted the school to a countywide primary school as a step toward full school integration of Indian and non-Indian students;

(27) in 1972, the Charles City County school board began receiving funds under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) on behalf of Chickahominy students, which funding is provided as of the date of enactment of this Act under title V of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aaa et seq.);

(28) in 1974, the Chickahominy Indian Tribe bought land and built a tribal center using monthly pledges from tribal members to finance the transactions;

(29) in 1983, the Chickahominy Indian Tribe was granted recognition as an Indian tribe by the Commonwealth of Virginia, along with 5 other Indian tribes; and

(30) in 1985, Governor Gerald Baliles was the special guest at an intertribal Thanksgiving Day dinner hosted by the Chickahominy Indian Tribe.

SEC. 102. DEFINITIONS.

In this title:

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

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Chickahominy Indian Tribe.

SEC. 103. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)), that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of New Kent County, James City County, Charles City County, and Henrico County, Virginia.

SEC. 104. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

SEC. 105. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

SEC. 106. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—On request of the Tribe, the Secretary—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if the land is located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall—

(1) not later than 3 years after the date of a request of the Tribe under subsection (a), make a final written determination regarding the request; and

(2) immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—On request of the Tribe, any land taken into trust for the benefit of the Tribe pursuant to this section shall be considered to be a part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities—

(1) as a matter of claimed inherent authority; or

(2) pursuant to any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission).

SEC. 107. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

SEC. 108. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over any criminal offense committed, and any civil actions arising, on land located within the Commonwealth that is owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF COMMONWEALTH JURISDICTION BY SECRETARY.—The Secretary may accept on behalf of the United States, after consultation with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) on verification by the Secretary of a certification by the Tribe that the Tribe possesses the capacity to reassume that jurisdiction.

(c) EFFECT OF SECTION.—Nothing in this section affects the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

TITLE II—CHICKAHOMINY INDIAN TRIBE—EASTERN DIVISION

SEC. 201. FINDINGS.

Congress finds that—

(1) in 1607, when the English settlers set shore along the Virginia coastline, the Chickahominy Indian Tribe was 1 of about 30 tribes that received them;

(2) in 1614, the Chickahominy Indian Tribe entered into a treaty with Sir Thomas Dale, Governor of the Jamestown Colony, under which—

(A) the Chickahominy Indian Tribe agreed to provide 2 bushels of corn per man and send warriors to protect the English; and

(B) Sir Thomas Dale agreed in return to allow the Tribe to continue to practice its own tribal governance;

(3) in 1646, a treaty was signed which forced the Chickahominy from their homeland to the area around the York River in present-day King William County, leading to the formation of a reservation;

(4) in 1677, following Bacon's Rebellion, the Queen of Pamunkey signed the Treaty of Middle Plantation on behalf of the Chickahominy;

(5) in 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base;

(6) in 1711, the College of William and Mary in Williamsburg established a grammar school for Indians called Brafferton College;

(7) a Chickahominy child was 1 of the first Indians to attend Brafferton College;

(8) in 1750, the Chickahominy Indian Tribe began to migrate from King William County back to the area around the Chickahominy River in New Kent and Charles City Counties;

(9) in 1793, a Baptist missionary named Bradby took refuge with the Chickahominy and took a Chickahominy woman as his wife;

(10) in 1831, the names of the ancestors of the modern-day Chickahominy Indian Tribe began to appear in the Charles City County census records;

(11) in 1870, a census revealed an enclave of Indians in New Kent County that is believed to be the beginning of the Chickahominy Indian Tribe—Eastern Division;

(12) other records were destroyed when the New Kent County courthouse was burned, leaving a State census as the only record covering that period;

(13) in 1901, the Chickahominy Indian Tribe formed Samaria Baptist Church;

(14) from 1901 to 1935, Chickahominy men were assessed a tribal tax so that their children could receive an education;

(15) the Tribe used the proceeds from the tax to build the first Samaria Indian School, buy supplies, and pay a teacher's salary;

(16) in 1910, a 1-room school covering grades 1 through 8 was established in New Kent County for the Chickahominy Indian Tribe—Eastern Division;

(17) during the period of 1920 through 1921, the Chickahominy Indian Tribe—Eastern Division began forming a tribal government;

(18) E.P. Bradby, the founder of the Tribe, was elected to be Chief;

(19) in 1922, Tsena Commocko Baptist Church was organized;

(20) in 1925, a certificate of incorporation was issued to the Chickahominy Indian Tribe—Eastern Division;

(21) in 1950, the 1-room Indian school in New Kent County was closed and students were bused to Samaria Indian School in Charles City County;

(22) in 1967, the Chickahominy Indian Tribe and the Chickahominy Indian Tribe—Eastern Division lost their schools as a result of the required integration of students;

(23) during the period of 1982 through 1984, Tsena Commocko Baptist Church built a new sanctuary to accommodate church growth;

(24) in 1983 the Chickahominy Indian Tribe—Eastern Division was granted State recognition along with 5 other Virginia Indian tribes;

(25) in 1985—

(A) the Virginia Council on Indians was organized as a State agency; and

(B) the Chickahominy Indian Tribe—Eastern Division was granted a seat on the Council;

(26) in 1988, a nonprofit organization known as the ''United Indians of Virginia'' was formed; and

(27) Chief Marvin ''Strongoak'' Bradby of the Eastern Band of the Chickahominy presently chairs the organization.

SEC. 202. DEFINITIONS.

In this title:

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

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Chickahominy Indian Tribe—Eastern Division.

SEC. 203. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)), that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all future services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of New Kent County, James City County, Charles City County, and Henrico County, Virginia.

SEC. 204. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

SEC. 205. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

SEC. 206. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—On request of the Tribe, the Secretary—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if the land is located within the boundaries of New Kent County, James City County, Charles City County, or Henrico County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall—

(1) not later than 3 years after the date of a request of the Tribe under subsection (a), make a final written determination regarding the request; and

(2) immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—On request of the Tribe, any land taken into trust for the benefit of the Tribe pursuant to this section shall be considered to be a part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities—

(1) as a matter of claimed inherent authority; or

(2) pursuant to any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission).

SEC. 207. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

SEC. 208. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over any criminal offense committed, and any civil actions arising, on land located within the Commonwealth that is owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF COMMONWEALTH JURISDICTION BY SECRETARY.—The Secretary may accept on behalf of the United States, after consultation with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) on verification by the Secretary of a certification by the Tribe that the Tribe possesses the capacity to reassume that jurisdiction.

(c) EFFECT OF SECTION.—Nothing in this section affects the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

TITLE III—UPPER MATTAPONI TRIBE

SEC. 301. FINDINGS.

Congress finds that—

(1) during the period of 1607 through 1646, the Chickahominy Indian Tribes—

(A) lived approximately 20 miles from Jamestown; and

(B) were significantly involved in English-Indian affairs;

(2) Mattaponi Indians, who later joined the Chickahominy Indians, lived a greater distance from Jamestown;

(3) in 1646, the Chickahominy Indians moved to Mattaponi River basin, away from the English;

(4) in 1661, the Chickahominy Indians sold land at a place known as ''the cliffs'' on the Mattaponi River;

(5) in 1669, the Chickahominy Indians—

(A) appeared in the Virginia Colony's census of Indian bowmen; and

(B) lived in ''New Kent'' County, which included the Mattaponi River basin at that time;

(6) in 1677, the Chickahominy and Mattaponi Indians were subjects of the Queen of Pamunkey, who was a signatory to the Treaty of 1677 with the King of England;

(7) in 1683, after a Mattaponi town was attacked by Seneca Indians, the Mattaponi Indians took refuge with the Chickahominy Indians, and the history of the 2 groups was intertwined for many years thereafter;

(8) in 1695, the Chickahominy and Mattaponi Indians—

(A) were assigned a reservation by the Virginia Colony; and

(B) traded land of the reservation for land at the place known as ''the cliffs'' (which, as of the date of enactment of this Act, is the Mattaponi Indian Reservation), which had been owned by the Mattaponi Indians before 1661;

(9) in 1711, a Chickahominy boy attended the Indian School at the College of William and Mary;

(10) in 1726, the Virginia Colony discontinued funding of interpreters for the Chickahominy and Mattaponi Indian Tribes;

(11) James Adams, who served as an interpreter to the Indian tribes known as of the date of enactment of this Act as the ''Upper Mattaponi Indian Tribe'' and ''Chickahominy Indian Tribe'', elected to stay with the Upper Mattaponi Indians;

(12) today, a majority of the Upper Mattaponi Indians have ''Adams'' as their surname;

(13) in 1787, Thomas Jefferson, in Notes on the Commonwealth of Virginia, mentioned the Mattaponi Indians on a reservation in King William County and said that Chickahominy Indians were ''blended'' with the Mattaponi Indians and nearby Pamunkey Indians;

(14) in 1850, the census of the United States revealed a nucleus of approximately 10 families, all ancestral to modern Upper Mattaponi Indians, living in central King William County, Virginia, approximately 10 miles from the reservation;

(15) during the period of 1853 through 1884, King William County marriage records listed Upper Mattaponis as ''Indians'' in marrying people residing on the reservation;

(16) during the period of 1884 through the present, county marriage records usually refer to Upper Mattaponis as ''Indians'';

(17) in 1901, Smithsonian anthropologist James Mooney heard about the Upper Mattaponi Indians but did not visit them;

(18) in 1928, University of Pennsylvania anthropologist Frank Speck published a book on modern Virginia Indians with a section on the Upper Mattaponis;

(19) from 1929 until 1930, the leadership of the Upper Mattaponi Indians opposed the use of a ''colored'' designation in the 1930 United States census and won a compromise in which the Indian ancestry of the Upper Mattaponis was recorded but questioned;

(20) during the period of 1942 through 1945—

(A) the leadership of the Upper Mattaponi Indians, with the help of Frank Speck and others, fought against the induction of young men of the Tribe into ''colored'' units in the Armed Forces of the United States; and

(B) a tribal roll for the Upper Mattaponi Indians was compiled;

(21) from 1945 to 1946, negotiations took place to admit some of the young people of the Upper Mattaponi to high schools for Federal Indians (especially at Cherokee) because no high school coursework was available for Indians in Virginia schools; and

(22) in 1983, the Upper Mattaponi Indians applied for and won State recognition as an Indian tribe.

SEC. 302. DEFINITIONS.

In this title:

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

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Upper Mattaponi Tribe.

SEC. 303. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)), that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area within 25 miles of the Sharon Indian School at 13383 King William Road, King William County, Virginia.

SEC. 304. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

SEC. 305. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

SEC. 306. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—On request of the Tribe, the Secretary—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if the land is located within the boundaries of King William County, Caroline County, Hanover County, King and Queen County, and New Kent County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall—

(1) not later than 3 years after the date of a request of the Tribe under subsection (a), make a final written determination regarding the request; and

(2) immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—On request of the Tribe, any land taken into trust for the benefit of the Tribe pursuant to this section shall be considered to be a part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities—

(1) as a matter of claimed inherent authority; or

(2) pursuant to any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission).

SEC. 307. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

SEC. 308. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over any criminal offense committed, and any civil actions arising, on land located within the Commonwealth that is owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF COMMONWEALTH JURISDICTION BY SECRETARY.—The Secretary may accept on behalf of the United States, after consultation with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) on verification by the Secretary of a certification by the Tribe that the Tribe possesses the capacity to reassume that jurisdiction.

(c) EFFECT OF SECTION.—Nothing in this section affects the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

TITLE IV—RAPPAHANNOCK TRIBE, INC.

SEC. 401. FINDINGS.

Congress finds that—

(1)(A) the first encounter with the English colonists was chronicled by George Percy on May 5, 1607, when the Rappahannock werowance, Pipiscumah or Pipisco, sent a messenger to Captain Christopher Newport bidding the English to come to him.

(B) Percy wrote, ''When we came to Rappahanna's town, he entertained us in good humanity.'';

(C) the meeting took place approximately 10 miles from Jamestown, at the principal town of the Rappahannocks on the James River, Quioughcohanock (also called ''Tapahanauk'');

(D) Quioughcohanock was a part of the Powhatan chiefdom as well as a later town named after the werowance, Pipisco;

(E) those towns were located in (Old) James City County, which later became Surry County, Virginia; and

(F) there are numerous interactions between those Rappahannock towns and the English recorded in the Jamestown Narratives during the period of 1607 through 1617;

(2) during the initial months after Virginia was settled, the Rappahannock Indians had 2 encounters with Captain John Smith;

(3)(A) a meeting occurred during the time when Powhatan held Smith captive (December 1607 through January 8, 1608);

(B) Smith was taken to the Rappahannock principal town on the Rappahannock River to see if he was the ''great man'' that had previously sailed into the Rappahannock River, killed their king and kidnaped their people; and

(C) it was determined that Smith was too short to be that ''great man'';

(4) a second meeting took place during Smith's exploration of the Chesapeake Bay (July 1608 to September 1608), when, after the Moraughtacund Indians had stolen 3 women from the Rappahannock King, Smith was prevailed on to facilitate a peaceful truce between the Rappahannock and the Moraughtacund Indians;

(5) in the settlement, Smith had the 2 Indian tribes meet on the spot of their first fight;

(6) when it was established that both groups wanted peace, Smith told the Rappahannock King to select which of the 3 stolen women he wanted;

(7) the Moraughtacund King was given second choice among the 2 remaining women, and Mosco, a Wighcocomoco (on the Potomac River) guide, was given the third woman;

(8) in 1645, Captain William Claiborne tried unsuccessfully to establish treaty relations with the Rappahannocks, because the Rappahannock towns on the Rappahannock River had not participated in the Pamunkey-led uprising in 1644, and the English wanted to ''treat with the Rappahannocks or any other Indians not in amity with Opechancanough, concerning serving the County against the Pamunkey's'';

(9) in April 1651, the Rappahannocks conveyed a tract of land to an English settler, Colonel Morre Fauntleroy;

(10) the deed for the conveyance was signed by Accopatough, weroance of the Rappahannock Indians;

(11) in September 1653, Lancaster County signed a treaty with Rappahannock Indians, the terms of which treaty—

(A) gave Rappahannocks the rights of Englishmen in the county court; and

(B) attempted to make the Rappahannocks more accountable under English law;

(12) in September 1653, Lancaster County defined and marked the bounds of its Indian settlements;

(13) according to the Lancaster clerk of court, ''the tribe called the great Rappahannocks lived on the Rappahannock Creek just across the river above Tappahannock'';

(14) in September 1656, (Old) Rappahannock County (which, as of the date of enactment of this Act, is comprised of Richmond and Essex Counties, Virginia) signed a treaty with Rappahannock Indians that—

(A) mirrored the Lancaster County treaty from 1653; and

(B) stated that—

(i) Rappahannocks were to be rewarded, in Roanoke, for returning English fugitives; and

(ii) the English encouraged the Rappahannocks to send their children to live among the English as servants, who the English promised would be well-treated;

(15) in 1658, the Virginia Assembly revised a 1652 Act stating that ''there be no grants of land to any Englishman whatsoever de futuro until the Indians be first served with the proportion of 50 acres of land for each bowman'';

(16) in 1669, the colony conducted a census of Virginia Indians;

(17) as of the date of that census—

(A) the majority of the Rappahannocks were residing at their hunting village on the north side of the Mattaponi River; and

(B) at the time of the visit, census-takers were counting only the Indian tribes along the rivers, which explains why only 30 Rappahannock bowmen were counted on that river;

(18) the Rappahannocks used the hunting village on the north side of the Mattaponi River as their primary residence until the Rappahannocks were removed in 1684;

(19) in May 1677, the Treaty of Middle Plantation was signed with England;

(20) the Pamunkey Queen Cockacoeske signed on behalf of the Rappahannocks, ''who were supposed to be her tributaries'', but before the treaty could be ratified, the Queen of Pamunkey complained to the Virginia Colonial Council ''that she was having trouble with Rappahannocks and Chickahominies, supposedly tributaries of hers'';

(21) in November 1682, the Virginia Colonial Council established a reservation for the Rappahannock Indians of 3,474 acres ''about

the town where they dwelt'', the land being located in (Old) New Kent County, which was later divided to include the modern counties of Caroline and King & Queen in Virginia;

(22) the Rappahannock ''town'' was the hunting village on the north side of the Mattaponi River, where the Rappahannocks had lived throughout the 1670s;

(23) the acreage allotment of the reservation was based on the 1658 Indian Land Act, which translates into a bowman population of 70, or an approximate total Rappahannock population of 350;

(24) in 1683, following raids by Iroquoian warriors on Indian and English settlements, the Virginia Colonial Council ordered the Rappahannocks to leave their reservation and unite with the Nanzatico Indians at Nanzatico Indian Town, which was located across and up the Rappahannock River approximately 30 miles in King George County;

(25) between 1687 and 1699, the Rappahannocks migrated out of Nanzatico, returning to the south side of the Rappahannock River at Portobacco Indian Town;

(26)(A) in 1706, by order of Essex County, Lieutenant Richard Covington ''escorted'' the Portobaccos, Nanzaticos, and Rappahannocks out of Portabacco Indian Town, out of Essex County, and into King and Queen County, where those Indians settled along the ridgeline between the Rappahannock and Mattaponi Rivers, the site of their ancient hunting village and 1682 reservation; and

(B) that land encompassed the Newtown area on the King & Queen County side of the Mattaponi River and extended into Mangohick, on the King William County side of the Mattaponi River;

(27) during the 1760s, 3 Rappahannock girls were raised on Thomas Nelson's Bleak Hill Plantation in King William County;

(28) of those girls—

(A) 1 married a Saunders man;

(B) 1 married a Johnson man; and

(C) 1 had 2 children, Edmund and Carter Nelson, fathered by Thomas Cary Nelson;

(29)(A) land was gifted by the Nelson family to the Saunders and Johnson families as wedding gifts to the Rappahannock girls in King William County; and

(B) in the 19th century, those Saunders, Johnson, and Nelson families were among the core Rappahannock families from which the modern Rappahannock Tribe traces its descent;

(30) in 1819 and 1820, Edward Bird, John Bird (and his wife), Carter Nelson, Edmund Nelson, and Carter Spurlock (all Rappahannock ancestors) were listed on the tax roles of King and Queen County and taxed at the county poor rate;

(31) Edmund Bird was added to the tax roles in 1821;

(32) those tax records are significant documentation because the great majority of pre-1864 records for King and Queen County were destroyed by fire;

(33) beginning in 1819, and continuing through the 1880s, there was a solid Rappahannock presence in the membership at Upper Essex Baptist Church;

(34) that was the first instance of conversion to Christianity by at least some Rappahannock Indians;

(35) while 26 identifiable and traceable Rappahannock surnames appear on the pre-1863 membership list, and 28 were listed on the 1863 membership roster, the number of surnames listed had declined to 12 in 1878 and had risen only slightly to 14 by 1888;

(36) a reason for the decline is that in 1870, a Methodist circuit rider, Joseph Mastin, secured funds to purchase land and construct St. Stephens Baptist Church for the Rappahannocks living nearby in Caroline County;

(37) Mastin referred to the Rappahannocks during the period of 1850 to 1870 as ''Indians, having a great need for moral and Christian guidance'';

(38) St. Stephens was the dominant tribal church until the Rappahannock Indian Baptist Church was established in 1964;

(39) at both churches, the core Rappahannock family names of Bird, Clarke, Fortune, Johnson, Nelson, Parker, and Richardson predominate;

(40) during the early 1900s, James Mooney, noted anthropologist, maintained correspondence with the Rappahannocks, surveying them and instructing them on how to formalize their tribal government;

(41) in November 1920, Speck visited the Rappahannocks and assisted them in organizing the fight for their sovereign rights;

(42) in 1921, the Rappahannocks were granted a charter from the Commonwealth of Virginia formalizing their tribal government;

(43) Speck began a professional relationship with the Tribe that would last more than 30 years and document Rappahannock history and traditions as never before;

(44) in April 1921, Rappahannock Chief George Nelson asked the Governor of Virginia, Westmoreland Davis, to forward a proclamation to the President of the United States, along with an appended list of tribal members and a handwritten copy of the proclamation itself;

(45) the letter concerned Indian freedom of speech and assembly nationwide;

(46) in 1922, the Rappahannocks established a formal school at Lloyds, Essex County, Virginia;

(47) prior to establishment of the school, Rappahannock children were taught by a tribal member in Central Point, Caroline County, Virginia;

(48) in December 1923, Rappahannock Chief George Nelson testified before Congress appealing for a $50,000 appropriation to establish an Indian school in Virginia;

(49) in 1930, the Rappahannocks were engaged in an ongoing dispute with the Commonwealth of Virginia and the United States Census Bureau about their classification in the 1930 Federal census;

(50) in January 1930, Rappahannock Chief Otho S. Nelson wrote to Leon Truesdell, Chief Statistician of the United States Census Bureau, asking that the 218 enrolled Rappahannocks be listed as Indians;

(51) in February 1930, Truesdell replied to Nelson saying that ''special instructions'' were being given about classifying Indians;

(52) in April 1930, Nelson wrote to William M. Steuart at the Census Bureau asking about the enumerators' failure to classify his people as Indians, saying that enumerators had not asked the question about race when they interviewed his people;

(53) in a followup letter to Truesdell, Nelson reported that the enumerators were ''flatly denying'' his people's request to be listed as Indians and that the race question was completely avoided during interviews;

(54) the Rappahannocks had spoken with Caroline and Essex County enumerators, and with John M.W. Green at that point, without success;

(55) Nelson asked Truesdell to list people as Indians if he sent a list of members;

(56) the matter was settled by William Steuart, who concluded that the Bureau's rule was that people of Indian descent could be classified as ''Indian'' only if Indian ''blood'' predominated and ''Indian'' identity was accepted in the local community;

(57) the Virginia Vital Statistics Bureau classed all nonreservation Indians as ''Negro'', and it failed to see why ''an exception should be made'' for the Rappahannocks;

(58) therefore, in 1925, the Indian Rights Association took on the Rappahannock case to assist the Rappahannocks in fighting for their recognition and rights as an Indian tribe;

(59) during the Second World War, the Pamunkeys, Mattaponis, Chickahominies, and Rappahannocks had to fight the draft boards with respect to their racial identities;

(60) the Virginia Vital Statistics Bureau insisted that certain Indian draftees be inducted into Negro units;

(61) finally, 3 Rappahannocks who were convicted of violating the Federal draft laws because they refused to be inducted unless they could be classified as Indian, after spending time in a Federal prison, were granted conscientious objector status and served out the remainder of the war working in military hospitals;

(62) in 1943, Frank Speck noted that there were approximately 25 communities of Indians left in the Eastern United States that were entitled to Indian classification, including the Rappahannocks;

(63) in the 1940s, Leon Truesdell, Chief Statistician, of the United States Census Bureau, listed 118 members in the Rappahannock Tribe in the Indian population of Virginia;

(64) on April 25, 1940, the Office of Indian Affairs of the Department of the Interior included the Rappahannocks on a list of Indian tribes classified by State and by agency;

(65) in 1948, the Smithsonian Institution Annual Report included an article by William Harlen Gilbert entitled, ''Surviving Indian Groups of the Eastern United States'', which included and described the Rappahannock Tribe;

(66) in the late 1940s and early 1950s, the Rappahannocks operated a school at Indian Neck;

(67) the Commonwealth agreed to pay a tribal teacher to teach 10 students bused by King and Queen County to Sharon Indian School in King William County, Virginia;

(68) in 1965, Rappahannock students entered Marriott High School (a white public school) by executive order of the Governor of Virginia;

(69) in 1972, the Rappahannocks worked with the Coalition of Eastern Native Americans to fight for Federal recognition;

(70) in 1979, the Coalition established a pottery and artisans company, operating with other Virginia tribes;

(71) in 1980, the Rappahannocks received funding through the Administration for Native Americans of the Department of Health and Human Services to develop an economic program for the Tribe; and

(72) in 1983, the Rappahannocks received State recognition as an Indian tribe.

SEC. 402. DEFINITIONS.

In this title:

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

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—

(A) IN GENERAL.—The term ''Tribe'' means the organization possessing the legal name Rappahannock Tribe, Inc.

(B) EXCLUSIONS.—The term ''Tribe'' does not include any other Indian tribe, subtribe, band, or splinter group the members of which represent themselves as Rappahannock Indians.

SEC. 403. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)), that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of King and Queen County, Caroline County, Essex County, and King William County, Virginia.

SEC. 404. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

SEC. 405. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

SEC. 406. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—On request of the Tribe, the Secretary—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if the land is located within the boundaries of King and Queen County, Richmond County, Lancaster County, King George County, Essex County, Caroline County, New Kent County, King William County, and James City County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall—

(1) not later than 3 years after the date of a request of the Tribe under subsection (a), make a final written determination regarding the request; and

(2) immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—On request of the Tribe, any land taken into trust for the benefit of the Tribe pursuant to this section shall be considered to be a part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities—

(1) as a matter of claimed inherent authority; or

(2) pursuant to any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission).

SEC. 407. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

SEC. 408. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over any criminal offense committed, and any civil actions arising, on land located within the Commonwealth that is owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF COMMONWEALTH JURISDICTION BY SECRETARY.—The Secretary may accept on behalf of the United States, after consultation with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) on verification by the Secretary of a certification by the Tribe that the Tribe possesses the capacity to reassume that jurisdiction.

(c) EFFECT OF SECTION.—Nothing in this section affects the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

TITLE V—MONACAN INDIAN NATION

SEC. 501. FINDINGS.

Congress finds that—

(1) In 1677, the Monacan Tribe signed the Treaty of Middle Plantation between Charles II of England and 12 Indian ''Kings and Chief Men'';

(2) in 1722, in the Treaty of Albany, Governor Spotswood negotiated to save the Virginia Indians from extinction at the hands of the Iroquois;

(3) specifically mentioned in the negotiations were the Monacan tribes of the Totero (Tutelo), Saponi, Ocheneeches (Occaneechi), Stengenocks, and Meipontskys;

(4) in 1790, the first national census recorded Benjamin Evans and Robert Johns, both ancestors of the present Monacan community, listed as ''white'' with mulatto children;

(5) in 1782, tax records also began for those families;

(6) in 1850, the United States census recorded 29 families, mostly large, with Monacan surnames, the members of which are genealogically related to the present community;

(7) in 1870, a log structure was built at the Bear Mountain Indian Mission;

(8) in 1908, the structure became an Episcopal Mission and, as of the date of enactment of this Act, the structure is listed as a landmark on the National Register of Historic Places;

(9) in 1920, 304 Amherst Indians were identified in the United States census;

(10) from 1930 through 1931, numerous letters from Monacans to the Bureau of the Census resulted from the decision of Dr. Walter Plecker, former head of the Bureau of Vital Statistics of the Commonwealth of Virginia, not to allow Indians to register as Indians for the 1930 census;

(11) the Monacans eventually succeeded in being allowed to claim their race, albeit with an asterisk attached to a note from Dr. Plecker stating that there were no Indians in Virginia;

(12) in 1947, D'Arcy McNickle, a Salish Indian, saw some of the children at the Amherst Mission and requested that the Cherokee Agency visit them because they appeared to be Indian;

(13) that letter was forwarded to the Department of the Interior, Office of Indian Affairs, Chicago, Illinois;

(14) Chief Jarrett Blythe of the Eastern Band of Cherokee did visit the Mission and wrote that he ''would be willing to accept these children in the Cherokee school'';

(15) in 1979, a Federal Coalition of Eastern Native Americans established the entity known as ''Monacan Co-operative Pottery'' at the Amherst Mission;

(16) some important pieces were produced at Monacan Co-operative Pottery, including a piece that was sold to the Smithsonian Institution;

(17) the Mattaponi-Pamunkey-Monacan Consortium, established in 1981, has since been organized as a nonprofit corporation that serves as a vehicle to obtain funds for those Indian tribes from the Department of Labor under Native American programs;

(18) in 1989, the Monacan Tribe was recognized by the Commonwealth of Virginia, which enabled the Tribe to apply for grants and participate in other programs; and

(19) in 1993, the Monacan Tribe received tax-exempt status as a nonprofit corporation from the Internal Revenue Service.

SEC. 502. DEFINITIONS.

In this title:

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

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Monacan Indian Nation.

SEC. 503. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)), that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of all land within 25 miles from the center of Amherst, Virginia.

SEC. 504. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

SEC. 505. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

SEC. 506. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—On request of the Tribe, the Secretary—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007, if the land is located within the boundaries of Amherst County, Virginia; and

(2) may take into trust for the benefit of the Tribe—

(A) any land held in fee by the Tribe, if the land is located within the boundaries of Amherst County, Virginia; and

(B) the parcels of land located in Rockbridge County, Virginia (subject to the consent of the local unit of government), owned by Mr. J. Poole, described as East 731 Sandbridge (encompassing approximately 4.74 acres) and East 731 (encompassing approximately 5.12 acres).

(b) DEADLINE FOR DETERMINATION.—The Secretary shall—

(1) not later than 3 years after the date of a request of the Tribe under subsection (a)(2), make a final written determination regarding the request; and

(2) immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—On request of the Tribe, any land taken into trust for the benefit of the Tribe pursuant to this section shall be considered to be a part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities—

(1) as a matter of claimed inherent authority; or

(2) pursuant to any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission).

SEC. 507. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

SEC. 508. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over any criminal offense committed, and any civil actions arising, on land located within the Commonwealth that is owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF COMMONWEALTH JURISDICTION BY SECRETARY.—The Secretary may accept on behalf of the United States, after consultation with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) on verification by the Secretary of a certification by the Tribe that the Tribe possesses the capacity to reassume that jurisdiction.

(c) EFFECT OF SECTION.—Nothing in this section affects the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

TITLE VI—NANSEMOND INDIAN TRIBE

SEC. 601. FINDINGS.

Congress finds that—

(1) from 1607 until 1646, Nansemond Indians—

(A) lived approximately 30 miles from Jamestown; and

(B) were significantly involved in English-Indian affairs;

(2) after 1646, there were 2 sections of Nansemonds in communication with each other, the Christianized Nansemonds in Norfolk County, who lived as citizens, and the traditionalist Nansemonds, who lived further west;

(3) in 1638, according to an entry in a 17th century sermon book still owned by the Chief's family, a Norfolk County Englishman married a Nansemond woman;

(4) that man and woman are lineal ancestors of all of members of the Nansemond Indian tribe alive as of the date of enactment of this Act, as are some of the traditionalist Nansemonds;

(5) in 1669, the 2 Nansemond sections appeared in Virginia Colony's census of Indian bowmen;

(6) in 1677, Nansemond Indians were signatories to the Treaty of 1677 with the King of England;

(7) in 1700 and 1704, the Nansemonds and other Virginia Indian tribes were prevented by Virginia Colony from making a separate peace with the Iroquois;

(8) Virginia represented those Indian tribes in the final Treaty of Albany, 1722;

(9) in 1711, a Nansemond boy attended the Indian School at the College of William and Mary;

(10) in 1727, Norfolk County granted William Bass and his kinsmen the ''Indian privileges'' of clearing swamp land and bearing arms (which privileges were forbidden to other nonwhites) because of their Nansemond ancestry, which meant that Bass and his kinsmen were original inhabitants of that land;

(11) in 1742, Norfolk County issued a certificate of Nansemond descent to William Bass;

(12) from the 1740s to the 1790s, the traditionalist section of the Nansemond tribe, 40 miles west of the Christianized Nansemonds, was dealing with reservation land;

(13) the last surviving members of that section sold out in 1792 with the permission of the Commonwealth of Virginia;

(14) in 1797, Norfolk County issued a certificate stating that William Bass was of Indian and English descent, and that his Indian line of ancestry ran directly back to the early 18th century elder in a traditionalist section of Nansemonds on the reservation;

(15) in 1833, Virginia enacted a law enabling people of European and Indian descent to obtain a special certificate of ancestry;

(16) the law originated from the county in which Nansemonds lived, and mostly Nansemonds, with a few people from other counties, took advantage of the new law;

(17) a Methodist mission established around 1850 for Nansemonds is currently a standard Methodist congregation with Nansemond members;

(18) in 1901, Smithsonian anthropologist James Mooney—

(A) visited the Nansemonds; and

(B) completed a tribal census that counted 61 households and was later published;

(19) in 1922, Nansemonds were given a special Indian school in the segregated school system of Norfolk County;

(20) the school survived only a few years;

(21) in 1928, University of Pennsylvania anthropologist Frank Speck published a book on modern Virginia Indians that included a section on the Nansemonds; and

(22) the Nansemonds were organized formally, with elected officers, in 1984, and later applied for and received State recognition.

SEC. 602. DEFINITIONS.

In this title:

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

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Nansemond Indian Tribe.

SEC. 603. FEDERAL RECOGNITION.

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)), that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach, Virginia.

SEC. 604. MEMBERSHIP; GOVERNING DOCUMENTS.

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

SEC. 605. GOVERNING BODY.

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

SEC. 606. RESERVATION OF THE TRIBE.

(a) IN GENERAL.—On request of the Tribe, the Secretary—

(1) shall take into trust for the benefit of the Tribe any land held in fee by the Tribe that was acquired by the Tribe on or before January 1, 2007; and

(2) may take into trust for the benefit of the Tribe any land held in fee by the Tribe, if the land is located within the boundaries of the city of Suffolk, the city of Chesapeake, or Isle of Wight County, Virginia.

(b) DEADLINE FOR DETERMINATION.—The Secretary shall—

(1) not later than 3 years after the date of a request of the Tribe under subsection (a), make a final written determination regarding the request; and

(2) immediately make that determination available to the Tribe.

(c) RESERVATION STATUS.—On request of the Tribe, any land taken into trust for the benefit of the Tribe pursuant to this section shall be considered to be a part of the reservation of the Tribe.

(d) GAMING.—The Tribe may not conduct gaming activities—

(1) as a matter of claimed inherent authority; or

(2) pursuant to any Federal law, including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) (including any regulations promulgated pursuant to that Act by the Secretary or the National Indian Gaming Commission).

SEC. 607. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

SEC. 608. JURISDICTION OF COMMONWEALTH OF VIRGINIA.

(a) IN GENERAL.—The Commonwealth of Virginia shall exercise jurisdiction over any criminal offense committed, and any civil actions arising, on land located within the Commonwealth that is owned by, or held in trust by the United States for, the Tribe.

(b) ACCEPTANCE OF COMMONWEALTH JURISDICTION BY SECRETARY.—The Secretary may accept on behalf of the United States, after

consultation with the Attorney General of the United States, all or any portion of the jurisdiction of the Commonwealth of Virginia described in subsection (a) on verification by the Secretary of a certification by the Tribe that the Tribe possesses the capacity to reassume that jurisdiction.

(c) EFFECT OF SECTION.—Nothing in this section affects the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).

By Mr. UDALL of Colorado (for himself and Mr. BARRASSO):

S. 382. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other permits; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, while our economy is beginning to show signs of recovery, there is still a long way to go. This is especially true in our rural communities. That is why I am reintroducing a bipartisan bill that would help provide new economic opportunities in mountain communities across this country—the Ski Area Recreational Opportunity Enhancement Act.

The outdoors and recreation industries have been a bright spot in the economic downturn. More Americans are spending time outside, enjoying the natural world and getting exercise. I have long felt it is in the national interest to encourage Americans to engage in outdoor activities that can contribute to their health and well being. Our public lands already play a key role by providing opportunities for hiking, skiing, mountain biking and a range of other activities.

In Colorado and across the country, for example, many ski areas are located on National Forest lands. However, under existing law, the National Forest Service bases ski area permits primarily on ''Nordic and alpine skiing'', a classification that does not reflect the full spectrum of snowsports, nor the use of ski permit areas for non-winter activities. This has resulted in uncertainty for both the Forest Service and ski areas as to whether and how other activities, such as summer-time activities, can occur on permitted areas.

In effect, this means that ski areas on National Forest lands are primarily restricted to use for winter recreation, as opposed to year-round recreation.

The legislation I am introducing with Senator BARRASSO of Wyoming would clarify this ambiguity. It would ensure that ski area permits could be used for additional snowsports, such as snowboarding, as well as specifically authorizing the Forest Service to allow additional recreational opportunities—like summer-time activities—in permit areas.

I should note that this authority is limited. The primary activity in the permit area must remain skiing or other snowsports. And there are specific types of development, such as water parks and amusement parks, that are specifically prohibited.

This is a narrowly targeted bill that will lead to additional opportunities for seasonal and year-round recreational activities at ski areas on public lands—and most importantly help create more sustainable, year round jobs.

I would like to thank Senator BARRASSO for his continued support of this legislation and his efforts to work with me in the last Congress to pass this bill. I know we were both disappointed that the objections of just two Senators prevented this commonsense legislation from becoming law. Hopefully we will have more success this year—because our mountain communities should be given every opportunity to thrive, as this legislation would help do.

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. 382

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 ''Ski Area Recreational Opportunity Enhancement Act of 2011''.

SEC. 2. PURPOSE.

The purpose of this Act is to amend the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b)—

(1) to enable snow-sports (other than nordic and alpine skiing) to be permitted on National Forest System land subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b); and

(2) to clarify the authority of the Secretary of Agriculture to permit appropriate additional seasonal or year-round recreational activities and facilities on National Forest System land subject to ski area permits issued by the Secretary of Agriculture under section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

SEC. 3. SKI AREA PERMITS.

Section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended—

(1) in subsection (a), by striking ''nordic and alpine ski areas and facilities'' and inserting ''ski areas and associated facilities'';

(2) in subsection (b), in the matter preceding paragraph (1), by striking ''nordic and alpine skiing operations and purposes'' and inserting ''skiing and other snow sports and recreational uses authorized by this Act'';

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:

''(c) OTHER RECREATIONAL USES.—

''(1) AUTHORITY OF SECRETARY.—Subject to the terms of a ski area permit issued pursuant to subsection (b), the Secretary may authorize a ski area permittee to provide such other seasonal or year-round natural resource-based recreational activities and associated facilities (in addition to skiing and other snow-sports) on National Forest System land subject to a ski area permit as the Secretary determines to be appropriate.

''(2) REQUIREMENTS.—Each activity and facility authorized by the Secretary under paragraph (1) shall—

''(A) encourage outdoor recreation and enjoyment of nature;

''(B) to the extent practicable—

''(i) harmonize with the natural environment of the National Forest System land on which the activity or facility is located; and

''(ii) be located within the developed portions of the ski area;

''(C) be subject to such terms and conditions as the Secretary determines to be appropriate; and

''(D) be authorized in accordance with—

''(i) the applicable land and resource management plan; and

''(ii) applicable laws (including regulations).

''(3) INCLUSIONS.—Activities and facilities that may, in appropriate circumstances, be authorized under paragraph (1) include—

''(A) zip lines;

''(B) mountain bike terrain parks and trails;

''(C) frisbee golf courses; and

''(D) ropes courses.

''(4) EXCLUSIONS.—Activities and facilities that are prohibited under paragraph (1) include—

''(A) tennis courts;

''(B) water slides and water parks;

''(C) swimming pools;

''(D) golf courses; and

''(E) amusement parks.

''(5) LIMITATION.—The Secretary may not authorize any activity or facility under paragraph (1) if the Secretary determines that the authorization of the activity or facility would result in the primary recreational purpose of the ski area permit to be a purpose other than skiing and other snow-sports.

''(6) BOUNDARY DETERMINATION.—In determining the acreage encompassed by a ski area permit under subsection (b)(3), the Secretary shall not consider the acreage necessary for activities and facilities authorized under paragraph (1).

''(7) EFFECT ON EXISTING AUTHORIZED ACTIVITIES AND FACILITIES.—Nothing in this subsection affects any activity or facility authorized by a ski area permit in effect on the date of enactment of this subsection during the term of the permit.'';

(5) by striking subsection (d) (as redesignated by paragraph (3)), and inserting the following:

''(d) REGULATIONS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall promulgate regulations to implement this section.''; and

(6) in subsection (e) (as redesignated by paragraph (3)), by striking ''the National Environmental Policy Act, or the Forest and Rangelands Renewable Resources Planning Act as amended by the National Forest Management Act'' and inserting ''the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.)''.

SEC. 4. EFFECT.

Nothing in the amendments made by this Act establishes a legal preference for the holder of a ski area permit to provide activities and associated facilities authorized by section 3(c) of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b(c)) (as amended by section 3).

By Mr. UDALL of Colorado:

S. 383. A bill to promote the domestic production of critical minerals and materials, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, I rise today to address an issue that affects both our economic and national security—critical minerals and materials. These materials are used in everything from wind turbines to cell phones to weapons guidance systems. However, these materials are primarily imported—many from China—and not always readily available. For example, several clean energy technologies—including wind turbines, batteries and solar panels—require materials that are at risk of supply disruptions. According to the Department of Energy, clean energy technologies currently constitute 20 percent of global consumption of critical materials. As clean energy technologies are deployed more widely in the decades ahead, demand for critical materials will likely grow.

Furthermore, these materials are needed for a number of products essential to protecting our Nation's security, including precision-guided munitions systems, lasers, communication systems, radar systems, avionics, night vision equipment, and satellites. Many of these materials are produced primarily in other countries, and some are not produced in the United States at all.

One group of critical minerals with very high importance today is rare earth elements. The United States was once the primary producer of rare earth materials according to the U.S. Geological Survey, but over the past 15 years we have become 100 percent reliant on imports, with 97 percent coming from China.

When the rare earth industry left the United States, our rare earth materials workforce dwindled as well, leaving very few experts with experience in processing these materials. Currently, there are no curricula in U.S. universities that are geared toward training a new expert workforce; rather, most of the expertise resides in China and Japan. In addition, the U.S.-developed intellectual property for making many of these materials is owned by Japan.

Rare earth materials are not the only critical materials in demand today. Similar supply problems are imminent for other types of minerals and materials that will be essential for the increased deployment of technologies like batteries, solar panels and electric vehicles. Both the Department of Energy and the National Academy of Sciences have identified minerals and materials—such as lithium, manganese and rhodium—that are now or could become critical in the near future.

Today, I am introducing the Critical Minerals and Materials Act of 2011, a bill intended to help build up the supply chain of minerals and materials that are vital for the development of a clean energy economy and for our national defense.

The National Academy of Sciences recommended improved data-gathering by the Federal Government along with research and development to encourage domestic innovation in the area of critical minerals and materials. My bill specifically would direct the Department of Energy to begin research and development on critical minerals and materials in order to strengthen our domestic supply chain. It would also direct the Department of the Interior to lead in gathering information on the current supply chain and to forecast what materials we might need in the future as our clean energy economy develops.

Finally, my bill would build up the workforce necessary for the United States to regain its leadership in the critical minerals and materials industry. Fellow Coloradans in this industry have told me that it is difficult to find qualified workers to hire in the minerals and materials sector. There are good-paying jobs out there waiting to be filled, and more will become available as these industries grow. But we need to make sure our workforce is properly trained to be able to take advantage of these opportunities and retain U.S. expertise in this industry. My bill will provide for such training in the Nation's colleges and universities, as well as in our technical and community colleges.

While there are a great many minerals and materials that are important for our economic and national security, my bill will focus on only the small portion of minerals and materials that have become critical due to their highly vulnerable supply chain. These critical minerals and materials are in danger of becoming simply unavailable or extremely expensive and I believe these deserve extra attention.

We must also recognize that the raw minerals for these critical materials are often on Federal land and are a valuable resource owned by U.S. citizens. Mining for them must be done in a safe and environmentally responsible way—and that is why I continue to support mining law reform. However, we simply cannot be so dependent upon China or any other nation to provide these critical materials. My bill would ensure that the U.S. is armed with a robust domestic supply chain and a skilled workforce needed to produce these materials. I urge my colleagues of both parties to join me in supporting this 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. 383

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 ''Critical Minerals and Materials Promotion Act of 2011''.

SEC. 2. DEFINITION OF CRITICAL MINERALS AND MATERIALS.

In this Act:

(1) IN GENERAL.—The term ''critical minerals and materials'' means naturally occurring, nonliving, nonfuel substances with a definite chemical composition—

(A) that perform an essential function for which no satisfactory substitutes exist; and

(B) the supply of which has a high probability of becoming restricted, leading to physical unavailability or excessive costs for the applicable minerals and materials in key applications.

(2) EXCLUSIONS.—The term ''critical minerals and materials'' does not include ice, water, or snow.

SEC. 3. PROGRAM TO DETERMINE PRESENCE OF AND FUTURE NEEDS FOR CRITICAL MINERALS AND MATERIALS.

(a) IN GENERAL.—The Secretary of the Interior, acting through the United States Geological Survey, shall establish a research and development program—

(1) to provide data and scientific analyses for research on, and assessments of the potential for, undiscovered and discovered resources of critical minerals and materials in the United States and other countries; and

(2) to analyze and assess current and future critical minerals and materials supply chains—

(A) with advice from the Energy Information Administration on future energy technology market penetration; and

(B) using the Mineral Commodity Summaries produced by the United States Geological Survey.

(b) GLOBAL SUPPLY CHAIN.—The Secretary shall, if appropriate, cooperate with international partners to ensure that the program established under subsection (a) provides analyses of the global supply chain of critical minerals and materials.

SEC. 4. PROGRAM TO STRENGTHEN THE DOMESTIC CRITICAL MINERALS AND MATERIALS SUPPLY CHAIN FOR CLEAN ENERGY TECHNOLOGIES.

The Secretary of Energy shall conduct a program of research, development, and demonstration to strengthen the domestic critical minerals and materials supply chain for clean energy technologies and to ensure the long-term, secure, and sustainable supply of critical minerals and materials sufficient to strengthen the national security of the United States and meet the clean energy production needs of the United States, including—

(1) critical minerals and materials production, processing, and refining;

(2) minimization of critical minerals and materials in energy technologies;

(3) recycling of critical minerals and materials; and

(4) substitutes for critical minerals and materials in energy technologies.

SEC. 5. STRENGTHENING EDUCATION AND TRAINING IN MINERAL AND MATERIAL SCIENCE AND ENGINEERING FOR CRITICAL MINERALS AND MATERIALS PRODUCTION.

(a) IN GENERAL.—The Secretary of Energy shall promote the development of the critical minerals and materials industry workforce in the United States.

(b) SUPPORT.—In carrying out subsection (a), the Secretary shall support—

(1) critical minerals and materials education by providing undergraduate and graduate scholarships and fellowships at institutions of higher education, including technical and community colleges;

(2) partnerships between industry and institutions of higher education, including technical and community colleges, to provide onsite job training; and

(3) development of courses and curricula on critical minerals and materials.

SEC. 6. SUPPLY OF CRITICAL MINERALS AND MATERIALS.

(a) POLICY.—It is the policy of the United States to promote an adequate and stable

supply of critical minerals and materials necessary to maintain national security, economic well-being, and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation, and social needs.

(b) IMPLEMENTATION.—To implement the policy described in subsection (a), the President, acting through the Executive Office of the President, shall—

(1) coordinate the actions of applicable Federal agencies;

(2) identify critical minerals and materials needs and establish early warning systems for critical minerals and materials supply problems;

(3) establish a mechanism for the coordination and evaluation of Federal critical minerals and materials programs, including programs involving research and development, in a manner that complements related efforts carried out by the private sector and other domestic and international agencies and organizations;

(4) promote and encourage private enterprise in the development of economically sound and stable domestic critical minerals and materials supply chains;

(5) promote and encourage the recycling of critical minerals and materials, taking into account the logistics, economic viability, environmental sustainability, and research and development needs for completing the recycling process;

(6) assess the need for and make recommendations concerning the availability and adequacy of the supply of technically trained personnel necessary for critical minerals and materials research, development, extraction, and industrial practice, with a particular focus on the problem of attracting and maintaining high quality professionals for maintaining an adequate supply of critical minerals and materials; and

(7) report to Congress on activities and findings under this subsection.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act such sums as are necessary.

By Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Mrs. GILLIBRAND, Mr. SCHUMER, Mr. PORTMAN, Mr. DURBIN, Mr. BLUMENTHAL, Mr. UDALL of New Mexico, Mr. BEGICH, Mr. COONS, Mr. BARRASSO, Ms. MIKULSKI, Mr. BURR, Mr. LAUTENBERG, Mr. KERRY, Mr. JOHNSON of South Dakota, Mr. TESTER, Mr. MERKLEY, Mr. LIEBERMAN, Mr. MORAN, Mr. COCHRAN, Mrs. MURRAY, Mr. ENSIGN, Mr. NELSON of Nebraska, and Mr. HATCH):

S. 384. A bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator HUTCHISON to introduce legislation to reauthorize the extraordinarily successful Breast Cancer Research Stamp for 4 additional years.

Without Congressional action, this important stamp will expire on December 31 of this year.

This stamp deserves to be extended as it has proven to be highly effective.

Since 1998, over 907 million breast cancer research stamps have been sold—raising over $72 million for breast cancer research.

Furthermore, in October 2007, the Government Accountability Office, GAO, released a report showing that the Breast Cancer Research Stamp has been a success and an effective fundraiser in the effort to increase funds to fight the disease.

The National Institutes of Health, NIH, and the Department of Defense have received approximately $50.4 million and $21.6 million, respectively, putting these research dollars to good use by funding innovative advances in breast cancer research.

For example, in 2006, NIH began funding the Trial Assigning Individualized Options for Treatment Program, TAILORx, with proceeds from the Breast Cancer Research Stamp. The trial is designed to determine which patients with early stage breast cancer would be more likely to benefit from chemotherapy and, therefore, reduce the use of chemotherapy in those patients who are unlikely to benefit. The goal of TAILORx is to determine the most effective current approach to cancer treatment, with the fewest side effects, for women with early-stage breast cancer by using a validated diagnostic test.

Thanks to breakthroughs in cancer research, more and more people are becoming cancer survivors rather than cancer victims. Every dollar we continue to raise will help save lives.

One cannot calculate in dollars and cents how the stamp has focused public awareness on this terrible disease and the need for additional research funding.

There is still so much more to do because this disease has far reaching effects on our Nation.

Breast cancer is the second most commonly diagnosed cancer among women after skin cancer.

More than 2.5 million women in the U.S. are living with breast cancer today.

Over 200,000 women have been diagnosed with cancer in each of the past few years, and will be diagnosed in the coming year.

Though male breast cancer is much less common, 1,970 men were diagnosed with breast cancer last year.

This legislation would extend the authorization of the Breast Cancer Research stamp for 4 additional years—until December 31, 2015.

It also will allow the stamp to continue to have a surcharge above the value of a first-class stamp with the surplus revenues going to breast cancer research.

It will not affect any other semipostal proposals under consideration by the U.S. Postal Service.

I urge my colleagues to join me and Senator HUTCHISON in passing this important legislation to extend the Breast Cancer Research Stamp for another 4 years.

Until a cure is found, the money from the sale of this unique postal stamp will continue to focus public awareness on this devastating disease and provide hope to breast cancer survivors.

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. 384

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

SECTION 1. EXTENSION OF POSTAGE STAMP FOR BREAST CANCER RESEARCH.

Section 414(h) of title 39, United States Code, is amended by striking ''2011'' and inserting ''2015''.

By Mr. LEAHY (for himself, Mr. SANDERS, Mr. SCHUMER, Mr. CONRAD, and Mr. FRANKEN):

S. 385. A bill to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I again introduce legislation to correct an inequity in the U.S. Department of Justice's Public Safety Officers Benefits, PSOB, Program, by extending benefits to nonprofit Emergency Medical Services, EMS, providers who die or are permanently disabled in the line of duty. I am pleased to be joined in this effort by Senator SANDERS and Senator SCHUMER.

The legislation is named after Dale Long, a long-time paramedic and shift supervisor with the Bennington Rescue Squad in Vermont. Dale Long died two years ago in a tragic, on-duty accident while treating and transporting a patient. He had a superb 25-year career as a Vermont paramedic. He helped many, many people in ways they will never forget, and Dale Long will not be forgotten.

I had the pleasure and honor of meeting Dale in 2009—less than two months before his death—when he was in Washington to receive the prestigious Star of Life Award from the American Ambulance Association. Dale earlier had received Vermont's EMS Advanced Rescuer of the Year Award, in 2008. In 2010, Dale was honored as part of the National EMS Memorial Service.

Dale's tragic passing highlighted a major shortcoming in the current PSOB program, which Congress established more than 30 years ago to lend a hand to police officers, firefighters and medics who lose their lives or are permanently disabled in the line of duty. The current benefit only applies to public safety officers employed by a Federal, State, or local government entity. With many communities around the United States choosing to have their emergency medical services provided by nonprofit agencies, medics working for these nonprofit services unfortunately are not eligible for this help under the PSOB program.

Nonprofit public safety officers provide identical services to governmental officers and do so daily in the same dangerous environments. With a renewed appreciation for the vital and timely community service of first responders since the national tragedy of September 11, 2001, more people are answering the call to serve their communities. At the same time, more rescue workers are falling through the cracks of the PSOB program.

The Dale Long Emergency Medical Service Provider Protection Act will correct this inequality by extending the PSOB program to cover nonprofit EMS officers who provide emergency medical and ground or air ambulance service. These emergency professionals protect and promote the public good of the communities they serve, and we should not unfairly penalize them and their families simply because they work or volunteer for a nonprofit organization.

The modest cost of this remedy also is fully offset and will not add to the federal deficit.

This is a carefully crafted, commonsense remedy to a clear discrepancy in the law. I am pleased with the widespread support this bill has earned. Momentum continues to build for this solution, and I will keep at this effort until the Dale Long Emergency Medical Service Provider Protection Act becomes the law of the land.

I thank several first responder organizations—including the American Ambulance Association, the National Association of EMTs, the International Association of Fire Fighters, the International Association of Fire Chiefs, and the Fraternal Order of Police—for their support of this effort.

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. 385

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 ''Dale Long Emergency Medical Service Providers Protection Act''.

SEC. 2. ELIGIBILITY.

Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) in paragraph (7), by striking ''public employee member of a rescue squad or ambulance crew;'' and inserting ''employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

''(A) is a public agency; or

''(B) is (or is a part of) a nonprofit entity serving the public that—

''(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

''(ii) is officially designated as a pre-hospital emergency medical response agency;''; and

(2) in paragraph (9)—

(A) in subparagraph (A), by striking ''as a chaplain'' and all that follows through the semicolon, and inserting ''or as a chaplain;'';

(B) in subparagraph (B)(ii), by striking ''or'' after the semicolon;

(C) in subparagraph (C)(ii), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.''.

SEC. 3. OFFSET.

Of the unobligated balances available under the Department of Justice Assets Forfeiture Fund, $12,000,000 are permanently cancelled.

SEC. 4. EFFECTIVE DATE.

The amendments made by section 2 shall apply only to injuries sustained on or after June 1, 2009.

By Mr. DURBIN (for himself, Mr. REED, and Mr. BROWN of Ohio):

S. 386. A bill to provide assistance to certain employers and States in 2011 and 2012, to improve the long-term solvency of the Unemployment Compensation program, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, employers in several States, including Illinois, are facing an automatic tax increase if Congress doesn't do something. That is right. Businesses that are struggling in this recession face a Federal tax coming their way if we don't act.

I am introducing a bill today that will prevent that. This is a time when we need to help businesses—small businesses in particular—to spend every dime they have on hiring people looking for work.

Here is why I am introducing the bill.

Current law requires States that have overdrawn their unemployment insurance trust funds to raise taxes on employers to fill that deficit. The recession put tens of millions of Americans out of work, and the number of people who have been unable to find new work for more than 6 months is unprecedented in recent history. Unemployment insurance has helped these families through a difficult time, and it has been a good investment. It is money that has been given to the unemployed that is quickly put back into the economy, creating demands for goods and services.

The Congressional Budget Office ranks unemployment benefit payments as one of the most stimulative things we can do to turn this economy around. So we know it is good economics. That spending is going to help drive up demand for what private companies sell, which encourages them to hire more workers. But the ferocity of the economic downturn has strained the unemployment insurance trust fund in many States.

Let me be clear. This problem has nothing to do with the operating deficits many States are facing. That is a bigger but unrelated problem. The UI trust funds can only be used by States to pay unemployment insurance, and it is these trust funds that we need to return to solvency. That is what the Unemployment Insurance Solvency Act, which I have introduced, would do.

Here is what it specifically sets out to accomplish:

First, it would waive the requirement that States immediately charge local employers higher taxes for the next 2 years. This would save companies located in my State of Illinois, for example, over $300 billion over the next 2 years and save businesses nationwide between $8 billion and $11 billion between now and the end of 2013.

Second, it would waive the interest payments that States would otherwise be required to pay for the next 2 years. That is going to save Illinois $200 million in interest payments over the next 2 years.

Finally, it gives States—Governors, State legislatures, and local employers working together—greater flexibility in figuring out how to replenish their unemployment trust fund starting in 2014.

It would give States three options to explore: First, to restructure their UI tax base and rates to fill any hole in the trust fund; second, seek forgiveness from the Federal Government for a portion of the debts the State might owe to its trust fund in return for entering into a long-term solvency plan with the Department of Labor to protect the interests of the jobless who need unemployment insurance; third, maintain existing solvency that a State has already achieved, earning higher Federal UI interest payments and lower Federal UI taxes for its employers.

The President included a version of this proposal in his budget he submitted to Congress on Monday. I commend him for it.

With 13.9 million people out of work and $14 trillion in Federal debt, we need to find creative solutions to solve problems facing workers and employers. This bill I have introduced, cosponsored by Senator JACK REED of Rhode Island and Senator SHERROD BROWN of Ohio, is one that I think addresses this issue in a proper manner. It removes this new burden on small businesses, a tax burden which can only hold them back from hiring the people they need and reducing unemployment, and it gives to States that are hard-pressed because of other financial problems at least 2 years where they don't need to pay the interest they owe on the money for unemployment insurance. It is a stopgap emergency measure supported by the Obama administration which I am happy to introduce.

This bill will prevent immediate tax increases on employers. It ensures unemployment insurance will be there when workers need it. And it does not raise the Federal debt. I urge my colleagues to support it.

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. 386

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 ''Unemployment Insurance Solvency Act of 2011''.

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

SEC. 2. EXTENSION OF ASSISTANCE FOR STATES WITH ADVANCES.

(a) IN GENERAL.—Section 1202(b)(10)(A) of the Social Security Act (42 U.S.C. 1322(b)(10)(A)) is amended by striking ''2010'' and inserting ''2012'' in the matter preceding clause (i).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 2004 of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 123 Stat. 443).

SEC. 3. REDUCTION IN THE RATE OF EMPLOYER TAXES.

(a) IN GENERAL.—Section 3301 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''2010 and the first 6 months of calendar year 2011'' and inserting ''2013''; and

(2) in paragraph (2), by striking ''6.0 percent in the case of the remainder of calendar year 2011'' and inserting ''5.78 percent in the case of calendar year 2014''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) the date of the enactment of this Act; or

(2) July 1, 2011.

SEC. 4. MODIFICATIONS OF EMPLOYER CREDIT REDUCTIONS.

(a) LIMIT ON TOTAL CREDITS.—Section 3302(c) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by striking ''90 percent of the tax against which such credits are allowable'' and inserting ''an amount equal to 5.4 percent of the total wages (as defined in section 3306(b)) paid by such taxpayer during the calendar year with respect to employment (as defined in section 3306(c))''; and

(2) in paragraph (2)—

(A) by striking subparagraphs (B) and (C) and the flush matter following subparagraph (C);

(B) by striking ''(2) If'' and inserting ''(2)(A) If'';

(C) by striking ''(A)(i) in'' and inserting ''(i) in'';

(D) in clause (i) of subparagraph (A), as redesignated by subparagraph (C), by striking ''5 percent of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State'' and inserting ''an amount equal to 0.3 percent of the total wages (as defined in section 3306(b)) paid by such taxpayer during the calendar year with respect to employment (as defined in section 3306(c))'';

(E) in clause (ii) of subparagraph (A)—

(i) by moving such clause 2 ems to the left;

(ii) by striking ''5 percent, for each such succeeding taxable year, of the tax imposed by section 3301 with respect to the wages paid by such taxpayer during such taxable year which are attributable to such State;'' and inserting ''an amount equal to 0.3 percent of the total wages (as defined in section 3306(b)) paid by such taxpayer during the calendar year with respect to employment (as defined in section 3306(c)), for each succeeding taxable year;''; and

(iii) by striking the semicolon at the end and inserting a period; and

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

''(B) The provisions of subparagraph (A) shall be applied with respect to the taxable year beginning January 1, 2011, or any succeeding taxable year by deeming January 1, 2013 to be the first January 1 occurring after January 1, 2010. For purposes of subparagraph (A), consecutive taxable years in the period commencing January 1, 2013, shall be determined as if the taxable year which begins on January 1, 2013, were the taxable year immediately succeeding the taxable year which began on January 1, 2010. No taxpayer shall be subject to credit reductions under this paragraph for taxable years beginning January 1, 2011 and January 1, 2012.''.

(b) DEFINITIONS AND SPECIAL RULES.—Section 3302(d) of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraphs (1), (4), (5), (6), and (7); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on January 1, 2011.

SEC. 5. INCREASE IN THE TAXABLE WAGE BASE.

(a) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b), by striking ''$7,000'' both places it appears and inserting ''the applicable wage base amount (as defined in subsection (v)(1))''; and

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

''(v) APPLICABLE WAGE BASE AMOUNT.—

''(1) IN GENERAL.—For purposes of subsection (b)(1), the term 'applicable wage base amount' means—

''(A) for a calendar year before calendar year 2014, $7,000;

''(B) for calendar year 2014, $15,000; and

''(C) for calendar years beginning on or after January 1, 2015, the amount determined under paragraph (2).

''(2) AMOUNT FOR CALENDAR YEAR 2015 AND THEREAFTER.—

''(A) AMOUNT.—

''(i) IN GENERAL.—For purposes of paragraph (1)(C), the amount determined under this paragraph for a calendar year is an amount equal to the product of—

''(I) the amount of average wage growth for the year (as determined in accordance with subparagraph (B)); and

''(II) the applicable wage base amount for the preceding calendar year.

''(ii) ROUNDING.—If the amount determined under clause (i) is not a multiple of $100, such amount shall be rounded to the next higher multiple of $100.

''(B) AVERAGE WAGE GROWTH.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the amount of annual wage growth for a calendar year shall be determined by dividing the average annual wage in the United States for the 12-month period ending on the June 30 of the preceding calendar year by the average annual wage in the United States for the 12-month period ending on the second prior June 30, and rounding such ratio to the fifth decimal place.

''(ii) AVERAGE ANNUAL WAGE.—For purposes of clause (i), using data from the Quarterly Census of Employment and Wages (or a successor program), the average annual wage for a 12-month period shall be determined by dividing the total covered wages subject to contributions under all State unemployment compensation laws for such period by the average covered employment subject to contributions under all State unemployment compensation laws for such period, and rounding the result to the nearest whole dollar.''.

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

SEC. 6. VOLUNTARY STATE AGREEMENTS TO ABATE PRINCIPAL ON FEDERAL LOANS.

(a) IN GENERAL.—Section 1203 of the Social Security Act (42 U.S.C. 1323) is amended—

(1) by inserting ''(a) ADVANCES.—'' after ''1203''; and

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

''(b) VOLUNTARY ABATEMENT AGREEMENTS.—

''(1) IN GENERAL.—The governor of any State that has outstanding repayable advances from the Federal unemployment account pursuant to subsection (a) may apply to the Secretary of Labor to enter into a voluntary principal abatement agreement.

''(2) CONTENTS OF APPLICATION.—An application described in paragraph (1) shall include a plan that, based upon reasonable economic projections, describes how the State will, within a reasonable period of time—

''(A) repay the outstanding principal on its remaining advance to the Federal unemployment account, less the amount of the principal abatement pursuant to paragraph (4); and

''(B) restore the solvency of the State's account in the Unemployment Trust Fund to an average high cost multiple of 1.0, as calculated and defined by the United States Department of Labor.

''(3) REQUIREMENT FOR PLAN.—A plan described in paragraph (2) shall be premised on the existing unemployment compensation law of the State and may take into consideration the enactment of any changes in law scheduled to become effective during the life of the plan.

''(4) AGREEMENT.—Upon review of the application and satisfaction that the State's plan will meet the repayment and solvency goals described in paragraph (2), the Secretary of Labor may enter into a principal abatement agreement with the State. Such an agreement shall be for a period of no more than 7 years.

''(5) CALCULATION.—Under any voluntary abatement agreement under this subsection, the amount of principal abatement shall be calculated as follows:

''(A) The State's repayable advances as of the date of the enactment of this subsection or December 31, 2011, whichever is earlier, shall be multiplied by a loan forgiveness multiplier.

''(B) The State's loan forgiveness multiplier shall be calculated on the same basis as the temporary increase of Medicaid FMAP under section 5001(c)(2)(A) of division B of the American Recovery and Reinvestment Act of 2009, using the State's additional FMAP tier as of December 31, 2010. In the case of a State that meets the criteria described in—

''(i) clause (i) of such section 5001(c)(2)(A), the loan multiplier shall be 0.2.

''(ii) clause (ii) of such section 5001(c)(2)(A), the loan multiplier shall be 0.4.

''(iii) clause (iii) of such section 5001(c)(2)(A), the loan multiplier shall be 0.6.

''(C) The annual amount of principal abatement shall equal one-seventh of the total amount of principal abatement.

''(6) CERTIFICATION.—Under any voluntary abatement agreement under this subsection,

the State shall certify that during the period of the agreement—

''(A) the method governing the computation of regular unemployment compensation under the State law of the State will not be modified in a manner such that the average weekly benefit amount of regular unemployment compensation which will be payable during the period of the agreement will be less than the average weekly benefit amount of regular unemployment compensation which would have otherwise been payable under the State law as in effect on the date of the enactment of this subsection;

''(B) State law will not be modified in a manner such that any unemployed individual who would be eligible for regular unemployment compensation under the State law in effect on such date of enactment would be ineligible for regular unemployment compensation during the period of the agreement or would be subject to any disqualification during the period of the agreement that the individual would not have been subject to under the State law in effect on such date of enactment;

''(C) State law will not be modified in a manner such that the maximum amount of regular unemployment compensation that any unemployed individual would be eligible to receive in a benefit year during the period of the agreement will be less than the maximum amount of regular unemployment compensation that the individual would have been eligible to receive during a benefit year under the State law in effect on such date of enactment; and

''(D) upon a determination by the Secretary of Labor that the State has modified State law in a manner inconsistent with the certification described in the preceding provisions of this paragraph or has failed to comply with any certifications required by this paragraph, the State shall be liable for any principal previously abated under the agreement.

''(7) TRANSFER.—Under a voluntary abatement agreement under this subsection, a transfer of the annual amount of the principal abatement shall be made to the State's account in the Unemployment Trust Fund on December 31st of the year in which the agreement is executed so long as the State has complied with the terms of the agreement. For each subsequent year that the Secretary of Labor certifies that the State is in compliance with the terms of the agreement, the annual amount of the State's principal abatement will be credited to its outstanding loan balance. If the loan balance reaches zero while the State still has a remaining principal abatement amount, the remaining amount shall be made as a positive balance transfer to the State's account in the Unemployment Trust Fund.

''(8) REGULATIONS.—The Secretary of Labor shall promulgate such regulations as are necessary to implement this subsection. Such regulations shall include—

''(A) standards prescribing a reasonable period of time for a State plan to reach a solvency level equal to an average high cost multiple of 1.0, taking into account the economic conditions and level of insolvency of the State,; and

''(B) guidelines for insuring progress toward solvency for States with agreements that include plans that require more than 7 years to reach an average high cost multiple of 1.0.''.

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

SEC. 7. REWARDS AND INCENTIVES FOR SOLVENT STATES AND EMPLOYERS IN THOSE STATES.

(a) INCREASED INTEREST FOR SOLVENT STATES.—

(1) IN GENERAL.—Section 904(e) of the Social Security Act (42 U.S.C. 1104(e)) is amended by adding at the end the following new flush sentences:

''The separate book account for each State agency shall be augmented by 0.5 percent over the rate of interest provided in subsection (b) when the State maintains reserves in the account that equal or exceed an average high cost multiple of 1.0 as defined by the Secretary of Labor as of December 31st of the preceding year. The State may apply the additional funds to support State administration pursuant to the requirements in section 903(c).''.

(b) LOWER RATE OF TAX FOR SOLVENT STATES.—

(1) IN GENERAL.—Section 3301 of the Internal Revenue Code of 1986, as amended by section 3, is amended by adding at the end the following new sentence: ''For the second 6-month period of 2011 or for each calendar year thereafter, in the case of a State that maintains reserves in the State's separate book account that equal or exceed an average high cost multiple of 1.0 as of December 31st of the year preceding the period or year involved, paragraph (1) shall be applied for such period or year in the State by substituting '6.0 percent' for '6.2 percent' or, as the case may be, paragraph (2) shall be applied for such period or year in the State by substituting '5.68 percent' for '5.78 percent'.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the earlier of—

(A) the date of the enactment of this Act; or

(B) July 1, 2011.

By Mrs. BOXER (for herself, Mr. CASEY, Mr. TESTER, Mr. MANCHIN, Mr. WARNER, Mr. WYDEN, Mr. BENNET, and Mr. NELSON of Nebraska):

S. 388. A bill to prohibit Members of Congress and the President from receiving pay during Government shutdowns; to the Committee on Homeland Security and Governmental Affairs.

Mrs. BOXER. Mr. President, I send a bill to the desk on behalf of myself and Senators CASEY, TESTER, MANCHIN, WARNER, and WYDEN.

I want to explain it. I hope we will see action on this bill in the near future because we are on very delicate ground right now as we try to resolve the budget issues before us.

We have two sides to the legislative branch—the House and the Senate. I think we have very different approaches to this deficit problem which is quite real. Both sides should be respectful of each other. But the messages I am getting via the media in terms of the language being used on the other side is: We don't really much care what the Senate thinks. It is kind of ''our way or the highway'' type of rhetoric.

The problem with this is that the type of cuts that are coming from the House side, from our Republican friends over there, a columnist tells us will cost 800,000 jobs to this Nation. Mr. President, 800,000 jobs will be lost if we do not make some changes to what they have done.

As someone from a State that has a very tough economic climate and trying to climb out of this recession, that is just extreme. It is just extreme.

Are we willing to make cuts? Yes. It is my belief both sides have to sit down and work this out. We believe there are cuts to be made. They have come out with cuts. We need to work together. But here is what troubles me, and this is why I introduce this legislation. What troubles me is there seems to be more and more threats of a government shutdown. In the early days of the new House leadership we did not hear that. Now we are hearing it.

In Politico, one of the headlines recently said: ''McConnell won't take shutdown off the table.'' That refers to our Republican leader.

In Reuters, Republican majority leader ERIC CANTOR ''refused . . . to rule out the possibility of a government shutdown.''

Republican Senator MIKE LEE said: ''The 1995 government shutdown was just an inconvenience.''

I have to tell you, it is a lot more than an inconvenience when senior citizens cannot get help getting their Social Security or veterans on disability cannot get their help. Hospitals close down. Projects shut down. These are real people out there. A lot of contractors in the private sector rely on the government operating, such as road projects, bridges being repaired, and the rest. It is radical to say that a government shutdown is an inconvenience. It is a failure. A government shutdown is a failure of those of us who are here to act like adults and resolve our differences.

CNN said:

Top Republican on the Senate Budget Committee said he's not ruling out the possibility of a government shutdown.

The way Speaker BOEHNER spoke today had, to me, kind of a ''take it or leave it'' tone to it.

I have to tell you, that budget over there not only threatens 800,000 jobs, but they legislated on appropriations. They legislated on an appropriations bill. They decided that women should not have access to a full range of reproductive health care. They are bringing in the issue of abortion on a budget bill. I think the issue of a woman's right to choose and her reproductive health care and getting Pap screenings and cancer screenings is important, and we should debate that. If people want to repeal Roe v. Wade, let's debate that here.

What they have done with the Clean Air Act—and I know my friend sitting in the chair cares so much about this issue. The Clean Air Act was brought to us by Richard Nixon. It had bipartisan support.

What they do is prohibit the Environmental Protection Agency from enforcing the Clean Air Act as it relates to carbon pollution—pollution that is dangerous for our families, that endangers the lives and health of our families. That is what the Bush administration said when they were in charge, let alone the Obama administration.

Rather than bringing to the floor a bill to repeal the Clean Air Act—I

would welcome that debate, and I know my friend would as well—they do this through the back door and tell the Environmental Protection Agency they cannot protect us from pollution.

That is not what the American people expect to be in a simple budget document. We have to cut some programs. Let's cut some programs. Let's not change abortion law on it. Let's not bring up how to repeal the Clean Air Act on it. Let's not eviscerate law settlements. They have done a range of things which require debate. I would love to put these questions to the American people. I can tell you that people in my home State think government has no business in the issue of a woman's health. Stay away. That is what they say. We will make up our own minds. Some of us are pro-choice, some of us are not, but don't tell us what to believe. That is the thought of the majority of the people in my State. They do not want Big Brother and the government telling people what to do. Yet they put it on a budget bill. That doesn't make any sense.

Let me tell you, the people in my State want clean air. In all the years I have been in office—and the President and I have been around a while and holding different offices—not one of my constituents has ever came up to me and said: BARBARA, we need dirty air. The air is too clean. The water is too pure. The lakes are too pristine. The beaches are gorgeous. No. They want us to make sure we protect them from pollution so their kids can breathe the air and not get asthma. So our friends on the other side have these gargantuan cuts, and in addition to these cuts—which will cost us, according to Senator INOUYE, 800,000 jobs—800,000 jobs—they have legislated issues that are contentious and don't belong on a budget bill.

Here is the deal. I am worried they might say to us: It is our way or the highway. I am worried about that. That is what I am starting to hear. They may lead us into a government shutdown if we fail to act like adults and resolve this and keep the contentious issues off the budget and cut reasonably and sensibly so we don't cause more unemployment. If we can figure that out and meet each other halfway and everything else you do when you compromise, we will be fine. But if that isn't the case, I wish to be sure Members of Congress suffer just as much as any Federal employee. So I have written this bill, with my colleagues, to say that in the event of a government shutdown or a failure to lift the debt ceiling and we start defaulting on our commitments, Members of Congress will not get paid because Members of Congress don't deserve to be paid if we can't act like adults and negotiate this.

I am so tired of the hypocrisy I have seen. I know it is a strong word, and I am not leveling it at any particular individual, but I have to tell you, there are Members of the House who said ObamaCare is terrible, but then they took it for themselves. So what price are they paying? They vote no on health care for everybody else, but they keep government health care. It is wrong. A lot of them are sleeping in their offices. Tell me one other person who is allowed to sleep in the office of their corporation they work for. As far as I know, there is nobody. They do not pay any rent. They sleep in their offices.

So they do all these things: They do not help the housing crisis. They sleep in their offices. They would not vote for health care, but they take government health care. Now they might shut down the government. Yet while Federal employees will not get paid, they will get paid—no way, wrong, not fair. They have to pay a price for all their extremism.

So I hope we will pass this bill and send it over to the House and the House can decide if they think this is right. This is what I would like to take to the American people. Because if they shut down the government or they fail to raise the debt ceiling and we start to default and they pay no price, it is not fair. We cannot stamp our feet and say: It is the way I want it or I am taking my marbles and I am going home—or my teddy bear or my blanket or whatever. You can't do that.

This is the greatest country in the world. As my friend, Senator SANDERS, who is in the chair, so beautifully said last night on a news show—and it was so well done—the middle class is hurting. Real income is going down. As we look at these budget cuts, we have to think about that. I am thinking a lot about it, and I am seeing hundreds of thousands of jobs being lost by the middle class, not by the wealthy few. They are not going to be touched by this.

So this is a very simple bill. I will read what it says:

> Members of Congress and the President shall not receive basic pay for any period in which there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or a continuing resolution, or if the Federal Government is unable to make payments or meet obligations because the debt limit has been reached.

So simple. So I am calling on my colleagues on the other side of the aisle to take the option of a government shutdown off the table. I hope this legislation will nudge them in that direction. Let them think about what it is like not to get paid. Because if they shut down the Federal Government, a whole lot of folks would not get paid. A lot of people in the private sector would not get paid and a lot of people on pensions would not get paid. The only people who would be exempted, pretty much, are Members of Congress, and we have to put an end to that dichotomy.

I thank the Chair for all his leadership on behalf of the middle class and the working poor and I think the hypocrisy has to end. I feel we have to come to this floor and start telling the American people the truth. The truth is: The cuts over there on the other side are going to hurt the middle class. They are extreme. They have added language that doesn't belong on a budget bill. Even though they said they were about jobs, jobs, jobs, and maybe they were—how to lose another 800,000 jobs, maybe that is what they meant—nobody thought the first thing they would do is come in and attach abortion language and family planning language and eviscerate the EPA's ability to clean up carbon pollution on a budget bill. So we have to start letting the American people know because they are busy and they do not get to read all the ins and outs of what happens here. We have to put it in straightforward language.

Today is a very good day in the Senate. We have been brought together, and a lot of that credit goes to Senator ROCKEFELLER and Senator HUTCHISON. I am proud to serve on their committee. We are doing a good job and working together. We have worked out our problems. We had problems with new flights out of National, and no one thought we could resolve it. But we were happy to work together—Republicans, Democrats, people from the East and the West and the Midwest—and we showed we can do something here today. As a result, we are about to pass a very good bill.

My own bill of rights is in this bill, and I am thrilled about that. It was a Boxer-Snowe bill. It has been incorporated in here. It says if you get stuck on an airline, you should be able to expect that you will have water and nourishment and that the toilets will not be overflowing and that if the plane is stuck for 3 hours, you should be able to have the option to get off that flight.

So listen, there are good things we can do. We have proven it here today. But I am getting increasingly nervous about the threats of a government shutdown. I think if Members know it isn't just pain that is going to be inflicted on someone else but they will have pain inflicted on themselves and their families as well, maybe they will take that option off the table.

By Mr. REED (for himself, Mr. GRASSLEY, Mr. BEGICH, Mr. BLUMENTHAL, Ms. COLLINS, Mr. KERRY, Mr. LAUTENBERG, Mr. SANDERS, Ms. STABENOW, and Mr. WHITEHOUSE):

S. 393. A bill to aid and support pediatric involvement in reading and education; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce with my colleague, Senator GRASSLEY, the Prescribe a Book Act. I thank Senators BEGICH, BLUMENTHAL, COLLINS, KERRY, LAUTENBERG, SANDERS, STABENOW, and WHITEHOUSE for joining us as original cosponsors of this bipartisan bill.

Our legislation would create a federal pediatric early literacy grant initiative

based on the long-standing, successful Reach Out and Read program. The program would award grants on a competitive basis to high-quality non-profit entities to train doctors and nurses in advising parents about the importance of reading aloud and to give books to children at pediatric check-ups from 6 months to 5 years of age, with a priority for children from low-income families. It builds on the relationship between parents and medical providers and helps families and communities encourage early literacy skills so children enter school prepared for success in reading.

Since fiscal year 2000, Federal funding for Reach Out and Read through the Department of Education has been an essential piece of a successful public-private partnership that has been matched by tens of millions of dollars from the private sector and State governments. This funding has supported the training of nearly 50,000 health care providers in literacy promotion, and the operation of programs in more than 4,100 clinics and hospitals nationwide, including the 40 sites that operate in Rhode Island. The Prescribe a Book Act would establish a formal authorization for this successful partnership activity.

The Reach Out and Read model has consistently demonstrated effectiveness in increasing parent involvement and boosting children's reading proficiency. Research published in peer-reviewed, scientific journals has found that parents who have participated in the program are significantly more likely to read to their children and include more children's books in their home, and that children served by the program show an increase of 4–8 points on vocabulary tests. I have seen upclose the positive impact of this program on children and their families when visiting a number of Rhode Island's Reach Out and Read sites.

I urge my colleagues to cosponsor the Prescribe a Book Act.

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. 393

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 ''Prescribe A Book Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a nonprofit organization that has, as determined by the Secretary, demonstrated effectiveness in the following areas:

(A) Providing peer-to-peer training to healthcare providers in research-based methods of literacy promotion as part of routine pediatric health supervision visits.

(B) Delivering a training curriculum through a variety of medical education settings, including residency training, continuing medical education, and national pediatric conferences.

(C) Providing technical assistance to local healthcare facilities to effectively implement a high-quality Pediatric Early Literacy Program.

(D) Offering opportunities for local healthcare facilities to obtain books at significant discounts, as described in section 7.

(E) Integrating the latest developmental and educational research into the training curriculum for healthcare providers described in subparagraph (B).

(2) PEDIATRIC EARLY LITERACY PROGRAM.—The term ''Pediatric Early Literacy Program'' means a program that—

(A) creates and implements a 3-part model through which—

(i) healthcare providers, doctors, and nurses, trained in research-based methods of early language and literacy promotion, encourage parents to read aloud to their young children, and offer developmentally appropriate recommendations and strategies to parents for the purpose of reading aloud to their children;

(ii) healthcare providers, at health supervision visits, provide each child between the ages of 6 months and 5 years a new, developmentally appropriate children's book to take home and keep; and

(iii) volunteers in waiting areas of healthcare facilities read aloud to children, modeling for parents the techniques and pleasures of sharing books together;

(B) demonstrates, through research published in peer-reviewed journals, effectiveness in positively altering parent behavior regarding reading aloud to children, and improving expressive and receptive language in young children; and

(C) receives the endorsement of nationally recognized medical associations and academies.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 3. PROGRAM AUTHORIZED.

The Secretary is authorized to award grants to eligible entities to enable the eligible entities to implement Pediatric Early Literacy Programs.

SEC. 4. APPLICATIONS.

An eligible entity that desires to receive a grant under section 3 shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

SEC. 5. MATCHING REQUIREMENT.

An eligible entity receiving a grant under section 3 shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the grant received by the eligible entity under section 3. Such matching funds may be in cash or in-kind.

SEC. 6. USE OF GRANT FUNDS.

(a) IN GENERAL.—An eligible entity receiving a grant under section 3 shall—

(1) enter into contracts with private nonprofit organizations, or with public agencies, selected based on the criteria described in subsection (b), under which each contractor will agree to establish and operate a Pediatric Early Literacy Program;

(2) provide such training and technical assistance to each contractor of the eligible entity as may be necessary to carry out this Act; and

(3) include such other terms and conditions in an agreement with a contractor as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

(b) CONTRACTOR CRITERIA.—Each contractor shall be selected under subsection (a)(1) on the basis of the extent to which the contractor gives priority to serving a substantial number or percentage of at-risk children, including—

(1) children from families with an income below 200 percent of the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved, particularly such children in high-poverty areas;

(2) children without adequate medical insurance;

(3) children enrolled in a State Medicaid program, established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or in the State Children's Health Insurance Program established under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(4) children living in rural areas;

(5) migrant children; and

(6) children with limited access to libraries.

SEC. 7. RESTRICTION ON PAYMENTS.

The Secretary shall make no payment to an eligible entity under this Act unless the Secretary determines that the eligible entity or a contractor of the eligible entity, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts that are at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

SEC. 8. REPORTING REQUIREMENT.

An eligible entity receiving a grant under section 3 shall report annually to the Secretary on the effectiveness of the program implemented by the eligible entity and the programs instituted by each contractor of the eligible entity, and shall include in the report a description of each program.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $15,000,000 for fiscal year 2012 and such sums as may be necessary for each of the succeeding 4 fiscal years.

By Mr. KOHL (for himself, Mr. GRASSLEY, Mr. LEAHY, Ms. SNOWE, Mr. DURBIN, Mr. SCHUMER, and Mr. LAUTENBERG):

S. 394. A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the No Oil Producing and Exporting Cartels Act, NOPEC. This legislation will authorize our government, for the first time, to take action against the illegal conduct of the OPEC oil cartel. It is time for the U.S. government to fight back against efforts to fix the price of oil and hold OPEC accountable when it acts illegally. Our legislation will hold OPEC member nations to account under U.S. antitrust law when they agree to limit supply or fix price in violation of the most basic principles of free competition.

NOPEC will authorize the Attorney General to file suit against nations or other entities that participate in a conspiracy to limit the supply, or fix the price, of oil. In addition, it will specify that the doctrines of sovereign immunity and act of state do not exempt nations that participate in oil cartels from basic antitrust law. I have introduced this legislation in each Congress since 2000. This legislation passed the full Senate in the 110th Congress by a vote of 70–23 in June 2007 as an amendment to the 2007 Energy Bill before

being stripped from that bill in the conference committee. The identical House version of NOPEC also passed the other body as stand alone legislation in the 110th Congress in 2007 by an overwhelming 345–72 vote. It is now time for us to at last pass this legislation into law and give our nation a long needed tool to counteract this pernicious and anti-consumer conspiracy.

Since January 2009 the cost of crude oil has more than doubled, reaching today's level of $96 per barrel. Likewise, throughout 2009 and 2010, gasoline prices have marched steadily upward, soaring to over $3 a gallon in January 2011, a price that has nearly doubled in little over two years. And recently, OPEC ministers indicated that they may decide against an increase an output in 2011, saying in the final days of 2010 that the world economy can tolerate a $100 per barrel price. So it is clear that the global oil cartel remains a major force conspiring to raise oil prices to the detriment of American consumers.

The actions of the OPEC cartel in recent years demonstrate the dangers it presents. A good example occurred at the end of 2008. On October 24, 2008, OPEC agreed to cut production by 1.5 million barrels a day, and less than two months later, on December 17, 2008, OPEC agreed to a further 2.2 million barrels a day production cut. OPEC made no secret of its motivation for these production cuts. OPEC President Chakib Khelil put it very simply in an interview published December 23, 2008, ''Without these cuts, I don't think we'd be seeing $43 [per barrel] today, we'd have seen in the $20's. . . . [H]opefully by the third quarter [of 2009] we will see prices rising.'' In another interview in December, Khelil was quoted as saying ''The stronger the decision [to cut production], the faster prices will pick up.'' Sure enough, oil prices resumed their march upwards in 2009, and now is more than $90 per barrel.

Since cutting its output in this manner at the end of 2008, OPEC has not officially changed its output policy for more than two years. Oil prices have surged nearly $30 since last summer, and OPEC's Secretary General Abdalla Salem El-Badri confirmed there would not be an increase in output, claiming in January 2011 that, ''At the moment there is more than enough oil on the market.''

When the price of crude oil rises as a result of these actions by OPEC, there is no doubt that millions of American consumers feel the pinch every time they visit the gas pump. The Federal Trade Commission has estimated that 85 percent of the variability in the cost of gasoline is the result of changes in the cost of crude oil.

Such blatantly anti-competitive conduct by the oil cartel violates the most basic principles of fair competition and free markets and should not be tolerated. If private companies engaged such an international price fixing conspiracy, there would no question that it would be illegal. The actions of OPEC should be treated no differently because it is a conspiracy of nations.

For years, this price fixing conspiracy of OPEC nations has unfairly driven up the cost of imported crude oil to satisfy the greed of the oil exporters. We have long decried OPEC, but, sadly, no one in government has yet tried to take any action. This NOPEC legislation will, for the first time, establish clearly and plainly that when a group of competing oil producers like the OPEC nations act together to restrict supply or set prices, they are violating U.S. law.

It is also important to point out that this legislation will not authorize private lawsuits. It only authorizes the Attorney General to file suit under the antitrust laws for redress. It will always be in the discretion of the Justice Department and the President as to whether to take action to enforce NOPEC. Our legislation will not require the government to bring a legal action against OPEC member nations, and no private party will have the ability to bring such an action. This decision will entirely remain in the discretion of the executive branch. Our NOPEC legislation will give our law enforcement agencies a tool to employ against the oil cartel but the decision on whether to use this tool will entirely be up to the Justice Department and, ultimately, the President. They can use this tool as they see fit—to file a legal action, to jawbone OPEC in diplomatic discussions, or defer from any action should they judge foreign policy or other considerations warrant it.

NOPEC will also make plain that the nations of OPEC cannot hide behind the doctrines of ''sovereign immunity'' or ''act of state'' to escape the reach of American justice. In so doing, our amendment will overrule one 28 year old lower court decision which incorrectly failed to recognize that the actions of OPEC member nations was commercial activity exempt from the protections of sovereign immunity.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Our NOPEC legislation will, for the first time, enable our Justice Department to take legal action to combat the illegitimate price-fixing conspiracy of the oil cartel. It will, at a minimum, have a real deterrent effect on nations that seek to join forces to fix oil prices to the detriment of consumers. This legislation will be the first real weapon the U.S. Government has ever had to deter OPEC from its seemingly endless cycle of supply cutbacks designed to raise price. It will mean that OPEC member nations will face the possibility of real and substantial antitrust sanctions should they persist in their illegal conduct. It will also deter additional nations who may today be considering joining OPEC.

I urge my colleagues to support our NOPEC legislation so that our nation will finally have an effective means to combat this price-fixing conspiracy of oil-rich nations.

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. 394

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 ''No Oil Producing and Exporting Cartels Act of 2011'' or ''NOPEC''.

SEC. 2. SHERMAN ACT.

The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—

''(1) IN GENERAL.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.

''(2) NO PRIVATE RIGHT OF ACTION.—No private right of action is authorized under this section.''.

SEC. 3. SOVEREIGN IMMUNITY.

Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

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

S. 398. A bill to amend the Energy Policy and Conservation Act to improve energy efficiency of certain appliances and equipment, and for other

purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am pleased to join with Senator MURKOWSKI, the Ranking Member of the Committee on Energy and Natural Resources, in introducing the Implementation of National Consensus Appliance Agreements Act of 2011, INCAAA. This bill is an updated version of the appliance energy efficiency standards legislation, S. 3925, that apparently came within a single Senate vote of passage by unanimous consent last December, as the 111th Congress drew to a close.

As with the six appliance energy efficiency laws that have been enacted since 1986, this bill enjoys consensus support among appliance manufacturers, energy efficiency advocates, and consumer groups. Such broad support is to be expected, given the bill's many benefits. It would reduce the regulatory burden on appliance manufacturers, increasing their profitability and their ability to protect and create jobs; reduce national energy and water demand, slowing the need for new energy and water supplies, freeing capital for other investments and making our economy more competitive overall; save consumers money on their monthly energy and water bills, freeing household income for spending in other areas; and reduce power plant emissions and other environmental costs of energy production.

At the core of this bill are the appliance efficiency provisions that were reported with bipartisan support from the Committee on Energy and Natural Resources in 2009 as a part of the comprehensive energy legislation, the American Clean Energy Leadership Act, ACELA, S. 1462. INCAAA also includes the amendments reported from the Committee in May 2010 to enhance ACELA. Finally, INCAAA includes several more-recent agreements and revisions on appliance efficiency that have been reached by industry, energy advocacy, and consumer stake holders.

I note that there are continuing discussions among stakeholders on Section 2(a) regarding the definition of ''energy conservation standard'' and whether this term should allow an efficiency standard to have more than one metric. For example, that a standard could require a specified energy efficiency and also, say, specific water efficiency or smart grid capability, or some other additional performance measures. Stakeholders have agreed to allow inclusion of this provision in the bill for the purposes of introduction while discussions continue. Also under continuing discussion are provisions regarding reflector lamps. The Department of Energy is scheduled to complete its current rulemaking for these products this August and stakeholders continue to negotiate what guidance could be given the Department for future rulemakings. I am committed to working with all stakeholders to resolve these issues as the legislative process moves forward.

From a business point-of-view, INCAAA's greatest value is as a regulatory-reform bill. 25 years ago, the national appliance market was in danger of become unmanageably Balkanized because certain States were beginning to enact appliance efficiency standards in response their power supply problems. Faced with a growing patchwork of state standards, industry joined with energy efficiency and consumer groups to support Federal authority to preempt state standards and thereby assure a single national market for appliances.

INCAAA, as with the five appliance standards laws enacted since 1986, would go a step further than simple Federal pre-emption of state standards by enacting consensus standards that are negotiated among the stakeholders as the Federal standards. By directly enacting consensus standards as Federal standards, these laws have the added benefit of saving the time, cost, and uncertainty associated with a formal Federal rulemaking.

INCAAA would enact standards agreed to by the manufacturers of the covered products and by the Nation's leading energy efficiency groups, the Alliance to Save Energy, the American Council for an Energy Efficient Economy, and the Natural Resources Defense Council. These include new efficiency standards for certain outdoor lighting, as supported by the National Electrical Manufacturers Association and major lighting manufacturers such as General Electric, Osram Sylvania, and Philips; increased efficiency standards for furnaces, heat pumps and central air conditioners, as supported by the Air-Conditioning, Heating and Refrigeration Institute and its dozens of member companies including Carrier, Johnson Controls, Rheem, Lennox, Nordyne, Goodman and Trane. The furnace provisions are also supported by the American Gas Association; and Increased energy and water efficiency standards for refrigerators and freezers, clothes washers and dryers, dishwashers, and room air-conditioners, as supported by the Association of Home Appliance Manufacturers and its many member companies including Electrolux, General Electric, Sub-Zero, and Whirlpool.

INCAAA also includes consensus standards that were earlier reported by the Energy Committee on smaller classes of products such as drinking water dispensers, hot food holding cabinets, electric spas, pool heaters, and consensus standards that were negotiated more recently for service-over-the-counter refrigerators.

The American Council for an Energy-Efficient Economy estimates that INCAAA would save the Nation nearly 850 Trillion Btus of energy each year by 2030—enough energy to meet the needs of 4.6 million typical American households. For comparison, the states of Utah and Connecticut each used just over 800 Trillion Btus of energy in 2008. Result in net economic savings, benefits minus costs, to consumers of more than $43 billion annually by 2030. Save nearly 5 trillion gallons of water annually by 2030, roughly the amount needed to meet the current needs of every customer in Los Angeles for 25 years. Improve the environment by reducing annual carbon dioxide emissions by about 47 million metric tons in 2030.

The Department of Energy's appliance standards program has been one of the nation's most powerful and successful tools for promoting energy and economic efficiency. ACEEE estimates that by 2010 appliance efficiency standards had reduced national non-transportation energy use to 7 percent below what it would otherwise be. For comparison, 7 percent of energy consumption in the U.S. is more than the annual energy consumption of Florida or New York. Standards not only defer the construction of power plants, but also all of their associated costs for planning, siting, operating, fueling, maintaining, and the environmental costs of their emissions, and the costs associated with the distribution of that energy.

Finally, INCAAA contains no authorizations. Based on the CBO analysis conducted last year on ACELA, it is clear that this bill would not incur any no new spending.

This legislation represents government at its best, as a catalyst, bringing together stakeholders on consensus solutions to complex problems. I urge my colleagues to join us in supporting enactment of INCAAA and reaching the goal that was so narrowly missed last December.

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

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

S. 398

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Implementation of National Consensus Appliance Agreements Act of 2011''.

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

SEC. 2. ENERGY CONSERVATION STANDARDS.

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

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

''(6) ENERGY CONSERVATION STANDARD.—

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

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

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

''(iii) for clothes washers and dishwashers—

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

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

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

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

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

''(19) EER AND HSPF TEST PROCEDURES.—

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

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

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

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

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

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

''(A) BASE NATIONAL STANDARDS.—

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

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

''(II) Single Package Systems: 14.

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

''(I) Split Systems: 8.2.

''(II) Single Package Systems: 8.0.

''(B) REGIONAL STANDARDS.—

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

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

''(II) Single Package Systems: 14.

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

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

''(II) Single Package Systems: 11.0.

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

''(C) AMENDMENT OF STANDARDS.—

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

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

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

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

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

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

''(E) NEW CONSTRUCTION LEVELS.—

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

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

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

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

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

''(A) DEFINITIONS.—In this paragraph:

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

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

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

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

''(I) is not weatherized;

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

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

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

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

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

''(B) SMALL-DUCT HIGH-VELOCITY SYSTEMS.—

''(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio for small-duct high-velocity systems shall be not less than 11.00 for products manufactured on or after January 23, 2006.

''(ii) HEATING SEASONAL PERFORMANCE FACTOR.—The heating seasonal performance factor for small-duct high-velocity systems shall be not less than 6.8 for products manufactured on or after January 23, 2006.

''(C) RULEMAKING.—

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

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

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

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

''(A) BASE NATIONAL STANDARDS.—

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

''(I) Gas furnaces, a level determined by the Secretary in a final rule published not later than June 30, 2011.

''(II) Oil furnaces, 83 percent.

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

''(B) REGIONAL STANDARD.—

''(i) ANNUAL FUEL UTILIZATION EFFICIENCY.—Not later than June 30, 2011, the Secretary shall—

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

''(II) include in the final rule described in subclause (I) any regional standard established under this subparagraph.

''(ii) APPLICATION OF SUBSECTION (o)(6).—Subsection (o)(6) shall apply to any regional standard established under this subparagraph.

''(C) AMENDMENT OF STANDARDS.—

''(i) NON-WEATHERIZED FURNACES.—

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

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

''(ii) WEATHERIZED FURNACES.—

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

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

''(D) NEW CONSTRUCTION LEVELS.—

''(i) IN GENERAL.—

''(I) FINAL RULE PUBLISHED AFTER JANUARY 1, 2011.—As part of any final rule concerning furnace standards published after January 1, 2011, the Secretary shall establish the building code levels referred to in subclauses (I)(aa), (II)(aa), and (III)(aa) of section 327(f)(3)(C)(i) subject to meeting the criteria of subsection (o) when applied specifically to new construction.

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

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

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

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

(1) in paragraph (3), by striking subparagraphs (B) through (F) and inserting the following:

''(B) The code does not contain a mandatory requirement that, under all code compliance paths, requires that the covered product have an energy efficiency exceeding 1 of the following levels:

''(i) The applicable energy conservation standard established in or prescribed under section 325.

''(ii) The level required by a regulation of the State for which the Secretary has issued a rule granting a waiver under subsection (d).

''(C) If the energy consumption or conservation objective in the code is determined using covered products, including any baseline building designs against which all submitted building designs are to be evaluated, the objective is based on the use of covered products having efficiencies not exceeding—

''(i) for residential furnaces, central air conditioners, and heat pumps, effective not earlier than January 1, 2013, and until such time as a level takes effect for the product under clause (ii)—

''(I) for the States described in section 325(f)(5)(B)(i)—

''(aa) for gas furnaces, an AFUE level determined by the Secretary; and

''(bb) 14 SEER for central air conditioners (not including heat pumps);

''(II) for the States and other localities described in section 325(d)(4)(B)(i) (except for the States of Arizona, California, Nevada, and New Mexico)—

''(aa) for gas furnaces, an AFUE level determined by the Secretary; and

''(bb) 15 SEER for central air conditioners;

''(III) for the States of Arizona, California, Nevada, and New Mexico—

''(aa) for gas furnaces, an AFUE level determined by the Secretary;

''(bb) 15 SEER for central air conditioners;

''(cc) an EER of 12.5 for air conditioners (not including heat pumps) with cooling capacity less than 45,000 Btu per hour; and

''(dd) an EER of 12.0 for air conditioners (not including heat pumps) with cooling capacity of 45,000 Btu per hour or more; and

''(IV) for all States—

''(aa) 85 percent AFUE for oil furnaces; and

''(bb) 15 SEER and 8.5 HSPF for heat pumps;

''(ii) the building code levels established pursuant to section 325; or

''(iii) the applicable standards or levels specified in subparagraph (B).

''(D) The credit to the energy consumption or conservation objective allowed by the code for installing a covered product having an energy efficiency exceeding the applicable standard or level specified in subparagraph (C) is on a 1-for-1 equivalent energy use or equivalent energy cost basis, which may take into account the typical lifetimes of the products and building features, using lifetimes for covered products based on information published by the Department of Energy or the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

''(E) If the code sets forth 1 or more combinations of items that meet the energy consumption or conservation objective, and if 1 or more combinations specify an efficiency level for a covered product that exceeds the applicable standards and levels specified in subparagraph (B)—

''(i) there is at least 1 combination that includes such covered products having efficiencies not exceeding 1 of the standards or levels specified in subparagraph (B); and

''(ii) if 1 or more combinations of items specify an efficiency level for a furnace, central air conditioner, or heat pump that exceeds the applicable standards and levels specified in subparagraph (B), there is at least 1 combination that the State has found to be reasonably achievable using commercially available technologies that includes such products having efficiencies at the applicable levels specified in subparagraph (C), except that no combination need include a product having an efficiency less than the level specified in subparagraph (B)(ii).

''(F) The energy consumption or conservation objective is specified in terms of an estimated total consumption of energy (which may be specified in units of energy or its equivalent cost).'';

(2) in paragraph (4)(B)—

(A) by inserting after ''building code'' the first place it appears the following: ''contains a mandatory requirement that, under all code compliance paths,''; and

(B) by striking ''unless the'' and all that follows through ''subsection (d)''; and

(3) by adding at the end the following:

''(5) REPLACEMENT OF COVERED PRODUCT.—Paragraph (3) shall not apply to the replacement of a covered product serving an existing building unless the replacement results in an increase in capacity greater than—

''(A) 12,000 Btu per hour for residential air conditioners and heat pumps; or

''(B) 20 percent for other covered products.''.

SEC. 3. ENERGY CONSERVATION STANDARDS FOR HEAT PUMP POOL HEATERS.

(a) DEFINITIONS.—

(1) EFFICIENCY DESCRIPTOR.—Section 321(22) of the Energy Policy and Conservation Act (42 U.S.C. 6291(22)) is amended—

(A) in subparagraph (E), by inserting ''gas-fired'' before ''pool heaters''; and

(B) by adding at the end the following:

''(F) For heat pump pool heaters, coefficient of performance of heat pump pool heaters.''.

(2) COEFFICIENT OF PERFORMANCE OF HEAT PUMP POOL HEATERS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by inserting after paragraph (25) the following:

''(25A) COEFFICIENT OF PERFORMANCE OF HEAT PUMP POOL HEATERS.—The term 'coefficient of performance of heat pump pool heaters' means the ratio of the capacity to power

input value obtained at the following rating conditions: 50.0 °F db/44.2 °F wb outdoor air and 80.0 °F entering water temperatures, according to AHRI Standard 1160.''.

(3) THERMAL EFFICIENCY OF GAS-FIRED POOL HEATERS.—Section 321(26) of the Energy Policy and Conservation Act (42 U.S.C. 6291(26)) is amended by inserting ''gas-fired'' before ''pool heaters''.

(b) STANDARDS FOR POOL HEATERS.—Section 325(e)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6295(e)(2)) is amended—

(1) by striking ''(2) The thermal efficiency of pool heaters'' and inserting the following:

''(2) POOL HEATERS.—

''(A) GAS-FIRED POOL HEATERS.—The thermal efficiency of gas-fired pool heaters''; and

(2) by adding at the end the following:

''(B) HEAT PUMP POOL HEATERS.—Heat pump pool heaters manufactured on or after the date of enactment of this subparagraph shall have a minimum coefficient of performance of 4.0.''.

SEC. 4. GU–24 BASE LAMPS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 2(a)(2)) is amended by adding at the end the following:

''(69) GU–24.—The term 'GU–24' '' means the designation of a lamp socket, based on a coding system by the International Electrotechnical Commission, under which—

''(A) 'G' indicates a holder and socket type with 2 or more projecting contacts, such as pins or posts;

''(B) 'U' distinguishes between lamp and holder designs of similar type that are not interchangeable due to electrical or mechanical requirements; and

''(C) 24 indicates the distance in millimeters between the electrical contact posts.

''(70) GU–24 ADAPTOR.—

''(A) IN GENERAL.—The term 'GU–24 Adaptor' means a 1-piece device, pig-tail, wiring harness, or other such socket or base attachment that—

''(i) connects to a GU–24 socket on 1 end and provides a different type of socket or connection on the other end; and

''(ii) does not alter the voltage.

''(B) EXCLUSION.—The term 'GU–24 Adaptor' does not include a fluorescent ballast with a GU–24 base.

''(71) GU–24 BASE LAMP.—'GU–24 base lamp' means a light bulb designed to fit in a GU–24 socket.''.

(b) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsection (ii) as subsection (jj); and

(2) by inserting after subsection (hh) the following:

''(ii) GU–24 BASE LAMPS.—

''(1) IN GENERAL.—A GU–24 base lamp shall not be an incandescent lamp as defined by ANSI.

''(2) GU–24 ADAPTORS.—GU–24 adaptors shall not adapt a GU–24 socket to any other line voltage socket.''.

SEC. 5. EFFICIENCY STANDARDS FOR BOTTLE-TYPE WATER DISPENSERS, COMMERCIAL HOT FOOD HOLDING CABINETS, AND PORTABLE ELECTRIC SPAS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) (as amended by section 4(a)) is amended by adding at the end the following:

''(72) BOTTLE-TYPE WATER DISPENSER.—The term 'bottle-type water dispenser' means a drinking water dispenser that is—

''(A) designed for dispensing hot and cold water; and

''(B) uses a removable bottle or container as the source of potable water.

''(73) COMMERCIAL HOT FOOD HOLDING CABINET.—

''(A) IN GENERAL.—The term 'commercial hot food holding cabinet' means a heated, fully-enclosed compartment that—

''(i) is designed to maintain the temperature of hot food that has been cooked in a separate appliance;

''(ii) has 1 or more solid or glass doors; and

''(iii) has an interior volume of 8 cubic feet or more.

''(B) EXCLUSIONS.—The term 'commercial hot food holding cabinet' does not include—

''(i) a heated glass merchandising cabinet;

''(ii) a drawer warmer;

''(iii) a cook-and-hold appliance; or

''(iv) a mobile serving cart with both hot and cold compartments.

''(74) COMPARTMENT BOTTLE-TYPE WATER DISPENSER.—The term 'compartment bottle-type water dispenser' means a drinking water dispenser that—

''(A) is designed for dispensing hot and cold water;

''(B) uses a removable bottle or container as the source of potable water; and

''(C) includes a refrigerated compartment with or without provisions for making ice.

''(75) PORTABLE ELECTRIC SPA.—

''(A) IN GENERAL.—The term 'portable electric spa' means a factory-built electric spa or hot tub that—

''(i) is intended for the immersion of persons in heated water circulated in a closed system; and

''(ii) is not intended to be drained and filled with each use.

''(B) INCLUSIONS.—The term 'portable electric spa' includes—

''(i) a filter;

''(ii) a heater (including an electric, solar, or gas heater);

''(iii) a pump;

''(iv) a control; and

''(v) other equipment, such as a light, a blower, and water sanitizing equipment.

''(C) EXCLUSIONS.—The term 'portable electric spa' does not include—

''(i) a permanently installed spa that, once installed, cannot be moved; or

''(ii) a spa that is specifically designed and exclusively marketed for medical treatment or physical therapy purposes.

''(76) WATER DISPENSER.—The term 'water dispenser' means a factory-made assembly that—

''(A) mechanically cools and heats potable water; and

''(B) dispenses the cooled or heated water by integral or remote means.''.

(b) COVERAGE.—

(1) IN GENERAL.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended—

(A) by redesignating paragraph (20) as paragraph (23); and

(B) by inserting after paragraph (19) the following:

''(20) Bottle-type water dispensers and compartment bottle-type water dispensers.

''(21) Commercial hot food holding cabinets.

''(22) Portable electric spas.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294) is amended by striking ''(19)'' each place it appears in subsections (a)(3), (b)(1)(B), (b)(3), and (b)(5) and inserting ''(23)''.

(B) Section 325(l) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)) is amended by striking ''paragraph (19)'' each place it appears in paragraphs (1) and (2) and inserting ''paragraph (23)''.

(c) TEST PROCEDURES.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 2(b)) is amended by adding at the end the following:

''(20) BOTTLE-TYPE WATER DISPENSERS.—

''(A) IN GENERAL.—Test procedures for bottle-type water dispensers and compartment bottle-type water dispensers shall be based on the document 'Energy Star Program Requirements for Bottled Water Coolers version 1.1' published by the Environmental Protection Agency.

''(B) INTEGRAL, AUTOMATIC TIMERS.—A unit with an integral, automatic timer shall not be tested under this paragraph using section 4D of the test criteria (relating to Timer Usage).

''(21) COMMERCIAL HOT FOOD HOLDING CABINETS.—

''(A) IN GENERAL.—Test procedures for commercial hot food holding cabinets shall be based on the test procedures described in ANSI/ASTM F2140–01 (Test for idle energy rate-dry test).

''(B) INTERIOR VOLUME.—Interior volume shall be based under this paragraph on the method demonstrated in the document 'Energy Star Program Requirements for Commercial Hot Food Holding Cabinets' of the Environmental Protection Agency, as in effect on August 15, 2003.

''(22) PORTABLE ELECTRIC SPAS.—

''(A) IN GENERAL.—Test procedures for portable electric spas shall be based on the test method for portable electric spas described in section 1604 of title 20, California Code of Regulations, as amended on December 3, 2008.

''(B) NORMALIZED CONSUMPTION.—Consumption shall be normalized under this paragraph for a water temperature difference of 37 degrees Fahrenheit.

''(C) ANSI TEST PROCEDURE.—If the American National Standards Institute publishes a test procedure for portable electric spas, the Secretary shall revise the procedure established under this paragraph, as determined appropriate by the Secretary.''.

(d) STANDARDS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as amended by section 4(b)) is amended—

(1) by redesignating subsection (ii) as subsection (mm); and

(2) by inserting after subsection (hh) the following:

''(ii) BOTTLE-TYPE WATER DISPENSERS.—Effective beginning on the date that is 1 year after the date of enactment of the Implementation of National Consensus Appliance Agreements Act of 2011—

''(1) a bottle-type water dispenser shall not have standby energy consumption that is greater than 1.2 kilowatt-hours per day; and

''(2) a compartment bottle-type water dispenser shall not have standby energy consumption that is greater than 1.3 kilowatt-hours per day.

''(jj) COMMERCIAL HOT FOOD HOLDING CABINETS.—Effective beginning on the date that is 1 year after the date of enactment of the Implementation of National Consensus Appliance Agreements Act of 2011, a commercial hot food holding cabinet shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume.

''(kk) PORTABLE ELECTRIC SPAS.—Effective beginning on the date that is 1 year after the date of enactment of the Implementation of National Consensus Appliance Agreements Act of 2011, a portable electric spa shall not have a normalized standby power rate of greater than 5 ($V^{2/3}$) Watts (in which 'V' equals the fill volume (in gallons)).

''(ll) REVISIONS.—

''(1) IN GENERAL.—Not later than the date that is 3 years after the date of enactment of the Implementation of National Consensus Appliance Agreements Act of 2011, the Secretary shall—

''(A) consider in accordance with subsection (o) revisions to the standards established under subsections (ii), (jj), and (kk); and

''(B)(i) publish a final rule establishing the revised standards; or

''(ii) make a finding that no revisions are technically feasible and economically justified.

''(2) EFFECTIVE DATE.—Any revised standards under this subsection shall take effect not earlier than the date that is 3 years after the date of the publication of the final rule.''.

(e) PREEMPTION.—Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking ''or'' after the semicolon at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(8) is a regulation that—

''(A) establishes efficiency standards for bottle-type water dispensers, compartment bottle-type water dispensers, commercial hot food holding cabinets, or portable electric spas; and

''(B) is in effect on or before the date of enactment of this paragraph.''; and

(2) in subsection (c)—

(A) in paragraph (8)(B), by striking ''and'' after the semicolon at the end;

(B) in paragraph (9)—

(i) by striking ''except that—'' and all that follows through ''if the Secretary'' and inserting ''except that if the Secretary'';

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately; and

(iii) in subparagraph (B) (as so redesignated), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(10) is a regulation that—

''(A) establishes efficiency standards for bottle-type water dispensers, compartment bottle-type water dispensers, commercial hot food holding cabinets, or portable electric spas; and

''(B) is adopted by the California Energy Commission on or before January 1, 2013.''.

SEC. 6. TEST PROCEDURE PETITION PROCESS.

(a) CONSUMER PRODUCTS OTHER THAN AUTOMOBILES.—Section 323(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)(1)) is amended—

(1) in subparagraph (A)(i), by striking ''amend'' and inserting ''publish in the Federal Register amended''; and

(2) by adding at the end the following:

''(B) PETITIONS.—

''(i) IN GENERAL.—In the case of any covered product, any person may petition the Secretary to conduct a rulemaking—

''(I) to prescribe a test procedure for the covered product; or

''(II) to amend the test procedures applicable to the covered product to more accurately or fully comply with paragraph (3).

''(ii) DETERMINATION.—The Secretary shall—

''(I) not later than 90 days after the date of receipt of the petition, publish the petition in the Federal Register; and

''(II) not later than 180 days after the date of receipt of the petition, grant or deny the petition.

''(iii) BASIS.—The Secretary shall grant a petition if the Secretary finds that the petition contains evidence that, assuming no other evidence was considered, provides an adequate basis for determining that an amended test procedure would more accurately or fully comply with paragraph (3).

''(iv) EFFECT ON OTHER REQUIREMENTS.—The granting of a petition by the Secretary under this subparagraph shall create no presumption with respect to the determination of the Secretary that the proposed test procedure meets the requirements of paragraph (3).

''(v) RULEMAKING.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than the end of the 18-month period beginning on the date of granting a petition, the Secretary shall publish an amended test procedure or a determination not to amend the test procedure.

''(II) EXTENSION.—The Secretary may extend the period described in subclause (I) for 1 additional year.

''(III) DIRECT FINAL RULE.—The Secretary may adopt a consensus test procedure in accordance with the direct final rule procedure established under section 325(p)(4).

''(C) TEST PROCEDURES.—The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 322(b).

''(D) NEW OR AMENDED TEST PROCEDURES.—The Secretary shall direct the National Institute of Standards and Technology to assist in developing new or amended test procedures.''.

(b) CERTAIN INDUSTRIAL EQUIPMENT.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) AMENDMENT AND PETITION PROCESS.—

''(A) IN GENERAL.—At least once every 7 years, the Secretary shall review test procedures for all covered equipment and—

''(i) publish in the Federal Register amended test procedures with respect to any covered equipment, if the Secretary determines that amended test procedures would more accurately or fully comply with paragraphs (2) and (3); or

''(ii) publish notice in the Federal Register of any determination not to amend a test procedure.

''(B) PETITIONS.—

''(i) IN GENERAL.—In the case of any class or category of covered equipment, any person may petition the Secretary to conduct a rulemaking—

''(I) to prescribe a test procedure for the covered equipment; or

''(II) to amend the test procedures applicable to the covered equipment to more accurately or fully comply with paragraphs (2) and (3).

''(ii) DETERMINATION.—The Secretary shall—

''(I) not later than 90 days after the date of receipt of the petition, publish the petition in the Federal Register; and

''(II) not later than 180 days after the date of receipt of the petition, grant or deny the petition.

''(iii) BASIS.—The Secretary shall grant a petition if the Secretary finds that the petition contains evidence that, assuming no other evidence was considered, provides an adequate basis for determining that an amended test method would more accurately promote energy or water use efficiency.

''(iv) EFFECT ON OTHER REQUIREMENTS.—The granting of a petition by the Secretary under this paragraph shall create no presumption with respect to the determination of the Secretary that the proposed test procedure meets the requirements of paragraphs (2) and (3).

''(v) RULEMAKING.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than the end of the 18-month period beginning on the date of granting a petition, the Secretary shall publish an amended test method or a determination not to amend the test method.

''(II) EXTENSION.—The Secretary may extend the period described in subclause (I) for 1 additional year.

''(III) DIRECT FINAL RULE.—The Secretary may adopt a consensus test procedure in accordance with the direct final rule procedure established under section 325(p).'';

(2) by striking subsection (c); and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 7. AMENDMENTS TO HOME APPLIANCE TEST METHODS.

Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293(b)) (as amended by section 5(c)) is amended by adding at the end the following:

''(23) REFRIGERATOR AND FREEZER TEST PROCEDURE.—

''(A) IN GENERAL.—Not later than 90 days after the date on which the Secretary publishes the final standard rule that was proposed on September 27, 2010, the Secretary shall finalize the interim final test procedure rule proposed on December 16, 2010, with such subsequent modifications to the test procedure or standards as the Secretary determines to be appropriate and consistent with this part.

''(B) RULEMAKING.—

''(i) INITIATION.—Not later than January 1, 2012, the Secretary shall initiate a rulemaking to amend the test procedure described in subparagraph (A) only to incorporate measured automatic icemaker energy use.

''(ii) FINAL RULE.—Not later than December 31, 2012, the Secretary shall publish a final rule regarding the matter described in clause (i).

''(24) ADDITIONAL HOME APPLIANCE TEST PROCEDURES.—

''(A) AMENDED TEST PROCEDURE FOR CLOTHES WASHERS.—Not later than October 1, 2011, the Secretary shall publish a final rule amending the residential clothes washer test procedure.

''(B) AMENDED TEST PROCEDURE FOR CLOTHES DRYERS.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall publish an amended test procedure for clothes dryers.

''(ii) REQUIREMENT.—The amendments to the test procedure shall be limited to modifications requiring that tested dryers are run until the cycle (including cool down) is ended by automatic termination controls, if equipped with those controls.''.

SEC. 8. CREDIT FOR ENERGY STAR SMART APPLIANCES.

Section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a) is amended by adding at the end the following:

''(e) CREDIT FOR SMART APPLIANCES.—Not later than 180 days after the date of enactment of this subsection, after soliciting comments pursuant to subsection (c)(5), the Administrator of the Environmental Protection Agency, in cooperation with the Secretary, shall determine whether to update the Energy Star criteria for residential refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, clothes dryers, and room air conditioners to incorporate smart grid and demand response features.''.

SEC. 9. VIDEO GAME CONSOLE ENERGY EFFICIENCY STUDY.

(a) IN GENERAL.—Part B of title III of the Energy Policy and Conservation Act is amended by inserting after section 324A (42 U.S.C. 6294a) the following:

''SEC. 324B. VIDEO GAME CONSOLE ENERGY EFFICIENCY STUDY.

''(a) INITIAL STUDY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall conduct a study of—

''(A) video game console energy use; and

''(B) opportunities for energy savings regarding that energy use.

''(2) INCLUSIONS.—The study under paragraph (1) shall include an assessment of all power-consuming modes and media playback modes of video game consoles.

''(b) ACTION ON COMPLETION.—On completion of the initial study under subsection (a), the Secretary shall determine, by regulation, using the criteria and procedures described in section 325(n)(2), whether to initiate a process for establishing minimum energy efficiency standards for video game console energy use.

''(c) FOLLOW-UP STUDY.—If the Secretary determines under subsection (b) that standards should not be established, the Secretary shall conduct a follow-up study in accordance with subsection (a) by not later than 3 years after the date of the determination.''.

(b) APPLICATION DATE.—Subsection (nn)(1) of section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) (as redesignated by section 5(d)(1)) is amended by inserting ''or section 324B'' after ''subsection (l), (u), or (v)'' each place it appears.

SEC. 10. REFRIGERATOR AND FREEZER STANDARDS.

Section 325(b) of the Energy Policy and Conservation Act (42 U.S.C. 6295(b)) is amended by striking paragraph (4) and inserting the following:

''(4) REFRIGERATORS, REFRIGERATOR-FREEZERS, AND FREEZERS MANUFACTURED AS OF JANUARY 1, 2014.—

''(A) DEFINITION OF BUILT-IN PRODUCT CLASS.—In this paragraph, the term 'built-in product class' means a refrigerator, freezer, or refrigerator with a freezer unit that—

''(i) is 7.75 cubic feet or greater in total volume and 24 inches or less in cabinet depth (not including doors, handles, and custom front panels);

''(ii) is designed to be totally encased by cabinetry or panels attached during installation;

''(iii) is designed to accept a custom front panel or to be equipped with an integral factory-finished face;

''(iv) is designed to be securely fastened to adjacent cabinetry, walls, or floors; and

''(v) has 2 or more sides that are not—

''(I) fully finished; and

''(II) intended to be visible after installation.

''(B) MAXIMUM ENERGY USE.—

''(i) IN GENERAL.—Based on the test procedure in effect on July 9, 2010, the maximum energy use allowed in kilowatt hours per year for each product described in the table contained in clause (ii) (other than refrigerators and refrigerator-freezers with total refrigerated volume exceeding 39 cubic feet and freezers with total refrigerated volume exceeding 30 cubic feet) that is manufactured on or after January 1, 2014, is specified in the table contained in that clause.

''(ii) STANDARDS EQUATIONS.—The allowed maximum energy use referred to in clause (i) is as follows:

''Standards Equations	
Product Description	
Automatic Defrost Refrigerator-Freezers	
Top Freezer w/o TTD ice	7.35 AV+ 207.0
Top Freezer w/ TTD ice	7.65 AV+ 267.0
Side Freezer w/o TTD ice	3.68 AV+ 380.6
Side Freezer w/ TTD ice	7.58 AV+304.5
Bottom Freezer w/o TTD ice	3.68 AV+ 367.2
Bottom Freezer w/ TTD ice	4.0 AV+ 431.2
Manual & Partial Automatic Refrigerator-Freezers	
Manual Defrost	7.06 AV+ 198.7
Partial Automatic	7.06 AV+198.7
All Refrigerators	
Manual Defrost	7.06AV+198.7
Automatic Defrost	7.35 AV+ 207.0
All Freezers	
Upright with manual defrost	5.66 AV+ 193.7
Upright with automatic defrost	8.70 AV+ 228.3
Chest with manual defrost	7.41 AV+ 107.8
Chest with automatic defrost	10.33 AV+ 148.1
Automatic Defrost Refrigerator-Freezers–Compact Size	
Top Freezer and Bottom Freezer	10.80 AV+ 301.8
Side Freezer	6.08 AV+ 400.8
Manual & Partial Automatic Refrigerator-Freezers–Compact Size	
Manual Defrost	8.03 AV+ 224.3
Partial Automatic	5.25 AV+ 298.5
All Refrigerators–Compact Size	
Manual defrost	8.03 AV+ 224.3
Automatic defrost	9.53 AV+ 266.3
All Freezers–Compact Size	
Upright with manual defrost	8.80 AV+ 225.7
Upright with automatic defrost	10.26 AV+ 351.9
Chest	9.41AV+ 136.8
Automatic Defrost Refrigerator-Freezers–Built-ins	
Top Freezer w/o TTD ice	7.84 AV+ 220.8
Side Freezer w/o TTD ice	3.93 AV+ 406.0
Side Freezer w/ TTD ice	8.08 AV+ 324.8
Bottom Freezer w/o TTD ice	3.91 AV+ 390.2
Bottom Freezer w/ TTD ice	4.25 AV+ 458.2
All Refrigerators–Built-ins	
Automatic Defrost	7.84 AV+ 220.8
All Freezers–Built-ins	
Upright with automatic defrost	9.32 AV+ 244.6.

''(iii) FINAL RULES.—

''(I) IN GENERAL.—Except as provided in subclause (II), after the date of publication of each test procedure change made pursuant to section 323(b)(23), in accordance with the procedures described in section 323(e)(2), the Secretary shall publish final rules to amend the standards specified in the table contained in clause (ii).

''(II) EXCEPTION.—The standards amendment made pursuant to the test procedure change required under section 323(b)(23)(B) shall be based on the difference between—

''(aa) the average measured automatic ice maker energy use of a representative sample for each product class; and

''(bb) the value assumed by the Department of Energy for ice maker energy use in the test procedure published pursuant to section 323(b)(23)(A).

''(III) APPLICABILITY.—Section 323(e)(3) shall not apply to the rules described in this clause.

''(iv) FINAL RULE.—The Secretary shall publish any final rule required by clause (iii) by not later than the later of the date that is 180 days after—

''(I) the date of enactment of this clause; or

''(II) the date of publication of a final rule to amend the test procedure described in section 323(b)(23).

''(v) NEW PRODUCT CLASSES.—The Secretary may establish 1 or more new product classes as part of the final amended standard adopted pursuant to the test procedure change required under section 323(b)(23)(B) if the 1 or more new product classes are needed to distinguish among products with automatic icemakers.

''(vi) EFFECTIVE DATES OF STANDARDS.—

''(I) STANDARDS AMENDMENT FOR FIRST REVISED TEST PROCEDURE.—A standards amendment adopted pursuant to a test procedure change required under section 323(b)(23)(A) shall apply to any product manufactured as of January 1, 2014.

''(II) STANDARDS AMENDMENT AFTER REVISED TEST PROCEDURE FOR ICEMAKER ENERGY.—An amendment adopted pursuant to a test procedure change required under section 323(b)(23)(B) shall apply to any product manufactured as of the date that is 3 years after the date of publication of the final rule amending the standards.

''(vii) SLOPE AND INTERCEPT ADJUSTMENTS.—

''(I) IN GENERAL.—With respect to refrigerators, freezers, and refrigerator-freezers, the Secretary may, by rule, adjust the slope and intercept of the equations specified in the table contained in clause (ii)—

''(aa) based on the energy use of typical products of various sizes in a product class; and

''(bb) if the average energy use for each of the classes is the same under the new equations as under the equations specified in the table contained in clause (ii).

''(II) DEADLINE.—If the Secretary adjusts the slope and intercept of an equation described in subclause (I), the Secretary shall publish the final rule containing the adjustment by not later than July 1, 2011.

''(viii) EFFECT.—A final rule published under clause (iii) pursuant to the test procedure change required under section 323(b)(23)(B) or pursuant to clause (iv) shall not be considered to be an amendment to the standard for purposes of section 325(m).''.

SEC. 11. ROOM AIR CONDITIONER STANDARDS.

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

''(3) MINIMUM ENERGY EFFICIENCY RATIO OF ROOM AIR CONDITIONERS MANUFACTURED ON OR AFTER JUNE 1, 2014.—

''(A) IN GENERAL.—Based on the test procedure in effect on July 9, 2010, the minimum

energy efficiency ratios of room air conditioners manufactured on or after June 1, 2014, shall not be less than that specified in the table contained in subparagraph (B).

''(B) MINIMUM ENERGY EFFICIENCY RATIOS.—The minimum energy efficiency ratios referred to in subparagraph (A) are as follows:

Without Reverse Cycle w/Louvers	
<6,000 Btu/h	11.2
6,000 to 7,999 Btu/h	11.2
8,000-13,999 Btu/h	11.0
14,000 to 19,999 Btu/h	10.8
20,000-27,999 Btu/h	9.4
≥28,000 Btu/h	9.0
Without Reverse Cycle w/o Louvers	
<6,000 Btu/h	10.2
6,000 to 7,999 Btu/h	10.2
8,000-10,999 Btu/h	9.7
11,000-13,999 Btu/h	9.6
14,000 to 19,999 Btu/h	9.4
≥20,000 Btu/h	9.4
With Reverse Cycle	
<20,000 w/Louvers Btu/h	9.9
≥ 20,000 w/Louvers Btu/h	9.4
<14,000 w/o Louvers Btu/h	9.4
≥14,000 w/o Louvers Btu/h	8.8
Casement	
Casement Only	9.6
Casement-Slider	10.5.

''(C) FINAL RULE.—

''(i) IN GENERAL.—Not later than July 1, 2011, pursuant to the test procedure adopted by the Secretary on January 6, 2011, the Secretary shall amend the standards specified in the table contained in subparagraph (B) in accordance with the procedures described in section 323(e)(2).

''(ii) STANDBY AND OFF MODE ENERGY CONSUMPTION.—

''(I) IN GENERAL.—The Secretary shall integrate standby and off mode energy consumption into the amended energy efficiency ratios standards required under clause (i).

''(II) REQUIREMENTS.—The amended standards described in subclause (I) shall reflect the levels of standby and off mode energy consumption that meet the criteria described in section 325(o).

''(iii) APPLICABILITY.—

''(I) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in clause (i).

''(II) AMENDED STANDARDS.—The amended standards required by this subparagraph shall apply to products manufactured on or after June 1, 2014.''.

SEC. 12. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.

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

''(5) UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) COVERED WATER HEATER.—The term 'covered water heater' means—

''(I) a water heater; and

''(II) a storage water heater, instantaneous water heater, and unfired water storage tank (as defined in section 340).

''(ii) FINAL RULE.—The term 'final rule' means the final rule published under this paragraph.

''(B) PUBLICATION OF FINAL RULE.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters.

''(C) PURPOSE.—The purpose of the final rule shall be to replace with a uniform efficiency descriptor—

''(i) the energy factor descriptor for water heaters established under this subsection; and

''(ii) the thermal efficiency and standby loss descriptors for storage water heaters, instantaneous water heaters, and unfired water storage tanks established under section 342(a)(5).

''(D) EFFECT OF FINAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this title, effective beginning on the effective date of the final rule, the efficiency standard for covered water heaters shall be denominated according to the efficiency descriptor established by the final rule.

''(ii) EFFECTIVE DATE.—The final rule shall take effect 1 year after the date of publication of the final rule under subparagraph (B).

''(E) CONVERSION FACTOR.—

''(i) IN GENERAL.—The Secretary shall develop a mathematical conversion factor for converting the measurement of efficiency for covered water heaters from the test procedures in effect on the date of enactment of this paragraph to the new energy descriptor established under the final rule.

''(ii) APPLICATION.—The conversion factor shall apply to models of covered water heaters affected by the final rule and tested prior to the effective date of the final rule.

''(iii) EFFECT ON EFFICIENCY REQUIREMENTS.—The conversion factor shall not affect the minimum efficiency requirements for covered water heaters otherwise established under this title.

''(iv) USE.—During the period described in clause (v), a manufacturer may apply the conversion factor established by the Secretary to rerate existing models of covered water heaters that are in existence prior to the effective date of the rule described in clause (v)(II) to comply with the new efficiency descriptor.

''(v) PERIOD.—Subclause (E) shall apply during the period—

''(I) beginning on the date of publication of the conversion factor in the Federal Register; and

''(II) ending on April 16, 2015.

''(F) EXCLUSIONS.—The final rule may exclude a specific category of covered water heaters from the uniform efficiency descriptor established under this paragraph if the Secretary determines that the category of water heaters—

''(i) does not have a residential use and can be clearly described in the final rule; and

''(ii) are effectively rated using the thermal efficiency and standby loss descriptors applied (on the date of enactment of this paragraph) to the category under section 342(a)(5).

''(G) OPTIONS.—The descriptor set by the final rule may be—

''(i) a revised version of the energy factor descriptor in use on the date of enactment of this paragraph;

''(ii) the thermal efficiency and standby loss descriptors in use on that date;

''(iii) a revised version of the thermal efficiency and standby loss descriptors;

''(iv) a hybrid of descriptors; or

''(v) a new approach.

''(H) APPLICATION.—The efficiency descriptor and accompanying test method established under the final rule shall apply, to the maximum extent practicable, to all water heating technologies in use on the date of enactment of this paragraph and to future water heating technologies.

''(I) PARTICIPATION.—The Secretary shall invite interested stakeholders to participate in the rulemaking process used to establish the final rule.

''(J) TESTING OF ALTERNATIVE DESCRIPTORS.—In establishing the final rule, the Secretary shall contract with the National Institute of Standards and Technology, as necessary, to conduct testing and simulation of alternative descriptors identified for consideration.

''(K) EXISTING COVERED WATER HEATERS.—A covered water heater shall be considered to comply with the final rule on and after the effective date of the final rule and with any revised labeling requirements established by the Federal Trade Commission to carry out the final rule if the covered water heater—

''(i) was manufactured prior to the effective date of the final rule; and

''(ii) complied with the efficiency standards and labeling requirements in effect prior to the final rule.''.

SEC. 13. CLOTHES DRYERS.

Section 325(g)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(4)) is amended by adding at the end the following:

''(D) MINIMUM ENERGY FACTORS FOR CLOTHES DRYERS.—

''(i) IN GENERAL.—Based on the test procedure in effect as of July 9, 2010, clothes dryers manufactured on or after January 1, 2015, shall comply with the minimum energy factors specified in the table contained in clause (ii).

''(ii) NEW STANDARDS.—The minimum energy factors referred to in clause (i) are as follows:

Vented Electric Standard	3.17
Vented Electric Compact 120V	3.29
Vented Electric Compact 240V	3.05
Vented Gas	2.81
Vent-Less Electric Compact 240V	2.37
Vent-Less Electric Combination Washer/Dryer	1.95

''(iii) FINAL RULE.—

''(I) REQUIREMENTS.—

''(aa) IN GENERAL.—The final rule to amend the clothes dryer test procedure adopted pursuant to section 323(b)(24)(B) shall amend the energy factors standards specified in the table contained in clause (ii) in accordance with the procedures described in section 323(e)(2).

''(bb) REPRESENTATIVE SAMPLE.—To establish a representative sample of compliant products, the Secretary shall select a sample of minimally compliant dryers that automatically terminate the drying cycle at not less than 4 percent remaining moisture content.

''(II) STANDBY AND OFF MODE ENERGY CONSUMPTION.—

''(aa) INTEGRATION.—The Secretary shall integrate standby and off mode energy consumption into the amended standards required under subclause (I).

''(bb) REQUIREMENTS.—The amended standards described in item (aa) shall reflect levels of standby and off mode energy consumption that meet the criteria described in section 325(o).

''(III) APPLICABILITY.—

''(aa) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in subclause (I).

''(bb) AMENDED STANDARDS.—The amended standards required by this clause shall apply to products manufactured on or after January 1, 2015.

''(iv) OTHER STANDARDS.—Any dryer energy conservation standard that takes effect after the date of enactment of this subparagraph but before the amended standard required by this subparagraph shall not apply.''.

SEC. 14. STANDARDS FOR CLOTHES WASHERS.

Section 325(g)(9) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(9)) is amended by striking subparagraph (B) and inserting the following:

''(B) AMENDMENT OF STANDARDS.—

''(i) PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2015.—

''(I) IN GENERAL.—Based on the test procedure in effect on July 9, 2010, clothes washers manufactured on or after January 1, 2015, shall comply with the minimum modified energy factors and maximum water factors specified in the table contained in subclause (II).

''(II) STANDARDS.—The minimum modified energy factors and maximum water factors referred to in subclause (I) are as follows:

	''MEF	WF
Top Loading—Standard	1.72	8.0
Top Loading—Compact	1.26	14.0
Front Loading—Standard	2.2	4.5
Front Loading—Compact (less than 1.6 cu. ft. capacity)	1.72	8.0.

''(ii) PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2018.—

''(I) IN GENERAL.—Based on the test procedure in effect on July 9, 2010, top-loading clothes washers manufactured on or after January 1, 2018, shall comply with the minimum modified energy factors and maximum water factors specified in the table contained in subclause (II).

''(II) STANDARDS.—The minimum modified energy factors and maximum water factors referred to in subclause (I) are as follows:

	''MEF	WF
Top Loading—Standard	2.0	6.0
Top Loading—Compact	1.81	11.6.

''(iii) FINAL RULE.—

''(I) IN GENERAL.—The final rule to amend the clothes washer test procedure adopted pursuant to section 323(b)(24)(A) shall amend the standards described in clauses (i) and (ii) in accordance with the procedures described in section 323(e)(2).

''(II) STANDBY AND OFF MODE ENERGY CONSUMPTION.—

''(aa) INTEGRATION.—The Secretary shall integrate standby and off mode energy consumption into the amended modified energy factor standards required under subclause (I).

''(bb) REQUIREMENTS.—The amended modified energy factor standards described in item (aa) shall reflect levels of standby and off mode energy consumption that meet the criteria described in section 325(o).

''(III) APPLICABILITY.—

''(aa) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in subclause (I).

''(bb) AMENDED STANDARDS FOR PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2015.—Amended standards required by this clause that are based on clause (i) shall apply to products manufactured on or after January 1, 2015.

''(cc) AMENDED STANDARDS FOR PRODUCTS MANUFACTURED ON OR AFTER JANUARY 1, 2018.—Amended standards required by this clause that are based on clause (ii) shall apply to products manufactured on or after January 1, 2018.''.

SEC. 15. DISHWASHERS.

Section 325(g)(10) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(10)) is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D); and

(3) by inserting before subparagraph (D) (as redesignated by paragraph (2)) the following:

''(A) DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2010.—A dishwasher manufactured on or after January 1, 2010, shall—

''(i) for a standard size dishwasher, not exceed 355 kilowatt hours per year and 6.5 gallons per cycle; and

''(ii) for a compact size dishwasher, not exceed 260 kilowatt hours per year and 4.5 gallons per cycle.

''(B) DISHWASHERS MANUFACTURED ON OR AFTER JANUARY 1, 2013.—A dishwasher manufactured on or after January 1, 2013, shall—

''(i) for a standard size dishwasher, not exceed 307 kilowatt hours per year and 5.0 gallons per cycle; and

''(ii) for a compact size dishwasher, not exceed 222 kilowatt hours per year and 3.5 gallons per cycle.

''(C) REQUIREMENTS OF FINAL RULES.—

''(i) IN GENERAL.—Any final rule to amend the dishwasher test procedure after July 9, 2010, and before January 1, 2013, shall amend the standards described in subparagraph (B) in accordance with the procedures described in section 323(e)(2).

''(ii) APPLICABILITY.—

''(I) AMENDMENT OF STANDARD.—Section 323(e)(3) shall not apply to the amended standards described in clause (i).

''(II) AMENDED STANDARDS.—The amended standards required by this subparagraph shall apply to products manufactured on or after January 1, 2013.''.

SEC. 16. PETITION FOR AMENDED STANDARDS.

Section 325(n) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)) is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

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

''(3) NOTICE OF DECISION.—Not later than 180 days after the date of receiving a petition, the Secretary shall publish in the Federal Register a notice of, and explanation for, the decision of the Secretary to grant or deny the petition.

''(4) NEW OR AMENDED STANDARDS.—Not later than 3 years after the date of granting a petition for new or amended standards, the Secretary shall publish in the Federal Register—

''(A) a final rule that contains the new or amended standards; or

''(B) a determination that no new or amended standards are necessary.''.

SEC. 17. PROHIBITED ACTS.

Section 332(a) of the Energy Policy and Conservation Act (42 U.S.C. 6302(a)) is amended—

(1) in paragraph (1), by striking ''for any manufacturer or private labeler to distribute'' and inserting ''for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler to offer for sale or distribute'';

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

''(5) for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler—

''(A) to offer for sale or distribute in commerce any new covered product that is not in conformity with an applicable energy conservation standard established in or prescribed under this part; or

''(B) if the standard is a regional standard that is more stringent than the base national standard, to offer for sale or distribute in commerce any new covered product having knowledge (consistent with the definition of 'knowingly' in section 333(b)) that the product will be installed at a location covered by a regional standard established in or prescribed under this part and will not be in conformity with the standard;'';

(3) in paragraph (6) (as added by section 306(b)(2) of Public Law 110–140 (121 Stat. 1559)), by striking the period at the end and inserting a semicolon;

(4) by redesignating paragraph (6) (as added by section 321(e)(3) of Public Law 110–140 (121 Stat. 1586)) as paragraph (7);

(5) in paragraph (7) (as so redesignated)—

(A) by striking ''for any manufacturer, distributor, retailer, or private labeler to distribute'' and inserting ''for any manufacturer (or representative of a manufacturer), distributor, retailer, or private labeler to offer for sale or distribute''; and

(B) by striking the period at the end and inserting a semicolon; and

(6) by inserting after paragraph (7) (as so redesignated) the following:

''(8) for any manufacturer or private labeler to distribute in commerce any new covered product that has not been properly certified in accordance with the requirements established in or prescribed under this part;

''(9) for any manufacturer or private labeler to distribute in commerce any new covered product that has not been properly tested in accordance with the requirements established in or prescribed under this part; and

''(10) for any manufacturer or private labeler to violate any regulation lawfully promulgated to implement any provision of this part.''.

SEC. 18. OUTDOOR LIGHTING.

(a) DEFINITIONS.—

(1) COVERED EQUIPMENT.—Section 340(1) of the Energy Policy and Conservation Act (42 U.S.C. 6311(1)) is amended—

(A) by redesignating subparagraph (L) as subparagraph (O); and

(B) by inserting after subparagraph (K) the following:

''(L) High light output double-ended quartz halogen lamps.

''(M) General purpose mercury vapor lamps.''.

(2) INDUSTRIAL EQUIPMENT.—Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311(2)(B)) is amended—

(A) by striking ''and'' before ''unfired hot water''; and

(B) by inserting after ''tanks'' the following: '', high light output double-ended quartz halogen lamps, and general purpose mercury vapor lamps''.

(3) NEW DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(A) by redesignating paragraphs (22) and (23) (as amended by sections 312(a)(2) and 314(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1564, 1569)) as paragraphs (23) and (24), respectively; and

(B) by adding at the end the following:

''(25) GENERAL PURPOSE MERCURY VAPOR LAMP.—The term 'general purpose mercury vapor lamp' means a mercury vapor lamp (as defined in section 321) that—

''(A) has a screw base;

''(B) is designed for use in general lighting applications (as defined in section 321);

''(C) is not a specialty application mercury vapor lamp; and

''(D) is designed to operate on a mercury vapor lamp ballast (as defined in section 321) or is a self- ballasted lamp.

''(26) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMP.—The term 'high light output double-ended quartz halogen lamp' means a lamp that—

''(A) is designed for general outdoor lighting purposes;

''(B) contains a tungsten filament;

''(C) has a rated initial lumen value of greater than 6,000 and less than 40,000 lumens;

''(D) has at each end a recessed single contact, R7s base;

''(E) has a maximum overall length (MOL) between 4 and 11 inches;

''(F) has a nominal diameter less than ¾ inch (T6);

''(G) is designed to be operated at a voltage not less than 110 volts and not greater than 200 volts or is designed to be operated at a voltage between 235 volts and 300 volts;

''(H) is not a tubular quartz infrared heat lamp; and

''(I) is not a lamp marked and marketed as a Stage and Studio lamp with a rated life of 500 hours or less.

''(27) SPECIALTY APPLICATION MERCURY VAPOR LAMP.—The term 'specialty application mercury vapor lamp' means a mercury vapor lamp (as defined in section 321) that is—

''(A) designed only to operate on a specialty application mercury vapor lamp ballast (as defined in section 321); and

''(B) is marked and marketed for specialty applications only.

''(28) TUBULAR QUARTZ INFRARED HEAT LAMP.—The term 'tubular quartz infrared heat lamp' means a double-ended quartz halogen lamp that—

''(A) is marked and marketed as an infrared heat lamp; and

''(B) radiates predominately in the infrared radiation range and in which the visible radiation is not of principle interest.''.

(b) STANDARDS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

''(g) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMPS.—A high light output double-ended quartz halogen lamp manufactured on or after January 1, 2016, shall have a minimum efficiency of—

''(1) 27 LPW for lamps with a minimum rated initial lumen value greater than 6,000 and a maximum initial lumen value of 15,000; and

''(2) 34 LPW for lamps with a rated initial lumen value greater than 15,000 and less than 40,000.

''(h) GENERAL PURPOSE MERCURY VAPOR LAMPS.—A general purpose mercury vapor lamp shall not be manufactured on or after January 1, 2016.''.

(c) PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) in the first sentence of subsection (a), by striking ''The'' and inserting ''Except as otherwise provided in this section, the''; and

(2) by adding at the end the following:

''(i) HIGH LIGHT OUTPUT DOUBLE-ENDED QUARTZ HALOGEN LAMPS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), section 327 shall apply to high light output double-ended quartz halogen lamps to the same extent and in the same manner as described in section 325(nn)(1).

''(2) STATE ENERGY CONSERVATION STANDARDS.—Any State energy conservation standard that is adopted on or before January 1, 2015, pursuant to a statutory requirement to adopt efficiency standard for reducing outdoor lighting energy use enacted prior to January 31, 2008, shall not be preempted.''.

SEC. 19. STANDARDS FOR COMMERCIAL FURNACES.

Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended by adding at the end the following:

''(11) Warm air furnaces with an input rating of 225,000 Btu per hour or more and manufactured on or after the date that is 1 year after the date of enactment of this paragraph shall meet the following standard levels:

''(A) Gas-fired units shall—

''(i) have a minimum combustion efficiency of 80 percent;

''(ii) include an interrupted or intermittent ignition device;

''(iii) have jacket losses not exceeding 0.75 percent of the input rating; and

''(iv) have power venting or a flue damper.

''(B) Oil-fired units shall have—

''(i) a minimum thermal efficiency of 81 percent;

''(ii) jacket losses not exceeding 0.75 percent of the input rating; and

''(iii) power venting or a flue damper.''.

SEC. 20. SERVICE OVER THE COUNTER, SELF-CONTAINED, MEDIUM TEMPERATURE COMMERCIAL REFRIGERATORS.

Section 342(c) of the Energy Policy and Conservation Act (42 U.S.C. 6313(c)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

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

''(C) The term 'service over the counter, self-contained, medium temperature commercial refrigerator' or '(SOC–SC–M)' means a medium temperature commercial refrigerator—

''(i) with a self-contained condensing unit and equipped with sliding or hinged doors in the back intended for use by sales personnel, and with glass or other transparent material in the front for displaying merchandise; and

''(ii) that has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers.

''(D) The term 'TDA' means the total display area (ft^2) of the refrigerated case, as defined in AHRI Standard 1200.'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

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

''(4) Each SOC–SC–M manufactured on or after January 1, 2012, shall have a total daily energy consumption (in kilowatt hours per day) of not more than 0.6 x TDA + 1.0.''.

SEC. 21. MOTOR MARKET ASSESSMENT AND COMMERCIAL AWARENESS PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) electric motor systems account for about half of the electricity used in the United States;

(2) electric motor energy use is determined by both the efficiency of the motor and the system in which the motor operates;

(3) Federal Government research on motor end use and efficiency opportunities is more than a decade old; and

(4) the Census Bureau has discontinued collection of data on motor and generator importation, manufacture, shipment, and sales.

(b) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INTERESTED PARTIES.—The term ''interested parties'' includes—

(A) trade associations;

(B) motor manufacturers;

(C) motor end users;

(D) electric utilities; and

(E) individuals and entities that conduct energy efficiency programs.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, in consultation with interested parties.

(c) ASSESSMENT.—The Secretary shall conduct an assessment of electric motors and the electric motor market in the United States that shall—

(1) include important subsectors of the industrial and commercial electric motor market (as determined by the Secretary), including—

(A) the stock of motors and motor-driven equipment;

(B) efficiency categories of the motor population; and

(C) motor systems that use drives, servos, and other control technologies;

(2) characterize and estimate the opportunities for improvement in the energy efficiency of motor systems by market segment, including opportunities for—

(A) expanded use of drives, servos, and other control technologies;

(B) expanded use of process control, pumps, compressors, fans or blowers, and material handling components; and

(C) substitution of existing motor designs with existing and future advanced motor designs, including electronically commutated permanent magnet, interior permanent magnet, and switched reluctance motors; and

(3) develop an updated profile of motor system purchase and maintenance practices, including surveying the number of companies that have motor purchase and repair specifications, by company size, number of employees, and sales.

(d) RECOMMENDATIONS; UPDATE.—Based on the assessment conducted under subsection (c), the Secretary shall—

(1) develop—

(A) recommendations to update the detailed motor profile on a periodic basis;

(B) methods to estimate the energy savings and market penetration that is attributable to the Save Energy Now Program of the Department; and

(C) recommendations for the Director of the Census Bureau on market surveys that should be undertaken in support of the motor system activities of the Department; and

(2) prepare an update to the Motor Master+ program of the Department.

(e) PROGRAM.—Based on the assessment, recommendations, and update required under subsections (c) and (d), the Secretary shall establish a proactive, national program targeted at motor end-users and delivered in cooperation with interested parties to increase awareness of—

(1) the energy and cost-saving opportunities in commercial and industrial facilities using higher efficiency electric motors;

(2) improvements in motor system procurement and management procedures in the selection of higher efficiency electric motors and motor-system components, including drives, controls, and driven equipment; and

(3) criteria for making decisions for new, replacement, or repair motor and motor system components.

SEC. 22. STUDY OF COMPLIANCE WITH ENERGY STANDARDS FOR APPLIANCES.

(a) IN GENERAL.—The Secretary of Energy shall conduct a study of the degree of compliance with energy standards for appliances, including an investigation of compliance rates and options for improving compliance, including enforcement.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Energy shall submit to the appropriate committees of Congress a report describing the results of the study, including any recommendations.

SEC. 23. STUDY OF DIRECT CURRENT ELECTRICITY SUPPLY IN CERTAIN BUILDINGS.

(a) IN GENERAL.—The Secretary of Energy shall conduct a study—

(1) of the costs and benefits (including significant energy efficiency, power quality, and other power grid, safety, and environmental benefits) of requiring high-quality, direct current electricity supply in buildings; and

(2) to determine, if the requirement described in paragraph (1) is imposed, what the policy and role of the Federal Government should be in realizing those benefits.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report describing the results of the study, including any recommendations.

SEC. 24. TECHNICAL CORRECTIONS.

(a) TITLE III OF ENERGY INDEPENDENCE AND SECURITY ACT OF 2007—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCES AND LIGHTING.—

(1) Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) (as amended by section 301(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1550)) is amended—

(A) by redesignating paragraph (7) as paragraph (4); and

(B) in paragraph (4) (as so redesignated), by striking ''supplies is'' and inserting ''supply is''.

(2) Section 302(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1551) is amended by striking ''6313(a)'' and inserting ''6314(a)''.

(3) Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)) is amended—

(A) in subparagraph (B)—

(i) by striking ''If the Secretary'' and inserting the following:

''(i) IN GENERAL.—If the Secretary'';

(ii) by striking ''clause (ii)(II)'' and inserting ''subparagraph (A)(ii)(II)'';

(iii) by striking ''clause (i)'' and inserting ''subparagraph (A)(i)''; and

(iv) by adding at the end the following:

''(ii) FACTORS.—In determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

''(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to the standard;

''(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

''(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

''(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

''(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

''(VI) the need for national energy conservation; and

''(VII) other factors the Secretary considers relevant.

''(iii) ADMINISTRATION.—

''(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

''(II) UNAVAILABILITY.—

''(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

''(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the other types or classes.''; and

(B) in subparagraph (C)(iv), by striking ''An amendment prescribed under this subsection'' and inserting ''Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph''.

(4) Section 342(a)(6)(B)(iii) of the Energy Policy and Conservation Act (as added by section 306(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1559)) is transferred and redesignated as clause (vi) of section 342(a)(6)(C) of the Energy Policy and Conservation Act (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)).

(5) Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) (as amended by section 312(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1567)) is amended—

(A) by striking ''subparagraphs (B) through (G)'' each place it appears and inserting ''subparagraphs (B), (C), (D), (I), (J), and (K)'';

(B) by striking ''part A'' each place it appears and inserting ''part B''; and

(C) in subsection (a)—

(i) in paragraph (8), by striking ''and'' at the end;

(ii) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(10) section 327 shall apply with respect to the equipment described in section 340(1)(L) beginning on the date on which a final rule establishing an energy conservation standard is issued by the Secretary, except that any State or local standard prescribed or enacted for the equipment before the date on which the final rule is issued shall not be preempted until the energy conservation standard established by the Secretary for the equipment takes effect.''; and

(D) in subsection (h)(3), by striking ''section 342(f)(3)'' and inserting ''section 342(f)(4)''.

(6) Section 340(13) of the Energy Policy and Conservation Act (42 U.S.C. 6311(13)) (as amended by section 313(a) of the Energy Independence and Security Act of 2007 (121 Stat. 1568)) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following:

''(A) IN GENERAL.—The term 'electric motor' means any of the following:

''(i) A motor that is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987.

''(ii) A motor incorporating the design elements described in clause (i), but is configured to incorporate 1 or more of the following variations:

''(I) U-frame motor.

''(II) NEMA Design C motor.

''(III) Close-coupled pump motor.

''(IV) Footless motor.

''(V) Vertical solid shaft normal thrust motor (as tested in a horizontal configuration).

''(VI) 8-pole motor.

''(VII) Poly-phase motor with a voltage rating of not more than 600 volts (other than 230 volts or 460 volts, or both, or can be operated on 230 volts or 460 volts, or both).''; and

(B) by redesignating subparagraphs (C) through (I) as subparagraphs (B) through (H), respectively.

(7)(A) Section 342(b) of the Energy Policy and Conservation Act (42 U.S.C. 6313(b)) is amended—

(i) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraph (3)'';

(ii) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4);

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

''(2) STANDARDS EFFECTIVE BEGINNING DECEMBER 19, 2010.—

''(A) IN GENERAL.—Except for definite purpose motors, special purpose motors, and those motors exempted by the Secretary under paragraph (3) and except as provided for in subparagraphs (B), (C), and (D), each electric motor manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–12.

''(B) FIRE PUMP ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each fire pump electric motor manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency that is not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–11.

''(C) NEMA DESIGN B ELECTRIC MOTORS.—Except for those motors exempted by the Secretary under paragraph (3), each NEMA Design B electric motor with power ratings of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the nominal full load efficiency described in NEMA MG–1 (2006) Table 12–11.

''(D) MOTORS INCORPORATING CERTAIN DESIGN ELEMENTS.—Except for those motors exempted by the Secretary under paragraph (3), each electric motor described in section 340(13)(A)(ii) manufactured with power ratings from 1 to 200 horsepower (alone or as a component of another piece of equipment) on or after December 19, 2010, shall have a nominal full load efficiency of not less than the

nominal full load efficiency described in NEMA MG–1 (2006) Table 12–11.''; and

(iv) in paragraph (3) (as redesignated by clause (ii)), by striking ''paragraph (1)'' each place it appears in subparagraphs (A) and (D) and inserting ''paragraphs (1) and (2)''.

(B) Section 313 of the Energy Independence and Security Act of 2007 (121 Stat. 1568) is repealed.

(C) The amendments made by—

(i) subparagraph (A) take effect on December 19, 2010; and

(ii) subparagraph (B) take effect on December 19, 2007.

(8) Section 321(30)(D)(i)(III) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(D)(i)(III)) (as amended by section 321(a)(1)(A) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended by inserting before the semicolon the following: ''or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens''.

(9) Section 321(30)(T) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(T)) (as amended by section 321(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended—

(A) in clause (i)—

(i) by striking the comma after ''household appliance'' and inserting ''and''; and

(ii) by striking ''and is sold at retail,''; and

(B) in clause (ii), by inserting ''when sold at retail,'' before ''is designated''.

(10) Section 325(i) of the Energy Policy and Conservation Act (42 U.S.C. 6295(i)) (as amended by sections 321(a)(3)(A) and 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1577, 1588)) is amended by striking the subsection designation and all that follows through the end of paragraph (8) and inserting the following:

''(i) GENERAL SERVICE FLUORESCENT LAMPS, GENERAL SERVICE INCANDESCENT LAMPS, INTERMEDIATE BASE INCANDESCENT LAMPS, CANDELABRA BASE INCANDESCENT LAMPS, AND INCANDESCENT REFLECTOR LAMPS.—

''(1) ENERGY EFFICIENCY STANDARDS.—

''(A) IN GENERAL.—Each of the following general service fluorescent lamps, general service incandescent lamps, intermediate base incandescent lamps, candelabra base incandescent lamps, and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this subparagraph shall meet or exceed the standards established in the following tables:

''FLUORESCENT LAMPS

Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	>65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

''INCANDESCENT REFLECTOR LAMPS

Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Period of Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

''GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rated Wattage	Minimum Rated Lifetime	Effective Date
1490–2600	72	1,000 hrs	1/1/2012
1050–1489	53	1,000 hrs	1/1/2013
750–1049	43	1,000 hrs	1/1/2014
310–749	29	1,000 hrs	1/1/2014

''MODIFIED SPECTRUM GENERAL SERVICE INCANDESCENT LAMPS

Rated Lumen Ranges	Maximum Rated Wattage	Minimum Rated Lifetime	Effective Date
1118–1950	72	1,000 hrs	1/1/2012
788–1117	53	1,000 hrs	1/1/2013
563–787	43	1,000 hrs	1/1/2014
232–562	29	1,000 hrs	1/1/2014

''(B) APPLICATION.—

''(i) APPLICATION CRITERIA.—This subparagraph applies to each lamp that—

''(I) is intended for a general service or general illumination application (whether incandescent or not);

''(II) has a medium screw base or any other screw base not defined in ANSI C81.61–2006;

''(III) is capable of being operated at a voltage at least partially within the range of 110 to 130 volts; and

''(IV) is manufactured or imported after December 31, 2011.

''(ii) REQUIREMENT.—For purposes of this paragraph, each lamp described in clause (i) shall have a color rendering index that is greater than or equal to—

''(I) 80 for nonmodified spectrum lamps; or

''(II) 75 for modified spectrum lamps.

''(C) CANDELABRA INCANDESCENT LAMPS AND INTERMEDIATE BASE INCANDESCENT LAMPS.—

''(i) CANDELABRA BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, a candelabra base incandescent lamp shall not exceed 60 rated watts.

''(ii) INTERMEDIATE BASE INCANDESCENT LAMPS.—Effective beginning January 1, 2012, an intermediate base incandescent lamp shall not exceed 40 rated watts.

''(D) EXEMPTIONS.—

''(i) STATUTORY EXEMPTIONS.—The standards specified in subparagraph (A) shall not apply to the following types of incandescent reflector lamps:

''(I) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps.

''(II) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps.

''(III) R20 incandescent reflector lamps rated 45 watts or less.

''(ii) ADMINISTRATIVE EXEMPTIONS.—

''(I) PETITION.—Any person may petition the Secretary for an exemption for a type of general service lamp from the requirements of this subsection.

''(II) CRITERIA.—The Secretary may grant an exemption under subclause (I) only to the extent that the Secretary finds, after a hearing and opportunity for public comment, that it is not technically feasible to serve a specialized lighting application (such as a military, medical, public safety, or certified historic lighting application) using a lamp that meets the requirements of this subsection.

''(III) ADDITIONAL CRITERION.—To grant an exemption for a product under this clause , the Secretary shall include, as an additional criterion, that the exempted product is unlikely to be used in a general service lighting application.

''(E) EXTENSION OF COVERAGE.—

''(i) PETITION.—Any person may petition the Secretary to establish standards for lamp shapes or bases that are excluded from the definition of general service lamps.

''(ii) INCREASED SALES OF EXEMPTED LAMPS.—The petition shall include evidence that the availability or sales of exempted incandescent lamps have increased significantly since the date on which the standards on general service incandescent lamps were established.

''(iii) CRITERIA.—The Secretary shall grant a petition under clause (i) if the Secretary finds that—

''(I) the petition presents evidence that demonstrates that commercial availability or sales of exempted incandescent lamp types have increased significantly since the standards on general service lamps were established and likely are being widely used in general lighting applications; and

''(II) significant energy savings could be achieved by covering exempted products, as determined by the Secretary based in part on sales data provided to the Secretary from manufacturers and importers.

''(iv) NO PRESUMPTION.—The grant of a petition under this subparagraph shall create no presumption with respect to the determination of the Secretary with respect to any criteria under a rulemaking conducted under this section.

''(v) EXPEDITED PROCEEDING.—If the Secretary grants a petition for a lamp shape or base under this subparagraph, the Secretary shall—

''(I) conduct a rulemaking to determine standards for the exempted lamp shape or base; and

''(II) complete the rulemaking not later than 18 months after the date on which notice is provided granting the petition.

''(F) EFFECTIVE DATES.—

''(i) IN GENERAL.—In this paragraph, except as otherwise provided in a table contained in subparagraph (A) or in clause (ii), the term 'effective date' means the last day of the period of months specified in the table after October 24, 1992.

''(ii) SPECIAL EFFECTIVE DATES.—

''(I) ER, BR, AND BPAR LAMPS.—The standards specified in subparagraph (A) shall apply with respect to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

''(II) LAMPS BETWEEN 2.25–2.75 INCHES IN DIAMETER.—The standards specified in subparagraph (A) shall apply with respect to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after the later of January 1, 2008, or the date that is 180 days after the date of enactment of the Energy Independence and Security Act of 2007.

''(2) COMPLIANCE WITH EXISTING LAW.—Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp that is in compliance with the law at the time the lamp was manufactured.

''(3) RULEMAKING BEFORE OCTOBER 24, 1995.—

''(A) IN GENERAL.—Not later than 36 months after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on October 24, 1992, to determine whether the standards established under paragraph (1) should be amended.

''(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

''(4) RULEMAKING BEFORE OCTOBER 24, 2000.—

''(A) IN GENERAL.—Not later than 8 years after October 24, 1992, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than 9 years and 6 months after October 24, 1992, to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended.

''(B) ADMINISTRATION.—The rule shall contain the amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date on which the final rule is published.

''(5) RULEMAKING FOR ADDITIONAL GENERAL SERVICE FLUORESCENT LAMPS.—

''(A) IN GENERAL.—Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall—

''(i) initiate a rulemaking procedure to determine whether the standards in effect for fluorescent lamps and incandescent lamps should be amended so that the standards would be applicable to additional general service fluorescent lamps; and

''(ii) publish, not later than 18 months after initiating the rulemaking, a final rule including the amended standards, if any.

''(B) ADMINISTRATION.—The rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date on which the rule is published.

''(6) STANDARDS FOR GENERAL SERVICE LAMPS.—

''(A) RULEMAKING BEFORE JANUARY 1, 2014.—

''(i) IN GENERAL.—Not later than January 1, 2014, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended; and

''(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking—

''(I) shall not be limited to incandescent lamp technologies; and

''(II) shall include consideration of a minimum standard of 45 lumens per watt for general service lamps.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2017, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(v) BACKSTOP REQUIREMENT.—If the Secretary fails to complete a rulemaking in accordance with clauses (i) through (iv) or if the final rule does not produce savings that are greater than or equal to the savings from a minimum efficacy standard of 45 lumens per watt, effective beginning January 1, 2020, the Secretary shall prohibit the manufacture of any general service lamp that does not meet a minimum efficacy standard of 45 lumens per watt.

''(vi) STATE PREEMPTION.—Neither section 327 nor any other provision of law shall preclude California or Nevada from adopting, effective beginning on or after January 1, 2018—

''(I) a final rule adopted by the Secretary in accordance with clauses (i) through (iv);

''(II) if a final rule described in subclause (I) has not been adopted, the backstop requirement under clause (v); or

''(III) in the case of California, if a final rule described in subclause (I) has not been adopted, any California regulations relating to these covered products adopted pursuant to State statute in effect on the date of enactment of the Energy Independence and Security Act of 2007.

''(B) RULEMAKING BEFORE JANUARY 1, 2020.—

''(i) IN GENERAL.—Not later than January 1, 2020, the Secretary shall initiate a rulemaking procedure to determine whether—

''(I) standards in effect for general service lamps should be amended; and

''(II) the exclusions for certain incandescent lamps should be maintained or discontinued based, in part, on excluded lamp sales data collected by the Secretary from manufacturers.

''(ii) SCOPE.—The rulemaking shall not be limited to incandescent lamp technologies.

''(iii) AMENDED STANDARDS.—If the Secretary determines that the standards in effect for general service lamps should be amended, the Secretary shall publish a final rule not later than January 1, 2022, with an effective date that is not earlier than 3 years after the date on which the final rule is published.

''(iv) PHASED-IN EFFECTIVE DATES.—The Secretary shall consider phased-in effective dates under this subparagraph after considering—

''(I) the impact of any amendment on manufacturers, retiring and repurposing existing equipment, stranded investments, labor contracts, workers, and raw materials; and

''(II) the time needed to work with retailers and lighting designers to revise sales and marketing strategies.

''(7) FEDERAL ACTIONS.—

''(A) COMMENTS OF SECRETARY.—

''(i) IN GENERAL.—With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions that would adversely impact the energy consumption or energy efficiency of the lamp of the energy conservation consequences of the action.

''(ii) CONSIDERATION.—The Federal entity shall carefully consider the comments of the Secretary.

''(B) AMENDMENT OF STANDARDS.—Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy

use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if the action is warranted as a result of other Federal action (including restrictions on materials or processes) that would have the effect of either increasing the energy use or decreasing the energy efficiency of the product.

''(8) COMPLIANCE.—

''(A) IN GENERAL.—Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to that section, each manufacturer of a product to which the standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type.

''(B) CONTENTS.—The report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period.

''(C) OTHER LAMP TYPES.—With respect to lamp types that are not manufactured during the 12-month period preceding the date on which the standards become effective, the report shall—

''(i) be filed with the Secretary not later than the date that is 12 months after the date on which manufacturing is commenced; and

''(ii) include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during the 12-month period.''.

(11) Section 325(l)(4)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as amended by section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1581)) is amended by striking ''only''.

(12) Section 327(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as amended by section 321(d)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1585)) is amended—

(A) in clause (i), by inserting ''and'' after the semicolon at the end;

(B) in clause (ii), by striking ''; and'' and inserting a period; and

(C) by striking clause (iii).

(13) Section 321(30)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(C)(ii)) (as amended by section 322(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1587)) is amended by inserting a period after ''40 watts or higher''.

(14) Section 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1588) is amended by striking ''6995(i)'' and inserting ''6295(i)''.

(15) Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) (as amended by sections 324(f) of the Energy Independence and Security Act of 2007 (121 Stat. 1594) and section 6(e)(2)) is amended—

(A) in paragraph (6), by striking ''or'' after the semicolon at the end;

(B) in paragraph (9)(B), by striking ''or'' at the end;

(C) in paragraph (10), by striking the period at the end and inserting a semicolon;

(D) by adding at the end the following:

''(11) is a regulation for general service lamps that conforms with Federal standards and effective dates; or

''(12) is an energy efficiency standard for general service lamps enacted into law by the State of Nevada prior to December 19, 2007, if the State has not adopted the Federal standards and effective dates pursuant to subsection (b)(1)(B)(ii).''.

(16) Section 325(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1596) is amended by striking ''6924(c)'' and inserting ''6294(c)''.

(17) This subsection and the amendments made by this subsection take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492).

(b) ENERGY POLICY ACT OF 2005.—

(1) Section 325(g)(8)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B) of the Energy Policy Act of 2005) is amended by striking ''20°F'' and inserting ''−20°F''.

(2) This subsection and the amendment made by this subsection take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594).

(c) ENERGY POLICY AND CONSERVATION ACT.—

(1) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311(2)(B)) is amended—

(A) in clause (xi), by striking ''and'' at the end;

(B) in clause (xii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(xiii) other motors.''.

(2) Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by striking ''Air-Conditioning and Refrigeration Institute'' each place it appears in paragraphs (4)(A) and (7) and inserting ''Air-Conditioning, Heating, and Refrigeration Institute''.

SECTION-BY-SECTION SUMMARY OF THE IMPLEMENTATION OF NATIONAL CONSENSUS APPLIANCE AGREEMENTS ACT OF 2011 (INCAAA)

Purpose: DOE's ''Appliance Standards Program'' (Title III, Part B of the Energy Policy and Conservation Act (EPCA) (42 USC 6291)) establishes energy efficiency standards for dozens of appliances and types of commercial equipment. These standards have been extraordinarily effective for improving the nation's economic and energy security, by 2010 reducing national non-transportation energy use by about 7 percent below what it otherwise would be. Appliance manufacturers have supported standards because of their significant national benefits and because they typically replace a patchwork of state regulations. This bill would amend EPCA to enact consensus energy-efficiency standards for a range of products that were agreed to among industry, energy advocate and consumer stakeholders. More specifically, . . .

Sec. 1. Short title; table of contents.

Sec. 2. Energy conservation standards: clarifies that 'energy conservation standard' means one or more performance or design requirements such as energy and water efficiency. Adds definitions, effective dates, and standards for: central air conditioners and heat pumps, through-the-wall central air conditioners; through-the-wall central air conditioning heat pumps; small-duct, high-velocity systems; and non-weatherized furnaces, as agreed to between manufacturers and efficiency advocacy groups. Finally, it provides that building codes may allow for appliance standards to exceed the federal standard in certain cases.

Sec. 3. Energy conservation standards for heat pump pool heaters: adds definitions, standards and effective dates for heat pump pool heaters, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 4. GU–24 base lamps: adds definitions, standards and effective dates for the next-generation, GU–24 lamps, lamp sockets, and adaptors, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 5. Efficiency standards for bottle-type water dispensers, commercial hot food holding cabinets, and portable electric spas: adds definitions, exclusions, test procedures, standards and effective dates for bottle-type water dispensers, commercial hot food holding cabinets, and portable electric spas, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 6. Test procedure petition process: (a) provides that any person may petition DOE to prescribe or amend test procedures and establishes deadlines for DOE to respond to such petitions; and (b) for certain industrial equipment, clarifies that DOE periodically review test procedures, and provides that any person may petition DOE to prescribe or amend test procedures for such equipment and establishes deadlines for DOE to respond to such petitions. It also provides that DOE may use the Direct Final Rule procedure currently available to prescribe consensus standards, to prescribe consensus test procedures.

Sec. 7. Amendments to Home Appliance Test Methods: sets deadlines regarding refrigerator and freezer, clothes washer, and clothes dryer test methods.

Sec. 8. Credit for Energy Star Smart Appliances: directs federal officials to determine whether to update Energy Star criteria for certain products to incorporate smart grid and demand response features.

Sec. 9. Video game console energy efficiency study: directs DOE to conduct a study of video game console energy use and opportunities for energy savings, and upon completion to determine whether to establish an efficiency standard. If standards are not established, then DOE shall conduct a follow-up study.

Sec. 10. Refrigerator and freezer standards: updates definitions, exceptions, standards and effective dates for new standards for refrigerators and freezers, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 11. Room air conditioner standards: establishes new standards and effective dates for room air-conditioners, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 12. Uniform efficiency descriptor for covered water heaters: directs DOE to publish a final rule that establishes a uniform efficiency descriptor and test methods for covered water heaters. The section also sets forth other provisions necessary to transition from the current two descriptors for two types of water heaters, to having a single descriptor for all covered water heaters.

Sec. 13. Clothes dryers: establishes new standards and effective dates for clothes dryers, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 14. Standards for clothes washers: establishes new standards and effective dates for clothes washers, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 15. Dishwashers: establishes new standards and effective dates for dishwashers, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 16. Petition for amended standards: requires DOE to publish an explanation of DOE's decision to grant or deny a petition for a new or amended standard (filed under current law) within 180 days, and to publish the new rule within 3 year in those cases where the petition is granted.

Sec. 17. Prohibited acts: updates certain enforcement provisions to clarify that prohibitions under the law apply to distributors, retailers, and private labelers as well as

manufacturers, and clarifies that prohibitions must be ''knowingly'' violated in the case of regional standards.

Sec. 18. Outdoor lighting: establishes definitions, test methods, standards, and effective dates for certain types of outdoor lighting, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 19. Standards for commercial furnaces: establishes a new standard and effective date for commercial furnaces, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 20. Service over the counter, self-contained, medium temperature commercial Refrigerators: establishes new definitions and a standard and effective date for certain service over the counter refrigerators, as agreed to between manufacturers and efficiency and consumer advocacy groups.

Sec. 21. Motor market assessment and commercial awareness program: directs DOE to assess the U.S. electric motor market and develop recommendations on ways to improve the efficiency of motor systems. It also requires DOE to periodically update this information; estimate the savings attributable to the Save Energy Now Program; make recommendations to the Census Bureau on surveys to support DOE's motor activities; and prepare an update to the Motor Master+ program of DOE. Finally, based on the assessment and recommendations, the section would direct DOE to establish a program to: increase awareness of the savings opportunities of using higher efficiency motors, improve motor system procurement practices, and establish criteria for making decisions regarding electric motor systems.

Sec. 22. Study of Compliance with Energy Standards for Appliances: directs DOE to conduct, and submit to Congress with any recommendations, a study on the degree of compliance with energy standards for appliances including an investigation of compliance rates and options for improving compliance.

Sec. 23. Study of direct current electricity supply in certain buildings: directs DOE to conduct, and submit to Congress with any recommendations, a study of the costs and benefits of requiring high-quality, direct current electricity supply in certain buildings and to determine, if this requirement is imposed, what the policy and role of the Federal Government should be.

Sec. 24. Technical corrections: makes technical corrections to the Energy Independence and Security Act of 2007 (EISA), the Energy Policy Act of 2005, and the Energy Policy and Conservation Act regarding the appliance efficiency standards program.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 399. A bill to modify the purposes and operation of certain facilities of the Bureau of Reclamation to implement the water rights compact among the State of Montana, the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, and the United States, and for other purposes; to the Committee on Indian Affairs.

Mr. BAUCUS. Mr. President, today I rise to introduce the Blackfeet Water Rights Settlement Act of 2011. The Blackfeet Reservation is located in northwest Montana with Canada to the north and Glacier Park to the west. The Blackfeet Reservation consists of approximately 1.5 million acres with farming and tribal and federal government as the primary source of economic activity. About 10,100 people live on the reservation and approximately 25,800 live off reservation. The Blackfeet Tribe is ably assisted by the Blackfeet Tribal Business Council of which Willie Sharp is Chairman.

The Blackfeet Reservation was established under the Fort Laramie Treaty of 1851. Later, part of the reservation was sold to the U.S. Government, and the Sweetgrass Hills Treaty was ratified by Congress in 1888. The sale of these lands by treaty established the reservations for the Fort Peck and Fort Belknap Tribes.

Over 100 years ago the U.S. Supreme Court ruled that such treaties imply a commitment to reserve sufficient water to satisfy both present and future needs of a tribe. Today we are moving forward on the journey to fulfill that commitment with the introduction of the Blackfeet Water Rights Settlement Act of 2011.

The Blackfeet Water Rights Settlement Act of 2011 will resolve over a century of conflict over waters in Montana. The Act ratifies the water rights compact with the Blackfeet Nation. It is the product of more than 10 years of negotiations between diverse groups of users in the area, which ended in 2007. The Compact was approved by the Montana Legislature in April 2009, and the state of Montana has already appropriated $19 million in support of its work to implement the Compact. This legislation will bring clean water to reservation families and support tribal agriculture and provide long-range economic development.

The Blackfeet People call the mountains of their homeland the ''backbone of the world.'' When you visit their land, you can feel a shiver in your own backbone at its beauty and spiritual significance. These mountains are also the wellspring of the reservation's water. Their cirques and flanks, frozen for much of the year, store the crucial resource that makes the Great Plains inhabitable. The drainages and storage systems that define how the snow melts and the water flows are the principal subject of this legislation. This water is necessary for irrigation, livestock, fisheries, wildlife, homes, and other uses.

By ratifying this compact, Congress will both establish the federal reserved water rights of the Tribe and authorize funds to construct the infrastructure necessary to make the water available for use. Last year, Senator TESTER and I introduced this bill on April 29, 2010. The Senate Indian Affairs Committee held a hearing on July 22, 2011. I look forward to working with my colleagues here in the Senate, in the House, and in the Administration to quickly moving forward on the Blackfeet Water Compact.

By Mr. LEAHY (for himself and Mr. CORNYN):

S. 401. A bill to help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to join with Senator CORNYN once again to introduce the Public Corruption Prosecution Improvements Act of 2011, a bill that will strengthen and clarify key aspects of Federal criminal law and provide new tools to help investigators and prosecutors attack public corruption nationwide.

As we have seen in recent years, public corruption can erode the trust the American people have in those who are given the privilege of public service, and, too often, loopholes in existing laws have meant that corrupt conduct can go unchecked. Make no mistake: The stain of corruption has spread to all levels of government. This is a problem that victimizes every American by chipping away at the foundations of our democracy. Rooting out the kinds of public corruption that have resulted in convictions of members of Congress, judges, governors, and many others, requires us to give prosecutors the tools they need to investigate and prosecute criminal public corruption offenses.

The bill Senator CORNYN and I introduce today will increase sentences for serious corruption offenses and will provide investigators and prosecutors more time to pursue public corruption cases. The bill raises the statutory maximum penalties for several laws dealing with official misconduct, including bribery and theft of government property, to ensure that those who violate the public trust are held accountable. These increases reflect the serious and corrosive nature of these crimes, and would harmonize the punishment for these crimes with other similar statutes.

The bill extends the statute of limitations from 5 to 6 years for the most serious public corruption offenses. Bank fraud, arson, and passport fraud, among other offenses, all have 10-year statutes of limitations. We recently increased the statute of limitations for securities fraud to 6 years. Public corruption offenses cut to the heart of our democracy and are among the most difficult and time-consuming cases to investigate. This modest increase to the statute of limitations is a reasonable step to help our corruption investigators and prosecutors do their jobs.

This bill also amends several key statutes to broaden their application in corruption contexts and to prevent corrupt public officials and their accomplices from evading or defeating prosecution based on existing legal ambiguities. It includes a fix to the gratuities statute that makes clear that public officials may not accept anything of value, other than what is permitted by existing rules and regulations, given to them because of their official position. This important provision contains appropriate safeguards to ensure that only corrupt conduct is prosecuted, but it will help to ensure that the work of public officials cannot be bought, and it will put teeth behind key ethics reforms enacted by Congress in 2007.

The bill also appropriately clarifies the definition of what it means for a

public official to perform an ''official act'' for the purposes of the bribery statute and closes several other gaps in current law. It adds two corruption-related crimes as predicates for the Federal wiretap and racketeering statutes, lowers the transactional amount required for Federal prosecution of bribery involving federally-funded state programs, and expands the venue for perjury and obstruction of justice prosecutions.

Senator CORNYN and I have added two new modest fixes into this year's bill. The first allows information sharing that will make it easier for law enforcement to investigate possible criminal activity by Federal judges. The second further clarifies and strengthens the federal program bribery statute.

I remain committed to ensuring sufficient funding for public corruption enforcement. Since September 11, 2001, Federal Bureau of Investigation resources have been shifted away from the pursuit of white collar crime to counterterrorism. Director Mueller has consistently affirmed that public corruption is among the FBI's top investigative priorities, but reports in the past decade indicated that this shift in resources sometimes meant a reduction in the number of public corruption investigations and at times made pursuing key corruption cases more difficult. The Justice Department and the FBI have been working to reverse this trend, but we must make sure that law enforcement has all the tools and the resources it needs to strongly confront these serious and corrosive crimes.

In recognition of the difficult budget situation in which we find ourselves and in an effort to maintain maximum bipartisan support for this important legislation, I have agreed to remove from this year's bill a modest authorization for anti-corruption investigators and prosecutors that we included in past versions. Nonetheless, given the vital importance of this work, I hope that Senator CORNYN and others will join me in calling on appropriators and the Justice Department and FBI to ensure that significant resources are allocated to investigating and prosecuting public corruption.

Since we last introduced this bill, our country has unfortunately taken a step backward in its efforts to fight fraud and corruption. Last year, in the case of Skilling v. United States, the Supreme Court sided with a former executive from Enron, whose collapse had such devastating effects on the economy early in the last decade, and greatly narrowed the honest services fraud statute, a law that plays an important role in combating public corruption, corporate fraud, and self-dealing.

The Court's decision leaves corrupt and fraudulent conduct which prosecutors in the past addressed under the honest services fraud statute to go unchecked. Most notably, the Court's decision excluded undisclosed ''self-dealing'' by state and federal public officials, and corporate officers and directors, which is when those officials or executives secretly act in their own financial self-interest, rather than in the interest of the public or, in private sector cases, their shareholders and employees.

I introduced legislation in the last Congress, the Honest Services Restoration Act, to close this crucial gap and restore the government's ability to prosecute key categories of corruption cases. I have heard from Democrats and Republicans in the Senate and the House who are eager to fix this problem. I hope to continue working with Senator CORNYN and others to find a bipartisan solution to fixing honest services fraud and perhaps to incorporate a fix into this comprehensive anti-corruption bill at some point in the future.

If we are serious about addressing the kinds of egregious misconduct that we have witnessed in recent years in high-profile public corruption cases, Congress should enact meaningful legislation to give investigators and prosecutors the tools they need to enforce our laws. It is time to strengthen the criminal law to bring those who undermine the public trust to justice. I hope that all Senators will support this bipartisan bill and take firm action to stamp out intolerable corruption.

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

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

S. 401

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Corruption Prosecution Improvements Act''.

SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3299A. Corruption offenses

''Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

''(1) section 201 or 666;

''(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

''(3) section 1951, if the offense involves extortion under color of official right;

''(4) section 1952, to the extent that the unlawful activity involves bribery; or

''(5) section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3299A. Corruption offenses.''.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.

SEC. 3. APPLICATION OF MAIL AND WIRE FRAUD STATUTES TO LICENCES AND OTHER INTANGIBLE RIGHTS.

Sections 1341 and 1343 of title 18, United States Code, are each amended by striking ''money or property'' and inserting ''money, property, or any other thing of value''.

SEC. 4. VENUE FOR FEDERAL OFFENSES.

(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.

(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

''§ 3237. Offense taking place in more than one district''.

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

''3237. Offense taking place in more than one district.''.

SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 666 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by—

(i) striking ''anything of value'' and inserting ''any thing or things of value''; and

(ii) striking ''of $5,000 or more'' and inserting ''of $1,000 or more'';

(B) by amending paragraph (2) to read as follows:

''(2) corruptly gives, offers, or agrees to give any thing or things of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $1,000 or more;''; and

(C) in the matter following paragraph (2), by striking ''ten years'' and inserting ''15 years''; and

(2) in subsection (c)—

(A) by striking ''This section does not apply to''; and

(B) by inserting before ''bona fide salary'' the following: ''The term 'anything of value' that is corruptly solicited, demanded, accepted or agreed to be accepted in subsection (a)(1)(B) or corruptly given, offered, or agreed to be given in subsection (a)(2) shall not include''.

SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.

Section 641 of title 18, United States Code, is amended by striking ''ten years'' and inserting ''15 years''.

SEC. 7. PENALTY FOR SECTION 201(b) VIOLATIONS.

Section 201(b) of title 18, United States Code, is amended by striking ''fifteen years'' and inserting ''20 years''.

SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.

(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a) of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.

(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking ''one year'' and inserting ''10 years''.

(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''10 years''.

(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.

(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking ''3 years'' and inserting ''10 years''.

(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.

SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF PUBLIC MONEY OFFENSE.

Section 641 of title 18, United States Code, is amended by inserting ''the District of Columbia or'' before ''the United States'' each place that term appears.

SEC. 10. ADDITIONAL RICO PREDICATES.

(a) IN GENERAL.—Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''section 641 (relating to embezzlement or theft of public money, property, or records),'' after ''473 (relating to counterfeiting),''; and

(2) by inserting ''section 666 (relating to theft or bribery concerning programs receiving Federal funds),'' after ''section 664 (relating to embezzlement from pension and welfare funds),''.

(b) CONFORMING AMENDMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking ''section 641 (relating to public money, property, or records),''; and

(2) by striking ''section 666 (relating to theft or bribery concerning programs receiving Federal funds),''.

SEC. 11. ADDITIONAL WIRETAP PREDICATES.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds),'' after ''section 224 (bribery in sporting contests),''.

SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATUITIES.

(a) DEFINITION.—Section 201(a) of title 18, United states Code, is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon;

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by inserting at the end the following:

''(4) the term 'rule or regulation' means a federal regulation or a rule of the House of Representatives and the Senate, including those rules and regulations governing the acceptance of campaign contributions.''.

(b) CLARIFICATION.—Section 201(c)(1) of title 18, United States Code, is amended—

(1) by striking the matter before subparagraph (A) and inserting ''otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—'';

(2) in subparagraph (A), by inserting after '', or person selected to be a public official,'' the following: ''for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official''; and

(3) in subparagraph (B)—

(A) by striking ''otherwise than as provided by law for the proper discharge of official duty,''; and

(B) by striking all after ''anything of value personally'' and inserting ''for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such official or person;''.

SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.

Section 201(a)(3) of title 18, United States Code, is amended to read as follows:

''(3) the term 'official act' means any action within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit. An official act can be a single act, more than one act, or a course of conduct.''.

SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIBERY.

Section 201 of title 18, United States Code, is amended—

(1) in subsection (b), by striking ''anything of value'' each place it appears and inserting ''any thing or things of value''; and

(2) in subsection (c), by striking ''anything of value'' each place it appears and inserting ''any thing or things of value''.

SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.

(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended to read as follows:

''(i) A prosecution under section 1503, 1504, 1505, 1508, 1509, 1510, or this section may be brought in the district in which the conduct constituting the alleged offense occurred or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected.''.

(b) PERJURY.—

(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''§ 1624. Venue

''A prosecution under section 1621(1), 1622 (in regard to subornation of perjury under 1621(1)), or 1623 of this title may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''1624. Venue.''.

SEC. 16. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.

(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 its guidelines and its policy statements applicable to persons convicted of an offense under sections 201, 641, and 666 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 Congress' intent that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the incidence of such offenses, 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—

(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;

(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and

(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;

(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.

SEC. 17. PERMITTING THE DISCLOSURE OF INFORMATION REGARDING POTENTIAL CRIMINAL ACTIVITY TO APPROPRIATE LAW ENFORCEMENT AUTHORITIES.

Section 360(a) of title 28, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' after the semicolon;

(2) in paragraph (3), by striking the period and inserting ''; or''; and

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

''(4) disclosure of information regarding a potential criminal offense may be made to the United States Department of Justice, a Federal, State, or local grand jury, or Federal, State, or local law enforcement agents.''.

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

S. 403. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Molalla River in the State of Oregon, as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am introducing a bill to designate segments of Oregon's Molalla River as Wild and Scenic. I am pleased to be joined in the Senate in introducing this legislation with my colleague from Oregon, Senator MERKLEY. This legislation is also being introduced today by Representative SCHRADER in the House of Representatives. He has been a champion for protecting the river. My colleagues previously joined me in the effort to protect this Oregon gem by introducing this bill in the last Congress. The Molalla River Wild and Scenic Rivers Act will amend the Wild and Scenic Rivers Act and designate an approximately 15.1 mile segment of the Molalla River and an approximately 6.2 mile segment of Table Rock Fork Molalla River as a recreational river under the Wild and Scenic Rivers Act.

The Molalla River Wild and Scenic Rivers Act would protect a popular Oregon destination that provides abundant recreational activities that help fuel the recreation economy that is so important to the communities along the river. The scenic beauty of the Molalla River provides a backdrop for hiking, mountain biking, camping, and horseback riding, while the waters of the river are a popular destination for fishing, kayaking, and whitewater rafting enthusiasts. My bill would not only preserve this area as a recreation destination, but would also protect the river habitat of the Chinook salmon and Steelhead trout, along with the wildlife habitat surrounding the river, home to the northern spotted owl, the pileated woodpecker, golden and bald eagles, deer, elk, the pacific giant salamander, and many others.

The Molalla River is not only an important habitat for wildlife and a popular northwest recreation destination, but it is also the source of clean drinking water for the towns of Molalla and Canby, Oregon. Protecting the approximately 21.3 miles of the Molalla River will provide the residents of these Oregon towns with the assurance that they will continue to receive clean drinking water, and will provide all the people of the Pacific Northwest and beyond the knowledge that this important natural resource will be preserved for continued enjoyment for years to come.

I would like to reiterate my continued appreciation for the Molalla River Alliance—a coalition of more than 45 organizations that recognize that this river is a jewel and have set out to protect it. Michael Moody, the President of this Alliance, made sure that irrigators, city councilors, the mayor, businesses and environmentalists all came together on this. These are the kind of collaborative home grown solutions that Oregonians are best at. I look forward to working with Senator MERKLEY, Representative SCHRADER, and the bill's supporters to advance this legislation to the President's desk.

By Mr. NELSON of Florida:

S. 405. A bill to amend the Outer Continental Shelf Lands Act to provide a requirement for certain lessees, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. NELSON of Florida. Mr. President, for years, I have fought to keep oil rigs off the coast of Florida—both in federal waters and Cuban waters. As we've seen, an oil spill even hundreds of miles away from Florida can send the black stuff onto our beaches and close our fishing grounds. Risky exploration close to our shores endangers Florida's marine environment and tourism as well as our national security.

Yet we know that drilling just a mere 45 miles off Florida's coast is possible and is coming from the behest of Cuba's communist regime. For years the Castros have been eager to develop undiscovered offshore oil resources, and have already started leasing off different plots of land. Later this year, the Spanish oil company Repsol, in a consortium with oil companies from Norway, India, Italy and others, is expected to drill a deepwater exploratory well roughly 20 miles northeast of Havana—right in the midst of currents that run up the eastern seaboard. The U.S. Geological Survey estimates that the North Cuba Basin could contain over four and a half billion barrels of recoverable crude oil.

We now find ourselves in a grim situation. Over the past several years, I have asked both Republican and Democratic administrations to withdraw the diplomatic letters that we exchange with Cuba every 2 years. This exchange of letters is the only thing enforcing the 1977 Maritime Boundary Agreement, which has never been ratified by the U.S. Senate. Though I have consistently advocated against this boundary agreement, our presidents have disagreed. It seems that oil exploration in waters that are essentially our backyard is imminent.

So today I'm introducing the Gulf Stream Protection Act of 2011, which will protect the economy and environment of Florida. This legislation will require federal agencies to safeguard our shores by preparing for another devastating spill like the Deepwater Horizon that occurred less than a year ago—but this time in Cuban waters. If a company that's drilling in Cuba wants to lease drilling rights in the United States, this bill will require them to first prove that they have a sufficient oil spill response plan and the resources to address a spill in both Cuban and U.S. waters. Additionally this bill directs the Department of Interior—in consultation with the Department of State—to provide recommendations to Congress on a multinational agreement for spill response, not unlike what was suggested by the Spill Commission chaired by Senator Bob Graham and Bill Reilly.

We have seen what oil spills have done in other parts of the country and around the world. If oil spilled from a well in the North Cuba Basin, it would coat popular South Atlantic beaches like Miami and West Palm. I am not prepared to take chances with Florida's coral reefs and other marine life, nor with the livelihoods of millions of Floridians who depend on tourism for their economic well-being.

That is why I believe that in addition to my responsibility to deter exploration and drilling off Florida's coastline, I also have a responsibility to ensure that we are prepared for the worst-case scenario: an oil spill from a foreign rig in Cuban waters. I hope my colleagues will join me in supporting this commonsense 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. 405

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 ''Gulf Stream Protection Act of 2011''.

SEC. 2. REQUIREMENT FOR CERTAIN DUAL LESSEES.

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)) is amended by adding at the end the following:

''(9) REQUIREMENT FOR CERTAIN LESSEES.—If a bidder for an oil or gas lease under this subsection is conducting oil and gas operations off the coast of Cuba, the Secretary shall not grant an oil or gas lease to the bidder unless the bidder submits to the Secretary—

''(A) a Cuban oil spill response plan, which shall include 1 or more worst-case-scenario oil discharge plans; and

''(B) evidence that the bidder has sufficient financial resources and other resources necessary for a cleanup effort, as determined by the Secretary, to respond to a worst case scenario oil discharge in Cuba that occurs in, or would impact, the waters of the United States.''.

SEC. 3. NONDOMESTIC GULF OIL SPILL RESPONSE PLAN.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall carry out an oil spill risk analysis and planning process for the development and implementation of oil spill response plans for nondomestic oil spills in the Gulf of Mexico.

(b) REQUIREMENTS.—In developing plans under subsection (a), the Secretary shall—

(1) consult with the heads of other Federal agencies with relevant scientific and operational expertise to verify that holders of oil and gas leases can conduct any response and containment operations provided for in the plans;

(2) ensure that all critical information and spill scenarios are included in the plans, including oil spill containment and control methods to ensure that holders of oil and gas leased can conduct the operations provided for in the plans;

(3) ensure that the plans include shared international standards for natural resource extraction activities;

(4) in consultation with the Secretary of State, to the maximum extent practicable, include recommendations for Congress on a joint contingency plan with the countries of Mexico, Cuba, and the Bahamas to ensure an adequate response to oil spills located in the eastern Gulf of Mexico; and

(5) to the maximum extent practicable, ensure that the contingency plan described in paragraph (4) contains a description of the organization and logistics of a response team for each country described in that paragraph (including each applicable Federal and State agency).

(c) MODELING OF CUBAN WATERS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator of the National Oceanic and Atmospheric Administration shall conduct modeling of the Cuban waters.

(2) USE OF MODELING.—For purposes of developing the plans required under subsection (a), the Secretary shall take into account any modeling data collected under paragraph (1).

(d) VERIFICATION PROCESS.—The Secretary may conduct a verification process to ensure that any companies operating in the United States that are conducting drilling operations off the coast of Cuba are subject to

standards that are as stringent as the standards under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

By Mr. ROCKEFELLER:

S. 408. A bill to provide for the temporary retention of sole community hospital status for a hospital under the Medicare program; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Community Hospital Jobs Act of 2011, legislation that gives Fairmont General Hospital, a small community hospital in West Virginia, the chance to make an important transition.

Many of Marion County's residents were born at Fairmont General Hospital—founded in 1939. And many of the hospital's 700 employees are from the surrounding area. That is why, when Fairmont's leaders told me the hospital was going to lose a large portion of its Medicare payments because it was going to lose its status as a Sole Community Hospital, I knew it was important to make sure Fairmont General maintained its role as a vibrant health care leader in our community—and I began looking for ways to help.

Over the last couple of years, I have worked extensively with Fairmont officials and with other members of the West Virginia delegation to identify possible solutions to Fairmont's problem, which the hospital did nothing to cause. First we looked for a regulatory solution. However, after speaking extensively with federal and hospital officials, scrutinizing every regulation, we determined that without intervention from Congress, Fairmont would lose its status as the sole community hospital—and with it, additional federal payments that are helping the hospital stay afloat and maintain jobs, as many as 70 of which may be at stake.

Once it became clear that legislation was necessary, I got to work again on behalf of Fairmont. Last fall, I started to work on a legislative solution to allow Fairmont to retain its sole community hospital status. And, when the Senate began consideration of an end-of-the-year health care bill, I pushed for the inclusion of legislative language to allow Fairmont to keep its sole community hospital status for a three-year transition period. Unfortunately, this language was not ultimately included in the final Medicare and Medicaid Extenders Act of 2010—but I am not going to give up.

Fairmont General does not give up on its patients, and I am not giving up on Fairmont. That is why I am introducing this important legislation today.

I urge my colleagues to support the Community Hospital Jobs Act.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. LEAHY, Mr. GRAHAM, Mr. CORNYN, Mr. DURBIN, and Ms. KLOBUCHAR):

S. 410. A bill to provide for media coverage of Federal court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, today, I reintroduce the Sunshine in the Courtroom Act, a bipartisan bill which will allow judges at all federal court levels to open their courtrooms to television cameras and radio broadcasts.

Openness in our courts improves the public's understanding of what goes on there. Our judicial system is a secret to many people across the country. Letting the sun shine in on federal courtrooms will give Americans an opportunity to better understand the judicial process. Courts are the bedrock of the American justice system. Allowing greater access to our courts will inspire faith in and restore appreciation for our judges who pledge equal and impartial justice for all.

For decades, states such as my home state of Iowa have allowed cameras in their courtrooms with great results. As a matter of fact, only the District of Columbia prohibits trial and appellate court coverage entirely. Nineteen States allow news coverage in most courts; 16 allow coverage with slight restrictions; and the remaining 15 allow coverage with stricter rules.

The bill I am introducing today, along with Senator SCHUMER and five other cosponsors from both sides of the aisle, including Judiciary Chairman LEAHY, will greatly improve public access to Federal courts. It lets Federal judges open their courtrooms to television cameras and other electronic media.

The Sunshine in the Courtroom Act is full of provisions that ensure that the introduction of cameras and other broadcasting devices into the courtrooms goes as smoothly as it has at the state level. First, the presence of the cameras in Federal trial and appellate courts is at the sole discretion of the judges—it is not mandatory. The bill also provides a mechanism for Congress to study the effects of this legislation on our judiciary before making this change permanent through a 3 year sunset provision. The bill also protects the privacy and safety of non-party witnesses by giving them the right to have their faces and voices obscured. Finally, it includes a provision to protect the due process rights of any party, and prohibits the televising of jurors.

We need to open the doors and let the light shine in on the Federal Judiciary. This bill improves public access to and therefore understanding of our federal courts. It has safety provisions to ensure that the cameras won't interfere with the proceedings or with the safety or due process of anyone involved in the cases. Our states have allowed news coverage of their courtrooms for decades. It is time we join them.

Mr. President, I ask unanimous consent that the text of 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. 410

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 ''Sunshine in the Courtroom Act of 2011''.

SEC. 2. FEDERAL APPELLATE AND DISTRICT COURTS.

(a) DEFINITIONS.—In this section:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

(b) AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.—

(1) AUTHORITY OF APPELLATE COURTS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the presiding judge of an appellate court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(B) EXCEPTION.—The presiding judge shall not permit any action under subparagraph (A), if—

(i) in the case of a proceeding involving only the presiding judge, that judge determines the action would constitute a violation of the due process rights of any party; or

(ii) in the case of a proceeding involving the participation of more than 1 judge, a majority of the judges participating determine that the action would constitute a violation of the due process rights of any party.

(2) AUTHORITY OF DISTRICT COURTS.—

(A) IN GENERAL.—

(i) AUTHORITY.—Notwithstanding any other provision of law, except as provided under clause (iii), the presiding judge of a district court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(ii) OBSCURING OF WITNESSES.—Except as provided under clause (iii)—

(I) upon the request of any witness (other than a party) in a trial proceeding, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding; and

(II) the presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request the image and voice of that witness to be obscured during the witness' testimony.

(iii) EXCEPTION.—The presiding judge shall not permit any action under this subparagraph—

(I) if that judge determines the action would constitute a violation of the due process rights of any party; and

(II) until the Judicial Conference of the United States promulgates mandatory guidelines under paragraph (5).

(B) NO MEDIA COVERAGE OF JURORS.—The presiding judge shall not permit the photographing, electronic recording, broadcasting, or televising of any juror in a trial proceeding, or of the jury selection process.

(C) DISCRETION OF THE JUDGE.—The presiding judge shall have the discretion to obscure the face and voice of an individual, if good cause is shown that the photographing, electronic recording, broadcasting, or televising of the individual would threaten—

(i) the safety of the individual;

(ii) the security of the court;

(iii) the integrity of future or ongoing law enforcement operations; or

(iv) the interest of justice.

(D) SUNSET OF DISTRICT COURT AUTHORITY.—The authority under this paragraph shall terminate 3 years after the date of the enactment of this Act.

(3) INTERLOCUTORY APPEALS BARRED.—The decision of the presiding judge under this subsection of whether or not to permit, deny, or terminate the photographing, electronic recording, broadcasting, or televising of a court proceeding may not be challenged through an interlocutory appeal.

(4) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, at the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under paragraphs (1) and (2).

(5) MANDATORY GUIDELINES.—Not later than 6 months after the date of enactment of this Act, the Judicial Conference of the United States shall promulgate mandatory guidelines which a presiding judge is required to follow for obscuring of certain vulnerable witnesses, including crime victims, minor victims, families of victims, cooperating witnesses, undercover law enforcement officers or agents, witnesses subject to section 3521 of title 18, United States Code, relating to witness relocation and protection, or minors under the age of 18 years. The guidelines shall include procedures for determining, at the earliest practicable time in any investigation or case, which witnesses should be considered vulnerable under this section.

(6) PROCEDURES.—In the interests of justice and fairness, the presiding judge of the court in which media use is desired has discretion to promulgate rules and disciplinary measures for the courtroom use of any form of media or media equipment and the acquisition or distribution of any of the images or sounds obtained in the courtroom. The presiding judge shall also have discretion to require written acknowledgment of the rules by anyone individually or on behalf of any entity before being allowed to acquire any images or sounds from the courtroom.

(7) NO BROADCAST OF CONFERENCES BETWEEN ATTORNEYS AND CLIENTS.—There shall be no audio pickup or broadcast of conferences which occur in a court proceeding between attorneys and their clients, between co-counsel of a client, between adverse counsel, or between counsel and the presiding judge, if the conferences are not part of the official record of the proceedings.

(8) EXPENSES.—A court may require that any accommodations to effectuate this Act be made without public expense.

(9) INHERENT AUTHORITY.—Nothing in this Act shall limit the inherent authority of a court to protect witnesses or clear the courtroom to preserve the decorum and integrity of the legal process or protect the safety of an individual.

By Mr. LEVIN (for himself, Mrs. HUTCHISON, Mr. VITTER, Ms. LANDRIEU, Mr. SHELBY, Ms. STABENOW, Mrs. BOXER, Ms. KLOBUCHAR, Mr. WYDEN, Mr. FRANKEN, Mr. LIEBERMAN, Mr. BROWN of Ohio, Mrs. GILLIBRAND, and Mr. CORNYN):

S. 412. A bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, in 1986, the Congress wisely established the Harbor Maintenance Trust Fund to pay for operation and maintenance of our Nation's harbors. This fund, which is fed by a tax based on the value of goods passing through our ports, today has a balance of more than $5.7 billion—a significant sum of money to address our Nation's need for clear and navigable harbors connecting our Nation's farmers and manufacturers to the web of international commerce.

But that $5.7 billion is not being used that way, or at least, not to the extent it should be. Despite that significant balance, our harbors are struggling because of unmet maintenance needs. In the Great Lakes region alone, more than 18 million cubic yards of material need to be dredged from harbors to ensure safe navigation. Dredging these harbors would be a $200 million job. And on the coasts, similar backlogs threaten the safe and efficient movement of commerce that creates jobs and helps the American economy grow. The Army Corps of Engineers estimates that the nation's 59 busiest ports are available less than 35 percent of the time because they are inadequately maintained. Unless we act, the failure to address these maintenance needs could slow the flow of goods, reduce economic growth, cost jobs, and create hazards to navigation that could lead to accidents and environmental damage.

We need to address that maintenance backlog. The Harbor Maintenance Trust Fund can provide the funding to do so. But Congress must take action to ensure we address these needs. That is why today, Senator HUTCHISON and I, joined by 12 of our colleagues, have introduced the Harbor Maintenance Act of 2011.

Simply put, our legislation would connect our spending on harbor maintenance to the revenue collected in the Harbor Maintenance Trust Fund. As commerce continues to grow and shipping becomes an ever-more-important driver of economic growth, proper maintenance is vital.

A wise car owner does not ignore the need to change the oil. A smart homeowner makes sure the roof is in good shape. They do so because a small investment in maintenance today can prevent much bigger costs tomorrow. We should follow the same philosophy when it comes to our harbors. We should ensure that we make smart investments today that will pay off for years to come.

I thank Senator HUTCHISON and our co-sponsors for their work on behalf of this important legislation, and I urge my colleagues to help us ensure its passage.

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. 412

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 ''Harbor Maintenance Act of 2011''.

SEC. 2. FUNDING FOR HARBOR MAINTENANCE PROGRAMS.

(a) HARBOR MAINTENANCE TRUST FUND GUARANTEE.—

(1) IN GENERAL.—The total budget resources made available from the Harbor Maintenance Trust Fund each fiscal year pursuant to section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Harbor Maintenance Trust Fund) shall be equal to the level of receipts plus interest credited to the Harbor Maintenance Trust Fund for that fiscal year. Such amounts may be used only for harbor maintenance programs described in section 9505(c) of such Code.

(2) GUARANTEE.—No funds may be appropriated for harbor maintenance programs described in such section unless the amount described in paragraph (1) has been provided.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TOTAL BUDGET RESOURCES.—The term ''total budget resources'' means the total amount made available by appropriations Acts from the Harbor Maintenance Trust Fund for a fiscal year for making expenditures under section 9505(c) of the Internal Revenue Code of 1986.

(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term ''level of receipts plus interest'' means the level of taxes and interest credited to the Harbor Maintenance Trust Fund under section 9505 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177; 99 Stat. 1092) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for harbor maintenance programs described in subsection (b)(1) for such fiscal year to be less than the amount required by subsection (a)(1) for such fiscal year.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, and Mr. CARPER):

S. 413. A bill to amend the Homeland Security Act of 2002 and other laws to enhance the security and resiliency of the cyber and communications infrastructure of the United States; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to join Senator LIEBERMAN and Senator CARPER in introducing the Cyber Security and Internet Freedom Act of 2011. This vital legislation would

fortify the government's efforts to safeguard America's cyber networks from attack and ensure that access to the Internet is protected and its availability preserved for every American.

The Internet is vital to almost every facet of Americans' daily lives—from the water we drink to the power we use to the ways we communicate. It is essential to the free flow of ideas and information. The Internet is a manifestation of the ideals that underlie the First Amendment of our Constitution and the core freedoms that all Americans hold dear. It is essential that the Internet and our access to it be protected to ensure both reliability of the critical services that rely upon it and the availability of the information that travels over it. While the United States must ensure the security of our nation and its critical infrastructure, it must do so in a manner that does not deprive Americans of the ability to lawfully read or express their views. Neither the President nor any other Federal official should have the authority to ''shut down'' the Internet.

In June 2010, Senator LIEBERMAN, Senator CARPER, and I introduced legislation to strengthen the government's efforts to safeguard America's cyber networks from attack; build a public/private partnership to promote national cyber security priorities; and bolster the government's ability to set, monitor compliance with, and enforce standards and policies for securing Federal civilian systems and the sensitive information they contain. In late June, that bill was unanimously approved by the Senate Homeland Security and Governmental Affairs Committee.

Today we are introducing for the 112th Congress the bill unanimously approved by our committee, but with explicit provisions preventing the President from shutting down the Internet and providing an opportunity for judicial review of designations of our most sensitive systems and assets as ''covered critical infrastructure.''

President Mubarak's actions in January to shut down Internet communications in Egypt were, and are, totally inappropriate. Freedom of speech is a fundamental right that must be protected, and his ban was clearly designed to limit criticisms of his government. Our cyber security legislation is intended to protect the United States from external cyber attacks. Yet, some have suggested that the legislation the Committee reported during the last Congress would empower the President to deny U.S. citizens access to the Internet. Nothing could be further from the truth.

I would never sign on to legislation that authorized the President, or anyone else, to shut down the Internet. Emergency or no, the exercise of such broad authority would be an affront to our Constitution.

But our outmoded current laws do give us reason to be concerned. Most important, under current law, in the event of a cyber attack, the President's authorities are broad and ambiguous—a recipe for encroachments on privacy and civil liberties.

For example, in the event of a war or threat of war, the Communications Act of 1934 authorizes the President to take over or shut down wire and radio communications providers. This law is a crude sledgehammer built for another time and technology. Our bill contains a number of protections to make sure that broad authority cannot be used to shut down the Internet.

First, section 2 of the bill states explicitly:

> Notwithstanding any other provision of this Act, an amendment made by this Act, or section 706 of the Communications Act of 1934, neither the President, the Director of the National Center for Cybersecurity and Communications, or any officer or employee of the United States Government shall have the authority to shut down the Internet.

Second, the emergency measures in our bill apply in a precise and targeted way only to our most critical infrastructure—vital components of the electric power grid, telecommunications networks, financial systems or other critical infrastructure systems that could cause a national or regional catastrophe if disrupted. This definition would not cover the entire Internet, the Internet backbone, or even entire companies.

In defining covered critical infrastructure, our bill directs the Secretary to consider the consequences of a disruption of a particular system or asset. To constitute a ''national or regional catastrophe,'' the disruption would need to cause a mass casualty event which includes an extraordinary number of fatalities; severe economic consequences; mass evacuations with a prolonged absence; or severe degradation of national security capabilities, including intelligence and defense functions.

When the Committee reported this bill last year, the report clarified what these four factors mean, specifically referencing the current DHS interpretation of ''national or severe economic consequences; mass evacuations with a prolonged absence; or regional catastrophe.'' Under DHS's interpretation, a ''national or regional catastrophe'' includes a combination of the following factors: more than 2,500 prompt fatalities; greater than $25 billion in first-year economic consequences; mass evacuations with a prolonged absence of greater than one month; or severe degradation of the nation's security capabilities.

As our Committee's report noted, we expect the Department to apply this standard in determining which particular systems or assets constitute covered critical infrastructure.

Third, our legislation restricts the President's ability to declare a national cyber emergency to those circumstances in which an ''actual or imminent'' cyber attack would disrupt covered critical infrastructure that would cause these catastrophic consequences.

Fourth, any measures ordered by the President must be ''the least disruptive means feasible.''

Fifth, the authority our bill would grant is time limited. The President could only declare a cyber emergency for 30-day period and only for up to 120 days. After that, Congress would be required to specifically authorize further measures. Any declaration would be subject to congressional oversight, as our bill requires the President to notify Congress regarding the specific threat to our nation's infrastructure, why existing protections are not sufficient, and what specific emergency measures are required to respond to the specific threat.

Sixth, the legislation expressly forbids the designation of any system or asset as covered critical infrastructure ''based solely on activities protected by the first amendment to the United States Constitution.''

Seventh, the bill provides for a robust administrative process for an owner or operator to challenge the designation of a system or asset as covered critical infrastructure and expressly permits challenges of a final agency determination in federal court.

Our bill contains protections to prevent the President from denying Americans access to the Internet—even as it provides clear and unambiguous direction to ensure that those most critical systems and assets that rely on the Internet are protected. And, even though experts question whether anyone can technically ''shut down'' the Internet in the United States, we included explicit language prohibiting the President from doing what President Mubarak did.

I would like to stress that the need for Congress to pass a comprehensive cyber security bill is more urgent than ever.

Cyber-based threats to U.S. information infrastructure are increasing, constantly evolving, and growing more dangerous.

In March 2010 the Senate's Sergeant at Arms reported that the computer systems of Congress and the Executive Branch agencies are now under cyber attack an average of 1.8 billion times per month. The annual cost of cyber crime worldwide has climbed to more than $1 trillion.

Coordinated cyber attacks have crippled Estonia, Georgia, and Kyrgyzstan and compromised critical infrastructure in countries around the world.

Devastating cyber attacks could disrupt, damage, or even destroy some of our nation's critical infrastructure, such as the electric power grid, oil and gas pipelines, dams, or communications networks. These cyber threats could cause catastrophic damage in the physical world.

Based on media reports, China and Russia already have penetrated the computer systems of America's electric power grid, leaving behind malicious

hidden software that could be activated later to disrupt the grid during a war or other national crisis.

In June 2010, cyber security experts discovered Stuxnet, one of the most sophisticated viruses ever found. Stuxnet was programmed specifically to infiltrate certain industrial control systems, allowing the virus to potentially overwrite commands and to sabotage infected systems. It had the potential to change instructions, commands, or alarm thresholds, which, in turn, could damage, disable, or disrupt equipment supporting the most critical infrastructure.

The private sector is also under attack. In January 2010, Google announced that attacks originating in China had targeted its systems as well as the networks of more than 30 other companies. The attacks on Google sought to access the email accounts of Chinese human rights activists. For other companies, lucrative information such as critical corporate data and software source codes were targeted.

According to a report released last week, coordinated and covert attacks hit more than five major oil, energy, and petrochemical companies. The focus of the intrusions was oil and gas field production systems, as well as financial documents related to field exploration and bidding for new oil and gas leases. The companies also lost information related to their industrial control systems.

In the cyber domain, the advantage lies with our adversaries, for whom success could be achieved by exploiting a single vulnerability that could produce disruptive effects at network speed. Effectively preventing or containing major cyber attacks requires that response plans be in place and roles and authorities of Federal government agencies and entities be clearly delineated in advance.

For too long, our approach to cyber security has been disjointed and uncoordinated. This cannot continue. The United States requires a comprehensive cyber security strategy backed by effective implementation of innovative security measures. There must be strong coordination among law enforcement, intelligence agencies, the military, and the private sector owners and operators of critical infrastructure.

This bill would establish the essential point of coordination across the Executive branch. The Office of Cyberspace Policy in the Executive Office of the President would be run by a Senate-confirmed Director who would advise the President on all cyber security matters. The Director would lead and harmonize Federal efforts to secure cyberspace and would develop a strategy that incorporates all elements of cyber security policy. The Director would oversee all Federal activities related to the strategy to ensure efficiency and coordination. The Director would report regularly to Congress to ensure transparency and oversight.

To be clear, the White House official would not be another unaccountable czar. The Cyber Director would be a Senate-confirmed position and thus would testify before Congress. The important responsibilities given to the Director of the Office of Cyberspace Policy related to cyber security are similar to the responsibilities of the current Director of the Office of Science and Technology Policy.

The Cyber Director would advise the President and coordinate efforts across the Executive branch to protect and improve our cyber security posture and communications networks. And, by working with a strong operational and tactical partner at the Department of Homeland Security, the Director would help improve the security of Federal and private sector networks.

This strong DHS partner would be the National Center for Cybersecurity and Communications, or Cyber Center. It would be located within the Department of Homeland Security to elevate and strengthen the Department's cyber security capabilities and authorities. This Center also would be led by a Senate-confirmed Director.

The Cyber Center, anchored at DHS, will close the coordination gaps that currently exist in our disjointed federal cyber security efforts. For day-to-day operations, the Center would use the resources of DHS, and the Center Director would report directly to the Secretary of Homeland Security. On interagency matters related to the security of Federal networks, the Director would regularly advise the President—a relationship similar to the Director of the NCTC on counterterrorism matters or the Chairman of the Joint Chiefs of Staff on military issues. These dual relationships would give the Center Director sufficient rank and stature to interact effectively with the heads of other departments and agencies, and with the private sector.

Congress has dealt with complex challenges involving the need for interagency coordination in the past with a similar construct. We have established strong leaders with supporting organizational structures to coordinate and implement action across agencies, while recognizing and respecting disparate agency missions.

The establishment of the National Counterterrorism Center within the Office of the Director of National Intelligence is a prime example of a successful reorganization that fused the missions of multiple agencies. The Director of NCTC is responsible for the strategic planning of joint counterterrorism operations, and in this role reports to the President. When implementing the information analysis, integration, and sharing mission of the Center, the Director reports to the Director of National Intelligence. These dual roles provide access to the President on strategic, interagency matters, yet provide NCTC with the structural support and resources of the office of the DNI to complete the day-to-day work of the NCTC. The DHS Cyber Center would replicate this successful model for cyber security.

This bill would establish a public/private partnership to improve cyber security. Working collaboratively with the private sector, the Center would produce and share useful warning, analysis, and threat information with the private sector, other Federal agencies, international partners, and state and local governments. By developing and promoting best practices and providing voluntary technical assistance to the private sector, the Center would improve cyber security across the nation. Best practices developed by the Center would be based on collaboration and information sharing with the private sector. Information shared with the Center by the private sector would be protected.

With respect to the owners and operators of our most critical systems and assets, the bill would mandate compliance with certain risk-based performance metrics to close security gaps. These metrics would apply to vital components of the electric grid, telecommunications networks, financial systems, or other critical infrastructure systems that could cause a national or regional catastrophe if disrupted.

This approach would be similar to the current model that DHS employs with the chemical industry. Rather than setting specific standards, DHS would employ a risk-based approach to evaluating cyber risk, and the owners and operators of covered critical infrastructure would develop a plan for protecting against those risks and mitigating the consequences of an attack.

These owners and operators would be able to choose which security measures to implement to meet applicable risk-based performance metrics. The bill does not authorize any new surveillance authorities or permit the government to ''take over'' private networks. This model would allow for continued innovation and dynamism that are fundamental to the success of the IT sector.

The bill would protect the owners and operators of covered critical infrastructure from punitive damages when they comply with the new risk-based performance measures. Covered critical infrastructure also would be required to report certain significant breaches affecting vital system functions to the Center. Collaboration with the private sector would help develop mitigations for these cyber risks.

The Center also would share information, including threat analysis, with owners and operators of critical infrastructure regarding risks affecting the security of their sectors. The Center would work with sector-specific agencies and other Federal agencies with existing regulatory authority to avoid duplication of requirements, to use existing expertise, and to ensure government resources are employed in the most efficient and effective manner.

With regard to Federal networks, the Federal Information Security Management Act—known as FISMA—gives the Office of Management and Budget broad authority to oversee agency information security measures. In practice, however, FISMA is frequently criticized as a ''paperwork exercise'' that offers little real security and leads to a disjointed cyber security regime in which each Federal agency haphazardly implements its own security measures.

The bill we introduce today would transform FISMA from paper based to real-time responses. It would codify and strengthen DHS authorities to establish complete situational awareness for Federal networks and develop tools to improve resilience of Federal Government systems and networks.

The legislation also would ensure that Federal civilian agencies consider cyber risks in IT procurements instead of relying on the ad hoc approach that dominates civilian government cyber efforts. The bill would charge the Secretary of Homeland Security, working with the private sector and the heads of other affected departments and agencies, with developing a supply chain risk management strategy applicable to Federal procurements. This strategy would emphasize the security of information systems from development to acquisition and throughout their operational life cycle. The strategy would be based, to the maximum extent practicable, on standards developed by the private sector and would direct agencies to use commercial-off-the-shelf solutions to the maximum extent consistent with agency needs.

While the Cyber Center should not be responsible for micromanaging individual procurements or directing investments, we have seen far too often that security is not a primary concern when agencies procure their IT systems. Recommending security investments to OMB and providing strategic guidance on security enhancements early in the development and acquisition process will help ''bake in'' security. Cyber security can no longer be an afterthought in our government agencies.

These improvements in Federal acquisition policy should have beneficial ripple effects in the larger commercial market. As a large customer, the Federal Government can contract with companies to innovate and improve the security of their IT services and products. These innovations can establish new security baselines for services and products offered to the private sector and the general public without mandating specific market outcomes.

Finally, the legislation would direct the Office of Personnel Management to reform the way cyber security personnel are recruited, hired, and trained to ensure that the Federal Government and the private sector have the talent necessary to lead this national effort and protect its own networks. The bill would also provide DHS with temporary hiring and pay flexibilities to assist in the establishment of the Center.

We cannot afford to wait for a ''cyber 9/11'' before our government finally realizes the importance of protecting our digital resources, limiting our vulnerabilities, and mitigating the consequences of penetrations to our networks.

We must be ready. It is vitally important that we build a strong public-private partnership to protect cyberspace. It is a vital engine of our economy, our government, our country and our future.

I urge Congress to support this vitally important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 59—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. LEVIN submitted the following resolution; from the Committee on Armed Services; which was referred to the Committee on Rules and Administration:

S. RES. 59

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 2011 through September 30, 2011; October 1, 2011 through September 30, 2012; and October 1, 2012 through February 28, 2013, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2011 through September 30, 2011 under this resolution shall not exceed $4,749,869, of which amount—

(1) not to exceed $75,000 maybe expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended; and

(2) not to exceed $30,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2011 through September 30, 2012, expenses of the committee under this resolution shall not exceed $8,142,634, of which amount—

(1) not to exceed $80,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended; and

(2) not to exceed $30,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2012 through February 28, 2013, expenses of the committee under this resolution shall not exceed $3,392,765 of which amount—

(1) not to exceed $50,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202 (i) of the Legislative Reorganization Act of 1946, as amended), and

(2) not to exceed $30,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2013.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2011, through September 30, 2011; October 1, 2011, through September 30, 2012; and October 1, 2012, through February 28, 2013, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 60—RECOGNIZING THE 50TH ANNIVERSARY OF THE DATE OF ENACTMENT OF THE LAW THAT CREATED REAL ESTATE INVESTMENT TRUSTS (REITS) AND GAVE MILLIONS OF AMERICANS NEW INVESTMENT OPPORTUNITIES THAT HELPED THEM BUILD A SOLID FOUNDATION FOR RETIREMENT AND HAS CONTRIBUTED TO THE OVERALL STRENGTH OF THE ECONOMY OF THE UNITED STATES

Mr. ISAKSON (for himself, Ms. MIKULSKI, Mr. LUGAR, Ms. COLLINS, Mr. BURR, Mr. BENNET, Mr. BLUNT, Mr. CHAMBLISS, Mr. CORKER, Mr. PRYOR, and Mr. UDALL of Colorado) submitted the following resolution; which was considered and agreed to:

S. RES. 60

Whereas, on September 14, 1960, President Dwight D. Eisenhower signed into law Public Law 86–779 (74 Stat. 998), which enabled the establishment of real estate investment trusts (referred to in this preamble as ''REITs'') throughout the United States under regulations set by the Federal Government;

Whereas the enactment of this law enabled REITs to provide all investors with the same