

S. 2193. A bill to require the Food and Drug Administration to include devices in the postmarket risk identification and analysis system, to expedite the implementation of the unique device identification system for medical devices, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COONS (for himself, Mr. RUBIO, and Mr. BINGAMAN):

S. 2194. A bill to award grants in order to establish longitudinal personal college readiness and savings online platforms for low-income students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN of Massachusetts:

S. 2195. A bill to require Members and employees of Congress and other Federal employees who file under the Ethics in Government Act of 1978 to disclose delinquent tax liability; to the Committee on Homeland Security and Governmental Affairs.

By Mr. PAUL (for himself, Mr. GRAHAM, Mr. LEE, and Mr. DEMINT):

S. 2196. A bill to provide higher-quality, lower-cost health care to seniors; to the Committee on Finance.

By Ms. MURKOWSKI (for herself, Mr. INOUE, Mrs. HUTCHISON, Mr. BEGICH, and Mr. AKAKA):

S. 2197. A bill to require the attorney for the Government to disclose favorable information to the defendant in criminal prosecutions brought by the United States, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOXER (for herself and Mr. GRASSLEY):

S. 2198. A bill to implement common sense controls on the taxpayer-funded salaries of government contractors by limiting reimbursement for excessive compensation equal to the pay of the President of the United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEE:

S. 2199. A bill to spur economic growth and create jobs; to the Committee on Finance.

By Mr. LEE:

S. 2200. A bill to amend the Internal Revenue Code of 1986 to exempt certain family-owned farms and businesses from the estate tax; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. UDALL of Colorado, Mr. BROWN of Massachusetts, Mr. HARKIN, Mr. HELLER, Mr. WYDEN, and Mr. BENNET):

S. 2201. A bill to amend the Internal Revenue Code of 1986 to extend the renewable energy credit; to the Committee on Finance.

By Mr. INOUE:

S. 2202. A bill to provide for the establishment of a private, nonprofit entity to assist the Government in providing disaster assistance, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COONS (for himself, Mr. ISAKSON, Mr. DURBIN, Mr. WICKER, and Mr. CARDIN):

S. Res. 397. A resolution promoting peace and stability in Sudan, and for other purposes; to the Committee on Foreign Relations.

By Mr. MENENDEZ (for himself, Ms. SNOWE, Mr. DURBIN, Mr. WHITEHOUSE, Mr. LIEBERMAN, Mr. JOHNSON of South Dakota, Mr. CARPER, Mr.

KOHL, Mr. BROWN of Ohio, Mr. INOUE, Mrs. SHAHEEN, Mr. CARDIN, Mr. CASEY, Mr. LEVIN, Mr. REED, Mr. NELSON of Florida, Mr. ROCKEFELLER, Mr. LAUTENBERG, Mrs. BOXER, Mrs. FEINSTEIN, Mr. WYDEN, Mr. LUGAR, Ms. COLLINS, Mr. COCHRAN, Mr. COBURN, Mr. ISAKSON, Mr. KIRK, and Mr. CHAMBLISS):

S. Res. 398. A resolution recognizing the 191st anniversary of the independence of Greece and celebrating Greek and American democracy; considered and agreed to.

ADDITIONAL COSPONSORS

S. 296

At the request of Ms. KLOBUCHAR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 296, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages.

S. 461

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend financing of the Superfund.

S. 957

At the request of Mr. BOOZMAN, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 957, a bill to amend title 38, United States Code, to improve the provision of rehabilitative services for veterans with traumatic brain injury, and for other purposes.

S. 1119

At the request of Mr. INOUE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1119, a bill to reauthorize and improve the Marine Debris Research, Prevention, and Reduction Act, and for other purposes.

S. 1167

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1167, a bill to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes.

S. 1421

At the request of Mr. PORTMAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1421, a bill to authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes.

S. 1737

At the request of Mr. BENNET, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1737, a bill to improve the accuracy of mortgage underwriting used by Federal mortgage agencies by ensuring that energy costs are included in the underwriting process, to reduce the amount of energy consumed by homes, to facilitate the creation of energy effi-

ciency retrofit and construction jobs, and for other purposes.

S. 1935

At the request of Mrs. HAGAN, the names of the Senator from California (Mrs. BOXER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1981

At the request of Mr. HELLER, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1981, a bill to provide that Members of Congress may not receive pay after October 1 of any fiscal year in which Congress has not approved a concurrent resolution on the budget and passed the regular appropriations bills.

S. 2103

At the request of Mr. LEE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2103, a bill to amend title 18, United States Code, to protect pain-capable unborn children in the District of Columbia, and for other purposes.

At the request of Mr. JOHANNIS, his name was added as a cosponsor of S. 2103, *supra*.

S. 2112

At the request of Mr. BEGICH, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 2112, a bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents.

S. 2122

At the request of Mr. PAUL, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2122, a bill to clarify the definition of navigable waters, and for other purposes.

S. 2159

At the request of Mr. LEAHY, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 2159, a bill to extend the authorization of the Drug-Free Communities Support Program through fiscal year 2017.

S. 2187

At the request of Mr. CARDIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2187, a bill to remove the sunset date for amendments to the Small Business Investment Act of 1958, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COONS (for himself, Mr. RUBIO, and Mr. BINGAMAN):

S. 2194. A bill to award grants in order to establish longitudinal personal college readiness and savings online platforms for low-income students; to the Committee on Health, Education, Labor, and Pensions.

Mr. COONS. Mr. President, parents in my home State of Delaware and all across this country worry so much and work so hard for the future of their children—for their health, their safety, their education, and their future. I rise today as a parent of three young children and the son and grandson of classroom teachers to talk about how we can pull together to provide all the tools and resources parents, teachers, mentors, and students need to understand, to afford, and to connect with college opportunities in this country.

Why do we need a new solution to this longstanding problem of college access? Well, let's just look at some statistics from this recent tough recession we are still growing our way out of.

The unemployment rate amongst high school dropouts was 13 percent; amongst those who had finished high school, 8 percent; and amongst those who had a college degree, just 4 percent. That is an enormous difference. That is millions of people unemployed because they didn't finish their high school education and go on to some higher education.

In the new global economy, Americans who don't go on to college have less than \$1 million in lifetime earning potential compared to those who do go to college. That \$1 million difference is something that—if parents and teachers and students were aware of it at the beginning of their education—it might drive them to make very different choices.

As a Senator, I have met with dozens of folks who lead companies or who are innovators and job creators who have said they have vacant positions they can't fill because we are not graduating enough Americans with advanced degrees and training in critical opportunities—engineering, science, technology, and math.

Filling the gap of opportunity by connecting students, teachers, parents, and mentors and creating a new generation of higher education achievers is something we can and should do to help create a competitive economy and workforce for the future. That is why today I am introducing the American Dream Accounts Act of 2012. This legislation encourages partnerships between schools, colleges, local nonprofits, and businesses to develop secure, Web-based, individual, portable student accounts that contain information about each student's academic preparedness, financial literacy, connects them to high-impact mentoring, and is tied to a college savings account. Instead of having each of these different resources be available to students separately, it connects them across existing silos and across existing education programs at the State and Federal level and, by

connecting across these different silos, deploys a powerful new tool and resource for students, teachers, parents, and mentors.

This bill is a modest but I think powerful step toward helping more students of all income levels and backgrounds access, afford, and complete a college education. And I am grateful to Senator RUBIO of Florida and to Senator BINGAMAN of New Mexico in joining me as original cosponsors of this innovative solution.

Too many American kids today are cut off from the enormous potential and value of higher education. Today, just about 1 out of 10 children from low-income families will complete a college degree by the time they are 24. As I have already said, the economic consequences of that are one of the main drivers of unemployment and poverty in our modern economy. But with early action, with early engagement, we can help millions of Americans beat those odds.

Many years ago, early in my career, I had the opportunity to work with something called the national I Have a Dream Foundation, founded by Gene Lang, through which my family and I adopted a whole class of elementary kids from the East Side of Wilmington. All over this country, more than 100 similar groups, motivated individuals, and donors have engaged in sponsoring college education opportunities for kids beginning at a very early age.

What I saw firsthand in the dozen years I was actively engaged with the 50 kids in our I Have a Dream program was that young people who come from a community, a family, a school where there is little to no experience of college education get powerful and negative messages from an early age that college is not for them, that it is not affordable, that it is not accessible, and that it is not part of the plan for their future.

Similarly, kids who grow up in families where their parents went to school, their teachers went to school, went to college, get constant messages—subtle but powerful messages—about the value and importance of college. Folks who come from those backgrounds—whether it is college sports or pride in their own graduation or constant conversations about one's alma mater or visits to college campuses—from childhood hear about college as something that is an expected part of life.

Very few of the 50 Dreamers my family and I worked with had any expectation of a college education, and the most powerful thing we did was to change that, to open the door to college as a possibility from elementary school on. It showed and this program has shown time and again across the country that exciting and engaging not just young students but their parents, their teachers, and an array of mentors has a cumulative, powerful, positive impact.

The American Dream Accounts Act will expand on this idea and use mod-

ern social networking technology to bring together existing programs and deliver ideas that will work for more kids. And the good news is that by utilizing existing Department of Education funds, this legislation comes at no additional cost to taxpayers.

What makes the American Dream Accounts Act work is the unique ability to harness the power of currently available technology to address some of the biggest challenges in college access—first, connectivity. The journey from elementary school to finishing high school is long, and the journey from there to higher education is a longer one. So many students in our public schools all over this country disengage or even drop out along the way because they are not connected. They attend large and sometimes anonymous schools. Their parents are stretched too thin in this tough economy, trying to hang on to their jobs and housing, and, frankly, a dedicated cadre of teachers can only do so much. These kids, as they become less and less connected to a clear vision of their future, drop out or make choices that make it unlikely they will finish high school and go on to college.

American dream accounts take advantage of modern technology. They are a Facebook-inspired opportunity to deliver on secure, personalized hubs of information that would connect these kids, sustain and support them throughout the entire journey of education.

Second, it connects them with college savings opportunities. Senator Roth of Delaware long served as the chairman of the Finance Committee, and one of the greatest pieces of his legacy was the Roth IRA, helping to empower working families to save for retirement. Part of the American dream accounts is the idea of connecting young people to college savings accounts. Virtually every State has college savings programs. Yet they are not accessed by most working- and middle-class Americans. Connecting students to college savings accounts from their earliest ages has a powerful impact. Studies show that students who know there is a dedicated college savings account in their name are seven times more likely to go to college than their peers without one. So this legislation would help open an individual savings account for each enrolled student from the beginning of elementary school. It matters less how much money is in the account than that students are aware there is one.

The third piece of this program is early intervention. State and Federal governments already spend billions of dollars on higher education—on Pell grants at the Federal level and in my State of Delaware on SEED grants. We provide these millions of dollars of support to afford college, but we don't tell kids they are there until they are in high school. Most kids have already made decisions by then that make them ineligible to finish high school or

attend college. So why not tell them earlier, particularly given the powerful potential impact of that information.

By letting children know these opportunities exist from the earliest age, we can change outcomes.

Last is portability. One of the things I saw in my own experience with my own Dreamers in Delaware was how often they moved and how often overstretched teachers with full classrooms didn't get any information or background on students who moved into their classroom halfway through the year. So instead of being welcomed and engaged in a positive way, they became discipline problems or were difficult to teach. This robust, online, secure account would empower teachers to connect with parents and mentors and understand the students who are before them. That is why portability and persistence is an essential feature of American dream accounts. This way, no matter what disruptions or challenges a student might face as they travel through education, their American dream account would travel with them. Supportive adults, teachers, mentors, and guidance counselors would be able to access this information, and kids would get a consistent understanding of the value and impact of a future college education.

One of my favorite parts of drafting this legislation was the meetings and conversations we had with those on the front lines of education in Delaware. As a community, I heard over and over again: We are hungry for innovative solutions. One of the many groups I met with was the Delaware PTA. In endorsing the American Dream Accounts Act, they said that it "incorporates the school, the parent and the student to ensure each child will be closely monitored with resources and support that is needed to access a postsecondary education."

The fact is our Nation's long-term economic competitiveness requires a highly trained, highly educated workforce. We can meet that challenge by connecting students with a broad array of higher education options—vocational school, job training, community college, or a 4-year university. This legislation will help students identify the type of higher education that is best for them, the career they most want, and give them the tools to get there.

I have visited with schools across Delaware, and one thing is clear. One vision stays with me from my time at I Have a Dream to my service as a Senator. When you ask a roomful of elementary school kids, what do you dream of being when you grow up, they all shoot their hands in the air and they all answer the question in the same way regardless of their background or income or community. Every child begins with dreams of a full, positive educational experience and career. All of our kids start with big dreams, but the numbers show that not all of our kids get them. The American

Dream Accounts Act of 2012 is a modest but powerful bill designed to empower students and parents of all backgrounds to achieve those dreams from an early age.

Mr. President, I welcome support from other of my colleagues to make this bill a reality.

By Ms. MURKOWSKI (for herself, Mr. INOUE, Mrs. HUTCHISON, Mr. BEGICH, and Mr. AKAKA):

S. 2197. A bill to require the attorney for the Government to disclose favorable information to the defendant in criminal prosecutions brought by the United States, and for other purposes; to the Committee on the Judiciary.

Ms. MURKOWSKI. 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. 2197

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 "Fairness in Disclosure of Evidence Act of 2012".

SEC. 2. DUTY TO DISCLOSE FAVORABLE INFORMATION.

Chapter 201 of title 18, United States Code, is amended by adding at the end the following:

"§ 3014. Duty to disclose favorable information

"(a) DEFINITIONS.—In this section—

"(1) the term 'covered information' means information, data, documents, evidence, or objects that may reasonably appear to be favorable to the defendant in a criminal prosecution brought by the United States with respect to—

"(A) the determination of guilt;

"(B) any preliminary matter before the court before which the criminal prosecution is pending; or

"(C) the sentence to be imposed; and

"(2) the term 'prosecution team' includes, with respect to a criminal prosecution brought by the United States—

"(A) the Executive agency, as defined in section 105 of title 5, that brings the criminal prosecution on behalf of the United States; and

"(B) any entity or individual, including a law enforcement agency or official, that—

"(i) acts on behalf of the United States with respect to the criminal prosecution;

"(ii) acts under the control of the United States with respect to the criminal prosecution; or

"(iii) participates, jointly with the Executive agency described in subparagraph (A), in any investigation with respect to the criminal prosecution.

"(b) DUTY TO DISCLOSE FAVORABLE INFORMATION.—In a criminal prosecution brought by the United States, the attorney for the Government shall provide to the defendant any covered information—

"(1) that is within the possession, custody, or control of the prosecution team; or

"(2) the existence of which is known, or by the exercise of due diligence would become known, to the attorney for the Government.

"(c) TIMING.—Except as provided in subsections (e) and (f), the attorney for the Government shall provide to the defendant any covered information—

"(1) without delay after arraignment and before the entry of any guilty plea; and

"(2) if the existence of the covered information is not known on the date of the initial disclosure under this subsection, as soon as is reasonably practicable upon the existence of the covered information becoming known, without regard to whether the defendant has entered or agreed to enter a guilty plea.

"(d) RELATIONSHIP TO OTHER LAWS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements under subsections (b) and (c) shall apply notwithstanding section 3500(a) or any other provision of law (including any rule or statute).

"(2) CLASSIFIED INFORMATION.—Classified information (as defined in section 1 of the Classified Information Procedures Act (18 U.S.C. App.)) shall be treated in accordance with the Classified Information Procedures Act.

"(e) PROTECTIVE ORDERS.—

"(1) IN GENERAL.—Upon motion of the United States, the court may issue an order to protect against the immediate disclosure to a defendant of covered information otherwise required to be disclosed under subsection (b) if—

"(A) the covered information is favorable to the defendant solely because the covered information would provide a basis to impeach the credibility of a potential witness; and

"(B) the United States establishes a reasonable basis to believe that—

"(i) the identity of the potential witness is not already known to any defendant; and

"(ii) disclosure of the covered information to a defendant would present a threat to the safety of the potential witness or of any other person.

"(2) TIME LIMIT.—The court may delay disclosure of covered information under this subsection until the earlier of—

"(A) the date that the court determines provides a reasonable amount of time before the date set for trial (which shall be not less than 30 days before the date set for trial, absent a showing by the United States of compelling circumstances); and

"(B) the date on which any requirement under paragraph (1) ceases to exist.

"(3) MOTIONS UNDER SEAL.—The court may permit the United States to file all or a portion of a motion under this subsection under seal to the extent necessary to protect the identity of a potential witness, but the United States—

"(A) may not file a motion under this subsection ex parte; and

"(B) shall summarize any undisclosed portion of a motion filed under this subsection for the defendant in sufficient detail to permit the defendant a meaningful opportunity to be heard on the motion, including the need for a protective order or the scope of the requested protective order.

"(f) WAIVER.—

"(1) IN GENERAL.—A defendant may not waive a provision of this section except in open court.

"(2) REQUIREMENTS.—The court may not accept the waiver of a provision of this section by a defendant unless the court determines that—

"(A) the proposed waiver is knowingly, intelligently, and voluntarily offered; and

"(B) the interests of justice require the proposed waiver.

"(g) NONCOMPLIANCE.—

"(1) IN GENERAL.—Before entry of judgment, upon motion of a defendant or by the court sua sponte, if there is reason to believe the attorney for the Government has failed to comply with subsection (b) or subsection (c), the court shall order the United States to show cause why the court should not find the United States is not in compliance with subsection (b) or subsection (c), respectively.

“(2) FINDINGS.—If the court determines under paragraph (1) that the United States is not in compliance with subsection (b) or subsection (c), the court shall—

“(A) determine the extent of and reason for the noncompliance; and

“(B) enter into the record the findings of the court under subparagraph (A).

“(h) REMEDIES.—

“(1) REMEDIES REQUIRED.—

“(A) IN GENERAL.—If the court determines that the United States has violated the requirement to disclose covered information under subsection (b) or the requirement to disclose covered information in a timely manner under subsection (c), the court shall order an appropriate remedy.

“(B) TYPES OF REMEDIES.—A remedy under this subsection may include—

“(i) postponement or adjournment of the proceedings;

“(ii) exclusion or limitation of testimony or evidence;

“(iii) ordering a new trial;

“(iv) dismissal with or without prejudice; or

“(v) any other remedy determined appropriate by the court.

“(C) FACTORS.—In fashioning a remedy under this subsection, the court shall consider the totality of the circumstances, including—

“(i) the seriousness of the violation;

“(ii) the impact of the violation on the proceeding;

“(iii) whether the violation resulted from innocent error, negligence, recklessness, or knowing conduct; and

“(iv) the effectiveness of alternative remedies to protect the interest of the defendant and of the public in assuring fair prosecutions and proceedings.

“(2) DEFENDANT'S COSTS.—

“(A) IN GENERAL.—If the court grants relief under paragraph (1) on a finding that the violation of subsection (b) or subsection (c) was due to negligence, recklessness, or knowing conduct by the United States, the court may order that the defendant, the attorney for the defendant, or, subject to paragraph (D), a qualifying entity recover from the United States the costs and expenses incurred by the defendant, the attorney for the defendant, or the qualifying entity as a result of the violation, including reasonable attorney's fees (without regard to the terms of any fee agreement between the defendant and the attorney for the defendant).

“(B) QUALIFYING ENTITIES.—In this paragraph, the term ‘qualifying entity’ means—

“(i) a Federal Public Defender Organization;

“(ii) a Community Defender Organization; and

“(iii) a fund established to furnish representation to persons financially unable to obtain adequate representation in accordance with section 3006A.

“(C) SOURCE OF PAYMENTS FOR COSTS AND EXPENSES.—Costs and expenses ordered by a court under subparagraph (A)—

“(i) shall be paid by the Executive agency, as defined in section 105 of title 5, that brings the criminal prosecution on behalf of the United States, from funds appropriated to that Executive agency; and

“(ii) may not be paid from the appropriation under section 1304 of title 31.

“(D) PAYMENTS TO QUALIFYING ENTITIES.—Costs and expenses ordered by the court under subparagraph (A) to a qualifying entity shall be paid—

“(i) to the Community Defender Organization that provided the appointed attorney; or

“(ii) in the case of a Federal Public Defender Organization or an attorney appointed under section 3006A, to the court for deposit in the applicable appropriations ac-

counts of the Judiciary as a reimbursement to the funds appropriated to carry out section 3006A, to remain available until expended.

“(i) STANDARD OF REVIEW.—In any appellate proceeding initiated by a criminal defendant presenting an issue of fact or law under this section, the reviewing court may not find an error arising from conduct not in compliance with this section to be harmless unless the United States demonstrates beyond a reasonable doubt that the error did not contribute to the verdict obtained.”.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 201 of title 18, United States Code, is amended by adding at the end the following:

“3014. Duty to disclose favorable information.”.

(b) DEMANDS FOR PRODUCTION OF STATEMENTS AND REPORTS OF WITNESSES.—Section 3500(a) of title 18, United States Code, is amended by striking “In” and inserting “Except as provided in section 3014, in”.

By Mr. GRASSLEY (for himself, Mr. UDALL of Colorado, Mr. BROWN, of Massachusetts, Mr. HARKIN, Mr. HELLER, Mr. WYDEN, and Mr. BENNET):

S. 2201. A bill to amend the Internal Revenue Code of 1986 to extend the renewable energy credit; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am proud to be joined today by a number of my colleagues in introducing the American Energy and Job Promotion Act, a bill to extend a tax incentive for the production of electricity from a number of renewable sources, including wind. The wind production tax credit is scheduled to expire at end of 2012. This bill would extend the credit for two years, through December 31, 2014. I am joined in this effort by Senators MARK UDALL, SCOTT BROWN, HARKIN, HELLER, WYDEN and BENNET.

The production tax credit is a sensible policy that promotes homegrown energy and American manufacturing jobs. The wind industry currently supports 75,000 American jobs and is driving as much as \$20 billion in private investment. During the past 5 years, 35 percent of all new electric generation in the United States was wind. This expansion has directly led to the growth in domestic wind manufacturing. There are nearly 400 manufacturing facilities today, compared with just 30 in 2004.

The American Energy and Jobs Promotion Act would prevent a lapse in the credit. Without an extension, as many as 37,000 jobs could be lost, including thousands in Iowa. With national unemployment at 8.3 percent, it would be irresponsible to send thousands of Americans employed in the wind industry a pink slip. Unfortunately, because of the long lead time in the production of wind equipment, many manufacturers are already announcing layoffs.

I recognize that some have questioned the need to extend this important credit, particularly in light of the effort to reform the tax code. I fully support tax reform and believe we need

a simpler, more efficient tax code. However, we need to take action to support jobs and alternative energy producers in light of the slow pace on tax reform. This 2-year extension will provide certainty for the renewable energy sector while recognizing that tax reform efforts could further modify or address this incentive in the next few years.

Additionally, due to our Nation's dire fiscal situation, many of my colleagues have rightly focused their attention on ensuring that the deficit is not exacerbated. While in the past I have generally opposed permanent tax increases to offset temporary tax incentives, I am willing to work with my colleagues to extend the incentive in a manner that minimizes its impact on the deficit.

Extension of the tax incentive is supported by the U.S. Chamber of Commerce, the National Association of Manufacturers, Edison Electric Institute and the American Farm Bureau Federation. A similar extension in the House of Representatives currently has the support of 80 bipartisan cosponsors.

I encourage my colleagues to support this legislation that will continue to grow domestic, renewable electricity, create jobs and provide cleaner air. We must enact this extension as expeditiously as possible. Further delay will harm our economic recovery and our energy security.

By Mr. INOUE:

S. 2202. A bill to provide for the establishment of a private, nonprofit entity to assist the Government in providing disaster assistance, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INOUE. Mr. President, today, I rise to introduce the Preparedness and Resilience Foundation Act, which establishes an independent non-profit public charity that acts as a philanthropic intermediary between the Federal Emergency Management Agency, FEMA, and the private sector. The lack of appropriate mechanisms make it difficult for FEMA to receive disaster related funds from private sector entities. The Preparedness and Resilience Foundation is intended to bridge this gap and improve the collaboration and coordination between FEMA and private sector entities. The unique roles that both the private and public sectors play is critical not only to the leveraging of private and public resources, but to the development of capacity and innovation models that will improve America's preparedness and resilience to an ever-increasing world of complexity, challenges and dangers both natural and man-made.

The measure will allow FEMA to support and carry out activities that promote the resilience of individuals, communities, structures, and systems against natural disasters, terrorist attacks, and other human caused disasters. Further, the bill would build and

sustain the capabilities of the public, private, and civic sectors to work together to prepare for, prevent, protect against, respond to, recover from, and mitigate all such hazards.

Among other things, the proposed Preparedness and Resilience Foundation would function as a 501(c)(3) nonprofit private corporation, and not as an agency or instrument of the Federal Government. The Foundation would establish an Endowment Fund consisting of donations from non-federal entities or assets, to provide endowments and grants, and to carry out its mission, and preparedness and resilience activities. The proposed measure requires a seven-person Board of Directors, whose sole responsibility would be to run the Foundation, including management of its employees, and the administering of donations to the Foundation. This legislation requires annual performance evaluations of the Foundation.

The Preparedness and Resilience Foundation Act is modeled after the Centers for Disease Control and Prevention, CDC, Foundation. The CDC Foundation has become not only self-reliant to fund its activities, but also generates millions of dollars every year to operate and award grants to programs that help the agency meet its stated goals. I believe similar achievements can be made under the Preparedness and Resilience Foundation Act. Accordingly, I ask my colleagues to support this measure, and to bring positive change and innovation to disaster management in America.

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. 2202

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

SECTION 1. SHORT TITLE DEFINITIONS.

(a) **SHORT TITLE.**—This Act may be cited as the “Preparedness and Resilience Foundation Act”.

(b) **DEFINITIONS.**—In this Act—

(1) the term “Foundation” means the Preparedness and Resilience Foundation established under this Act;

(2) the terms “Board” and “Chair” mean the board of directors of the Foundation and the Chair of the board of directors, respectively;

(3) the terms “Department” and “Secretary” mean the Department of Homeland Security and the Secretary of Homeland Security, respectively;

(4) the term “Fund” means the Endowment Fund established under this Act;

(5) the terms “FEMA” and “Administrator” mean the Federal Emergency Management Agency and the Administrator thereof, respectively; and

(6) the term “Director” means the executive director of the Foundation appointed under this Act.

SEC. 2. ESTABLISHMENT AND DUTIES OF THE FOUNDATION.

(a) **IN GENERAL.**—There is established in accordance with this section a nonprofit private corporation to be known as the “Preparedness and Resilience Foundation”. The

Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of directors of the Foundation shall not be officers or employees of the Federal Government.

(b) **PURPOSE OF THE FOUNDATION.**—The purpose of the Foundation shall be to support and carry out activities that promote the resilience of individuals, communities, structures, and systems against natural disasters and terrorist attacks and other human caused disasters, and that build and sustain the capabilities of the public, private, and civic sectors to work together to prepare for, prevent, protect against, respond to, recover from, and mitigate all such hazards.

(c) **ENDOWMENT FUND.**—

(1) **IN GENERAL.**—In carrying out subsection (b), the Foundation shall establish an Endowment Fund for providing endowments for positions that are associated with FEMA and dedicated to the purpose described in subsection (b). The Fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the Fund.

(2) **AUTHORIZED EXPENDITURES OF THE FUND.**—The provision of funding and assistance under paragraph (1) shall be the exclusive function of the Fund. Such funds may be expended only for the compensation of individuals holding positions endowed by the Fund, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions endowed by the Fund, and for recruiting individuals to hold the positions endowed by the Fund.

(d) **CERTAIN ACTIVITIES OF THE FOUNDATION.**—In carrying out subsection (b), the Foundation may provide for, with respect to the purpose described in subsection (b)—

(1) programs of fellowships among State, local, and tribal officials to work and study in association with each other and FEMA or the Department;

(2) programs of international arrangements to provide opportunities for officials of other countries engaged in preparedness or resilience programs and activities to serve in voluntary or reciprocal capacities in the United States in association with FEMA or the Department, or opportunities for employees of FEMA (or other Federal officials in the United States) to serve in such capacities in other countries, or both;

(3) studies, projects, and research (which may include applied research on the effectiveness of prevention activities, demonstration projects, and programs and projects involving international, Federal, State, local, and tribal governments, private sector, or non-governmental organizations);

(4) forums for government officials and appropriate private entities to exchange information, participation in which may include institutions of higher education and appropriate international or non-governmental organizations;

(5) meetings, conferences, courses, and training workshops;

(6) programs to improve the collection and analysis of data on preparedness and resilience programs, practices, activities, and events;

(7) programs for writing, editing, printing, and publishing of books and other materials; and

(8) other activities to carry out the purpose described in subsection (b).

(e) **GENERAL STRUCTURE OF FOUNDATION; NONPROFIT STATUS.**—

(1) **BOARD OF DIRECTORS.**—The Foundation shall have a board of directors, which shall be established and conducted in accordance with subsection (f). The Board shall establish

the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

(2) **EXECUTIVE DIRECTOR.**—The Foundation shall have an executive director, who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation.

(3) **NONPROFIT STATUS.**—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)); and

(B) is, under section 501(a) of such Code, exempt from taxation.

(f) **BOARD OF DIRECTORS.**—

(1) **CERTAIN BYLAWS.**—In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation—

(A) include policies for—

(i) the selection of the officers, employees, agents, and contractors of the Foundation;

(ii) the acceptance and disposition of donations to the Foundation and for, the disposition of the assets of the Foundation, including ethical standards;

(iii) the conduct of the general operations of the Foundation; and

(iv) writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation; and

(B) do not, including with respect to the activities carried out under the bylaws—

(i) reflect unfavorably upon the ability of the Foundation or FEMA to carry out its responsibilities or official duties in a fair and objective manner; or

(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such a program.

(2) **COMPOSITION.**—The Board—

(A) subject to subparagraph (B), shall be composed of 7 individuals, appointed in accordance with paragraph (4), who—

(i) collectively possess education or experience appropriate for representing the general field of emergency management, preparedness, or resilience, and the general public; and

(ii) each shall be a voting member of the Board; and

(B) may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be a greater number than the number specified in subparagraph (A).

(3) **CHAIR.**—The Board shall, from among the members of the Board, designate an individual to serve as the chair of the Board.

(4) **APPOINTMENTS, VACANCIES, AND TERMS.**—Subject to subsection (j), the following shall apply to the Board:

(A) **VACANCIES.**—Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chair and the Director regarding the appointment. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

(B) **TERM OF OFFICE.**—The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until

the expiration of the 180-day period beginning on the date on which the term of the member expires.

(C) VACANCY DOES NOT AFFECT AUTHORITY.—A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the subject term.

(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

(g) CERTAIN RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR.—The Director shall—

(1) hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees;

(2) accept and administer donations to the Foundation, and administer the assets of the Foundation;

(3) establish a process for the selection of candidates for holding endowed positions under subsection (c);

(4) enter into such financial agreements as are appropriate in carrying out the activities of the Foundation;

(5) take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation;

(6) adopt, alter, and use a corporate seal, which shall be judicially noticed;

(7) commence and respond to judicial proceedings in the name of the Foundation; and

(8) exercise such other functions as are appropriate, in the determination of the Director.

(h) GENERAL PROVISIONS.—

(1) AUTHORITY FOR ACCEPTING FUNDS.—The Administrator of FEMA may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of FEMA. Funds may be accepted and utilized by the Administrator without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

(2) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES.—

(A) IN GENERAL.—The Administrator of FEMA may accept, on behalf of the Federal Government, any voluntary services provided by the Foundation for the purpose of aiding or facilitating the work of the Federal Government. In the case of an individual, such Administrator may accept the services provided under this subparagraph by the individual until such time as the private funding for such individual ends.

(B) CLARIFICATION.—The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with FEMA pursuant to financial support from the Foundation.

(3) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board may exercise any administrative or managerial control over any Federal employee.

(4) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves in association with FEMA pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Ad-

ministrator of FEMA specifying that the individual—

(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by FEMA, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act; and

(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Administrator of FEMA determines is appropriate, except that such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter (18 U.S.C. 209).

(5) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

(A) any direct or indirect financial interest of the individual; or

(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

(6) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

(A) provide for biennial audits of the financial condition of the Foundation; and

(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

(7) REPORTS.—

(A) ANNUAL REPORTS.—

(i) IN GENERAL.—Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year.

(ii) CONTENT.—Each such report required under this paragraph shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation, including—

(I) an accounting of the use of amounts provided for under subsection (i); and

(II) an explanation of how such funding has enhanced, and not supplanted, FEMA core missions.

(B) SPECIFIC DETAILS.—With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

(C) AVAILABILITY OF REPORTS.—The Foundation shall make copies of each report submitted under subparagraph (A) available—

(i) for public inspection, and shall upon request provide a copy of the report to any individual for a charge not to exceed the cost of providing the copy; and

(ii) to the appropriate committees of Congress.

(8) LIAISON FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—The Administrator of FEMA shall serve as the liaison representative of FEMA to the Board and the Foundation.

(i) FEDERAL FUNDING.—

(1) AUTHORITY FOR ANNUAL GRANTS.—

(A) IN GENERAL.—The Administrator of FEMA shall—

(i) for fiscal year 2013, make a grant to an entity described in subsection (j)(9) (relating

to the establishment of a committee to establish the Foundation);

(ii) for fiscal year 2014, make a grant to the committee established under subsection (j), or if the Foundation has been established, to the Foundation; and

(iii) for fiscal year 2015, and each fiscal year thereafter, make a grant to the Foundation.

(B) LIMITATIONS.—A grant under subparagraph (A) may be expended—

(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (j)(9) for the entity;

(ii) in the case of the committee established under subsection (j)(9), only for the purpose of carrying out the duties established in subsection (j) for the committee; and

(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

(C) LIMIT ON GRANT USES.—A grant under subparagraph (A) may not be expended to provide amounts for the Fund.

(D) UNOBLIGATED AMOUNTS.—For the purposes described in subparagraph (B)—

(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 2013 that remains unobligated after the entity receiving the grant completes the duties established in subsection (j)(9) for the entity shall be available to the committee established under subsection (j)(9); and

(ii) any portion of a grant under subparagraph (A) made for fiscal year 2014 that remains unobligated after such committee completes the duties established in subsection (j)(9) for the committee shall be available to the Foundation.

(2) FUNDING FOR GRANTS.—For the purpose of grants under paragraph (1)—

(A) there is authorized to be appropriated \$1,500,000 for each fiscal year; and

(B) the Administrator of FEMA may, for each fiscal year, make available not less than \$500,000, and not more than \$1,500,000 from the amounts appropriated for the fiscal year for the programs of FEMA.

(3) CERTAIN RESTRICTION.—If the Foundation receives Federal funds for the purpose of serving as a fiscal intermediary between Federal agencies, the Foundation may not receive such funds for the indirect costs of carrying out such purpose in an amount exceeding 10 percent of the direct costs of carrying out such purpose. This paragraph may not be construed as authorizing the expenditure of any grant under paragraph (1) for such purpose.

(4) SUPPORT SERVICES.—The Administrator of FEMA may provide facilities, utilities, and support services to the Foundation if it is determined by the Administrator to be advantageous to the programs of FEMA or the Department.

(j) COMMITTEE FOR ESTABLISHMENT OF FOUNDATION.—

(1) IN GENERAL.—There is established in accordance with this subsection a committee to carry out the functions described in paragraph (2) (referred to in this subsection as the “Committee”).

(2) FUNCTIONS.—The functions referred to in paragraph (1) for the Committee are as follows:

(A) To carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this Act.

(B) To ensure that the Foundation qualifies for and maintains the nonprofit status described in subsection (e)(3).

(C) To establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (e)(3) and (f)(1).

(D) To provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

(E) To appoint the initial members of the Board in accordance with the requirements established in subsection (f)(2)(A) for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the Board members so appointed—

(i) 2 shall be appointed to serve for a term of 3 years;

(ii) 2 shall be appointed to serve for a term of 4 years; and

(iii) 3 shall be appointed to serve for a term of 5 years.

(3) COMPLETION OF FUNCTIONS OF THE COMMITTEE; INITIAL MEETING OF BOARD.—

(A) IN GENERAL.—The Committee shall complete the functions required in paragraph (1) not later than September 30, 2014.

(B) TERMINATION.—The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions of the Committee have been completed.

(C) INITIAL MEETING.—The initial meeting of the Board shall be held not later than November 1, 2014.

(4) COMPOSITION.—The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

(A) not fewer than 2 shall have broad, general experience in emergency management, preparedness, or resilience; and

(B) not fewer than 2 shall have broad, general experience in nonprofit private organizations.

(5) CHAIRPERSON.—The Committee shall, from among the members of the Committee, designate an individual to serve as the chairperson of the Committee.

(6) TERMS; VACANCIES.—The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the Committee. If a member of the Committee does not serve the full term, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term subject.

(7) COMPENSATION.—Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

(8) COMMITTEE SUPPORT.—The Administrator of FEMA may, from amounts available to the Administrator for the general administration of FEMA, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Administrator may both detail employees and contract for assistance.

(9) GRANT FOR ESTABLISHMENT OF THE COMMITTEE.—

(A) IN GENERAL.—With respect to a grant under subsection (i)(1)(A)(i) for fiscal year 2013, an entity described in this paragraph is a private nonprofit entity with significant experience in domestic and international issues of emergency management, preparedness, or resilience.

(B) CONDITIONS.—The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

(C) GRANT TERMS.—The Administrator of FEMA may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Administrator containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Administrator determines to be necessary to carry out this paragraph.

SEC. 3. PERFORMANCE EVALUATIONS.

(a) IN GENERAL.—To ensure that the Foundation and its grantees are meeting their objectives, the Board shall establish and implement performance evaluations—

(1) that monitor and evaluate the performance and impact of the Foundation program activities in a specific, measurable, achievable, relevant, and timely fashion; and

(2) that assess the financial accountability of appropriated and donated funds.

(b) IMPACT OR OUTCOME EVALUATIONS.—The Board shall establish mechanisms to evaluate and assess the effectiveness of individual programs supported by the Foundation. Impact or outcome evaluations such as balanced scorecard, innovations in risk reduction, and return on investment shall be employed and reported through the annual report of the Foundation under section 2(h)(7)(A).

(c) USE OF EVALUATION RESULTS.—The Foundation shall—

(1) identify through its annual report under section 2(h)(7)(A) its greatest needs and the ways that the Foundation or others, will use evaluation results; and

(2) use such information to set priorities for the Foundation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 397—PROMOTING PEACE AND STABILITY IN SUDAN, AND FOR OTHER PURPOSES

Mr. COONS (for himself, Mr. ISAKSON, Mr. DURBIN, Mr. WICKER, and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 397

Whereas conflict between the Government of Sudan and the Sudan People's Liberation Movement-North (SPLM-N) has been ongoing since June 2011 in Sudan's border state of South Kordofan and since September 2011 in the border state of Blue Nile, resulting in a humanitarian crisis;

Whereas the Government of Sudan has refused repeated requests by the United States Government, the United Nations, the African Union, the League of Arab States, nongovernmental organizations, and others to allow humanitarian access to the conflict areas;

Whereas the Governments of Sudan and South Sudan signed a memorandum of un-

derstanding on non-aggression and cooperation in Addis Ababa on February 12, 2012, agreeing to respect each other's sovereignty and refrain from launching any attack against the other, including bombardment;

Whereas the United Nations estimates that more than 130,000 refugees have fled South Kordofan and Blue Nile for South Sudan, Ethiopia, and elsewhere since June 2011, and hundreds of thousands more have been internally displaced or severely affected by conflict;

Whereas the Government of Sudan bombed the Yida refugee camp in South Sudan on November 10, 2011;

Whereas both the Government of Sudan and the Sudan People's Liberation Movement-North have reportedly prevented civilians from leaving Blue Nile and Southern Kordofan;

Whereas the Famine Early Warning Systems Network (FEWSNET), funded by the United States Agency for International Development, estimated in March 2012 that conflict-affected areas of South Kordofan would deteriorate further in coming weeks to Phase 4 emergency levels of food insecurity (one step before being classified as a famine), due mainly to conflict and government policies that have limited cultivation, displaced the population, restricted trade, and refused access for international humanitarian assistance;

Whereas the United Nations Security Council issued a statement on February 14, 2012, expressing deep and growing alarm with the rising levels of malnutrition and food insecurity in some areas of Southern Kordofan and Blue Nile, calling on the Government of Sudan to allow immediate access to United Nations personnel, and urging the Government of Sudan and the Sudan People's Liberation Movement-North to agree to an immediate cessation of hostilities and return to talks to address the issues that have fueled the current conflict;

Whereas the United Nations High Commissioner for Refugees appealed urgently to donors in February 2012 for \$145,000,000 to assist refugees from South Kordofan and Blue Nile;

Whereas President Barack Obama released a statement in June 2011 calling on the Government of Sudan and the Sudan People's Liberation Movement-North to agree immediately to a ceasefire, end restrictions on humanitarian access and United Nations movements, and agree on security arrangements for Southern Kordofan and Blue Nile States through direct, high-level negotiations as opposed to the use of force;

Whereas President Obama released a statement on February 2, 2012, strongly condemning the bombing by the Armed Forces of Sudan of civilian populations in Southern Kordofan and Blue Nile states in Sudan, which stated that aerial attacks on civilian targets are unjustified, unacceptable, and a violation of international law and compound the ongoing crisis in these areas;

Whereas neither South Kordofan nor Blue Nile were able to complete the popular consultation process with the Government of Sudan as stipulated in the Comprehensive Peace Agreement (CPA) before violence broke out;

Whereas, despite the independence of South Sudan on July 9, 2011, many key issues between Sudan and South Sudan remain unresolved, including transit fees for oil pipeline use, citizenship, the status of Abyei, and border demarcation;

Whereas the goal of democratic governance reform in Sudan as envisioned in the CPA has not been met;

Whereas, in addition to the growing conflict-induced humanitarian and human rights crisis in Sudan's southern border-