United States Code, to modify the method of determining whether Filipino veterans are United States residents for purposes of eligibility for receipt of the full-dollar rate of compensation under the laws administered by the Secretary of Veterans Affairs.

S. 1561

At the request of Ms. LANDRIEU, her name was added as a cosponsor of S. 1561, a bill to amend the Public Health Service Act to improve provisions relating to the sanctuary system for surplus chimpanzees.

At the request of Mr. HARKIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1561, supra.

S. 1590

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1590, a bill to amend the Patient Protection and Affordable Care Act to require transparency in the operation of American Health Benefit Exchanges.

At the request of Mr. ALEXANDER, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1590, supra.

S. 1606

At the request of Mr. UDALL of Colorado, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 1606, a bill to designate the community-based outpatient clinic of the Department of Veterans Affairs to be constructed at 3141 Centennial Boulevard, Colorado Springs, Colorado, as the ''PFC Floyd K. Lindstrom Department of Veterans Affairs Clinic''.

S.J. RES. 15

At the request of Mr. CARDIN, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S.J. Res. 15, a joint resolution removing the deadline for the ratification of the equal rights amendment.

S. RES. 203

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. Res. 203, a resolution expressing the sense of the Senate regarding efforts by the United States to resolve the Israeli-Palestinian conflict through a negotiated two-state solution.

S. RES. 251

At the request of Mr. SESSIONS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Res. 251, a resolution expressing the sense of the Senate that the United States Preventive Services Task Force should reevaluate its recommendations against prostate-specific antigen-based screening for prostate cancer for men in all age groups in consultation with appropriate specialists.

S. RES. 268

At the request of Mr. COONS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 268, a resolution condemning the September 2013 terrorist attack at the Westgate Mall in Nairobi, Kenya, and reaffirming United States support for the people and Government of Kenya, and for other purposes.

S. RES. 276

At the request of Mr. MERKLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Res. 276, a resolution designating October 2013 as ''National Work and Family Month''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1612. A bill to deter abusive patent litigation by targeting the economic incentives that fuel frivolous lawsuits; to the Committee on the Judiciary.

Mr. HATCH. 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. 1612

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 ''Patent Litigation Integrity Act of 2013''.

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

TITLE I—MANDATORY FEE SHIFTING

SEC. 101. LITIGATION AND OTHER EXPENSES.

(a) IN GENERAL.—Section 285 of title 35, United States Code, is amended to read as follows:

''§ 285. Fees and other expenses

''The court shall award to a prevailing party reasonable fees and other expenses, including attorney fees, incurred by that party in connection with a civil action in which any party asserts a claim for relief arising under any Act of Congress relating to patents, unless the court finds that the position and conduct of the nonprevailing party or parties were substantially justified or that special circumstances make an award unjust.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by striking the item relating to section 285 and inserting the following:

''285. Fees and other expenses.''.

TITLE II—DISCRETIONARY BONDING

SEC. 201. MOTION FOR A BOND.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by inserting after section 285 the following:

''§ 285A. Motion for a bond

''(a) IN GENERAL.—The court, on motion by the defendant or a respondent in a proceeding, may order the party alleging infringement to post a bond sufficient to ensure payment of the accused infringer's reasonable fees and other expenses, including attorney fees.

''(b) FACTORS TO BE CONSIDERED.—For purposes of this section, in determining whether a bond requirement would be unreasonable or unnecessary, the court shall consider—

''(1) whether the bond will burden the ability of the party alleging infringement to pursue activities unrelated to the assertion, acquisition, litigation, or licensing of any patent;

''(2) whether the party alleging infringement is—

''(A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); or

''(B) a non-profit technology transfer organization whose primary purpose is to facilitate the commercialization of technologies developed by one or more institutions of higher education;

''(3) whether a licensee, who has an exclusive right under a patent held by an institution of higher education or a non-profit organization described in paragraph (2), conducts further research on or development of the subject matter to make the subject matter more licensable;

''(4) whether the party alleging infringement is a named inventor of or an original assignee to an asserted patent;

''(5) whether the party alleging infringement makes or sells a product related to the subject matter described in an asserted patent;

''(6) whether the party alleging infringement can demonstrate that it has and will have the ability to pay the accused infringer's fees and other expenses if ordered to do so; and

''(7) whether any party will agree to pay the accused infringer's shifted fees and other expenses, provided that the person or entity can demonstrate that it has and will have the ability to pay the accused infringer's shifted fees and other expenses.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, as amended by section 101, is amended by inserting after the item relating to section 285 the following:

''285A. Motion for a bond.''.

By Mr. JOHNSON of Wisconsin (for himself, Ms. AYOTTE, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. CHAMBLISS, Mr. CHIESA, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAPO, Mr. ENZI, Mrs. FISCHER, Mr. FLAKE, Mr. GRASSLEY, Mr. HATCH, Mr. HOEVEN, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNS, Mr. KIRK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MORAN, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SCOTT, Mr. SESSIONS, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, Mr. WICKER, Mr. GRAHAM, and Mr. CORKER):

S. 1617. A bill to amend the Patient Protection and Affordable Care Act to ensure that individuals can keep their health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

Mr. JOHNSON of Wisconsin. Mr. President, I come before you today to introduce a piece of legislation which is timely and very much needed.

One of the reasons I decided to run for the Senate was the passage of the health care law. The reason I thought it was pretty important is because I said at the time that passage of the

health care law represented the greatest assault on our freedoms in my lifetime. I believe that is true, and I believe that is being borne out today. We are witnessing it today.

The passage of the health care law resonated with me. It made such an impact on me because my wife and I are beneficiaries of the freedom that we had with our current health care system. Our first child, our daughter Carey was born with a very serious congenital heart defect. Her aorta and pulmonary arteries were reversed. Her first day of life, our daughter Carey was rushed down to Children's Hospital of Wisconsin in Milwaukee, where a wonderful man, Dr. John Thomas, came in at 1:30 in the morning and did a procedure and saved her life.

Eight months later, when her heart was the size of a small plum, another incredibly dedicated team of medical professionals in 7 hours of open-heart surgery totally reconstructed the upper chamber of her heart. Her heart operates backwards today. She is 30 years old and a nurse practitioner practicing at that same hospital in which her life was saved. She married about 3 weeks ago.

Our story has a happy ending because my wife Jane and I had that freedom. I was able to call Boston Children's and Chicago children's hospitals and talk to the preeminent surgeons in the world—which means in America—and find out what is the most advanced medical treatment, the most advanced surgical technique at the time. We were able to avail ourselves of that, and now I have a beautiful daughter who is 30 years old. She is also taking care of those little babies in a neonatal intensive care unit.

I decided to file this piece of legislation today because as a Senator from the State of Wisconsin we have been getting a number of phone calls in our office from Wisconsinites who are getting letters of cancellation from their insurance companies. In particular, one couple touched my heart and gave me a great cause for concern.

This couple—who do not want to be identified because they fear IRS retribution, which is a little different story and a little off topic, but I think it is worth pointing out—both have cancer. The wife has stage IV lung cancer. The husband is recovering from prostate cancer. It is in remission.

This couple had availed themselves and are currently covered under the Wisconsin high-risk insurance pool. It is a high-risk pool that works. I know in my business, when we had individuals who were lasered off of our insurance policy, those individuals were able to avail themselves of this sharing-of-the-risk pool in the high-risk pool. It works and it is affordable.

This couple received their notice of cancellation from the high-risk pool, and they panicked. They were in a panic.

When one has stage IV lung cancer, the last thing one needs is stress. ObamaCare caused them a great deal of stress. It is causing them a great deal of stress.

They tried to get on healthcare.gov almost 40 times without success. They contacted our office. We have done everything we can to help them.

They have been in touch with some of the insurance carriers that will be part of the exchange participating in Wisconsin. They have received quotes. This was preliminary. This isn't final, but under the high-risk pool their maximum out-of-pocket exposure, including the cost of their premiums, is about $20,000 per year. He is working and has a good job. They can barely afford that.

Preliminary indications show that exposure will double to $40,000. The only reason they might remain whole is they may qualify for a subsidy. Nobody can calculate it yet. They have received three different answers. It is like taking a tax return to 100 different preparers and getting 100 different results of what tax is owed. But based on those preliminary estimates it is looking as though their total exposure won't be $20,000, it will be more like $40,000, and their subsidy might cover half of that. So their health care expense didn't decline, as President Obama promised, by $2,500 per year. It is going to virtually double. And if it doesn't double, it is because the American taxpayer will be picking up that other half.

So one of the primary promises made by President Obama—that if we passed a health care law, the cost to a family health care plan would decline by $2,500 a year by the end of his first term—has been broken. That was not true.

Of course, the other very famous promise the President made repeatedly was: If you like your health care plan, you can keep your health care plan. I would like to go through a number of times President Obama actually made that statement. He looked the American people in the eye, trying to sell his health care plan, and guaranteed them if they liked their health care plan they would be able to keep it.

On March 6, 2009, he said:

> If somebody has insurance they like, they should be able to keep that insurance. If they have a doctor they like, they should be able to keep their doctor.

On May 11, 2009:

> Americans must have the freedom to keep whatever doctor and health care plan they have.

On June 2, 2009:

> If they like the coverage they have now, they can keep it.

That was from a letter to Senate Democratic leaders.

On June 11, 2009, President Obama said:

> Americans must have the freedom to keep whatever doctor and health care plan they have.

On June 15, 2009—and this is probably the most famous one I remember—in an address to the American Medical Association, President Obama said:

> If you like your doctor, you will be able to keep your doctor. Period. If you like your health care plan, you will be able to keep your health care plan. Period. No one will take it away. No matter what.

I think I have made my point, but I have another 13 quotes I can continue reading that basically make the same point with the same promise and the same guarantee.

As recently as the beginning of this month, on the White House Web site it says:

> We've got some good news for you. If you currently have private health insurance, you should be able to keep it, and that's exactly what the health care law says.

Unfortunately, today over 2 million Americans have received cancellation notices of their insurance policies—the policies they chose, and that for just a little more time they will have the freedom to choose. They won't have that freedom come January 1.

So one of two possibilities is true. Either President Obama was being entirely dishonest with the American public when he made those repeated promises, those repeated guarantees or he was totally disengaged from the process, did not have a clue what was in his own health care plan or did not understand the incredibly negative consequences of that health care plan.

That brings me to my bill. The reason President Obama can claim if you like your health care plan you can keep it is that within the health care bill there actually is a grandfather clause. The first two paragraphs of that grandfather clause actually would work. The problem is those first two paragraphs or sections are followed by an evisceration of the grandfather clause. So basically what we have is a phony grandfather clause contained within the Patient Protection and Affordable Care Act.

My piece of legislation—the If You Like Your Health Plan You Can Keep it Act—actually is a real grandfather clause and it uses President Obama's exact language. All my bill does is it simply strikes the phony grandfather clause and inserts basically the exact same language that was there, although we remove those exceptions, those mandates. In other words, we eviscerate the evisceration of the grandfather clause.

I am here today to announce I have filed that bill. We have at least 35 Republican cosponsors of the bill. I know the House is moving a similar piece of legislation. I know there is talk, and hopefully we will be joined by our Democratic colleagues. It is a simple proposition. I am asking every Senator to join me in passing this bill, the true grandfather clause, to help President Obama keep his promise to the American people.

I have to say that, unfortunately, this bill won't help the Wisconsin couple I would so like to help, so like to guarantee they can keep their health care coverage. The only way we can help that couple is if we repeal the entire law, because the guaranteed issue,

high-risk pools are extinct. They do not exist. That coverage is gone. But if my Democratic Senate colleagues will join me in passing this bill—the If You Like Your Health Plan You Can Keep it Act—we can keep President Obama's promise to millions of Americans. I think it is worth it, and I ask all my Senate colleagues to join me in this effort.

By Ms. COLLINS (for herself, Mrs. MCCASKILL, Ms. AYOTTE, and Ms. HEITKAMP):

S. 1618. A bill to enhance the Office of Personnel Management background check system for the granting, denial, or revocation of security clearances or access to classified information of employees and contractors of the Federal Government; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, today, Senator MCCASKILL, Senator AYOTTE, Senator HEITKAMP, and I are introducing the Enhanced Security Clearance Act of 2013, which would strengthen our process for allowing federal employees and other individuals to have access to classified information. We must improve our current security clearance process to prevent, as much as possible, future incidents such as the murders at the Washington Navy Yard. Our bill directs OPM to institute at least two audits of every security clearance at random times during each five-year period the clearance is active. Any red flags raised would then be reported back to the employing agency to determine if a re-investigation of the clearance is needed.

As a former Chairman and Ranking Member of the Homeland Security and Governmental Affairs Committee, the issue of background investigations as it relates to security clearances is an issue with which I am well acquainted. There needs to be a balance between processing of clearances quickly enough to allow individuals to do their jobs, but also thoroughly enough to flag potential problems.

Following the attacks of September 11, 2001, and several high-profile espionage cases, heightened national security concerns underscored the need for a timely, high-quality personnel security clearance process. In the early part of this decade, the Department of Defense processed hundreds of thousands of security clearance background investigation requests—both initial and re-clearances, for service members, government employees, and industry personnel who were conducting classified work for the government. The timeliness of DOD's security clearance process was a problem which, when coupled with an increased demand for security clearances, had led to a backlog of more than 500,000 investigations.

Delays in updating overdue clearances for command, agency, and industry personnel performing classified government work increased risks to national security and the costs of doing classified government work. This led GAO to designate the DOD clearance program as a high-risk area, and in 2005 for DOD to transfer its personnel security function and about 1,600 personnel to OPM. At the time, this change seemed a logical step in addressing the problems caused by the backlog. And by 2008 OPM had eliminated the backlog and announced end-to-end electronic processing of background investigations. Now, OPM oversees approximately 90 percent of all background investigations for security clearances with the assistance of private sector contractors.

Although we have made significant advances in the processing of background checks, there is still a gaping hole in the current security clearance process that has enabled people who exhibit obvious signs of high-risk behavior to remain undetected. We have seen this time and time again in incidents like Edward Snowden's disclosure of stolen classified information, and most recently we have Aaron Alexis, the Navy Yard shooter with apparently severe mental illness.

Once an individual is cleared, the process of maintaining the clearance requires a reinvestigation at various points in time based upon the type of clearance. These ''gaps'' between clearance and re-clearance can be 5, 10 or even 15 years, and most of the data is self-reported by the individuals themselves. These periods of time pose a significant concern in the current clearance process. OPM has announced, in some cases, that it is going to reduce the time frame down to one year, but this is not the case for all clearances. People's lives may change dramatically over these gaps of time, which poses significant and unnecessary security risks.

The United States issues approximately 5 million clearances to government employees and contractors, and the ongoing review process is conducted manually, by a limited number of investigators. Further, the manual process is flawed. The OPM Inspector General recently reviewed 18 investigators and found disturbing abuses in the quality of clearance investigations they conducted, which included interviews that never occurred, answers to questions that were never asked, and record checks that were never conducted. Even if done properly, however, given the limited number of investigative agents in the field, it is not feasible to manually track nearly five million clearances effectively.

For example, in fiscal year 2010, fewer than one percent of all contractors with clearances filed an incident report, despite the fact that they are required to file these reports on a wide variety of events including marital status change, excessive financial hardship, and criminal activity, to maintain their clearance. Generally, such events occur in the lives of more than half of the U.S. population during the same time periods. The fact is, cleared personnel under-report lifestyle changes, allegiance changes, and derogatory information for fear of job loss, embarrassment, and, most important, the discovery of nefarious intent. Further, because the system relies on self-reported data, the chances of someone getting caught are minimal. Between 1997 and 2013, of the civilian clearances issued, fewer than one percent were revoked. This can mean that the people who are cleared very seldom-go bad, that cleared individuals are not self-reporting changes in their lives, or the current process is not detecting everything.

In 2004, I sponsored the Intelligence Reform and Terrorism Prevention Act, which became law in December of that year. This law allows for the use of advanced technology and third party databases to expedite, verify, and enhance the investigative and adjudicative process. The government needs to utilize existing solutions, which are already used by law enforcement, to automate random audits on individuals with active security clearances.

If random audits had been in place after Aaron Alexis's secret clearance was granted in 2007, red flags would have been generated with his arrest in 2009 and the two liens on his property, which could indicate potential excessive financial hardship. Further, it may have identified a potential alias with a vast social media trail indicating other concerning traits. The alerts generated would have prompted OPM to notify DOD, which would have provoked a reevaluation before Alexis's 2017 re-clearance. This re-evaluation could have discovered that he openly discussed ''hearing voices,'' a clear sign of his mental illness. A random audit would have alerted OPM of these new issues and potentially averted tragedy.

The OPM Background Investigation process must be capable of flagging high-risk individuals holding clearances and alert case officers of situations requiring review before any adverse consequence takes place. The current process, however, is dated, but the system can be strengthened to better help the government identify these dangerous individuals. OPM must address the blind spots that exist in the current manual security clearance review process. The shooting tragedies at the Washington Navy Yard, along with the information security breaches perpetrated by Bradley Manning and Edward Snowden, have demonstrated that the current security clearance process is inadequate.

This legislation has been endorsed by the Federal Managers Association; the FBI Agents Association; the Alcohol-Tobacco-Firearms and Explosives Association; The International Association of Chiefs of Police; The International Federation of Professional and Technical Engineers, AFL-CIO & CLC; The National Native American Law Enforcement Association; TechAmerica; General Dynamics Information Technologies; LexisNexis; Lt. Gen. Charles

J. Cunningham Jr., Former Director of the Defense Security Service, 1999–2002; Brian Stafford, Former Director of the United States Secret Service, 1999–2003; Howard Safir, Former Police Commissioner of New York City, 1996–2000; Floyd Clarke, Former Director of the Federal Bureau of Investigation, 1993; and Michael Sullivan, Former Acting Director of the ATF, 2006–2009, and US Attorney for the District of Massachusetts, 2001–2009.

We must act now. Our legislation represents a sensible path forward to protect national security and to help prevent future tragedies. I urge my colleagues to support this common sense solution.

By Mr. CORNYN:

S. 1620. A bill to prohibit the consideration of any bill by Congress unless a statement on tax transparency is provided in the bill; to the Committee on Finance.

Mr. CORNYN. 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. 1620

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 ''Tax Transparency Act of 2013''.

SEC. 2. TAX EFFECT TRANSPARENCY.

(a) IN GENERAL.—Chapter 2 of title 1, United States Code, is amended by inserting after section 102 the following:

''§ 102a. Tax effect transparency

''(a) IN GENERAL.—Each Act of Congress, bill, resolution, conference report thereon, or amendment there to, that modifies Federal tax law shall contain a statement describing the general effect of the modification on Federal tax law.

''(b) FAILURE TO COMPLY.—

''(1) IN GENERAL.—A failure to comply with subsection (a) shall give rise to a point of order in either House of Congress, which may be raised by any Senator during consideration in the Senate or any Member of the House of Representatives during consideration in the House of Representatives.

''(2) NONEXCLUSIVITY.—The availability of a point of order under this section shall not affect the availability of any other point of order.

''(c) DISPOSITION OF POINT OF ORDER IN THE SENATE.—

''(1) IN GENERAL.—Any Senator may raise a point of order that any matter is not in order under subsection (a).

''(2) WAIVER.—

''(A) IN GENERAL.—Any Senator may move to waive a point of order raised under paragraph (1) by an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(B) PROCEDURES.—For a motion to waive a point of order under subparagraph (A) as to a matter—

''(i) a motion to table the point of order shall not be in order;

''(ii) all motions to waive one or more points of order under this section as to the matter shall be debatable for a total of not more than 1 hour, equally divided between the Senator raising the point of order and the Senator moving to waive the point of order or their designees; and

''(iii) a motion to waive the point of order shall not be amendable.

''(d) DISPOSITION OF POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—

''(1) IN GENERAL.—If a Member of the House of Representatives makes a point of order under this section, the Chair shall put the question of consideration with respect to the proposition of whether any statement made under subsection (a) was adequate or, in the absence of such a statement, whether a statement is required under subsection (a).

''(2) CONSIDERATION.—For a point of order under this section made in the House of Representatives—

''(A) the question of consideration shall be debatable for 10 minutes, equally divided and controlled by the Member making the point of order and by an opponent, but shall otherwise be decided without intervening motion except one that the House of Representatives adjourn or that the Committee of the Whole rise, as the case may be;

''(B) in selecting the opponent, the Speaker of the House of Representatives should first recognize an opponent from the opposing party; and

''(C) the disposition of the question of consideration with respect to a measure shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.

''(e) RULEMAKING AUTHORITY.—The provisions of this section are enacted by the Congress—

''(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

''(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 1, United States Code, is amended by inserting after the item relating to section 102 the following new item:

''102a. Tax effect transparency.''.

By Ms. HEITKAMP (for herself and Ms. MURKOWSKI):

S. 1622. A bill to establish the Alyce Spotted Bear and Walter Soboleff Commission on Native Children, and for other purposes; to the Committee on Indian Affairs.

Ms. MURKOWSKI. Mr. President, I rise today to speak to an issue in my State of Alaska, in the State of North Dakota—quite honestly, in so many of our home States. We have facts, we have statistics, and we have issues that face our indigenous peoples, most particularly our indigenous children that, truth be told, are not what we want to write home about. In fact, in many, many cases, these statistics are shameful.

The effort and the initiative to make a difference in the lives of the children of our first peoples is an effort I want to speak to today, and I join with my colleague from North Dakota in addressing this issue. I want to help shine a light on the conditions facing indigenous children in our country to whom the United States has a legal commitment. This is a Federal trust responsibility that is owed to these children.

I thank Senator HEITKAMP for her commitment and for her compassion to address these issues facing our Nation's indigenous children by introducing legislation to establish the Commission on Native Children. I will defer to my colleague so we can have a conversation about this, but it is important to note that the very first time I had ever met Senator HEITKAMP, we literally exchanged handshakes, introduced ourselves, and within 5 minutes we were talking about children's issues, Native children's issues in our respective States. That little 5-minute discussion led to much further discussion later on and a commitment to work to address these issues.

I do have many remarks I would like to make this afternoon, but I would like my colleague from North Dakota, who has worked so diligently on this issue, with her staff working with my staff, to describe to our colleagues the legislation that today we are both introducing establishing the Commission on Native Children.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, I will start with a story because I think a lot of us come to the Senate with a lot of experiences, a lot of common experiences, and I think the Senator from Alaska and I have shared this common experience of seeing the despair, looking at the statistics, but more importantly, in my case, in Indian Country, and in her case, working with indigenous people, seeing that so much more needs to be done; seeing the disparities in education, seeing the disparities in health care, seeing the disparities in housing, and recognizing that all of those things have huge consequences; seeing what high poverty does to people who are not given the right opportunities.

I think frequently it is so important that we do something like this so we can begin that process of educating our colleagues on how this situation is different, what our experiences are. If you have not seen or been in Indian Country, if you have not looked at the statistics, it is alarming. It is absolutely alarming.

The story I want to give before I talk about our legislation is the statistic on mortality rates. In this country, child mortality has decreased by 9 percent since 2000. That is good news. We are paying more attention, doing a better job at infancy, doing a better job raising our kids. The child mortality rate among Native children has increased 15 percent—increased 15 percent at the same time it has decreased in this country 9 percent. We have tried various programs, whether it is housing programs, education programs, higher education programs, but we know this works better if we all work together and if we work collaboratively.

I know a lot of people have suspicions about things called commissions, but I

believe for the first time we will be pulling together the data regarding what is exactly the status of Native children all across the United States of America—in Alaska, Alaska indigenous people, as well as Alaskan folks—and saying: Where do we begin to understand this problem differently and change outcomes, because if we keep doing what we are doing right now, we will fail the next generation of Native children, and we will fail to do what we need to do. This is not a new issue for me. When I was attorney general, I spent a lot of time in Indian Country, a lot of time on Indian issues.

I want to tell a story before I describe briefly what this Commission would do. It is a story about a woman who showed up at a conference. We were talking about trying to get resources to do a conference on juvenile crime on the reservations. She told a story about how she was dyslexic as a child and her mother was not a very patient woman. She was waiting to go to a birthday party, and she was sitting and looking out the window, and she would ask her mother every 5 minutes: Is it time yet? Are they going to come? Finally, her mother, out of frustration, took this little girl's hand and dragged it back and forth across a nail that was on the window ledge and said: Maybe now you will remember. She held up her hand, and you could still see the scars. And she said something I will never forget. She said: Who cares about me? I looked out that window and thought, who is going to come and help me?

All across America there are children looking out a window in Indian Country and in all of these very remote places wondering who is going to care about them. Who is going to help them? When we have trust obligations, isn't that the job of the U.S. Congress? Isn't that the job of all of us, to care about all of our children? Yet these children are left behind.

Time and time again, you will read a story in the paper about an abducted child, and you do not realize there could have been 10 children abducted off a reservation in North Dakota. You do not read a story about trafficking in North Dakota, but it is happening. You do not read a story about child abuse and neglect, and it is happening, or failed schools, schools whose roofs are caving in because we have not met our education obligation.

So what this Commission would do is bring attention to this very important part of our population, the part that gets left behind, that no one looks out for, and start saying: What are we going to do differently? What are we going to do differently for our children? These are all our children.

I can tell you I felt a kindred spirit when I began to talk about this issue with the Senator from Alaska and talk about how important it is for people to really understand those challenges and how important it is to prevent costs later on if we just do a little Head Start. Children in Indian Country go to Head Start at a lower rate. Their education system fails them. Fifty percent of Native kids graduate from high school, compared to 75 percent in the White population.

These statistics mean a lot. We all look at statistics. But behind each one of them is a young child struggling to make something out of their lives in this world and wanting to believe that they matter. So what we are doing today is establishing a commission on the status of Indian children to simply say: You matter.

We need to come up with different ideas and different solutions on how we are going to solve the problem. I had a great opportunity to go to Alaska and spend some time with the Alaska corporations and the indigenous people in Alaska. It was a new experience for me because we are used to Indian Country. We are used to reservations.

But so many of the challenges—I am sure the Senator from Alaska would agree—so many of the challenges are so similar in Alaska and North Dakota, partly because of our remoteness but partly because these are obligations that have not been lived up to. So I wish to ask the great Senator from Alaska how she thinks this commission could work to actually better the children, the Native children in our country?

Ms. MURKOWSKI. Mr. President, I thank my colleague. I appreciate that as we work to advance opportunities for American Indian, Alaska Native, Native Hawaiian children throughout the country, we remember these are not just statistics. As horrifying as these statistics are, these statistics truly do come to life when we hear those real stories.

When we were working with the Senator's office to develop this legislation, kind of looking at the indigenous children in this country through the lens of the justice system, the education system, the health care system, and then work to provide recommendations to the respective government agencies that will help to address these issues that affect our Native children, we talk about the trust responsibility.

That trust responsibility does not mean anything unless we keep our commitment. We just simply are not keeping the commitment. The Senator mentioned the issue of housing. Having had an opportunity to serve on the Indian Affairs Committee now for 10 years, we hear in committee hearing after committee hearing the situation with regard to housing and the inadequate situation on so many of our reservations.

In the State of Alaska, our housing situation is truly a crisis in so many places. Bethel, which is probably—I believe it is now our fourth or fifth largest community in the State—is viewed as a hub community. So if you come in for health care from one of the surrounding villages, you come into Bethel. If you are trying to escape an abusive situation, trying to get your children to safety, leaving the village, you come into Bethel, where there is a women's shelter where you can kind of pull yourself together.

But the problem then is, when you have been able to pull yourself together, when your children feel they are in a safe place right now, then there is no place for you to take your children. There is no housing out on the market there in Bethel. So what happens. Time after time after time the woman goes back to the abuser, the children go back to an abusive situation, a situation where domestic violence is oftentimes out of control.

Let me speak to just some of the statistics that we are facing in dealing with rural justice in Alaska. Nearly 95 percent of the crimes in rural Alaska can be traced back to alcohol abuse. By the time an Alaska Native reaches adulthood, the chance of experiencing domestic violence or sexual violence is 51 percent for women, 29 percent for men. On Native children, 60 percent of the children are in need of foster parents. I have been working on the issue of fetal alcohol syndrome and how we raise awareness and how we eliminate this entirely preventable disease.

I think it is noteworthy that for years I worked with Senator Daschle, formerly of this body and the majority leader, on this initiative. But he knew that on the reservations in his State, they were facing the same situation that we were in Alaska with fetal alcohol spectrum disorder. In Alaska, we have the highest rate of fetal alcohol spectrum disorder in the Nation. But in the Native areas of the State, they are then 15 times higher than in any of the non-Native parts of the State; again, an area where we think, if we can make some inroads in awareness, this is a disease that is 100 percent preventable.

Suicide is an issue that strikes home to far too many. Alaska Native males between the ages of 12 and 24 experience the highest rate of suicide of any demographic within the country. We have the highest rate of suicides per capita in the country. It is our young Native men who drive that statistic.

When it comes to rape statistics, also a horrific example, unfortunately, the term has been applied that Alaska is the ''rape capital of America.'' It is our Native women—one in three—who are experiencing much of the sexual abuse. We cannot accept this reality.

When we talk about infrastructure—I mentioned housing. We think about the lack of public infrastructure and how that impacts the health of a child or the health of a family. We are still a relatively young State. You have heard me say 80 percent of our communities are not accessible by road. So we lack certain infrastructure, including in many of our villages basic water, basic sewer systems. We simply do not have it. If you do not have clean water for cooking, for drinking, for cleaning, just basic hygiene, it can be deadly for our families.

The CDC has determined that lack of inhome water services causes high rates of respiratory and skin infections. We see this in our rural Native villages. The average toddler in the United States gets RSV, which is this respiratory syncytial virus, before they are about 2 years old. The average Alaska Native baby gets RSV before they are 11 weeks old. So they are just mere infants and they are getting this respiratory virus because of sanitation issues.

A lack of clean drinking water, proper wastewater systems leads to fever, to hepatitis, leads to infectious disease. Then what happens? You are a child out in the small village. You are then sent in, your family has to take you into Anchorage, not just one airplane flight away, oftentimes two airplane flights, $1,000-plus airfare in the city where your costs are high.

You think about the impact to a family when you have a sick infant, an infant who has been sick because their family lacks basic sanitation in this day and age.

One of the household chores—and we all had chores when we were growing up as kids. In far too many of our villages in the State of Alaska, one of the chores the kids have is emptying the honey bucket. For those who do not know what a honey bucket is, a honey bucket is the big 5-gallon bucket that you get from Home Depot with a toilet seat lid on it that is put in the corner of the house. That is the bathroom.

You have to take that bucket out and dispose of it. You have children, your 10-year old walking down the boardwalk with a bucket of human waste to dump. This is happening in this day and this age. Who, again, bears the weight of so much of this is our Native children. Think about this from a health safety perspective.

I wish to share a story, as my colleague from North Dakota did, and then—I just came from the Alaska Federation of Natives annual conference. It is the largest gathering of Natives in the country. They come from all corners of the State. It is truly like a family reunion, usually a very upbeat, very happy occasion where people come together for a great deal of sharing.

This year there was sharing on a personal side that perhaps we have not witnessed before. Much of the sharing came from children, and sharing, rather than stories of happiness and opportunities for the future, was driven by a feeling of not helplessness—because if you are helpless you will not speak up—but a feeling that we can no longer remain silent.

The instances of domestic violence in the home, of child sexual assault in the home, of alcoholism and drug abuse that brings about attempted suicide in the home caused a group of 4–H kids from Tanana, AK, to come together—about a half dozen of them—ages maybe 6, 7, up to high school, to stand in front of an audience of 3,000-plus people and say: We have had enough. We have to speak out, even though we have been told do not talk about this; do not talk about this because it might shame your family. These children had the courage to step forward and say: This is not right. We are taught to respect our elders, but when our elders do not respect us, we are going to speak out. Their courage in front of this huge gathering was amazing. It is not unlike the story my colleague from North Dakota just told when that young girl looked out the window and said: Who will come and take care of me? Who is waiting for me?

These children from Tanana were saying: We are not going to be quiet.

It ought to be us. It ought to be the grownups who are saying: Let's take charge of this. Let's turn these horrible statistics around. Let's make every day a better day for our children. Those kids are the real heroes.

So when I come together with my colleagues in an effort such as this—I am with the Senator—oftentimes we say: Oh, commissions. What do commissions do? Maybe this starts to give some of these young people hope, whether you are on the reservations in North Dakota or whether you are in Tanana, AK. Maybe there is hope that the grownups out there are listening and can work with them.

We are trying to look at this holistically, through the education system, the health care system, and through the justice system. I am quite pleased to be able to work with my colleague on this initiative. I do not think there is anything more important that we can be doing for our young people than to offer them a ray of hope.

I thank my colleague from North Dakota and all she has done to get us to this point.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, suicide is the second leading cause of death among Native American young adults ages 15 to 24. It is 2½ times the national average. The despair my great friend from the great State of Alaska has just outlined for us—it seems there is no way out, that no one is looking, they are invisible, that their problems are inconsequential and no one cares. Yes, I thank my colleague from Alaska for that wonderful vision that this commission tells them they are not invisible to us, they are not invisible to the Congress, they are not invisible to the administration; that people are there and they care.

Maybe it offers that hope. Maybe it offers that opportunity to tell more of these stories and to shine a greater light of awareness onto this problem.

It is a national disgrace. If we continue to do what we have always done in housing, education, health care, and public safety, if we continue to do what we have always done, we will lose yet another generation to despair.

It is time for Congress to step up, honor our treaty obligations and recognize that if we cannot protect the smallest among us, the most vulnerable, the most remote among us, that we aren't worthy of this body. We aren't worthy of this government.

I invite all of our colleagues to join with us and send a message loudly and clearly to Native children in our country that they matter; they matter at their homes, in their communities, their States, their clubs, and their schools, but they also matter in the halls of the Senate.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The senior Senator from Alaska is recognized.

Ms. MURKOWSKI. If I may close out my comments, Senator HEITKAMP has honored an individual, Alyce Spotted Bear, by naming this commission on Native American children after Alyce Spotted Bear. She has invited me to also include a leader on so many education and children's issues.

I wish to take a moment to speak to the contributions of a great Alaskan, Dr. Walter Soboleff. Senator HEITKAMP has honored Alaskans by including Dr. Soboleff with the naming of this children's commission.

I was very honored to learn of Dr. Soboleff, who passed away in 2011 at 102 years old. In our State he was an elder statesman. He was a spiritual leader and an Alaska Native advocate who championed Alaska Native rights and cultural education. He was the first Alaska Native to serve on our State Board of Education, in which he served as chairman. He established the Alaska Native Studies Department at the University of Alaska Fairbanks to ensure that our Native students could be taught their history, culture, and language within that university system.

Clearly, when one is 102 years old, they live through a transition of time, but he lived through a transition for our Native people in our State. He advocated to ensure that our State's education system recognized that Native students must know their culture. In order to know who they are, they need to know where they have come from. They need to know their culture. They need to know how to hunt, how to fish, and that their culture is the foundation of a strong identity, ensuring student success and pride in oneself.

When I thought about how we might be able to recognize one of Alaska's own who demonstrated to our young people that if you know yourself, if you know your culture, if you are proud of that, even under some daunting challenges, you can move forward. You can persevere.

I thank my colleague for giving me this opportunity to show him recognition as we also honor Alyce Spotted Bear.

By Mr. MCCONNELL (for himself and Ms. AYOTTE):

S. 1626. A bill to amend the Fair Labor Standards Act of 1938 to provide employees in the private sector with an opportunity for compensatory time off, similar to the opportunity offered to

Federal employees, and a flexible credit hour program to help balance the demands of work and family, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. MCCONNELL. 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. 1626

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 ''Family Friendly and Workplace Flexibility Act of 2013''.

SEC. 2. COMPENSATORY TIME.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

''(s) COMPENSATORY TIME FOR PRIVATE EMPLOYEES.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'employee' does not include an employee of a public agency; and

''(B) the terms 'overtime compensation', 'compensatory time', and 'compensatory time off' have the meaning given the terms in subsection (o)(7).

''(2) GENERAL RULE.—An employee may receive, in accordance with this subsection and in lieu of monetary overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by this section.

''(3) AGREEMENT REQUIRED.—An employer may provide compensatory time to an employee under paragraph (2) only in accordance with—

''(A) applicable provisions of a collective bargaining agreement between an employer and a labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law; or

''(B) in the case of an employee who is not represented by a labor organization described in subparagraph (A), an agreement between the employer and employee arrived at before the performance of the work—

''(i) in which the employer has offered and the employee has chosen to receive compensatory time off under this subsection in lieu of monetary overtime compensation;

''(ii) that the employee enters into knowingly, voluntarily, and not as a condition of employment; and

''(iii) that is affirmed by a written or otherwise verifiable record maintained in accordance with section 11(c).

''(4) HOUR LIMIT.—An employee may accrue not more than 160 hours of compensatory time under this subsection, and shall receive overtime compensation for any such compensatory time in excess of 160 hours.

''(5) UNUSED COMPENSATORY TIME.—

''(A) COMPENSATION PERIOD.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than January 31 of each calendar year, the employer of the employee shall provide monetary compensation for any unused compensatory time under this subsection accrued during the preceding calendar year that the employee did not use prior to December 31 of the preceding year at the rate prescribed by paragraph (7)(A).

''(ii) ALTERNATIVE COMPENSATION PERIOD.—An employer may designate and communicate to an employee a 12-month period other than the calendar year for determining unused compensatory time under this subsection, and the employer shall provide monetary compensation not later than 31 days after the end of such 12-month period at the rate prescribed by paragraph (7)(A).

''(B) EXCESS OF 80 HOURS.—An employer may provide monetary compensation, at the rate prescribed by paragraph (7)(A), for any unused compensatory time under this subsection of an employee in excess of 80 hours at any time after giving the employee not less than 30 days' notice.

''(C) TERMINATION OF EMPLOYMENT.—Upon the voluntary or involuntary termination of an employee, the employer of such employee shall provide monetary compensation at the rate prescribed by paragraph (7)(A) for any unused compensatory time under this subsection.

''(6) WITHDRAWAL OF COMPENSATORY TIME AGREEMENT.—

''(A) EMPLOYER.—Except where a collective bargaining agreement provides otherwise, an employer that has adopted a policy of offering compensatory time to employees under this subsection may discontinue such policy after providing employees notice 30 days prior to discontinuing the policy.

''(B) EMPLOYEE.—

''(i) IN GENERAL.—An employee may withdraw an agreement described in paragraph (3)(B) after providing notice to the employer of the employee 30 days prior to the withdrawal.

''(ii) REQUEST FOR MONETARY COMPENSATION.—At any time, an employee may request in writing monetary compensation for any accrued and unused compensatory time under this subsection. The employer of such employee shall provide monetary compensation at the rate prescribed by paragraph (7)(A) within 30 days of receiving the written request.

''(7) MONETARY COMPENSATION.—

''(A) RATE OF COMPENSATION.—An employer providing monetary compensation to an employee for accrued compensatory time under this subsection shall compensate the employee at a rate not less than the greater of—

''(i) the regular rate, as defined in subsection (e), of the employee on the date the employee earned such compensatory time; or

''(ii) the final regular rate, as defined in subsection (e), received by such employee.

''(B) TREATMENT AS UNPAID OVERTIME.—Any monetary payment owed to an employee for unused compensatory time under this subsection, as calculated in accordance with subparagraph (A), shall be considered unpaid overtime compensation for the purposes of this Act.

''(8) USING COMPENSATORY TIME.—An employer shall permit an employee to take time off work for compensatory time accrued under paragraph (2) within a reasonable time after the employee makes a request for using such compensatory time if the use does not unduly disrupt the operations of the employer.

''(9) PROHIBITION OF COERCION.—

''(A) IN GENERAL.—An employer that provides compensatory time under paragraph (2) shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any employee for the purpose of interfering with the rights of an employee under this subsection—

''(i) to use accrued compensatory time in accordance with paragraph (8) in lieu of receiving monetary compensation;

''(ii) to refrain from using accrued compensatory time in accordance with paragraph (8) and receive monetary compensation; or

''(iii) to refrain from entering into an agreement to accrue compensatory time under this subsection.

''(B) DEFINITION.—In subparagraph (A), the term 'intimidate, threaten, or coerce' includes—

''(i) promising to confer or conferring any benefit, such as appointment, promotion, or compensation; or

''(ii) effecting or threatening to effect any reprisal, such as deprivation of appointment, promotion, or compensation.''.

SEC. 3. FLEXIBLE CREDIT HOUR PROGRAM.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207), as amended in section 2, is further amended by adding at the end the following:

''(t) FLEXIBLE CREDIT HOUR PROGRAM.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee;

''(B) the term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise within a specified period of time;

''(C) the term 'employee' does not include an employee of a public agency;

''(D) the term 'flexible credit hour' means any hour that an employee, who is participating in a flexible credit hour program, works in excess of the basic work requirement; and

''(E) the term 'overtime compensation' has the meaning given the term in subsection (o)(7).

''(2) PROGRAM ESTABLISHMENT.—An employer may establish a flexible credit hour program for an employee to accrue flexible credit hours in accordance with this subsection and, in lieu of monetary compensation, reduce the number of hours the employee works in a subsequent day or week at a rate of one hour for each hour of employment for which overtime compensation is required by this section.

''(3) AGREEMENT REQUIRED.—

''(A) IN GENERAL.—An employer may carry out a flexible credit hour program under paragraph (2) only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between an employer and a labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), an agreement between the employer and the employee arrived at before the performance of the work that—

''(I) the employee enters into knowingly, voluntarily, and not as a condition of employment; and

''(II) is affirmed by a written statement maintained in accordance with section 11(c).

''(B) HOURS DESIGNATED.—An agreement that is entered into under subparagraph (A) shall provide that, at the election of the employee, the employer and the employee will jointly designate flexible credit hours for the employee to work within an applicable period of time.

''(4) HOUR LIMIT.—An employee participating in a flexible credit hour program may not accrue more than 50 flexible credit hours, and shall receive overtime compensation for flexible credit hours in excess of 50 hours.

''(5) UNUSED FLEXIBLE CREDIT HOURS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than January 31 of each calendar year, the employer of an employee who is participating in a flexible credit hour program shall provide monetary compensation for any flexible credit hour accrued during the preceding calendar year

that the employee did not use prior to December 31 of the preceding calendar year at a rate prescribed by paragraph (7)(A)(i).

''(B) ALTERNATIVE COMPENSATION PERIOD.—An employer may designate and communicate to the employees of the employer a 12-month period other than the calendar year for determining unused flexible credit hours, and the employer shall provide monetary compensation, at a rate prescribed by paragraph (7)(A)(i), not later than 31 days after the end of the 12-month period.

''(6) PROGRAM DISCONTINUANCE AND WITHDRAWAL.—

''(A) EMPLOYER.—An employer that has established a flexible credit hour program under paragraph (2) may discontinue a flexible credit hour program for employees described in paragraph (3)(A)(ii) after providing notice to such employees 30 days before discontinuing such program.

''(B) EMPLOYEE.—

''(i) IN GENERAL.—An employee may withdraw an agreement described in paragraph (3)(A)(ii) at any time by submitting written notice of withdrawal to the employer of the employee 30 days prior to the withdrawal.

''(ii) REQUEST FOR MONETARY COMPENSATION.—An employee may request in writing, at any time, that the employer of such employee provide monetary compensation for all accrued and unused flexible credit hours. Within 30 days after receiving such written request, the employer shall provide the employee monetary compensation for such unused flexible credit hours at a rate prescribed by paragraph (7)(A)(i).

''(7) MONETARY COMPENSATION.—

''(A) FLEXIBLE CREDIT HOURS.—

''(i) RATE OF COMPENSATION.—An employer providing monetary compensation to an employee for accrued flexible credit hours shall compensate such employee at a rate not less than the regular rate, as defined in subsection (e), of the employee on the date the employee receives the monetary compensation.

''(ii) TREATMENT AS UNPAID OVERTIME.—Any monetary payment owed to an employee for unused flexible credit hours under this subsection, as calculated in accordance with clause (i), shall be considered unpaid overtime compensation for the purposes of this Act.

''(B) OVERTIME HOURS.—

''(i) IN GENERAL.—Any hour that an employee works in excess of 40 hours in a workweek that is requested in advance by the employer, other than a flexible credit hour, shall be an 'overtime hour'.

''(ii) RATE OF COMPENSATION.—The employee shall be compensated for each overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with subsection (a)(1), or receive compensatory time off in accordance with subsection (s), for each such overtime hour.

''(8) USE OF FLEXIBLE CREDIT HOURS.—An employer shall permit an employee to use accrued flexible credit hours to take time off work, in accordance with the rate prescribed by paragraph (2), within a reasonable time after the employee makes a request for such use if the use does not unduly disrupt the operations of the employer.

''(9) PROHIBITION OF COERCION.—

''(A) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this subsection—

''(i) to elect or not to elect to participate in a flexible credit hour program, or to elect or not to elect to work flexible credit hours; or

''(ii) to use or refrain from using accrued flexible credit hours in accordance with paragraph (8).

''(B) DEFINITION.—In subparagraph (A), the term 'intimidate, threaten, or coerce' has the meaning given the term in subsection (s)(9).''.

SEC. 4. REMEDIES.

Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(1) in subsection (b), by striking ''(b) Any employer'' and inserting ''(b) Except as provided in subsection (f), any employer''; and

(2) by adding at the end the following:

''(f) An employer that violates subsection (s)(9) or (t)(9) of section 7 shall be liable to the affected employee in the amount of—

''(1) the rate of compensation, determined in accordance with subsection (s)(7)(A) or (t)(7)(A)(i) of section 7, for each hour of unused compensatory time or for each unused flexible credit hour accrued by the employee; and

''(2) liquidated damages equal to the amount determined in paragraph (1).''.

SEC. 5. NOTICE TO EMPLOYEES.

Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to such Act by this Act.

SEC. 6. PROTECTIONS FOR CLAIMS RELATING TO COMPENSATORY TIME OFF AND FLEXIBLE CREDIT HOURS IN BANKRUPTCY PROCEEDING.

Section 507(a)(4)(A) of title 11, United States Code, is amended—

(1) by striking ''and''; and

(2) by inserting '', the value of unused, accrued compensatory time off under section 7(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(s)), all of which shall be deemed to have been earned within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, at a rate of compensation not less than the final regular rate received by such individual, and the value of unused, accrued flexible credit hours under section 7(t) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(t)), all of which shall be deemed to have been earned within 180 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, at a rate of compensation described in paragraph (7)(A)(i) of such section 7(t)'' after ''sick leave pay''.

SEC. 7. GAO REPORT.

Beginning 2 years after the date of enactment of this Act and each of the 3 years thereafter, the Comptroller General of the United States shall submit a report to Congress providing, with respect to the reporting period immediately prior to each such report—

(1) data concerning the extent to which employers provide compensatory time and flexible credit hours under subsections (s) and (t) of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207), as added by this Act, and the extent to which employees opt to receive compensatory time under subsection (s) and flexible credit hours under subsection (t);

(2) the number of complaints alleging a violation of subsection (s)(9) or (t)(9) of such section filed by any employee with the Secretary of Labor, and the disposition or status of such complaints;

(3) the number of enforcement actions commenced by the Secretary or commenced by the Secretary on behalf of any employee for alleged violations of subsection (s)(9) or (t)(9) of such section, and the disposition or status of such actions; and

(4) an account of any unpaid wages, damages, penalties, injunctive relief, or other remedies obtained or sought by the Secretary in connection with such actions described in paragraph (3).

SEC. 8. SUNSET.

This Act and the amendments made by this Act shall expire on the date that is 5 years after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 277—RECOGNIZING THE RELIGIOUS AND HISTORICAL SIGNIFICANCE OF THE FESTIVAL OF DIWALI

Mr. WARNER (for himself, Mr. CORNYN, Mr. MENENDEZ, and Mr. COONS) submitted the following resolution; which was referred to the Committee on the Judiciary.:

S. RES. 277

Whereas Diwali is a festival of great significance and celebrated annually by Hindus, Sikhs, and Jains throughout India, the United States, and the world;

Whereas Diwali is a festival of lights that marks the beginning of the Hindu new year, during which celebrants light and place small lamps around the home and pray for health, knowledge, peace, wealth, and prosperity in the new year;

Whereas Diwali will be celebrated throughout the world for five days and is an opportunity to celebrate the faith of all people and the universal right to religious expression and spiritual freedom;

Whereas the lights symbolize the light of knowledge within the individual that overwhelms the darkness of ignorance, empowering each celebrant to do good deeds and show compassion to others;

Whereas Diwali falls on the last day of the last month in the lunar calendar and is celebrated as a day of thanksgiving for the homecoming of the Lord Rama and worship of Lord Ganesha, the remover of obstacles and bestower of blessings, at the beginning of the new year for many Hindus;

Whereas, for Sikhs, Diwali is celebrated as Bandhi Chhor Diwas (The Celebration of Freedom), in honor of the release from imprisonment of the sixth guru, Guru Hargobind; and

Whereas, for Jains, Diwali marks the anniversary of the attainment of moksha, or liberation, by Mahavira, the last of the Tirthankaras (the great teachers of Jain dharma), at the end of his life in 527 B.C.: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the religious and historical significance of the festival of Diwali, the festival of lights, and expresses its respect for the people of India, Indian Americans, and members of the Indian diaspora around the world on this significant occasion; and

(2) supports a strong relationship between the people and governments of the United States and India, based on mutual trust and respect that will enable the countries to more closely collaborate across a broad spectrum of interests, such as global peace and prosperity.