the competitiveness of United States-grown specialty crops.

S. 2493

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2493, a bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes.

S. 2548

At the request of Mr. STEVENS, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2548, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

S. 2556

At the request of Mr. BAYH, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2556, a bill to amend title 11, United States Code, with respect to reform of executive compensation in corporate bankruptcies.

S. 2557

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2557, a bill to improve competition in the oil and gas industry, to strengthen antitrust enforcement with regard to industry mergers, and for other purposes.

S. 2562

At the request of Mr. CRAIG, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 2562, a bill to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 2563

At the request of Mr. COCHRAN, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mrs. DOLE), the Senator from Kansas (Mr. ROBERTS) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 2563, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part.

S. 2593

At the request of Mrs. BOXER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2593, a bill to protect, consistent with Roe v. Wade, a woman's freedom to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2617

At the request of Mr. LAUTENBERG, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2617, a bill to amend title 10, United States Code, to limit increases in the costs to retired members of the Armed Forces of health care services under the TRICARE program, and for other purposes.

S. RES. 182

At the request of Mr. BUNNING, his name was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

S. RES. 313

At the request of Ms. CANTWELL, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. Res. 313, a resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic.

S. RES. 409

At the request of Mr. NELSON of Florida, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 409, a resolution supporting democracy, development, and stabilization in Haiti.

S. RES. 439

At the request of Mr. DODD, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. Res. 439, a resolution designating the third week of April 2006 as ''National Shaken Baby Syndrome Awareness Week''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. SMITH, Mr. BAUCUS, Mr. JOHNSON, Mrs. FEINSTEIN, Mr. FEINGOLD, Mrs. MURRAY, Mr. SALAZAR, Ms. CANTWELL, and Mr. INOUYE):

S. 2643. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify that Indian tribes are eligible to receive grants for confronting the use of methamphetamine; to the Committee on the Judiciary.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Native American Meth Enforcement and Treatment Act of 2006.

Unfortunately, when Congress passed the Combat Methamphetamine Epidemic Act, tribes were unintentionally left out as eligible applicants in some of the newly-authorized grant programs. The bill I am introducing today, along with Senators SMITH, BAUCUS, CANTWELL, INOUYE, JOHNSON, FEINSTEIN, FEINGOLD, MURRAY, and SALAZAR, would simply ensure that tribes are able to apply for these funds and give Native American communities the resources they need to fight scourge of methamphetamine use.

The recently-enacted Combat Methamphetamine Epidemic Act of 2005 authorized new funding for three grant programs. The Act authorized $99 million in new funding for the COPS Hot Spots program, which helps local law enforcement agencies obtain the tools they need reduce the production, distribution, and use of meth. Funding may also be used to clean up meth labs, support health and environmental agencies, and to purchase equipment and support systems.

The Act also authorized $20 million for a Drug-Endangered Children grant program to provide comprehensive services to assist children who live in a home in which meth has been used, manufactured, or sold. Under this program, law enforcement agencies, prosecutors, child protective services, social services, and health care services, work together to ensure that these children get the help they need.

In addition, the Combat Meth Act authorized grants to be made to address the use of meth among pregnant and parenting women offenders. The Pregnant and Parenting Offenders program is aimed at facilitating collaboration between the criminal justice, child welfare, and State substance abuse systems in order to reduce the use of drugs by pregnant women and those with dependent children.

Although tribes are eligible applicants under the Pregnant and Parenting Offenders program, they were not included as eligible applicants under either the Hot Spots program or the Drug-Endangered Children program. I see no reason why tribes should not be able to access all of these funds.

Meth use has had a devastating impact in communities throughout the country, and Indian Country is no exception. Last month there was an article in the Gallup Independent newspaper about a Navajo grandmother, her daughter, and granddaughter, who were all arrested for selling meth. There was also a one-year-old child in the home when police executed the arrest warrant. It is absolutely disheartening to hear about cases such as this, with three generations of a family destroyed by meth.

I strongly believe that we need to do everything we can to assist communities as they struggle to deal with the consequences of meth, and ensuring that Native American communities are able to access these funds is an important first step. I hope my colleagues will join me in supporting this important measure.

By Mrs. FEINSTEIN (for herself, Mr. GRAHAM, and Mr. FRIST):

S. 2644. A bill to harmonize rate setting standards for copyright licenses under sections 112 and 114 of title 17, United States Code, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am pleased to introduce the Platform Equality and Remedies for Rights-holders in Music Act, or the PERFORM Act, along with Senators GRAHAM and FRIST.

The need to protect creative works has been an important principle recognized in our country since its inception.

The founding fathers accurately understood the importance of intellectual property by including protective language in our Constitution, and in doing so they established a principle that would stand the test of time.

However, they could not have predicted that the path of innovation would eventually produce the amazing new technologies that we now take for granted.

While many of us still enjoy traditional analog radio, this, too, is rapidly changing. We now have music radio programs provided over the Internet, cable, and satellites. Even traditional radio is changing with the advent of new digital radio.

With the entry into the marketplace of these new music providers consumers are receiving the songs and artists they enjoy in new and innovative ways.

Yet, as these new business models and technologies are developed we must ensure that the artists and musicians who create and perform the music continue to be fairly compensated for their works.

Unfortunately, some of the new innovations have been used to supplant music sales and avoid fair compensation to the songwriters and performers.

From 1999 to 2004, total music sales have declined by 30 percent. Over the same period, CD sales declined 18 percent. The decline continued in 2005 as total album sales fell 7.2 percent year-over-year.

Some of this decline is due to outdated business models and competition from other entertainment products, some due to illegal actions and piracy, and some is due to outdated music licensing laws.

I believe our laws must strike the proper balance between fostering new business models and technology and protecting the property rights of the artists whose music is being broadcast.

I strongly support advancements in technology and I encourage ingenuity. The birth of the digital music place has been a boon for businesses and consumers. It is important that these new forums succeed and grow.

However, these new technologies and business models have become so advanced that the clear lines between a listening service and a reproduction and copying service has been blurred.

Historically, a radio service simply allowed music to be performed and listened to by an audience. However, many new services using the new digital transmissions and new technological devices have allowed consumers to also record, manipulate, and collect individual music play-lists off their radio-like services.

Thus, what was once a passive listening experience has turned into a forum where consumers can record, manipulate, reprogram and save songs to create their own personalized playlists.

As the modes of distribution change and the technologies change, so must our laws change. The government granted a compulsory license for radio-like services by Internet, cable, and satellite providers in order to encourage competition and new products.

However, as new innovations alter their services from a performance to a distribution the law must respond.

In addition, as the changing technology evolves, the distinctions between the services become less and less, and the differences in how they are treated under the statutory license make less sense.

Therefore I am introducing a bill that will begin to fix the inequities currently in the statute and open the door to further debate about additional issues that need to be addressed.

The bill I am introducing today with Senators GRAHAM and FRIST would: create rate parity—all companies covered by the government license created in Section 114 would be required to pay a fair market value for use of music libraries rather than having different rate standards apply based on what medium is being used to transmit the music; and establish content protection—all companies would be required to use reasonably available, technologically feasible, and economically reasonable means to prevent music theft. In addition, a company may not provide a recording device to a customer that would allow him or her to create their own personalized music library that can be manipulated and maintained without paying a reproduction royalty.

This does not mean such devices cannot be made or distributed. It simply means that the business must negotiate the payment for the music through the market rather than under the statutory license.

The bill also contains language to make sure that consumers' current recording habits are not inhibited. Therefore, any recording the consumer chooses to do manually will still be allowed. In addition, if the device allows the consumer to manipulate music by program, channel, or time period that would still be allowable under the statutory license.

For example, if a listener chooses to automatically record a news station every morning at 9:00; a jazz station every afternoon at 2:00; a blues station every Friday at 3:00; and a talk radio show every Saturday at 4:00; that would be allowable. In addition, that listener could then use their recording device to move these programs so that all programs of the same genre are back to back.

What a listener cannot do is set a recording device to find all the Frank Sinatra songs being played on the radio-service and only record those songs. By making these distinctions this bill supports new business models and technologies without harming the songwriters and performers in the process.

Unfortunately, anytime legislation is introduced there is a lot of misinformation about what it does. Often criticisms are lobbed without reviewing the actual text of the bill. So, let me be clear about some of the concerns I have heard.

The bill would not apply to over-the-air broadcasting. Terrestrial radio, i.e. traditional radio distributed by the broadcasters is not covered under this bill. This legislation only covers businesses that are under the 114 license—Internet, cable, and satellite.

The only application to broadcasters would be if they were to act as webcasters and simulcast their programs over the Internet, in which case they would be treated the same as all other Internet radio providers.

The bill would not inhibit technological advances. It would place limits on the types of recording devices cable, Internet and satellite providers may offer, IF they want to enjoy the benefit of a government license.

If, however, a company wants to offer new technologies that allow for manipulation of music so that a consumer may create their own music libraries, similar to a downloading service, they may. There is nothing in this bill prohibiting the use or creation of new technologies the company would simply lose the benefit of a government license.

The bill simply states that if a company wants to change its service from a performance to a distribution then they no longer are covered by the government license and must go to the record companies directly to negotiate a licensing agreement through the market.

The bill would not be discriminatory. Some argue that changing the rates or establishing content protection is discriminatory. However, under current law some businesses are required to pay higher licensing rates than others even though they provide essentially the same services.

In addition, if a new satellite company were to be formed today they would be required to pay a higher rate than the current two companies in the market—that is not fair. Instead this bill would establish the same rates and protections for all companies.

The argument that this bill is discriminatory ignores the inequities of current law as it applies to Internet, cable, old and new satellite providers and instead focuses on the differences between these new radio providers versus terrestrial or traditional over-the-air radio.

The argument is that there are already devices available and new technologies that allow consumers to capture and manipulate music being played by over-the-air broadcasters. Yet this bill does not apply to broadcasters and instead only applies to Internet, cable and satellite.

The conclusion being that by not covering broadcasters we are giving them a free pass and being unfair to the new businesses.

While the obvious argument is that the Judiciary Committee does not have jurisdiction to regulate over-the-air broadcasters, I think it is important to acknowledge that the Commerce Committee is actively looking into this issue right now. In addition, I am aware that there are active negotiations occurring between broadcasters and the record labels to develop similar protections for their services.

Thus, while some may be frustrated that jurisdiction may lie in different committees, efforts are on-going in each to address these issues. I do not believe we, in the Judiciary Committee, should wait and do nothing to protect artists and songwriters simply because the Commerce Committee has not yet moved legislation to deal with the same concern for terrestrial radio.

Having said that, let me be clear, this is the beginning of a process to address a very specific problem. I believe that as the process unfolds there will be additional improvements or other issues that may need to be added.

Already, some have raised questions about language in the bill and additional modifications to Section 114 that I believe should be looked at more closely.

I understand there is some concern about what fair market value means, especially under a government licensing scheme where there is not an actual competitive market. I think it makes sense to look into this issue and see if there is a definition that can be developed.

In doing this, I believe we should look at all the different models that have been used. We should look at what the courts have held, what the copyright office has used, what a real competitive market would entail, as well as other factors that may not have been considered.

The bill as introduced does not address the other conditions applied to Internet, cable, and satellite services in order for them to get the benefit of the statutory license. The one that I am most concerned with is interactivity.

I think there is real confusion about what is and what is not allowed under the current statute. How much personalization and customization may these new services offer?

Currently licensing rates are higher for interactive services. However, there are clear disagreements as to what constitutes an interactive service.

I tried to have the parties meet to negotiate a solution to this issue so that we could include new language this in the bill.

However, after two weeks and hours and hours of negotiations the parties were so far apart that a solution could not be reached. Despite this, I still believe this is an important issue that must be addressed.

Therefore, I put a placeholder in the bill that calls for the copyright office to make recommendations to Congress, but I am hopeful that through the process of moving this bill through the Senate we can develop a solution sooner rather than later.

I am hopeful that the parties will again meet and try to develop a compromise, however, if that does not occur I may try to work with my colleagues to develop a legislative solution independently.

Finally, some have raised concerns that applying content protection to all providers is unfair. They argue that if there is no connection between the distributor of the music and the technology provider that allows for copying and manipulating of performances then they should not be required to protect the music that they broadcast.

In general, I do not agree. We know that there are websites out there now that provide so-called stream-ripping services that allow an individual to steal music off an Internet webcast. It is not enough to turn a blind eye to this type of piracy and do nothing simply because there is no formal connection between the businesses.

At the same time, I am sympathetic to the concerns that if the type of technology a company uses is inadequate or ineffective, through no fault of their own, they can be saddled with huge mandatory penalties. I am willing to look at this issue more closely and see if there is some way to address this concern and find a compromise solution.

As I have said, this is the beginning of the process. I think this legislation is a good step forward in addressing a real problem that is occurring in the music industry.

Changes or additions may be necessary as the bill moves forward, but I believe to wait and do nothing does a disservice to all involved.

Music is an invaluable part of all of our lives. The new technologies and changing delivery systems provide exciting new options for all consumers. As we continue to move forward into new frontiers we must ensure that our laws can stand the test of time.

I look forward to working with my colleagues to pass this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD along with letters of support for the legislation.

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

S. 2644

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 ''Platform Equality and Remedies for Rights Holders in Music Act of 2006'' or the ''Perform Act of 2006''.

SEC. 2. RATE SETTING STANDARDS.

(a) SECTION 112 LICENSES.—Section 112(e)(4) of title 17, United States Code, is amended in the third sentence by striking ''fees that would have been negotiated in the marketplace between a willing buyer and a willing seller'' and inserting ''the fair market value of the rights licensed under this subsection''.

(b) SECTION 114 LICENSES.—Section 114(f) of title 17, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively; and

(3) in paragraph (1) (as redesignated under this subsection)—

(A) in subparagraph (A), by striking all after ''Proceedings'' and inserting ''under chapter 8 shall determine reasonable rates and terms of royalty payments for transmissions during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree.'';

(B) in subparagraph (B)—

(i) in the first sentence, by striking ''affected by this paragraph'' and inserting ''under this section'';

(ii) in the second sentence, by striking ''eligible nonsubscription transmission''; and

(iii) in the third sentence—

(I) by striking ''eligible nonsubscription services and new subscription''; and

(II) by striking ''rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller'' and inserting ''the fair market value of the rights licensed under this section'';

(iv) in the fourth sentence, by striking ''base its'' and inserting ''base their'';

(v) in clause (i), by striking ''and'' after the semicolon;

(vi) in clause (ii), by striking the period and inserting ''; and'';

(vii) by inserting after clause (ii) the following:

''(iii) the degree to which reasonable recording affects the potential market for sound recordings, and the additional fees that are required to be paid by services for compensation.''; and

(viii) in the matter following clause (ii), by striking ''described in subparagraph (A)''; and

(C) by striking subparagraph (C) and inserting the following:

''(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any transmitting entity indicating that a new type of service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services, eligible nonsubscription services, or new subscription services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.''.

(c) CONTENT PROTECTION.—Section 114(d)(2) of title 17, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by striking ''and'' after the semicolon;

(B) in clause (iii), by adding ''and'' after the semicolon; and

(C) by adding after clause (iii) the following:

''(iv) the transmitting entity takes no affirmative steps to authorize, enable, cause or induce the making of a copy or phonorecord by or for the transmission recipient and uses technology that is reasonably available, technologically feasible, and economically reasonable to prevent the making of copies or phonorecords embodying the transmission in whole or in part, except for reasonable recording as defined in this subsection;'';

(2) in subparagraph (C)—

(A) by striking clause (vi); and

(B) by redesignating clauses (vii) through (ix) as clauses (vi) through (viii), respectively; and

(3) by adding at the end the following:

''For purposes of subparagraph (A)(iv), the mere offering of a transmission and accompanying metadata does not in itself authorize, enable, cause, or induce the making of a phonorecord. Nothing shall preclude or prevent a performing rights society or a mechanical rights organization, or any entity owned in whole or in part by, or acting on behalf of, such organizations or entities, from monitoring public performances or other uses of copyrighted works contained in such transmissions. Any such organization or entity shall be granted a license on either a gratuitous basis or for a de minimus fee to cover only the reasonable costs to the licensor of providing the license, and on reasonable, nondiscriminatory terms, to access and retransmit as necessary any content contained in such transmissions protected by content protection or similar technologies, if such licenses are for purposes of carrying out the activities of such organizations or entities in monitoring the public performance or other uses of copyrighted works, and such organizations or entities employ reasonable methods to protect any such content accessed from further distribution.''.

(d) DEFINITION.—Section 114(j) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (10) through (15) as paragraphs (11) through (16), respectively; and

(2) by inserting after paragraph (9) the following:

''(10)(A) A 'reasonable recording' means the making of a phonorecord embodying all or part of a performance licensed under this section for private, noncommercial use where technological measures used by the transmitting entity, and which are incorporated into a recording device—

''(i) permit automated recording or playback based on specific programs, time periods, or channels as selected by or for the user;

''(ii) do not permit automated recording or playback based on specific sound recordings, albums, or artists;

''(iii) do not permit the separation of component segments of the copyrighted material contained in the transmission program which results in the playback of a manipulated sequence; and

''(iv) do not permit the redistribution, retransmission or other exporting of a phonorecord embodying all or part of a performance licensed under this section from the device by digital outputs or removable media, unless the destination device is part of a secure in-home network that also complies with each of the requirements prescribed in this paragraph.

''(B) Nothing in this paragraph shall prevent a consumer from engaging in non-automated manual recording and playback in a manner that is not an infringement of copyright.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 114.—Section 114(f) of title 17, United States Code (as amended by subsection (b) of this section), is further amended—

(A) in paragraph (1)(B), in the first sentence, by striking ''paragraph (3)'' and inserting ''paragraph (2)''; and

(B) in paragraph (4)(C), by striking ''under paragraph (4)'' and inserting ''under paragraph (3)''.

(2) SECTION 804.—Section 804(b)(3)(C) of title 17, United States Code, is amended—

(A) in clause (i), by striking ''and 114(f)(2)(C)''; and

(B) in clause (iv), by striking ''or 114(f)(2)(C), as the case may be''.

SEC. 3. REGISTER OF COPYRIGHTS MEETING AND REPORT.

(a) MEETING.—Not later than 60 days after the Copyright Royalty Board's final determination in Docket No. 2005–1 CRB DTRA, the Register of Copyrights shall convene a meeting among affected parties to discuss whether to recommend creating a new category of limited interactive services, including an appropriate premium rate for such services, within the statutory license contained in section 114 of title 17, United States Code.

(b) REPORT.—Not later than 90 days after the convening of the meeting under subsection (a), the Register of Copyrights shall submit a report on the discussions at that meeting to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

NATIONAL MUSIC PUBLISHERS' ASSOCIATION WELCOMES INTRODUCTION OF THE PERFORM ACT

April 25, 2006.—National Music Publishers' Association President and CEO David Israelite today released the following statement regarding the Platform Equality and Remedies for Rights-holders in Music Act, or the ''PERFORM Act,'' new legislation to protect songwriters and music publishers while encouraging the growth of digital radio:

''The National Music Publishers' Association supports this important legislation, which will protect music as it is transmitted over digital radio, It is crucial that Congress update antiquated copyright laws in these days of rapidly emerging technologies.''

''The songs we love and their creators need to be protected under the law. By passing the PERFORM Act, Congress will make certain that songwriters, music publishers and other members of the music community are compensated for their intellectual property.''

''Platforms like High Definition and Satellite radio should be able to thrive and expand, but not at the expense of those who worked so hard to create the music that fans crave. Ultimately, this bill will allow the consumer more ways than ever to get high-quality digital music, while fostering an environment that will lead to the creation of more music.''

''The NMPA applauds Sen. DIANNE FEINSTEIN (D-CA) and Sen. LINDSEY GRAHAM (R-SC) for their efforts on the behalf of music Publishers, songwriters and music fans everywhere.''

NEW BIPARTISAN SENATE BILL LEVELS DIGITAL MUSIC PLAYING FIELD, ASSURES SATELLITE FIRMS PLAY BY SAME RULES AS OTHERS

MEMBERS OF MUSIC COMMUNITY HAIL BILL, SAYS WILL HELP ENSURE THAT ARTISTS AND SONGWRITERS FAIRLY PAID

WASHINGTON, APRIL 25, 2006—The Recording Industry Association of America (RIAA) today hailed the introduction of new legislation to level the playing field for digital radio as a major step forward in the music industry's drive for parity among digital music services. The bill—introduced today by Sens. DIANNE FEINSTEIN (D-CA) and LINDSEY GRAHAM (R-SC)—would reform the appropriate section of copyright law to assure satellite services play by the same rules as Internet music services—both in rate setting and content protection standards.

''There is a critical need for the government to harmonize the current protections and rate regimes that make for the haphazard patchwork covering digital music services today,'' said RIAA Chairman and CEO Mitch Bainwol. ''This patchwork is allowing satellite radio to morph into something altogether different—a digital distribution service—with the creators of music left in the lurch. This legislation seeks to right that wrong and ensure a marketplace where fair competition can thrive. We're extremely grateful for the leadership of Senators FEINSTEIN and GRAHAM. This bill moves us far closer to achieving the platform parity that is so key to the health of the music industry in years to come.''

The digital music marketplace is undergoing a convergence across all platforms—a convergence creating arbitrary advantages for certain services over others at the expense of creators. While offering great opportunities for the music community, satellite broadcasters and music fans, the convergence of radio-like services and downloading capability requires changes in the law to protect against a satellite company transforming its model into a download service without the appropriate license.

The RIAA and others in the music community have made it clear that satellite radio services should be required to obtain a license in the marketplace to offer the capability to cherry pick individual songs and then permanently store them in a digital library. Legislation—such as the Feinstein-Graham bill—is needed to ensure that satellite services play by the same set of rules everyone else does and not profit from becoming a download/subscription model without acquiring the appropriate license and compensating artists and songwriters.

Because traditional terrestrial radio is not covered by the government license or this legislation, private market negotiations on measures to similarly protect high-definition (HD) radio are currently in progress. The RIAA has also praised the introduction of legislation by Rep. MIKE FERGUSON (R-NJ) that requires users of free government spectrum to protect content delivered through HD radio receivers through private market agreements.

By Mr. KERRY:

S. 2646. A bill to create a 3-year pilot program that makes small, nonprofit child care businesses eligible for loans under title V of the Small Business Investment Act of 1958; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, as Congress comes back in session for a five-week work period, it is high time we put partisan bickering aside and take up real issues that will improve the lives of America's hard-working families. Today, I rise to address one such problem—the growing shortage of quality child care for our country's future generations. Over the past 50 years, the United States has witnessed a 43 percent increase in the number of dual-

earner and single-parent families. Furthermore, the Census Bureau estimates that more than six million children are left home alone on a regular basis. Nationwide, more households than ever are struggling to make ends meet, while providing safe, nurturing environments for their children to grow up in. For many, child care is not a choice, but a necessity in this endeavor. That is why we owe it to our Nation's families to increase the availability of quality child care—because strong, healthy families build a stronger America.

As the Ranking Member on the Senate Committee on Small Business and Entrepreneurship, I firmly believe that we can work with the Small Business Administration (SBA) to cultivate and expand existing child care facilities. In light of this, I rise today to introduce the Child Care Lending Pilot Act of 2006, which establishes a three-year pilot program enabling small, non-profit child care businesses to be eligible for the SBA's 504 loans.

With affordable fixed low interest rates and long terms, 504 loans play a vital role in spurring economic development and the rebuilding of communities. Current law permits for-profit child care small businesses to finance building repairs and expand existing facilities through these 504 loans. However, their non-profit counterparts are unable to access the same financing through the SBA. Given that the majority of child care centers in many States across the country operate as non-profits, this system is shutting out the lion's share of facilities from obtaining necessary funds to provide quality care for the families they serve. The Child Care Lending Pilot Act of 2006 reverses this trend. By allowing non-profit child care businesses to apply for 504 lending, the legislation enables these entities to put down only 10 to 20 percent of the loan with a term of up to 20 years. With low, predictable monthly payments, these non-profit centers can then invest in the families they provide services to, by updating and improving their buildings and materials without breaking the bank or raising fees.

Since the industry is not high-earning overall, a majority of child care centers do not have an abundance of easily accessible capital. Proposals that call for centers to simply charge less or cut back on employees are not the way to make child care more affordable for families and do not serve in the children's best interests. An adequate staff is crucial in ensuring that children receive proper supervision and support to foster their development and learning. Furthermore, if centers are asked to decrease operating costs in order to lower costs absorbed by families, the safety and quality of the child care provided would most likely be in jeopardy.

In recent years, the Children's Defense Fund estimated that in all but one State, the average annual cost of child care in urban area child care centers is more than the average annual cost of public college tuition. Additionally, they projected that child care can easily cost between $4,000 to $10,000 per year in cities and States across the Nation. Clearly, these high costs pose virtually insurmountable hurdles for low-income families in need of quality care for their children. Although many States have implemented grant and loan programs to help these child care small businesses, more must be done—not only to improve the quality of care, but also the overall supply of child care facilities for the Nation's neediest families.

I urge my colleagues to support this important legislation and allow non-profit child care providers to access SBA 504 financing for their facilities and the children they serve. Funded entirely through fees, this legislation requires no appropriation. Additionally, it is consistent with the three-year SBA reauthorization cycle. This legislation is the product of work on this issue in both the 107th and 108th Congresses. Similar legislation was introduced in 2002, S. 2891, however the four year provision made this program inconsistent with the cycle of SBA reauthorization. To remedy this, I reintroduced the measure in 2003 as S. 822, making the act a three-year pilot program consistent with the cycle of reauthorization. This pilot program was also part of the larger Senate Small Business reauthorization legislation in the last Congress, S. 1375. Unfortunately, this innovative proposal to expand child care, which had bipartisan support, was cut out of the final authorization package when a scaled-back version of the reauthorization legislation, without most Democratic initiatives, was added to the FY2005 omnibus appropriations bill.

Although there is no quick-fix solution for the Nation's child care shortage and lack of quality facilities, this bill marks an important step in the right direction by allowing non-profit child care centers to receive SBA loans. I hope that my colleagues on both sides of the aisle will recognize the vital role that early education plays in the development of fine minds and productive citizens, and realize that in this great Nation, child care should be available to all families in all income brackets. The Child Care Lending Pilot Act of 2006 is a sound investment in our Nation's future—our children.

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. 2646

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 ''Child Care Lending Pilot Act of 2006''.

(b) DEFINITIONS.—In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the term ''small business concern'' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 2. CHILD CARE LENDING PILOT PROGRAM.

Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking ''The Administration'' and inserting the following:

''(a) AUTHORIZATION.—The Administration'';

(B) by striking ''and such loans'' and inserting ''. Such loans'';

(C) by striking '': *Provided, however*, That the foregoing powers shall be subject to the following restrictions and limitations:'' and inserting a period; and

(D) by adding at the end the following:

''(b) RESTRICTIONS AND LIMITATIONS.—The authority under subsection (a) shall be subject to the following restrictions and limitations:''; and

(2) in paragraph (1)—

(A) by inserting after ''USE OF PROCEEDS.—'' the following:

''(A) IN GENERAL.—;'' and

(B) by adding at the end the following:

''(B) LOANS TO SMALL, NONPROFIT CHILD CARE BUSINESSES.—

''(i) IN GENERAL.—Notwithstanding subsection (a)(1), the proceeds of any loan described in subsection (a) may be used by the certified development company to assist a small, nonprofit child care business, if—

''(I) the loan is used for a sound business purpose that has been approved by the Administration;

''(II) each such business meets all of the same eligibility requirements applicable to for-profit businesses under this title, except for status as a for-profit business;

''(III) 1 or more individuals has personally guaranteed the loan;

''(IV) each such business has clear and singular title to the collateral for the loan; and

''(V) each such business has sufficient cash flow from its operations to meet its obligations on the loan and its normal and reasonable operating expenses.

''(ii) LIMITATION ON VOLUME.—Not more than 7 percent of the total number of loans guaranteed in any fiscal year under this title may be awarded under this subparagraph.

''(iii) DEFINED TERM.—For purposes of this subparagraph, the term 'small, nonprofit child care business' means an establishment that—

''(I) is organized in accordance with section 501(c)(3) of the Internal Revenue Code of 1986;

''(II) is primarily engaged in providing child care for infants, toddlers, pre-school, or pre-kindergarten children (or any combination thereof), and may provide care for older children when they are not in school, and may offer pre-kindergarten educational programs;

''(III) including its affiliates, has tangible net worth that does not exceed $7,000,000, and has average net income (excluding any carryover losses) for the 2 completed fiscal years preceding the application that does not exceed $2,500,000; and

''(IV) is licensed as a child care provider by the State, the insular area, or the District of Columbia in which it is located.

''(iv) SUNSET PROVISION.—This subparagraph shall remain in effect until September 30, 2009, and shall apply to all loans authorized under this subparagraph that are applied for, approved, or disbursed during the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009.''.

SEC. 3. REPORTS.

(a) SMALL BUSINESS ADMINISTRATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter until September 30, 2009, the Administrator shall submit a report on the implementation of the program under section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this Act, to—

(A) the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—Each report under paragraph (1) shall contain—

(A) the date on which the program is implemented;

(B) the date on which the rules are issued under section 4; and

(C) the number and dollar amount of loans under the program applied for, approved, and disbursed during the previous 6 months—

(i) with respect to nonprofit child care businesses; and

(ii) with respect to for-profit child care businesses.

(b) GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) IN GENERAL.—Not later than March 31, 2009, the Comptroller General of the United States shall submit a report on the child care small business loans authorized by section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this Act, to—

(A) the Committee on Small Business and Entrepreneurship of the Senate; and

(B) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall contain information gathered during the first 2 years of the loan program, including—

(A) an evaluation of the timeliness of the implementation of the loan program;

(B) a description of the effectiveness and ease with which certified development companies, lenders, and small business concerns have participated in the loan program;

(C) a description and assessment of how the loan program was marketed;

(D) by location (State, insular area, and the District of Columbia) and in total, the number of child care small businesses, categorized by status as a for-profit or nonprofit business, that—

(i) applied for a loan under the program (and whether it was a new or expanding child care provider);

(ii) were approved for a loan under the program; and

(iii) received a loan disbursement under the program (and whether they are a new or expanding child care provider); and

(E) with respect to businesses described under subparagraph (D)(iii)—

(i) the number of such businesses in each State, insular area, and the District of Columbia, as of the year of enactment of this Act;

(ii) the total amount loaned to such businesses under the program;

(iii) the total number of loans to such businesses under the program;

(iv) the average loan amount and term;

(v) the currency rate, delinquencies, defaults, and losses of the loans;

(vi) the number and percent of children served who receive subsidized assistance; and

(vii) the number and percent of children served who are low income.

(3) ACCESS TO INFORMATION.—

(A) IN GENERAL.—The Administration shall collect and maintain such information as may be necessary to carry out this subsection from certified development centers and child care providers, and such centers and providers shall comply with a request for information from the Administration for that purpose.

(B) PROVISION OF INFORMATION TO GOVERNMENT ACCOUNTABILITY OFFICE.—The Administration shall provide information collected under this paragraph to the Comptroller General of the United States for purposes of the report required by this subsection.

SEC. 4. RULEMAKING AUTHORITY.

Not later than 120 days after the date of enactment of this Act, the Administrator shall issue final rules to carry out the loan program authorized by section 502(b)(1)(B) of the Small Business Investment Act of 1958, as added by this Act.

By Mr. MENENDEZ (for himself and Mr. DEWINE):

S. 2651. A bill to authorize the Secretary of Education to make grants to educational organizations to carry out educational programs about the Holocaust; to the Committee on Health, Education, Labor, and Pensions.

Mr. MENENDEZ. Mr. President, I rise today to introduce the ''Simon Wiesenthal Holocaust Education Assistance Act.'' This important legislation would provide competitive grants for educational organizations to make Holocaust education more accessible and available throughout this Nation.

And I would like to thank my colleague Senator DEWINE for cosponsoring this legislation and my former colleague in the House, Congresswoman MALONEY, for her leadership on this issue.

This legislation could not come at a more important and solemn day in our lives. Today is Yom Hashoah, a day when we commemorate the approximately six million men, women and children of Jewish faith, as well as millions of others who were persecuted and murdered 65 years ago in a systematic, state sponsored genocide. Today, we also honor those who stood up against the genocide and risked their own lives to save others.

Today we stand in solidarity with Israel and the Jewish faith, and with all people throughout the world, in remembering these tragic events.

And today we honor Simon Wiesenthal who dedicated his life to making sure that those who perpetrated the horrors of the Holocaust were brought to justice.

Sixty-five years may seem like a lifetime away, and generations may have been raised thinking that the Holocaust, and events like it, is from a distant past. But let me be clear—these events are not so distant and are not in the past. In fact, they are in our present.

Just recently, Iran's president Mahmoud Ahmadinejad hatefully and outrageously declared the Holocaust a ''myth'' and Israel a ''fake regime'' which ''cannot continue to live.''

And just two months ago, an anti-Semitic gang that calls themselves ''the Barbarians'' tortured 23-year-old Ilan Halimi, a young Jewish man, for three weeks before leaving him for dead near a train station in Paris.

It is these events that make us aware of the destructive messages of hate and violence that arise from Holocaust denial. It is these events that show us the importance of Holocaust education, abroad and in our own Nation.

For although some States now require the Holocaust to be taught in public schools, this legislation goes further and makes grants available to organizations that teach students, teachers, and communities the dangers of hate and the importance of tolerance in our society. This legislation would give educators the appropriate resources and training to teach accurate historical information about the Holocaust and convey the lessons that the Holocaust provides for all people.

We must recognize that by remembering the millions who were murdered in the Holocaust, we create a sense of responsibility to stop genocide wherever it takes place. But we must also remember that hate crimes and genocide could, and are still, happening today.

We are reminded, through the deplorable comments made by Iranian President Ahmadinejad against Israel and through the murder of young Ilan Halimi in France that anti-Semitism still exists even 65 years after the Holocaust. The awful acts of murder and rape in Darfur are a horrific example of genocide in the 21st century.

And those who believe that anti-Semitism is an attack that need not be answered by those who are not Jewish do not recognize the consequences of history. In fact, an attack against anyone simply because of race or religion is ultimately the beginning of the unraveling of civilization. It is in our common interest to raise our voices against anti-Semitism and against all hatred and discrimination.

We must fight the chorus of anti-Semitism and fight the fear and the hate. As a Nation proud of our diverse heritage, we must, each of us, take a stand. With our words, but most importantly with our actions, we will turn the tide against this new wave of anti-Semitism. And funding accurate educational programs on the Holocaust is a step toward winning this battle.

In the words of Samantha Power, a renowned expert on genocide, ''the sharpest challenge to the world of bystanders is posed by those who have refused to remain silent in the age of genocide.''

So today, the United States of America stands with Israel and all followers of the Jewish faith in commemorating Yom Hashoah, and condemning all anti-Semitism and hatred. And I am proud to join in the stand against anti-Semitism here and around the world.

I urge my colleagues to support this legislation.

By Mr. LEVIN (for himself, Ms. COLLINS, and Mr. REED):

S.J. Res. 34. A joint resolution expressing United States policy on Iraq; to the Committee on Foreign Relations.

Mr. LEVIN. Mr. President, I ask unanimous consent that the text of the

joint resolution be printed in the RECORD.

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

S.J. RES. 34

Whereas there has been a strong consensus among the senior United States military commanders that a broad-based political settlement involving the three main Iraqi groups is essential for defeating the insurgency;

Whereas the two parts of that political settlement are (1) agreement on a national unity government that serves the interests of all Iraqis, and (2) compromises to amend the Iraq Constitution to make it an inclusive document;

Whereas such a two-part political settlement is also essential to prevent all-out civil war and is a critical element of our exit strategy for United States military forces in Iraq;

Whereas the Iraqi Council of Representatives' approval on April 22, 2006, of the Presidency Council consisting of Jalal Talabani as President and two Vice Presidents, and the election of a Speaker and two Deputy Speakers is a significant step, as is the decision by the Iraqi political leadership to select Jawad al-Maliki as the Prime Minister designate;

Whereas the Council of Representatives still needs to consider the nomination of Jawad al-Maliki and his still-to-be-chosen Cabinet, including an Interior Minister and a Defense Minister, and still needs to form a committee to recommend changes to the Iraq Constitution;

Whereas under the Iraq Constitution, Prime Minister designate Jawad al-Maliki has 30 days from April 22, 2006, to choose and present a Cabinet to the Council of Representatives for its approval;

Whereas under the Iraq Constitution, the Council of Representatives, at the start of its functioning, is required to appoint a committee from its members which will have four months to present recommendations to the Council for necessary amendments to the Iraq Constitution;

Whereas while the three main Iraqi groups have differing views about the duration of the presence in Iraq of the United States-led Coalition forces, none of them favor the immediate withdrawal of United States military forces from Iraq;

Whereas section 1227 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109—163; 119 Stat. 3465; 50 U.S.C. 1541 note) provides in part that ''[t]he Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the timetable they set for themselves'';

Whereas the United States Ambassador to Iraq, Zalmay Khalilzad, has done an exceptional job in working with Iraqi political, religious, and tribal leaders in an effort to achieve consensus on the prompt formation of a national unity government; and

Whereas the American public has become increasingly and understandably impatient with the failure of the Iraqis to form a national unity government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that the Iraqi political, religious, and tribal leaders should be told by the Administration that—

(1) the continued presence of United States military forces in Iraq is not unconditional;

(2) whether the Iraqis avoid all-out civil war and have a future as a nation is in their hands;

(3) the Iraqis need to seize that opportunity and only they can be responsible for their own future; and

(4) completing the formation of a government of national unity and subsequent agreement to modifications to the Iraq Constitution to make it more inclusive, within the deadlines the Iraqis have set for themselves in the Iraq Constitution, is—

(A) essential to defeating the insurgency and avoiding all-out civil war; and

(B) a condition of the continued presence of United States military forces in Iraq.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 441—EXPRESSING THE SUPPORT OF THE SENATE FOR THE RECONVENING OF THE PARLIAMENT OF NEPAL AND FOR AN IMMEDIATE PEACEFUL TRANSITION TO DEMOCRACY

Mr. LUGAR (for himself, Mr. BIDEN, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 441

Whereas, in 1990, Nepal adopted a constitution that enshrined multi-party democracy under a constitutional monarchy, ending 3 decades of absolute monarchical rule;

Whereas, since 1996, Maoist insurgents have waged a violent campaign to replace the constitutional monarchy with a communist republic, which has resulted in widespread human rights violations by both sides and the loss of an estimated 12,000 lives;

Whereas the Maoist insurgency grew out of the radicalization and fragmentation of left wing parties following Nepal's transition to democracy in 1990;

Whereas, on June 1, 2001, King Birendra, Queen Aishwarya and other members of the Royal family were murdered, leaving the throne to the slain King's brother, the current King Gyanendra;

Whereas, in May 2002, in the face of increasing Maoist violence, Prime Minister Sher Bahadur Deuba dissolved the Parliament of Nepal;

Whereas, in October 2002, King Gyanendra dismissed Prime Minister Deuba;

Whereas, in June 2004, after the unsuccessful tenures of 2 additional palace-appointed prime ministers, King Gyanendra reappointed Prime Minister Deuba and mandated that he hold general elections by April 2005;

Whereas, on February 1, 2005, King Gyanendra accused Nepali political leaders of failing to solve the Maoist problem, seized absolute control of Nepal by dismissing and detaining Prime Minister Deuba and declaring a state of emergency, temporarily shut down Nepal's communications, detained hundreds of politicians and political workers, and limited press and other constitutional freedoms;

Whereas, in November 2005, the mainstream political parties formed a seven-party alliance with the Maoists and agreed to a 12 point agenda that called for a restructuring of the government of Nepal to include an end to absolute monarchical rule and the formation of an interim all-party government with a view to holding elections for a constituent assembly to rewrite the Constitution of Nepal;

Whereas, since February 2005, King Gyanendra has promulgated dozens of ordinances without parliamentary process that violate basic freedoms of expression and association, including the Election Code of Conduct that seeks to limit media freedom in covering elections and the Code of Conduct for Social Organizations that bars staff of nongovernmental organizations from having political affiliations;

Whereas King Gyanendra ordered the arrest of hundreds of political workers in January 2006 before holding municipal elections on February 8, 2006, which the Department of State characterized as ''a hollow attempt by the King to legitimize his power'';

Whereas the people of Nepal have been peacefully protesting since April 6, 2006, in an attempt to restore the democratic political process;

Whereas on April 10, 2006, the Department of State declared that King Gyanendra's February 2005 decision ''to impose direct palace rule in Nepal has failed in every regard'' and called on the King to restore democracy immediately and to begin a dialogue with Nepal's political parties;

Whereas King Gyanendra ordered a crackdown on the protests, which has left at least 14 Nepali citizens dead and hundreds injured by the security forces of Nepal;

Whereas the people of Nepal are suffering hardship due to food shortages and lack of sufficient medical care because of the prevailing political crisis;

Whereas King Gyanendra announced on April 21, 2006, that the executive power of Nepal shall be returned to the people and called on the seven-party alliance to name a new prime minister to govern the country in accordance with the 1990 Constitution of Nepal;

Whereas the seven-party alliance subsequently rejected King Gyanendra's April 21, 2006 statement and called on him to reinstate parliament and allow for the establishment of a constituent assembly to draw up a new constitution;

Whereas on April 24, 2006, King Gyanendra announced that he would reinstate the Parliament of Nepal on April 28, 2006, and apologized for the deaths and injuries that occurred during the recent demonstrations, but did not address the issue of constitutional revision;

Whereas political party leaders have welcomed King Gyanendra's April 24th announcement and stated that the first action of the reconvened parliament will be the scheduling of elections for a constituent assembly to redraft the Constitution of Nepal.

Now, therefore, be it

Resolved, That the Senate—

(1) expresses its support for the reconvening of the Parliament of Nepal and for an immediate, peaceful transition to democracy;

(2) commends the desire of the people of Nepal for a democratic system of government and expresses its support for their right to protest peacefully in pursuit of this goal;

(3) acknowledges the April 24, 2006 statement by King Gyanendra regarding his intent to reinstate the Parliament of Nepal;

(4) urges the Palace, the political parties, and the Maoists to immediately support a process that returns the country to multi-party democracy and creates the conditions for peace and stability in Nepal;

(5) declares that the transition to democracy in Nepal must be peaceful and that violence conducted by any party is unacceptable and risks sending Nepal into a state of anarchy;

(6) calls on security forces of Nepal to exercise maximum restraint and to uphold the highest standards of conduct in their response to the protests;