capital gains distributions from regulated investment companies.

S. 2491

At the request of Mr. CORNYN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2563

At the request of Mr. COCHRAN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor 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. 2659

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2659, a bill to amend title 38, United States Code, to provide for the eligibility of Indian tribal organizations for grants for the establishment of veterans cemeteries on trust lands.

S. 3651

At the request of Mr. DURBIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3651, a bill to reduce child marriage, and for other purposes.

S. 3681

At the request of Mr. DOMENICI, the names of the Senator from Oklahoma (Mr. COBURN) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

S. 3707

At the request of Mr. LOTT, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

S. 3742

At the request of Mr. LOTT, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3742, a bill to amend the Internal Revenue Code of 1986 to provide incentives to encourage investment in the expansion of freight rail infrastructure capacity and to enhance modal tax equity.

S. 3744

At the request of Mr. DURBIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

S. 3795

At the request of Mr. ROCKEFELLER, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

S. 3800

At the request of Mr. HAGEL, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3800, a bill to amend the Foreign Assistance Act of 1961 to require recipients of United States foreign assistance to certify that the assistance will not be used to intentionally traffic in goods or services that contain counterfeit marks or for other purposes that promote the improper use of intellectual property, and for other purposes.

S. 3812

At the request of Mr. ISAKSON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 3812, a bill to require the Food and Drug Administration to conduct consumer testing to determine the appropriateness of the current labeling requirements for indoor tanning devices and determine whether such requirements provide sufficient information to consumers regarding the risks that the use of such devices pose for the development of irreversible damage to the skin, including skin cancer, and for other purposes.

S. 3855

At the request of Mr. CONRAD, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3855, a bill to provide emergency agricultural disaster assistance, and for other purposes.

S. 3887

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3887, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. 3912

At the request of Mr. ENSIGN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 3912, a bill to amend title XVIII of the Social Security Act to extend the exceptions process with respect to caps on payments for therapy services under the Medicare program.

S. 3913

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Wisconsin (Mr. KOHL), the Senator from South Dakota (Mr. JOHNSON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

S. 3934

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3934, a bill to terminate authorization for the project for navigation, Rockport Harbor, Maine.

S. 3936

At the request of Mr. FRIST, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Indiana (Mr. LUGAR) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 3936, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

S. 3943

At the request of Mrs. BOXER, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), the Senator from New York (Mrs. CLINTON) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 3943, a bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and using contingency paper ballots in the November 7, 2006, Federal general election.

S. RES. 585

At the request of Mr. VITTER, his name was added as a cosponsor of S. Res. 585, a resolution commending the New Orleans Saints of the National Football League for winning their Monday Night Football game on Monday, September 25, 2006 by a score of 23 to 3.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FRIST:

S. 3946. A bill to make an alien who is a member of a criminal gang removable from the United States and inadmissible to the United States, to permit the Secretary of Homeland Security to deny a visa to an alien who is a national of a country that has denied or delayed accepting an alien removed from the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3947. A bill to permit the Secretary of Homeland Security to grant citizenship to an alien who serves on active duty in the Armed Forces, to assist such an alien in applying for citizenship, and for other purposes; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3948. A bill to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or, with reckless disregard, permitting the construction or use on one's land, of a tunnel or subterranean passageway between the United States and another country; to the Committee on the Judiciary.

By Mr. FRIST:

S. 3949. A bill to study the geographic areas in Mexico from which illegal immigrants are entering the United

States and to develop plans to address the social, political, and economic conditions that are contributing to such illegal immigration; to the Committee on Foreign Relations.

Mr. FRIST. Mr. President, like all of my colleagues in this body, I recognize that our immigration system needs vast improvements. While we have spent a great deal of time discussing immigration over the past year, it appears unlikely that this body will pass comprehensive reform before we break for the recess. This week we have been discussing an important bill that would begin the process completely securing our southern border. I support that bill wholeheartedly and I would also hope to make other improvements to our immigration laws we can make before we end this session.

Today, therefore, I'm proposing four separate bills intended to strengthen our immigration system.

One will help military men and women become citizens more quickly, another will make it easier to remove gang members from our country, another will impose tough penalties on people who tunnel beneath our borders, and the fourth will begin an effort to stop illegal immigration at its source.

I'd like to discuss all four bills briefly . . . they have different purposes and will all complement each other in efforts to improve our immigration system.

I am introducing the Community Protection Against International Gangs Act. Street gangs remain the bane of our society. Their members sell narcotics, steal, and commit horrific acts of violence. Many of these gangs—groups like Mara Salvatrucha, better known as MS–13—draw their membership from immigrants to the United States. While the overwhelming majority of immigrants in the United States obey the law, those who join these gangs wreak havoc on immigrant communities all over the country.

To protect our Nation, we need to stop them . . . now.

Thus, I'm proposing the CPAIGA Act. This law will make our policy clear: immigrants who join gangs are no longer welcome in our country. Under my bill, anyone who joins a gang or helps one faces immediate deportation proceedings. In addition, my bill will let the Secretary of State and the Secretary of Homeland Security deny visas to the nationals of any country that refuses to take back its own criminals.

I am also introducing the Enhanced Border Tunnel Prevention Act. To enhance our crackdown on sophisticated criminal conspiracies, we should also impose tough new penalties on those who construct tunnels under our border. People who build tunnels, or allow them to be built on land that they own or control, should face serious time in prison. Smugglers who use them should have their penalties doubled. We can't allow our borders to become a sieve.

In addition, I am introducing the Soldiers to Citizens Act. Just as we make it clear that criminals have no place in the United States, we should simultaneously do everything we can to welcome the finest people from around the world. Every year, over 8,000 people who are not U.S. citizens enlist in our armed forces.

They serve with valor and distinction . . . they defend our liberty. If they wish to become citizens, they should not face unnecessary burdens.

Under my legislation, anyone who gives our military 2 years of honorable and satisfactory service can acquire citizenship under an expedited process. Service in the military strongly implies that a person has acquired the things we expect from new citizens: a command of English, good moral character, understanding of our history and appreciation for our democratic institutions. Thus, soldiers, sailors, airmen, and marines whose chains of command certify that they've met these requirements should be able to acquire citizenship by filling out some simple paperwork and swearing the citizenship oath.

I believe that the Senate should do everything it can to speed the citizenship process for others in the military who do not want to avail themselves of this process. In particular, we must do away with the burdensome, duplicative process that requires military enlistees to give fingerprints once when they join the military and again when they apply for citizenship. At the same time, we should establish a high-quality, toll-free information center to provide timely, accurate information to any servicemember interested in becoming a citizen.

Finally, I am introducing the Illegal Immigration Source Study and Focus Act. Finally, I believe we need to do more to deal with the underlying causes of much illegal immigration: social, economic, and political conditions in Mexico that lead many to believe they have no choice but as to leave their homeland. Illegal immigration hurts both the United States and Mexico. Our governments must work together so we can understand what areas produce the most illegal immigrants and what we might do to help immigrants.

My bill would begin a process of collaboration. It will mandate regular reports on the areas that produce the most illegal immigrants and, just as importantly, focus our own aid to Mexico on improving the conditions that produce illegal immigration in the first place.

Steps like those I have proposed will not change our immigration system overnight. They will not end illegal immigration.

But they will make our cities safer, stem the flow of illegal immigration, and help those who serve in our armed forces. These are worthy measures and I urge all of my colleagues to support them.

I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 3946

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 ''Community Protection Against International Gangs Act''.

SEC. 2. INADMISSIBILITY AND REMOVAL OF ALIEN GANG MEMBERS.

(a) INADMISSIBILITY.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

''(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of such a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal street gang,

is inadmissible.''.

(b) REMOVAL.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of such a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal street gang,

is deportable.''.

SEC. 3. PENALTY FOR FAILURE TO ACCEPT AN ALIEN REMOVED FROM THE UNITED STATES.

Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

S. 3947

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 ''Soldiers to Citizens Act''.

SEC. 2. CITIZENSHIP FOR MEMBERS OF THE ARMED FORCES.

Section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) is amended—

(1) in subsection (b), by striking ''subsection (a)'' and inserting ''subsection (a) or (d)''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of law, except for provisions relating to revocation of citizenship under subsection (c), an individual who is not a citizen of the United States shall not be denied the opportunity to apply for membership in the United States Armed Forces. Such an individual who becomes an active duty member of the United States Armed Forces shall, consistent with this section and with the approval of the individual's chain of command, be granted United States citizenship after performing at least 2 years of honorable and satisfactory service on active duty. Not later than 90 days after such requirements are met with respect to an individual, such individual shall be granted United States citizenship.

''(e) An alien described in subsection (d) shall be naturalized without regard to the requirements of this title or any other requirements, processes, or procedures of the Secretary of Homeland Security, if the alien—

''(1) files an application for naturalization in accordance with such procedures to carry out this section as may be established by regulation by the Secretary of Homeland Security or the Secretary of Defense;

''(2) demonstrates to the alien's military chain of command proficiency in the English language, good moral character, and knowledge of the Federal Government and United States history, consistent with the requirements contained in this Act; and

''(3) takes the oath required under section 337 of this Act and participates in an oath administration ceremony in accordance with this Act.''.

SEC. 3. WAIVER OF REQUIREMENT FOR FINGERPRINTS FOR MEMBERS OF THE ARMED FORCES.

Notwithstanding any other provision of law or any regulation, the Secretary of Homeland Security shall use the fingerprints provided by an individual at the time the individual enlists in the Armed Forces to satisfy any requirement for fingerprints as part of an application for naturalization if the individual—

(1) may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440);

(2) was fingerprinted in accordance with the requirements of the Department of Defense at the time the individual enlisted in the Armed Forces; and

(3) submits an application for naturalization not later than 12 months after the date the individual enlisted in the Armed Forces.

SEC. 4. PROVISION OF INFORMATION ON NATURALIZATION TO MEMBERS OF THE ARMED FORCES.

The Secretary of Homeland Security shall—

(1) establish a dedicated toll-free telephone service available only to members of the Armed Forces and the families of such members to provide information related to naturalization pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 and 1440), including the status of an application for such naturalization;

(2) ensure that the telephone service required by paragraph (1) is operated by employees of the Department of Homeland Security who—

(A) have received specialized training on the naturalization process for members of the Armed Forces and the families of such members; and

(B) are physically located in the same unit as the military processing unit that adjudicates applications for naturalization pursuant to such section 328 or 329; and

(3) implement a quality control program to monitor, on a regular basis, the accuracy and quality of information provided by the employees who operate the telephone service required by paragraph (1), including the breadth of the knowledge related to the naturalization process of such employees.

S.3948

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 ''Enhanced Border Tunnel Prevention Act''.

SEC. 2. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''§ 554. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be imprisoned for not more than 25 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be imprisoned for not more than 15 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

SEC. 3. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 2.

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

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

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

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

S. 3949

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 ''Illegal Immigration Source Study and Focus Act''.

SEC. 2. STUDIES AND REPORTS ON ILLEGAL IMMIGRATION FROM MEXICO.

(a) STUDIES.—Not later than 1 year after the date of the enactment of this Act, and once every 5 years thereafter, the Secretary of State, in cooperation with the Secretary of Homeland Security, shall conduct a study—

(1) to identify the geographic areas in Mexico from which—

(A) large numbers of residents are leaving to enter the United States in violation of Federal immigration law; and

(B) large percentages of the population of such areas are leaving to enter the United States in violation of Federal immigration law; and

(2) to analyze the social, political, and economic conditions in the geographic areas identified under paragraph (1) that contribute to illegal immigration into the United States.

(b) REPORTS.—Not later than 16 months after the date of the enactment of this Act, and every 5 years thereafter, the Secretary of State shall submit to Congress a report that—

(1) describes the results of the study conducted under subsection (a); and

(2) provides recommendations on how the Government of the United States can improve the conditions described in subsection (a)(2).

SEC. 3. IMMIGRATION IMPACT FOCUS AREAS.

(a) DESIGNATION.—Based on the results of each study conducted under section 2(a) and subject to subsection (b), the Administrator of the United States Agency for International Development, in consultation with the Secretary of State, the Secretary of Homeland Security, and appropriate officials of the Government of Mexico, shall designate not more than 4 geographic areas within Mexico as Immigration Impact Focus Areas.

(b) POPULATION LIMITS.—An area may not be designated as an Immigration Impact Focus Area under subsection (a) unless the population of such area is—

(1) not less than 0.5 percent of the total population of Mexico; and

(2) not more than 5.0 percent of the total population of Mexico.

(c) DEVELOPMENT ASSISTANCE PLAN.—The Administrator of the United States Agency for International Development, in consultation with the Secretary of State, shall develop a plan to concentrate, to the extent practicable, economic development and humanitarian assistance provided to Mexico in the Immigration Impact Focus Areas designated under subsection (a).

Ms. SNOWE (for herself and Mr. KERRY):

S. 3950. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for qualified equity investments in certain small businesses; to the Committee on Finance.

Ms. SNOWE. Mr. President, to help start-up small businesses obtain access to capital, today I rise with my colleague Senator KERRY to introduce the Access to Capital for Entrepreneurs Act of 2006 or ACE Act. Our bill would encourage equity investments in qualified small businesses by providing so-called ''angel investors'' with a tax incentive to fund new small business enterprises. Angel investors are high-net-worth individuals who invest in and support start-up companies in the critical early stages of growth.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I meet with prospective entrepreneurs in Maine and across the country and repeatedly hear about their dreams of starting dynamic new businesses. Unfortunately, their hopes can sometimes be dashed when these entrepreneurs encounter barriers to raising the funds they need to get their ''start-up'' enterprises off the ground.

For entrepreneurs and other aspiring small business owners, a self-evident truth since the founding of our country is that it takes money to make money. Our legislation makes that goal a little easier for aspiring small business owners by ensuring that our entrepreneurs have access to venture capital and credit markets so they can continue to drive America's economic growth and job creation. Since small businesses represent 99 percent of all employers and create nearly 75 percent of all net new jobs, Congress must do everything within its power to help them grow and thrive.

Under the Access to Capital for Entrepreneurs Act of 2006, angel investors would be eligible for a 25 percent tax credit to offset up to $500,000 of investments per year. Because the legislation limits the investment per small business to $250,000, which is the amount a typical entrepreneur requires to begin operations, an investor would have to invest in at least two companies to receive the full $500,000 tax credit. To qualify for the tax incentive, the angel investor must have an income of $200,000 over a two-year period, or net worth of $1 million. It's patterned after successful tax credits that have been enacted in 21 states, including Maine.

Recent research shows that venture capitalists are now targeting their investments for larger businesses or for later in a business's development, leaving precious little seed money for new ventures. Today, venture capitalists invest an average of $7 million per deal, an amount that far exceeds the needs of a nascent small business. Moreover, in 2005, of the $21.7 billion invested by venture capitalists, just 3.3 percent was allocated to start-up small businesses.

There were 227,000 angel investors who were active in 2005. Yet there are hundreds of thousands more waiting to be created. IRS statistics show that the ratio of potential to active angel investors is between 7 to 1 and 10 to 1. There is an enormous untapped market of future investors who we can call to help finance emerging small businesses in virtually every sector of the economy.

Our bill would remedy this situation by encouraging more angel investors to fund more of our Nation's smallest businesses. These businesses are critical to the economy, as they generate 60 percent to 80 percent of net new jobs and contribute more than 50 percent of non-farm private-sector output.

In addition, if the provisions of the ACE Act are signed into law, many small businesses that would otherwise fail for lack of adequate resources could grow and expand, creating more jobs for Americans, and further bolstering our Nation's economy. With no incentive, angel investments helped create 198,000 jobs in the United States during 2005. Imagine how many more jobs we could create if we enact the tax credit we are proposing today.

I am committed to supporting our Nation's small business community by increasing its access to capital. The entrepreneurial spirit of our 25 million small businesses dates back to our Nation's founding. From family farms to software development, small businesses are the heart of our economy and the linchpin for the innovation that moves our country forward. Americans who assume the risks and responsibilities inherent in owning and operating a business deserve our praise, admiration and unwavering support.

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. 3950

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 ''Access to Capital for Entrepreneurs Act of 2006''.

SEC. 2. EQUITY INVESTMENT IN SMALL BUSINESS TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45N. EQUITY INVESTMENT IN SMALL BUSINESS TAX CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, in the case of a qualified investor, the equity investment in small business tax credit determined under this section for the taxable year is an amount equal to 25 percent of the amount of each qualified equity investment made by the qualified investor during the taxable year.

''(b) CREDIT AMOUNT.—For purposes of determining the small business tax credit under subsection (a)—

''(1) LIMITATION PER QUALIFIED INVESTOR.—The amount of qualified equity investments made by the qualified investor during the taxable year shall not exceed $500,000.

''(2) LIMITATION PER QUALIFIED SMALL BUSINESS.—The amount of qualified equity investments made by the qualified investor in a qualified small business during the taxable year shall not exceed $250,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED INVESTOR.—The term 'qualified investor' means—

''(A) an individual who qualifies as an accredited investor under rules and regulations prescribed by the Commissioner of the Securities and Exchange Commission, or

''(B) a partnership with respect to which all of the partners are individuals who qualify as accredited investors under rules and regulations prescribed by the Commissioner of the Securities and Exchange Commission.

''(2) QUALIFIED EQUITY INVESTMENT.—The term 'qualified equity investment' means the transfer of cash or cash equivalents in exchange for stock or capital interest in a qualified small business.

''(3) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' means a private small business concern (within the meaning of section 3 of the Small Business Act)—

''(A) that meets the applicable size standard (as in effect on January 1, 2005) established by the Administrator of the Small Business Administration pursuant to subsection (a)(2) of such section, and

''(B) has its principal place of business in the United States.

For purposes of this section, all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 qualified small business.

''(d) ACTIVE BUSINESS REQUIREMENT.—

''(1) IN GENERAL.—Holding stock in a qualified small business shall not be treated as a qualified equity investment unless, during substantially all of the qualified investor's holding period for such stock, such qualified small business meets the active business requirements of paragraph (2).

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the requirements of this paragraph are met by a qualified small business for any period if during such period at least 80 percent (by value) of the assets of such qualified small business are used by such qualified small business in the active conduct of 1 or more qualified trades or businesses.

''(B) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of subparagraph (A), if, in connection with any future qualified trade or business, a qualified small business is engaged in—

''(i) start-up activities described in section 195(c)(1)(A),

''(ii) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

''(iii) activities with respect to in-house research expenses described in section 41(b)(4), assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this subparagraph shall be made without regard to whether a qualified small business has any gross income from such activities at the time of the determination.

''(C) QUALIFIED TRADE OR BUSINESS.—For purposes of this paragraph, the term 'qualified trade or business' is as defined in section 1202(e)(3).

''(D) STOCK IN OTHER ENTITIES.—

''(i) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary entity shall be disregarded and the parent qualified small business shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

''(ii) PORTFOLIO STOCK OR SECURITIES.—A qualified small business shall be treated as failing to meet the requirements of subparagraph (A) for any period during which more than 10 percent of the value of its assets (in

excess of liabilities) consists of stock or securities in other entities which are not subsidiaries of such qualified small business other than assets described in subparagraph (E)).

''(iii) SUBSIDIARY.—For purposes of this subparagraph, an entity shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such entity.

''(E) WORKING CAPITAL.—For purposes of subparagraph (A), any assets which—

''(i) are held as a part of the reasonably required working capital needs of a qualified trade or business of the qualified small business, or

''(ii) are held for investment and are reasonably expected to be used within 2 years to finance research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the qualified small business has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the qualified small business qualify as used in the active conduct of a qualified trade or business by reason of this subparagraph.

''(F) MAXIMUM REAL ESTATE HOLDINGS.—A qualified small business shall not be treated as meeting the requirements of subparagraph (A) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

''(G) COMPUTER SOFTWARE ROYALTIES.—For purposes of subparagraph (A), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

''(e) CERTAIN PURCHASES BY QUALIFIED INVESTOR OF ITS OWN STOCK.—

''(1) REDEMPTIONS FROM QUALIFIED INVESTOR OR RELATED PERSON.—Stock acquired by the qualified investor shall not be treated as a qualified equity investment if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the qualified small business issuing such stock purchased (directly or indirectly) any of its stock from the qualified investor or from a person related (within the meaning of section 267(b) or 707(b)) to the qualified investor.

''(2) SIGNIFICANT REDEMPTIONS.—Stock issued by a qualified small business to a qualified investor shall not be treated as a qualified equity investment if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such qualified small business made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

''(3) TREATMENT OF CERTAIN TRANSACTIONS.—If any transaction is treated under section 304(a) as a distribution in redemption of the stock of any qualified small business, for purposes of subparagraphs (A) and (B), such qualified small business shall be treated as purchasing an amount of its stock equal to the amount treated as such a distribution under section 304(a).

''(f) SPECIAL RULE FOR RELATED PARTIES.—

''(1) IN GENERAL.—No credit shall be allowed under subsection (a) with respect to a qualified equity investment made by a qualified investor in a qualified small business that is a related party to the qualified investor.

''(2) RELATED PARTY.—For purposes of paragraph (1), a person is a related party with respect to another person if such person bears a relationship to such other person described in section 267(b) or 707(b), or if such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

''(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

''(1) IN GENERAL.—If, at any time during the 3-year period beginning on the date that the qualified equity investment is made by the qualified investor, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

''(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to a qualified equity investment if such investment is sold, transferred, or exchanged by the qualified investor, but only to the extent that such sale, transfer, or exchange is not the direct result of a complete or partial liquidation of the qualified small business in which such qualified equity investment is made.

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment.

''(i) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(2) CERTIFICATION OF QUALIFIED EQUITY INVESTMENT.—Such regulations shall require that a qualified investor—

''(A) certify that the small business in which the equity investment is made meets the requirements described in subsection (c)(3), and

''(B) include the name, address, and taxpayer identification number of such small business on the return claiming the credit under subsection (a).

''(j) TERMINATION.—This section shall not apply to qualified equity investments made in taxable years beginning after December 31, 2011.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) in the case of a taxpayer, the equity investment in small business tax credit determined under section 45N(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45N. Equity investment in small business tax credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified equity investments made after December 31, 2006, in taxable years beginning after such date.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 3952. A bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar savings by the self-employed, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with my colleagues, Senator SMITH and Senator KERRY, to introduce this important legislation that will ensure that more working Americans have a retirement account. This legislation is the result of the collaborative work done by David John of the Heritage Foundation and Mark Iwry of the Retirement Security Project to provide a simple, cost-effective way to increase retirement security for our Nation's workers who currently do not have a retirement plan. The Automatic IRA Act of 2006 will require employers who do not currently sponsor a retirement plan to offer their workers the opportunity to have part of their paycheck to be sent directly to an IRA. This will not only help millions of Americans begin saving for their retirement but will also provide subtle encouragement to employers to sponsor a qualified retirement account such as a SIMPLE or a 401(k).

In 2004, it was estimated that as many as 71 million Americans work for an employer who does not offer them any kind of retirement plan—almost half of all of our country's workers. Without an employer-sponsored retirement plan, many of these workers will not be saving adequately for their retirement. The first steps to addressing this growing inequity are to ensure that all workers have easy access to a retirement account and the ability to have part of their wages go directly from their paycheck into this account. Both of these features have been proven to encourage retirement savings and are imperative if we are going to address our national retirement savings rate.

Under this legislation, all employers with more than 10 employees who do

not sponsor a qualified retirement or pension plan must offer its employees the ability to have wages remitted directly to an automatic IRA through payroll deduction. These employers will not be required to make any contributions to these accounts and will receive a tax credit to offset the administrative costs of remitting part of the employee's wages to the IRA. It is entirely up to the employer as to what IRA options the employees would have. For instance, the employer could decide to remit the funds to the IRA of the employee's choice or the employer could decide to remit the money to the financial institution of his or her choice. The employer will also have a new option—the ability to remit the money to a new, simplified type of IRA, the automatic IRA. A board, similar to the Federal Government's existing Thrift Savings Plan Board, would create standards for these new accounts that must be followed by participating financial service companies. This board will also be responsible for educating the public about the importance of having a qualified retirement account as part of their duties.

Mr. President, it is going to take a bipartisan approach to address our Nation's retirement savings problems. I again want to applaud the efforts made by Mr. John of the Heritage Foundation and Mr. Iwry from the Retirement Security Project in advancing this proposal. It is now up to all of us in this Chamber to follow their example and pass this legislation.

I ask unanimous consent that the material be printed in the RECORD.

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

THE RETIREMENT SECURITY PROJECT

PURSUING UNIVERSAL RETIREMENT SECURITY THROUGH AUTOMATIC IRAS

(Testimony before the Subcommittee on Long-Term Growth and Debt Reduction, Committee on Finance, United States Senate, June 29, 2006)

Chairman Smith, Ranking Member Kerry, and Senator Grassley, we appreciate the opportunity to testify before you. We are submitting our testimony as a single joint statement because we believe strongly in the need for a common strategy to expand retirement savings, and in the importance of approaching these issues in a manner that transcends ideological and partisan differences.

At the request of Committee staff, this written statement focuses on our proposal to expand retirement savings for small business workers—the automatic IRA. We are pleased by the positive reaction the proposal has received and are grateful to our colleagues, including those in government and in various stakeholder organizations, who have contributed to these ideas.

With the looming retirement security crisis facing our country, policy-makers from both parties are focused on ways to strengthen pensions and increase savings. Our proposal for automatic IRAs would provide a relatively simple, cost-effective way to increase retirement security for the estimated 71 million workers whose employers (usually smaller businesses) do not sponsor plans. It would enable these employees to save for retirement by allowing them to have their employers regularly transfer amounts from their paycheck to an IRA.

We are by no means suggesting that the automatic IRA proposal is the only step that should be taken to expand retirement savings for small business workers. In fact, we have long believed in the primacy of employer-sponsored retirement plans as vehicles for pension coverage. Additionally, we continue to advocate strongly for the expansion of pension coverage through automatic features in 401(k) and similar retirement savings plans.

The automatic 401(k) approach makes intelligent use of defaults—the outcomes that occur when individuals are unable or unwilling to make an affirmative choice or otherwise fail to act—to enlist the power of inertia to promote saving. Automating enrollment, escalation of contributions, investment, and rollovers expands coverage in several ways. Enrolling employees in a plan unless they opt out increases significantly the number of eligible employees who participate in the plan. Escalating the amount of the default contribution tends to increase the amount people save over time. Providing for a default investment (which participants can reject in favor of other alternatives) reflecting consensus investment principles such as diversification and asset allocation tends to raise the expected investment return on contributions. Finally, making retention or rollover of benefits rather than consumption the default when an employee leaves a job furthers the long-term preservation of retirement savings for their intended purposes. By helping improve performance under the nondiscrimination standards and generally making plans more effective in providing retirement benefits, the automatic 401(k) can also encourage more employers to sponsor or continue sponsoring plans.

The automatic IRA builds on the success of the automatic 401(k). Moreover, as explained below, we would intend and expect the introduction of automatic IRAs to expand the number of employers that choose to sponsor 401(k) or SIMPLE plans instead of offering only automatic IRAs. But for millions of workers who continue to have no employer plan, the automatic IRA would provide a valuable retirement savings opportunity.

The automatic IRA proposal is set out in the remainder of this written statement.

EXECUTIVE SUMMARY OF PROPOSAL

This testimony proposes an ambitious but practical set of initiatives to expand dramatically retirement savings in the United States—especially to those not currently offered an employer-provided retirement plan. The essential strategy here, as in the case of the automatic 401(k) described above, is to make saving more automatic—and hence easier, more convenient, and more likely to occur. As noted, making saving easier by making it automatic has been shown to be remarkably effective at boosting participation in 401(k) plans, but roughly half of U.S. workers are not offered a 401(k) or any other type of employer-sponsored plan. Among the 153 million working Americans in 2004, over 71 million worked for an employer that did not sponsor a retirement plan of any kind, and another 17 million did not participate in their employer's plan. This testimony explores a new and, we believe, promising approach to expanding the benefits of automatic saving to a wider array of the population: the ''automatic IRA.''

The automatic IRA would feature direct payroll deposits to a low-cost, diversified individual retirement account. Most American employees not covered by an employer-sponsored retirement plan would be offered the opportunity to save through the powerful mechanism of regular payroll deposits that continue automatically (an opportunity now limited mostly to 401(k)-eligible workers).

Employers above a certain size (e.g., 10 employees) that have been in business for at least two years but that still do not sponsor any plan for their employees would be called upon to offer employees this payroll-deduction saving option. These employers would receive a temporary tax credit for simply serving as a conduit for saving, by making regular payroll deposit available to their employees. Employers would receive a small additional tax credit for each employee who participates. Other employers that do not sponsor a plan also would receive the tax credit if they offered payroll deduction saving.

Firms would be provided a standard notice to inform employees of the automatic IRA (payroll-deduction saving) option, and a standard form to elicit from each employee a decision either to participate or to opt out. For most employees, the payroll deductions would be made by direct deposit similar to the very common direct deposit of paychecks to employees' accounts at their financial institutions.

To maximize participation, employers would be provided a standard enrollment module reflecting current best practices in enrollment procedures. The use of automatic enrollment (whereby employees automatically participate at a statutorily specified rate of contribution unless they opt out) would be encouraged in two ways. First, the standard materials provided to employers would be framed so as to present auto enrollment as the presumptive enrollment method, although employer would be able to opt for the alternative of obtaining responses from all employees. Second, employers using auto enrollment to promote participation would not need to obtain responses from unresponsive employees. As discussed earlier, evidence from the 401(k) universe strongly suggests that high levels of participation tend to result not only from auto enrollment but also from the practice of eliciting from each eligible individual an explicit decision to participate or to opt out.

Employers making direct deposit or payroll deduction available would be protected from potential fiduciary liability and from having to choose or arrange default investments. Instead, diversified default investments and a handful of standard, low-cost investment alternatives would be specified by statute and regulation. Payroll deduction contributions would be transferred, at the employer's option, to a central repository, which would remit them to IRAs designated by employees or, absent employee designation, to a default collective retirement account.

Investment management as well as record keeping and other administrative functions would be contracted to private sector financial institutions to the fullest extent practicable. Costs would be minimized through a no-frills design relying on index funds, economies of scale, and maximum use of electronic technologies, and modeled to some degree on the Thrift Savings Plan for federal government employees. Once accounts reached a predetermined balance (e.g., $15,000) sufficient to make them sufficiently profitable to attract the interest of the full range of IRA providers, account owners would have the option to transfer them to IRAs of their choosing.

This approach involves no employer contributions, no employer compliance with qualified plan or ERISA requirements, and, as noted, no employer liability or responsibility for selecting investments, for selecting an IRA provider, or for opening IRAs for employees. It also steers clear of any adverse impact on employer-sponsored plans or on

the incentives designed to encourage firms to adopt new plans. In fact, the indirect intended effect of the proposal would be to draw small employers into the private pension system.

Our proposed approach would seek to capitalize on the rapid trend toward automated or electronic fund transfers. With the spread of new, low-cost technologies, employers are increasingly using automated or electronic systems to manage payroll, including withholding and federal tax deposits, and for other transfers of funds. Many employers use an outside payroll service provider, an online payroll service, or software to perform these functions, including direct deposit of paychecks to accounts designated by employees.

For firms already offering direct deposit, including many that use outside payroll providers, direct deposit to an IRA would entail no additional cost, insofar as these systems have unused fields that could be used for the additional direct deposit destination. Other small businesses still write paychecks by hand, complete the federal tax deposit forms and Forms W–2 by hand, and deliver them to employees and to the local depositary institution. Our proposal would not require these employers to make the transition to automatic payroll processing or use of on-line systems (although it might have the effect of encouraging such transitions).

At the same time, we would not be inclined to deny payroll deduction savings to all employees of employers that do not yet use automatic payroll processing (and we would not want to give small employers an incentive to drop automatic payroll processing). These employees would benefit from the ability to save through regular payroll deposits at the workplace whether the deposits are made electronically or by hand. Employees would still have the advantages of a method of saving that, once begun, continues automatically, that is more likely to begin because of workplace enrollment arrangements and peer group reinforcement, and that often will not reduce take-home pay. To that end, we outline below a strategy to address these situations efficiently and with minimal cost.

For the self-employed and others who have no employer, regular contributions to IRAs would be facilitated in three principal ways: (1) extending the payroll deposit option to many independent contractors who work for employers (other than the very smallest businesses); (2) enabling taxpayers to direct the IRS to make direct deposit of a portion of their income tax refunds; and (3) expanding access to automatic debit arrangements, including on-line and traditional means of access through professional and trade associations that could help arrange for automatic debit and direct deposit to IRAs. Automatic debit essentially replicates the power of payroll deduction insofar as it continues automatically once the individual has chosen to initiate it.

In addition, a powerful financial incentive to contribute might be provided by means of matching deposits to the IRAs. Private financial institutions that maintain the accounts could deliver matching contributions and be reimbursed through tax credits.

THE BASIC PROBLEM AND PROPOSED SOLUTION

In general, the households that tend to be in the best financial position to confront retirement are the 42 percent of the workforce that participate in an employer-sponsored retirement plan. For reasons we have discussed earlier, traditionally, the takeup rate for IRAs (those who contribute as a percentage of those who are eligible) is less than 1 in 10, but the takeup rate for employer-sponsored 401(k) plans tends to be on the order of 7 in 10.

Moreover, as discussed, an increasing share of 401(k) plans are including automatic features that make saving easier and bolster participation. When firms are not willing to sponsor 401(k)-type plans, the automatic IRA proposed here would apply many of the lessons learned from 401(k) plans so that more workers could enjoy automated saving to build assets—but without imposing any significant burden on employers. Employers that do not sponsor plans for their employees could facilitate saving by employees—without sponsoring a plan, without making employer matching contributions, and without complying with plan qualification or fiduciary standards. Employers can help employees save simply by offering to remit a portion of their pay to an IRA, preferably by direct deposit, at little or no cost to the employer.

Such direct deposit savings using IRAs would not and should not replace retirement plans, such as pension, profit sharing, 401(k), or SIMPLE–IRA plans. Indeed, the automatic IRA would be carefully designed so as to avoid any adverse effect on employer sponsorship of ''real'' plans, which must adhere to standards requiring reasonably broad or proportionate coverage of moderate and lower-income workers and various safeguards for employees, and which often involve employer contributions. Instead, payroll-deduction direct deposit savings, as envisioned here, would promote wealth accumulation for retirement by filling in the coverage gaps around employer-sponsored retirement plans. Moreover, as described below, the arrangements we propose are designed to set the stage for small employers to ''graduate'' from offering payroll deduction to sponsoring an actual retirement plan.

EMPLOYEE ACCESS TO PAYROLL DEPOSIT SAVING

The automatic IRA is a means of facilitating direct deposits to a retirement account, giving employees access to the power of direct deposit saving. In much the same way that millions of employees have their pay directly deposited to their account at a bank or other financial institution, and millions more elect to contribute to 401(k) plans by payroll deduction, employees would have the choice to instruct the employer to send an amount they select directly from their paychecks to an IRA. Employers generally would be required to offer their employees the opportunity to save through such direct deposit or payroll-deduction IRAs.

Direct deposit to IRAs is not new. In 1997, Congress encouraged employers not ready or willing to sponsor a retirement plan to at least offer their employees the opportunity to contribute to IRAs through payroll deduction. Both the IRS and the Department of Labor have issued administrative guidance to publicize the payroll deduction or direct deposit IRA option for employers and to ''facilitate the establishment of payroll deduction IRAs.'' This guidance has made clear that employers can offer direct deposit IRAs without the arrangement being treated as employer sponsorship of a retirement plan that is subject to ERISA or qualified plan requirements. However, it appears that few employers actually have direct deposit or payroll-deduction IRAs—at least in a way that actively encourages employees to take advantage of the arrangement. After some years of encouragement by the government, direct deposit IRAs have simply not caught on widely among employers and, consequently, offer little opportunity for employees to save.

With this experience in mind, we propose a new strategy designed to induce employers to offer, and employees to take up, direct deposit or payroll deposit saving.

Tax credit for employers that serve as conduit for employee contributions

Under our proposal, firms that do not provide employees a qualified retirement plan, such as a pension, profit-sharing, or 401(k) plan, would be given an incentive (a temporary tax credit) to offer those employees the opportunity to make their own payroll deduction contributions to IRAs using the employers' payroll systems as a conduit. The tax credit would be available to a firm for the first two years in which it offered payroll deposit saving to an IRA, in order to help the firm adjust to any modest administrative costs associated with the ''automatic IRA.'' This automatic IRA credit would be designed to avoid competing with the tax credit available under current law to small businesses that adopt a new employer-sponsored retirement plan.

SMALL BUSINESS NEW PLAN STARTUP CREDIT

Under current law, an employer with 100 or fewer employees that starts a new retirement plan for the first time can generally claim a tax credit for a portion of its startup costs. The credit equals 50 percent of the cost of establishing and administering the plan (including educating employees about the plan) up to $500 per year. The employer can claim the credit of up to $500 for each of the first three years of the plan.

Accordingly, the automatic IRA tax credit could be set, for example, at $50 plus $10 per employee enrolled. It would be capped at, say, $250 or $300 in the aggregate—low enough to make the credit meaningful only for very small businesses, and lower than the $500 three-year credit available under current law for establishing a new employer plan. Employers would be precluded from claiming both the new plan startup credit and the proposed automatic IRA credit; otherwise, somewhat larger employers might have a financial incentive to limit a new plan to fewer than all of their employees in order to earn an additional credit for providing payroll deposit saving to other employees. As in the case of the current new plan startup credit, employers also would be ineligible for the credit if they had sponsored a retirement plan during the preceding three years for substantially the same group of employees covered by the automatic IRA.

Example: Joe employs four people in his auto body shop, and currently does not sponsor a retirement plan for his employees. If Joe chooses to adopt a 401(k) or SIMPLE–IRA plan, he and each of his employees generally can contribute up to $15,000 (401(k)) or $10,000 (SIMPLE) a year, and the business might be required to make employer contributions. Under this scenario, Joe can claim the startup tax credit for 50 percent of his costs over three years up to $500 per year.

Alternatively, if Joe decides only to offer his employees payroll deposit to an IRA, the business will not make employer contributions, and Joe can claim a tax credit for each of the next two years of $50 plus $10 for each employee who signs up to contribute out of his own salary.

Employers with more than 10 employees that have been in business for at least two years and that still do not sponsor any plan for their employees would be called upon to offer employees this opportunity to save a portion of their own wages using payroll deposit. If the employer sponsored a plan designed to cover only a subset of its employees (such as a particular subsidiary, division or other business unit), it would have to offer the payroll deposit facility to the rest of its workforce (i.e., employees not in that business unit) other than employees excluded from consideration under the qualified plan coverage standards (union-represented employees or nonresident aliens)

and those in the permissible qualified plan eligibility waiting period. The arrangement would be structured so as to avoid, to the fullest extent possible, employer costs or responsibilities. The tax credit would be available both to those firms that are required to offer payroll deposit to all of their employees and to the small or new firms that are not required to offer the automatic IRA, but do so voluntarily. The intent would be to encourage, without requiring, the smallest employers to participate.

Acting as conduit entails little or no cost to employers

For many if not most employers, offering direct deposit or payroll deduction IRAs would involve little or no cost. Unlike a 401(k) or other employer-sponsored retirement plan, the employer would not be maintaining a plan. First, there would be no employer contributions: employer contributions to direct deposit IRAs would not be required or permitted. Employers willing to make retirement contributions for their employees would continue to do so in accordance with the safeguards and standards governing employer-sponsored retirement plans, such as SIMPLE–IRAs, 401(k)s, and traditional pensions. (The SIMPLE–IRA is essentially a payroll deposit IRA with an employee contribution limit that is in between the IRA and 401(k) limits and with employer contributions, but without the annual reports, plan documents, and most of the other administrative requirements applicable to other employer plans.)

Employer-sponsored retirement plans are the saving vehicles of choice and should be encouraged; the direct deposit IRA is a fallback designed to apply to employees who are not fortunate enough to be covered under an actual employer retirement plan. (As discussed below, it is also intended to encourage more employers to make the decision sooner or later to ''graduate'' to sponsorship of an employer plan.)

Direct deposit or payroll deduction IRAs also would minimize employer responsibilities. Firms would not be required to: comply with plan qualification or ERISA rules; establish or maintain a trust to hold assets (since IRAs would receive the contributions); determine whether employees are actually eligible to contribute to an IRA; select investments for employee contributions; select among IRA providers, or set up IRAs for employees.

Employers would be required simply to let employees elect to make a payroll-deduction deposit to an IRA (in the manner described below, with a standard notice informing employees of the automatic IRA (payroll-deposit saving) option, and a standard form eliciting the employee's decision to participate or to opt out. Employer then would implement deposits elected by employees. Employers would not be required to remit the direct deposits to the IRA provider(s) any faster than the timing of the federal payroll deposits they are required to make. (Those deposits generally are required to be made on a standard schedule, either monthly or twice a week.) Nor would employers be required to remit direct deposits to a variety of different IRAs specified by their employees (as explained below).

A requirement to offer payroll-deduction to an IRA would by no means be onerous. It would dovetail neatly with what employers already do. Employers of course are already required to withhold federal income tax and payroll tax from employees' pay and remit those amounts to the federal tax deposit system. While this withholding does not require the employer to administer an employee election of the sort associated with direct deposit to an IRA, the tax withholding amounts do vary from employee to employee and depend on the way each employee completes IRS Form W–4 (which employers ordinarily obtain from new hires to help the employer comply with income tax withholding). The employee's payroll deposit IRA election might be made on an attachment or addendum to the Form W–4. Because employees' salary reduction contributions to IRAs would ordinarily receive tax-favored treatment, the employer would report on Form W–2 the reduced amount of the employee's taxable wages together with the amount of the employee's contribution.

Direct deposit; automated fund transfers

Our proposed approach would seek to capitalize on the rapid trend toward automated or electronic fund transfers. With the spread of new, low-cost technologies, employers are increasingly using automated or electronic systems to manage payroll, including withholding and federal tax deposits, and for other transfers of funds. It is common for employers to retain an outside payroll service provider to perform these functions, including direct deposit of paychecks to accounts designated by employees or contractors. Other employers use an on-line payroll service that offers direct deposit and check printing (or that allows employers to write checks by hand). Still others do not outsource their payroll tax and related functions to a third-party payroll provider but do use readily available software or largely paperless on-line methods to make their federal tax deposits and perhaps other fund transfers, just as increasing numbers of households pay bills and manage other financial transactions on line. (The IRS encourages employers to use its free Electronic Federal Tax Payment System for making federal tax deposits.)

For the many firms that already offer their workers direct deposit, including many that use outside payroll providers, direct deposit to an IRA would entail no additional cost, even in the short term, insofar as the employer's system has unused fields that could be used for the additional direct deposit destination. Other small businesses still write their own paychecks by hand, complete the federal tax deposit forms and Forms W–2 by hand, and deliver them to employees and to the local bank or other depositary institution. Our proposal would not require these employers to make the transition to automatic payroll processing or use of on-line systems (although it might have the beneficial effect of encouraging such transitions).

At the same time, we would not be inclined to deny the benefits of payroll deduction savings to all employees of employers that do not yet use automatic payroll processing (and we would not want to give small employers an incentive to drop automatic payroll processing). These employees would benefit from the ability to save through regular payroll deposits at the workplace whether the deposits are made electronically or by hand. Employees would still have the advantages of tax-favored saving that, once begun, continues automatically, that is more likely to begin because of workplace enrollment arrangements and peer group reinforcement, and need not cause a visible reduction in take-home pay if begun promptly when employees are hired.

Accordingly, we would suggest a three-pronged strategy with respect to employers that do not use automatic payroll processing.

First, a large proportion of the employers that still process their payroll by hand would be exempted under the exception for very small employers described below. As a result, this proposal would focus chiefly on those employers that already offer their employees direct deposit of paychecks but have not used the same technology to provide employees a convenient retirement saving opportunity.

Second, employers would have the ease of ''piggybacking'' the payroll deposits to IRAs onto the federal tax deposits they currently make. The process, including timing and logistics, for both sets of deposits would be the same. Accompanying or appended to the existing federal tax deposit forms would be a similar payroll deposit savings form enabling the employer to send all payroll deposit savings to a single destination. The small employer who mails or delivers its federal tax deposit check and form to the local bank (or whose accountant or financial provider assists with this) would add another check and form to the same mailing or delivery.

Third, as noted, the existing convenient, low-cost on-line system for federal tax deposits would be expanded to accommodate a parallel stream of payroll deduction savings payments.

Since employers making payroll deduction savings available to their employees would not be required to make contributions or to comply with plan qualification or ERISA requirements with respect to these arrangements, the cost to employers would be minimal. They would administer and implement employee elections to participate or to opt out through their payroll systems. On occasion, employers might need to address mistakes or misunderstandings regarding employee payroll deductions and deposit directions. The time and attention required of the employer could generally be expected to be minimized through orderly communications, written or electronic, between employees and employers, facilitated by the use of standard forms that ''piggyback'' on the existing IRS forms such as the W–4 used by individuals to elect levels of income tax withholding.

Exemption for small and new employers

As discussed, the requirement to offer payroll deposit to IRAs as a substitute for sponsoring a retirement plan would not apply to the smallest firms (those with up to 10 employees) or to firms that have not been in business for at least two years. However, even small or new firms that are exempted would be encouraged to offer payroll deposit through the tax credit described earlier. (In addition, a possible approach to implementation of this program would be to require payroll deposit for the first year or two only by non-plan sponsors that are above a slightly larger size. This would try out the new system and could identify any ''bugs'' or potential improvements before broader implementation.)

Employees of small employers that are exempted—like other individuals who do not work for an employer that is part of the payroll deposit system outlined here—would be able to use other mechanisms to facilitate saving. These include the ability to contribute by instructing the IRS to make a direct deposit of a portion of an income tax refund, by setting up an automatic debit arrangement for IRA contributions (perhaps with the help of a professional or trade association), and by other means discussed below.

Employee Participation

Like a 401(k) contribution, the amount elected by the employee as a salary reduction contribution generally would be tax-favored. It either would be a ''pre-tax'' contribution to a traditional, tax-deductible IRA—deducted or excluded from the employee's gross income for tax purposes—or a contribution to a Roth IRA, which instead receives tax-favored treatment upon distribution. An employee who did not qualify to

make a deductible IRA contribution or a Roth IRA contribution (for example, because of income that exceeds the applicable income eligibility thresholds), would be responsible for making the appropriate adjustment on the employee's tax return. The statute would specify which type of IRA is the default, and the firm would have no responsibility for ensuring that employees satisfied the applicable IRA requirements.

It is often argued that a Roth IRA is the preferred alternative for lowerincome individuals on the theory that their marginal income tax rates are likely to increase as they become more successful economically. The argument is often made also that a Roth is preferable for many others on the assumption that federal budget deficits will cause income tax rates to rise in the future. On either of those assumptions, all other things being equal, the Roth's tax advantage for payouts would likely be more valuable than the traditional IRA's tax deduction for contributions. In addition, the Roth, by producing less taxable income in retirement years, could avoid exposing the individual to a higher rate of incomerelated tax on social security benefits in retirement.

This point of view, however, may well overstate the probability that our tax system, including the federal income tax, social security taxes, and the tax treatment of the Roth IRA, will continue essentially as it is. If, instead of increasing marginal tax rates, we moved to a consumption or value added tax or another system that exempts savings or retirement savings from tax—or if a future Congress eliminated or limited the Roth income tax (and social security benefits tax) advantages—the choice of a Roth over a deductible IRA would entail giving up the proverbial bird in the hand for two in the bush.

Because the automatic IRA proposal would encourage but not require individuals to save, the associated incentives for saving are important. The instant gratification taxpayers can obtain from a deductible IRA might do more to motivate many households than the government's long-term promise of an uncertain tax benefit in an uncertain future. (In addition, by shifting the loss of tax revenues beyond the congressional budget ''window'' period, the Roth also presents a special challenge to a policy of fiscal responsibility.) Accordingly, we are inclined to make the traditional IRA the default but to allow individuals to elect payroll deposits to a Roth.

Employees covered

Employees eligible for payroll deposit savings might be, for example, employees who have worked for the employer on a regular basis (including parttime) for a specified period of time and whose employment there is expected to continue. Employers would not be required, however, to offer direct deposit savings to employees they already cover under a retirement plan, including employees eligible to contribute (whether or not they actually do so) to a 401(k)-type salary-reduction arrangement. Accordingly, as discussed, an employer that limits retirement plan coverage to a portion of its workforce generally would be required to offer direct deposit or other payroll deduction saving to the rest of the workforce.

THE AUTOMATIC IRA

Obstacles to participation

Even if employers were required to offer direct deposit to IRAs, various impediments would prevent many eligible employees from taking advantage of the opportunity. To save in an IRA, individuals must make a variety of decisions and must overcome inertia. At least five key questions are involved in the process for employees:

a) whether to participate at all;

b) where (with which financial institution) to open an IRA (or, if they have an IRA already, whether to use it or open a new one);

c) whether the IRA should be a traditional or Roth IRA;

d) how much to contribute to the IRA; and

e) how to invest the IRA.

Once these decisions have been made, the individual must still take the initiative to fill out the requisite paperwork (whether on paper or electronically) to participate. Even in 401(k) plans, where decisions (b) and, unless the plan offers a Roth 401(k) option, (c) are not required, millions of employees are deterred from participating because of the other three decisions or because they simply do not get around to enrolling in the plan.

Overcoming the obstacles to participation: Encouraging automatic enrollment

These obstacles can be overcome by making participation easier and more automatic, in much the same way as is being done increasingly in the 401(k) universe. An employee eligible to participate in a 401(k) plan automatically has a savings vehicle ready to receive the employee's contributions (the plan sponsor sets up an account in the plan for each participating employee) and benefits from a powerful automatic savings mechanism in the form of regular payroll deduction. With payroll deduction as the method of saving, deposits continue to occur automatically and regularly—without the need for any action by the employee—once the employee has elected to participate. And finally, to jump-start that initial election to participate, an increasing percentage of 401(k) plan sponsors are using ''automatic enrollment.''

Auto enrollment tends to work most effectively when it is followed by gradual escalation of the initial contribution rate. The automatic contribution rate can increase either on a regular, scheduled basis, such as 4 percent in the first year, 5 percent in the second year, etc., or in coordination with future pay raises. But if the default mode is participation in the plan (as it is under auto enrollment), employees no longer need to overcome inertia and take the initiative in order to save; saving happens automatically, even if employees take no action.

Employers offering payroll deposit saving to an IRA should be explicitly permitted to arrange for appropriate automatic increases in the automatic IRA contribution rate. However, an employer facilitating saving in an automatic IRA has far less of an incentive to use automatic escalation (or to set the initial automatic contribution rate as high as it thinks employees will accept) than an employer sponsoring a 401(k) plan. The 401(k) sponsor generally has a financial incentive to encourage nonhighly compensated employees to contribute as much as possible, because their average contribution level determines how much highly compensated employees can contribute under the 401(k) nondiscrimination standards. Because no nondiscrimination standards apply to IRAs, employers have no comparable incentive to maximize participation and contributions to IRAs.

Automatic enrollment, which has typically been applied to newly hired employees (as opposed to both new hires and employees who have been with the employer for some years), has produced dramatic increases in 401(k) participation. This is especially true in the case of lower-income and minority employees. In view of the basic similarities between employee payroll-deduction saving in a 401(k) and under a direct deposit IRA arrangement, the law should, at a minimum, permit employers to automatically enroll employees in direct deposit IRAs.

The conditions imposed by the Treasury Department on 401(k) auto enrollment would apply to direct or payroll deposit IRA auto enrollment as well: all potentially auto enrolled employees must receive advance written notice (and annual notice) regarding the terms and conditions of the saving opportunity and the auto enrollment, including the procedure for opting out, and all employees must be able to opt out at any time.

It is not at all clear, however, whether simply allowing employers to use auto enrollment with direct deposit IRAs will prove to be effective. A key motivation for using auto enrollment in 401(k) plans is to improve the plan's score under the 401(k) nondiscrimination test by encouraging more moderate- and lower-paid (''nonhighly compensated'') employees to participate, which in turn increases the permissible level of tax-preferred contributions for highly compensated employees. This motivation is absent when the employer is merely providing direct deposit IRAs, rather than sponsoring a qualified plan such as a 401(k), because no nondiscrimination standards apply unless there is a plan.

A second major motivation for using 401(k) auto enrollment in many companies is management's sense of responsibility or concern for employees and their retirement security. Many executives involved in managing employee plans and benefits have opted for auto enrollment because they believe far too many employees are saving too little and investing unwisely and need a strong push to ''do the right thing'' and take advantage of the 401(k) plan. This motivation—by no means present in all employers—is especially unlikely to be driving an employer that merely permits payroll deposit to IRAs without sponsoring a retirement plan.

Third, employers might have greater concern about potential employee reaction to auto enrollment in the absence of an employer matching contribution. The high return on employees' investment delivered by the typical 401(k) match helps give confidence to 401(k) sponsors using auto enrollment that they are doing right by their employees and need not worry unduly about potential complaints from workers who failed to read the notice.

Finally, an employer concern that has made some plan sponsors hesitate to use auto enrollment with 401(k) plans might loom larger in the case of auto enrollment with direct deposit IRAs. This is the concern about avoiding a possible violation of state laws that prohibit deductions from employee paychecks without the employee's advance written authorization. Assuming most direct deposit IRA arrangements are not employer plans governed by ERISA, such state laws, as they apply to automatic IRAs, may not be preempted by ERISA because they do not ''relate to any employee benefit plan.'' For reasons such as these, without a meaningful change in the law, most employers that are unwilling to offer a qualified plan today are unlikely to take the initiative to automatically enroll employees in direct deposit IRAs.

Not requiring employers to use automatic enrollment

One possible response would be to require employers to use automatic enrollment in conjunction with the direct deposit IRAs (while giving the employers a tax credit and legal protections). The argument for such a requirement would be that it would likely increase participation dramatically while preserving employee choice (workers could always opt out), and that, for the reasons summarized above, employers that do not provide a qualified plan (or a match) are unlikely to use auto enrollment voluntarily.

The arguments against such a requirement include the concern that a workforce that presumably has not shown sufficient demand for a qualified retirement plan to induce the employer to offer one might react unfavorably to being automatically enrolled in direct deposit savings without a matching contribution. (In addition, some small business owners who have only a few employees and work with all of them on a daily basis might take the view that automatic enrollment is unnecessary because of the constant flow of communication between the owner and each employee.)

It is noteworthy, however, that recent public opinion polling shows strong support among registered voters for making saving easier by making it automatic, with 71 percent of respondents favoring a fully automatic 401(k), including automatic enrollment, automatic investment, and automatic contribution increases over time, with the opportunity to opt out at any stage. A vast majority (85 percent) of voters said that if they were automatically enrolled in a 401(k), they would not opt out, even when given the opportunity to do so. In addition, given the choice, 59 percent of respondents preferred a workplace IRA with automatic enrollment to one without.

Requiring explicit ''Up or Down'' employee elections while encouraging auto enrollment

An alternative approach that has been used in 401(k) plans and might be particularly well suited to payroll deposit savings is to require all eligible employees to submit an election that explicitly either accepts or declines direct deposit to an IRA. Instead of treating employees who fail to respond as either excluded or included, this ''up or down'' election approach has no default. There is evidence suggesting that requiring employees to elect one way or the other can raise 401(k) participation nearly as much as auto enrollment does. Requiring an explicit election picks up many who would otherwise fail to participate because they do not complete and return the enrollment form due to procrastination, inertia, inability to decide on investments or level of contribution, and the like.

Accordingly, a possible strategy for increasing participation in payroll deposit IRAs would be to require employers to obtain a written (including electronic) ''up or down'' election from each eligible employee either accepting or declining the direct deposit to an IRA. Under this strategy, employers that voluntarily auto enroll their employees in the direct deposit IRAs would be excused from the requirement that they obtain an explicit election from each employee because all employees who fail to elect would be participating. This exemption—treating an employer's use of auto enrollment as an alternative means of satisfying its required-election obligation—would add an incentive for employers to use auto enrollment without requiring them to use it. Any firms that prefer not to use auto enrollment would simply obtain a completed election from each employee, either electronically or on a paper form. And either way—whether the employer chose to use auto enrollment or the required-election approach—participation would likely increase significantly, perhaps even approaching the level that might be achieved if auto enrollment were required for all payroll deposit IRAs.

This combined strategy for promoting payroll deposit IRA participation could be applied separately to new hires and existing employees: thus, an employer auto enrolling new hires would be exempted from obtaining completed elections from all new hires (but not from existing employees), while an employer auto enrolling both new hires and existing employees would be excused from having to obtain elections from both new hires and existing employees.

The required election would not obligate employers to obtain a new election from each employee every year. Once an employee submitted an election form, that employee would not be required to make another election: as in most 401(k) plans, the initial election would continue throughout the year and from year to year unless and until the employee chose to change it. Similarly, an employee who failed to submit an election form and was auto enrolled by default in the payroll deposit IRA would continue to be auto enrolled unless and until the employee took action to make an explicit election.

To maximize participation, employers would receive a standard enrollment module reflecting current best practices in enrollment procedures. A nationwide website with standard forms would serve as a repository of state-of-the-art best practices in and savings education. The use of automatic enrollment (whereby employees automatically are enrolled at a statutorily specified rate of contribution—such as 3% of pay—unless they opt out) would be encouraged in two ways. First, the standard materials provided to employers would be framed so as to present auto enrollment as the presumptive or perhaps even the default enrollment method, although employers would be easily able to opt out in favor of simply obtaining an ''up or down'' response from all employees. In effect, such a ''double default'' approach would use the same principle at both the employer and employee level by auto enrolling employers into auto enrolling employees. Second, as noted, employers using auto enrollment to promote participation would not need to obtain responses from unresponsive employees.

Compliance and enforcement

Employers' use of the required-election approach would also help solve an additional problem—enforcing compliance with a requirement that employers offer direct deposit savings. As a practical matter, many employers might question whether the IRS would ever really be able to monitor and enforce such a requirement. Employers may believe that, if the IRS asked an employer why none of its employees used direct deposit IRAs, the employer could respond that it told its employees about this option and they simply were not interested. However, if employers that were required to offer direct deposit savings had to obtain a signed election from each eligible employee who declined the payroll deposit option, employers would know that the IRS could audit their files for each employee's election. This by itself would likely improve compliance.

In fact, a single paper or e-mail notice could advise the employee of the opportunity to engage in payroll deduction savings and elicit the employee's response. The notice and the employee's election might be added or attached to IRS Form W–4. (As noted, the W–4 is the form an employer ordinarily obtains from new hires and often from other employees to help the employer comply with its income tax—withholding obligations.) If the employer chose to use auto enrollment, the notice would also inform employees of that feature (including the default contribution level and investment and the procedure for opting out), and the employer's records would need to show that employees who failed to submit an election were in fact participating in the payroll deduction savings.

Employers would be required to certify annually to the IRS that they were in compliance with the payroll deposit savings requirements. This might be done in conjunction with the existing IRS Form W–3 that employers file annually to transmit Forms W–2 to the government. Failure to offer payroll deposit savings would ultimately need to be backed up by an appropriate sanction, such as the threat of civil monetary penalties or an excise tax.

Portability of savings

IRAs are inherently portable. Unlike a 401(k) or other employer plan, an IRA survives and functions independently of the individual saver's employment status. Thus the IRA owner is not at risk of forfeiting or losing the account or suffering an interruption in the ability to contribute when changing or losing employment. As a broad generalization, the automatic IRAs outlined here presumably would be freely transferable to and with other IRAs and qualified plans that permit such transfers. (However, as discussed below, the investment limitations and other cost-containment features of these IRAs raise the issue of whether transferability to other types of vehicles should be subject to restrictions.)

MAKING A SAVINGS VEHICLE AVAILABLE

Most current direct deposit arrangements use a payroll-deduction savings mechanism similar to the 401(k), but, unlike the 401(k), do not give the employee a ready-made vehicle or account to receive deposits. The employee must open a recipient account and must identify the account to the employer. However, where the purpose of the direct deposit is saving, it would be useful to many individuals who would rather not choose a specific IRA to have a ready-made fallback or default account available for the deposits.

Under this approach, modeled after the SIMPLE-IRA, which currently covers an estimated 2 million employees, individuals who wish to direct their contributions to a specific IRA would do so. The employer would follow these directions as employers ordinarily do when they make direct deposits of paychecks to accounts specified by employees. At the same time, the employer would also have the option of simplifying its task by remitting all employee contributions in the first instance to IRAs at a single private financial institution that the employer designates. However, even in this case, employees would be able to transfer the contributions, without cost, from the employer's designated financial institution to an IRA provider chosen by the employee.

By designating a single IRA provider to receive all contributions, the employer could avoid the potential administrative hassles of directing deposits to a multitude of different IRAs for different employees, while employees would be free to transfer their contributions from the employer's designated institution to an IRA provider of their own choosing. Even this approach, though, still places a burden on either the employer or the employee to choose an IRA. For many small businesses, the choice might not be obvious or simple. In addition, the market may not be very robust because at least some of the major financial institutions that provide IRAs may well not be interested in selling new accounts that seem unlikely to grow enough to be profitable within a reasonable time. Some of the major financial firms appear to be motivated at least as much by a desire to maximize the average account balance as by the goal of maximizing aggregate assets under management. They therefore may shun small accounts that seem to lack much potential for rapid growth.

The current experience with automatic rollover IRAs is a case in point. Firms are required to establish these IRAs as a default vehicle for qualified plan participants whose employment terminates with an account balance of not more than $5,000 and who fail to provide any direction regarding rollover or

other payout. The objective is to reduce leakage of benefits from the tax-favored retirement system by stopping involuntary cashouts of account balances between $1,000 and $5,000. (Plan sponsors continue to have the option to cash out balances of up to $1,000 and to retain in the plan account balances between $1,000 and $5,000 instead of rolling them over to an IRA.) Because plan sponsors are required to set up IRAs only for ''unresponsive'' participants—those who fail to give instructions as to the disposition of their benefits—these IRAs are presumed to be less likely than other IRAs are to attract additional contributions. Accordingly, significant segments of the IRA provider industry have not been eager to cater to this segment of the market. As a result, plan sponsors have tended to reduce their cashout level from $5,000 to $1,000 so that new IRAs would not have to be established.

For somewhat similar reasons, IRA providers might expect payroll deposit IRAs to be less profitable than other products. As a result, employers and employees might well find that providers are not marketing to them aggressively and that the array of payroll deposit IRA choices is comparatively limited.

The prospect of tens of millions of personal retirement accounts with relatively small balances likely to grow relatively slowly suggests that the market may need to be encouraged to develop widely available low-cost personal accounts or IRAs. Otherwise, for ''small savers,'' fixed-cost investment management and administrative fees may consume too much of the earnings on the account and potentially even erode principal.

A standard default account

Accordingly, to facilitate saving and minimize costs, we believe that a strong case can be made for a default IRA that would be automatically available to receive direct deposit contributions without requiring either the employee or employer to choose among IRA providers and without requiring the employee to take the initiative to open an IRA. Under this approach, for the convenience of both employees and employers, those who wish to save but have no time or taste for the process of locating and choosing an IRA would be able to use a standard default, or automatic, account. If neither the employer nor the employee designated a specific IRA provider, the contributions would go to a personal retirement account within a plan that would in some respects resemble the federal Thrift Savings Plan (the 401(k)-type retirement savings plan that covers federal government employees).

These standard default accounts would be maintained and operated by private financial institutions under contract with the federal government. To the fullest extent practicable, the private sector would provide the investment funds, investment management, record keeping, and related administrative services. To serve as a default account for direct deposits that have not been directed elsewhere by employers or employees, an account need not be maintained by a governmental entity. Given sufficient quality control and adherence to reasonably uniform standards, various private financial institutions could contract to provide the default accounts, on a collective or individual institution basis, more or less interchangeably—perhaps allocating customers on a geographic basis or in accordance with other arrangements based on providers' capacity. These fund managers could be selected through competitive bidding. Once individual default accounts reached a predetermined balance (e.g., $15,000) sufficient to make them potentially profitable for many private IRA providers, account owners would have the option to transfer them to IRAs of their choosing.

Cost containment

Both the direct deposit IRAs expressly selected by employees and employers and the standardized direct deposit IRAs that serve as default vehicles would be designed to minimize the costs of investment management and account administration. It should be feasible to realize substantial cost savings through index funds, economies of scale in asset management and administration, uniformity, and electronic technologies.

In accordance with statutory guidelines for all direct deposit IRAs, government contract specifications would call for a no-frills approach to participant services in the interest of minimizing costs. By contrast to the wide open investment options provided in most current IRAs and the high (and costlier) level of customer service provided in many 401(k) plans, the standard account would provide only a few investment options (patterned after the Thrift Savings Plan, if not more limited), would permit individuals to change their investments only once or twice a year, and would emphasize transparency of investment and other fees and other expenses.

Specifically, costs of direct deposit IRAs might be reduced by federal standards that, to the extent possible,

Exclude brokerage services and retail equity funds from the investment options available under the IRA.

Limit the number of investment options under the IRA.

Allow individuals to change their investments only once or twice per year.

Specify a low-cost default investment option and provide that, if any of an individual's account balance is invested in the default option, all of it must be.

Prohibit loans (IRAs do not allow them in any event) and perhaps limit preretirement withdrawals.

Limit access to customer service call centers.

Preclude commissions.

Make compliance testing unnecessary.

Give account owners only a single account statement per year (especially if daily valuation is built into the system and is available to account owners).

Encourage the use of electronic and other new technologies (including enrollment on a web site) for fund transfers, record keeping, and communications among IRA providers, participating employees, and employers to reduce paperwork and cost. Electronic administration has considerable potential to cut costs.

The availability to savers of a major low-cost personal account alternative in the form of the standard account may even help, through market competition, to drive down the costs and fees of IRAs offered separately by private financial institutions. Through efficiencies associated with collective investment and greater uniformity, the standard account should help move the system away from the retail-type cost structure characteristic of current IRAs. It should also help create a broad infrastructure of individual savings accounts that would cover most of the working population.

In conjunction with these steps, Congress and the regulators may be able to do more to require simplified, uniform disclosure and description of IRA investment and administrative fees and charges (building on previous work by the Department of Labor relating to 401(k) fees). Such disclosure should help consumers compare costs and thereby promote healthy price competition.

Another approach would begin by recognizing the trade-off between asset management costs and investment types. As a broad generalization, asset management charges tend to be low for money market funds, certificates of deposit, and certain other relatively low-risk, lower-return investments that generally do not require active management. However, it appears that limiting individual accounts to these types of investments would be unnecessarily restrictive. As discussed below (under ''Default Investment Fund''), passively managed index funds, such as those used in the Thrift Savings Plan, are also relatively inexpensive.

A very different approach to cost containment would be to impose a statutory or regulatory limitation on investment management and administrative fees that providers could charge. One example is the United Kingdom's limit on permissible charges for management of ''stakeholder pension'' accounts—an annual 150 basis point fee cap for five years that is scheduled to drop to 100 basis points thereafter. As another and more limited example, the U.S. Department of Labor has imposed a kind of limitation on fees charged by providers of automatic rollover IRAs established by employers for terminating employees who fail to provide any direction regarding the disposition of account balances of up to $5,000. Labor regulations provide a fiduciary safe harbor for auto rollover IRAs that preserve principal and that do not charge fees greater than those charged by the IRA provider for other IRAs it provides.

Presumably, a mandatory limit would give rise to potential cross-subsidies from products that are free of any limit on fees to the IRAs that are subject to the fee limit—a result that could be viewed either as an inappropriate distortion or as a necessary and appropriate allocation of resources. We would view a mandatory limit as a last resort, preferring the market-based strategies outlined above.

Default investment fund

Both the IRAs offered independently by private financial institutions and explicitly selected by employees or employers and the default IRAs would serve the important purpose of providing low-cost professional asset management to millions of individual savers, presumably improving their aggregate investment results. To that end, all of these accounts would offer a similar, limited set of investment options, including a default investment fund in which deposits would automatically be invested unless the individual chose otherwise. This default investment would be a highly diversified ''target asset allocation'' or ''life-cycle'' fund comprised of a mix of equities and fixed income or stable value investments, and probably relying heavily on index funds. (The life-cycle funds recently introduced into the federal Thrift Savings Plan are one possible model.) A portion or all of the fixed income component could be comprised of Treasury inflation protected securities (''TIPS'') to protect against the risk of inflation.

The mix of equities and fixed income would be intended to reflect the consensus of most personal investment advisers, which emphasizes sound asset allocation and diversification of investments—including exposure to equities (and perhaps other assets that have higher-risk and higher-return characteristics), at least given the foundation of retirement income already delivered through Social Security and assuming the funds will not shortly be needed for expenses. The use of index funds would avoid the costs of active investment management while promoting wide diversification.

This default investment would actually consist of several different funds, depending on the individual's age, with the more conservative investments (such as those relying

more heavily on TIPS) applicable to older individuals who are closer to the time when they might need to use the funds. Individuals who selected the default fund or were defaulted into it would have their account balances entirely invested in that fund. However, they would be free to exit the fund at specified times and opt for a different investment option among those offered within the IRA.

The standard automatic (default) investment would also serve two other key purposes. It would encourage employee participation in direct deposit savings by enabling employees who are satisfied with the default to simplify what may be the most difficult decision they would otherwise be required to make as a condition of participation (i.e., how to invest). Finally, the standard default investment should encourage more employers to use automatic enrollment (thereby boosting employee participation) by saving them from having to choose a default investment. This, in turn, would make it easier to protect employers from responsibility for IRA investments, especially employers using automatic enrollment (as discussed below).

We would not fully specify the default investment by statute. It is desirable to maintain a degree of flexibility in order to reflect a consensus of expert financial advice over time. Accordingly, general statutory guidelines would be fleshed out at the administrative level after regular comment by and consultation with private-sector investment experts.

An additional and major design issue is whether the standard, limited set of investment options for payroll deposit IRAs should be only a minimum set of options in each IRA, so that the IRA provider would be permitted to provide any additional options it wished. Limiting the IRAs to these specified options would best serve the purposes of containing costs, improving investment results for IRA owners in the aggregate, and simplifying individuals' investment choices. At the same time, such restrictions would constrain the market, potentially limit innovation, and limit choice for individuals who prefer other alternatives.

One of the ways to resolve this tradeoff would be to limit direct deposit IRAs to the prescribed array of investment options without imposing any comparable limits on other IRAs, and to allow owners of direct deposit IRAs (including default IRAs) to transfer or roll over their account balances between the two classes of accounts. Under this approach, the owner of a direct deposit IRA could transfer the account balance to other (unrestricted) IRAs that are willing to accept such transfers (but perhaps only after the account balance reaches a specified amount that would no longer be unprofitable to most IRA providers). While such a transfer to an unrestricted IRA would deprive the owner of the cost-saving advantages of the no-frills, limited-choice model, such a system would still enable individuals to retain the efficiencies and cost protection associated with the standard low-cost model if they so choose.

Employers protected from any risk of fiduciary liability

Employers traditionally have been particularly concerned about the risk of fiduciary liability associated with their selection of retirement plan investments.

This concern extends to the employer's designation of default investments that employees are free to decline in favor of alternative investments. In the IRA universe, employers transferring funds to automatic rollover IRAs and employer-sponsored SIMPLE-IRAs retain a measure of fiduciary responsibility for initial investments.

By contrast, under our proposal, employers making direct deposits would be insulated from such potential liability. These employers would have no liability or fiduciary responsibility with respect to the manner in which direct deposits are invested in default IRAs or in nondefault IRAs (whether selected by the employer or the employee), nor would employers be exposed to potential liability with respect to any employee's choice of IRA provider or type of IRA. This protection of employers is facilitated by statutory designation of standard investment types that reduces the need for continuous professional investment advice. To protect workers against inappropriate IRA providers or inappropriate employer selection of IRA providers while continuing to insulate employers from fiduciary responsibility, employers could be precluded from imposing a particular IRA provider on its employees other than the government-contracted default IRA or could be constrained to choose among an approved list of providers based on capital adequacy, soundness, and other criteria.

Public opinion polling

Recent public opinion polling has shown overwhelming support for payroll deduction direct deposit saving. Among registered voters surveyed, 83 percent of respondents said they would be agreeable to having their employer offer to sign them up for an IRA and allow them to contribute to it through direct deposit of a small amount from their paycheck to help them save for retirement. Similarly, 79 percent of registered voters expressed support (and 54 percent expressed ''strong'' support) for giving taxpayers the option to have part of their income tax refund deposited into a retirement savings account such as an IRA by just checking a box on their tax return.

In addition, the polling shows very strong support for a requirement that goes far beyond our proposal, that every company offer its employees some kind of retirement plan—such as a pension or 401(k), or at least an IRA to which employees could contribute. Among registered voters surveyed in August 2005, 77 percent supported such a requirement (and 59 percent responded that they were ''strongly'' in support). As discussed, the approach described in this paper would not require employers to offer their employees retirement plans, but would give firms a financial incentive to offer their employees access to payroll deduction as a convenient and easy means of saving, and would require firms above a certain size and maturity to extend this offer to their employees.

THE IMPORTANCE OF PROTECTING EMPLOYER PLANS

Employer-sponsored pension, profit-sharing, 401(k), and other plans can be particularly effective—more so than IRAs—in accumulating benefits for employees. As noted earlier, the participation rate in 401(k)s, for example, tends to range from two thirds to three quarters of eligible employees, in contrast to IRAs, in which fewer than 1 in 10 eligible individuals participates. Employer plans tend to be far more effective than IRAs at providing coverage because of a number of attributes: for one thing, pension and profit-sharing plans, for example, are funded by employer contributions that automatically are made for the benefit of eligible employees without requiring the employee to take any initiative in order to participate. Second, essentially all tax-qualified employer plans must abide by standards that either seek to require reasonably proportionate coverage of rank and-file workers or give the employer a distinct incentive to encourage widespread participation by employees. This encouragement typically takes the form of both employer-provided retirement savings education efforts and employer matching contributions. The result is that the naturally eager savers, who tend to be in the higher tax brackets, tend to subsidize or bring along the naturally reluctant savers, who often are in the lowest (including zero) tax brackets.

Employer-sponsored retirement plans also have other features that tend to make them effective in providing or promoting coverage. As noted, the proposal outlined here seeks to transplant some of these features to the IRA universe. These include the automatic availability of a saving vehicle, the use of payroll deduction (which continues automatically once initiated), matching contributions (further discussed below), professional investment management, and peer group reinforcement of saving behavior.

The automatic IRA must thus be designed carefully to avoid competing with or crowding out employer plans and to avoid encouraging firms to drop or reduce the employer contributions that many make to plan participants. Owners and others who control the decision whether to adopt or continue maintaining a retirement plan for employees should continue to have incentives to sponsor such plans. The ability to offer employees direct deposit to IRAs should be designed so that it will not prompt employers to drop, curtail, or refrain from adopting retirement plans.

Probably the single most important protection for employer plans is to set maximum permitted contribution levels to the automatic IRA so that they will be sufficient to meet the demand for savings by most households but not high enough to satisfy the appetite for tax-favored saving of business owners or decision-makers. The average annual contribution to a 401(k) plan by a nonhighly compensated employee is somewhat greater than $2,000, and average annual 401(k) contributions by employees generally tend to be on the order of 7 percent of pay. A $3,000 contribution is 7.5 percent of pay for a family earning $40,000, and 6 percent of pay for a family earning $50,000.

Yet IRA contribution limits are already higher than these contribution levels. IRAs currently allow a married couple to contribute up to $8,000 ($4,000 each) on a tax-favored basis, and an additional $1,000 ($500 each) if they are age 50 or older. By 2008, these figures are scheduled to rise to $10,000 plus $2,000 ($1,000 each) for those age 50 or older. These amounts—the current $9,000 a year for those age 50 and over ($8,000 for others) and the post-2007 $12,000 annual amount for those age 50 and over ($10,000 for others)—may well be enough to satisfy the desire of many small-business owners for tax-favored retirement savings. Even some small-business owners that might consider saving somewhat more than $10,000 or $12,000 per year might well conclude that they are better off not incurring the cost of making contributions and providing a plan for their employees because the net benefit to them of having a plan for employees is not greater than the net benefit of simply saving through IRAs and giving their employees access to IRAs.

Accordingly, at the most, payroll deposit IRAs should not permit contributions above the current IRA dollar limits, and could be limited to a lower amount such as $3,000. (A 3% of pay contribution would remain below $3,000 for employees whose compensation did not exceed $100,000.) Imposing a lower limit on the payroll deduction IRA would reduce to some degree the risk that employees will exceed the maximum IRA dollar contribution limit because of auto enrollment, combined with possible other contributions to an IRA. That is already a risk under current

law, but the automatic nature of auto enrollment increases the risk, especially if auto escalation is implemented. There is a tradeoff between the desirability of limiting the contribution amount (to mitigate both this risk and the risk of competing with employer plans) and the simplicity of using an existing vehicle (the IRA) ''as is''.

In any event, the employee—not the employer—would be responsible for monitoring any of all of their IRA contributions to comply with the maximum limit (in part because employees can contribute on their own and through multiple employers). The ultimate reconciliation would be made by the individual when filing the federal income tax return.

In addition, the automatic IRA should be designed to avoid reducing ordinary employees' incentives to contribute to employer-sponsored plans such as 401(k)s. If workers perceive a program such as direct deposit savings to IRAs as a more attractive destination for their contributions than an employer-sponsored plan (for example, because of better matching, tax treatment, investment options, or liquidity), it could unfortunately divert employee contributions from employer plans. This in turn could have a destabilizing effect by making it difficult for employers to meet the nondiscrimination standards applicable to 401(k)s and other plans and therefore potentially discouraging employers from continuing the plans or their contributions. While a detailed discussion of these points is beyond the scope of this paper, it is important to maintain a relationship between IRAs and employer-sponsored retirement plans that preserves and protects the employer plans.

Automatic payroll deduction can promote marketing and adoption of employer plans

Our approach is designed not only to avoid causing any reduction or contraction of employer plans, but actually to promote expansion of employer plans. Consultants, third-party administrators, financial institutions, and other plan providers could be expected to view this proposal as providing a valuable new opportunity to market 401(k)s, SIMPLE-IRAs and other tax-favored retirement plans to employers. Firms that, under this proposal, were about to begin offering their employees payroll deduction saving or had been offering their employees payroll deduction saving for a year or two could be encouraged to ''trade up'' to an actual plan such as a 401(k) or SIMPLE-IRA.

Especially because these plans can now be purchased at very low cost, it would seem natural for many small businesses to graduate from payroll deduction savings and complete the journey to a qualified plan in order to obtain the added benefits in terms of recruitment, employee relations, and larger tax-favored saving opportunities for owners and managers.

The following compares the maximum annual tax-favored contribution levels for IRAs, SIMPLE-IRA plans and 401(k) plans in effect for 2006:

	IRA	SIMPLE-IRA	401(k)
Under age 50	$4,000 per spouse ($5,000 after 2007)	$10,000	$15,000
Age 50 and above	$4,500 per spouse ($6,000 after 2007)	$12,000	$20,000

In addition, as noted, small employers that adopt a new plan for the first time are entitled to a tax credit of up to $500 each year for three years. As discussed, the proposed tax credit for offering payroll deposit would be smaller, so as to maintain the incentive for employers to go beyond the payroll deduction or direct deposit IRA and adopt an actual plan such as a SIMPLE, 401(k), or other employer plan.

ENCOURAGING CONTRIBUTIONS BY NONEMPLOYEES

The payroll deposit system outlined thus far would not automatically cover self-employed individuals, employees of the smallest or newest businesses that are exempt from any payroll deposit obligation, or certain unemployed individuals who can save. A strategy centered on automatic arrangements can also make it easier for these people to contribute to IRAs.

Encouraging automatic debit arrangements

For individuals who are not employees or who otherwise lack access to payroll deduction, automatic debit arrangements can serve as a counterpart to automatic payroll deduction. Automatic debit enables individuals to spread payments out over time and to make payments on a regular and timely basis by having them automatically charged to and deducted from an account—such as a checking or savings account or credit card—at regular intervals on a set schedule. The individual generally gives advance authorization to the payer that manages the account or the recipient of the payment, or both. The key is that, as in the case of payroll deduction, once the initial authorization has been given, regular payments continue without requiring further initiative on the part of the individual. For many consumers, automatic debit is a convenient way to pay bills or make payments on mortgages or other loans without having to remember to make each payment when due and without having to write and mail checks.

Similarly, as an element of an automatic IRA strategy, automatic debit can facilitate saving while reducing paperwork and cutting costs. For example, households can be encouraged to sign up on-line for regular automatic debits to a checking account or credit card that are directed to an IRA or other saving vehicle. With on-line sign-up and monitoring, steps can be taken to familiarize more households with automatic debit arrangements and, via Internet websites and otherwise, to make those arrangements easier to set up and use as a mechanism for saving in IRAs.

Facilitating automatic debit iras through professional or trade associations

Professional and trade associations could facilitate the establishment of IRAs and the use of automatic debit and direct deposit to the IRAs. Independent contractors and other individuals who do not have an employer often belong to such an association. The association, for example, might be able to make saving easier for those members who wish to save by making available convenient arrangements for automatic debit of members' accounts. Association websites can make it easy for members to sign up on line, monitor the automatic debit savings, and make changes promptly when they wish to. Although such associations generally lack the payroll-deduction mechanism that is available to employers, they can help their members set up a pipeline involving regular automatic deposits (online or by traditional means) from their personal bank or other financial accounts to an IRA established for them.

Facilitating direct deposit of income tax refunds to IRAs

Another major element of a strategy to encourage contributions outside of employment would be to allow taxpayers to deposit a portion of their income tax refunds directly into an IRA by simply checking a box on their tax returns.

Currently, the IRS allows direct deposits of refunds to be made to only one account. This all-or-nothing approach discourages many households from saving any of the refund because at least a portion of the refund is often needed for immediate expenses. Allowing households instead to split their refunds to deposit a portion directly into an IRA could make saving simpler and, thus, more likely.

The Bush administration has supported divisible refunds in its last three budget documents; however, the necessary administrative changes have yet to be implemented. Since federal income tax refunds total nearly $230 billion a year (more than twice the estimated annual aggregate amount of net personal savings in the United States), even a modest increase in the proportion of refunds saved every year could bring about a significant increase in savings.

Extending direct deposit to independent contractors

Millions of Americans are self-employed as independent contractors. Many of these workers receive regular payments from firms, but because they are not employees, they are not subject to income tax or payroll tax withholding. These individuals might be included in the direct deposit system by giving them the right to request that the firm receiving their services direct deposit into an IRA a specified portion from the compensation that would otherwise be paid to them.

Compared to writing a large check to an IRA once a year, this approach has several potential advantages to independent contractors, which might well encourage them to save. These include the ability to commit themselves to save a portion of their compensation before they receive it (which, for some people, makes the decision to defer consumption easier); the ability to avoid having to make an affirmative choice among various IRA providers; remittance of the funds by the firm by direct deposit to the IRA; and, where payments are made to the independent contractor on a regular basis, an arrangement that, like regular payroll with holdings for employees, automatically continues the pattern of saving through repeated automatic payroll deductions unless and until the individual elects to change.

In many cases, the independent service provider will not have a sufficient connection to a firm that receives the services, or both the independent contractor and the firm will be unwilling to enter into a payroll deposit type of arrangement. In such instances, the independent contractor could contribute to an IRA using automatic debit (as discussed above) or by sending together with the estimated taxes that generally are due four times a year.

Matching deposits as a financial incentive

A powerful financial incentive for direct deposit saving by those who are not in the higher tax brackets (and who therefore derive little benefit from a tax deduction or exclusion) would be a matching deposit to their direct deposit IRA. One means of delivering such a matching deposit would be via the bank, mutual fund, insurance carrier, brokerage firm, or other financial institution that provides the direct deposit IRA. For example, the first $500 contributed to an IRA by an individual who is eligible to make deductible contributions to an IRA might be

matched by the private IRA provider on a dollar-for-dollar basis, and the next $1,000 of contributions might be matched at the rate of 50 cents on the dollar. The financial provider would be reimbursed for its matching contributions through federal income tax credits.

Recent evidence from a randomized experiment involving matched contributions to IRAs suggests that a simple matching deposit to an IRA can make individuals significantly more likely to contribute and more likely to contribute larger amounts.

Matching contributions—similar to those provided by most 401(k) plan sponsors—not only would help induce individuals to contribute directly from their own pay, but also, if the match were automatically deposited in the IRA, would add to the amount saved in the IRA. The use of matching deposits, however, would make it necessary to implement procedures designed to prevent gaming—contributing to induce the matching deposit, then quickly withdrawing those contributions to retain the use of those funds. Among the possible approaches would be to place matching deposits in a separate subaccount subject to tight withdrawal rules and to impose a financial penalty on early withdrawals of matched contributions.

American households have a compelling need to increase their personal saving, especially for long-term needs such as retirement. This paper proposes a strategy that would seek to make saving more automatic—hence easier, more convenient, and more likely to occur—largely by adapting to the IRA universe practices and arrangements that have proven successful in promoting 401(k) participation. In our view, the automatic IRA approach outlined here holds considerable promise of expanding retirement savings for millions of workers.

Mr. KERRY. Mr. President, I am pleased to join my colleagues Senators SMITH, CONRAD, and BINGAMAN in introducing the Women's Retirement Security Act of 2006. This legislation comes on the heels of the passage of the Pension Protection Act of 2006, which makes improvements to the defined benefit pension plan system.

The legislation that we are introducing today builds upon that legislation and focuses on defined contribution plans. Our pension system has shifted away from defined benefit plans to defined contribution plans. We should make it easier for employers to offer defined contribution plans and for individuals to participate in these plans.

At a time when we have a negative savings rate that is the lowest since the Great Depression, we should provide appropriate incentives to help individuals save for retirement. In an effort to achieve this, the Women's Retirement Security Act of 2006 focuses on increasing retirement savings, the preservation of income, equity in divorce, improving financial literacy, and encouraging small businesses to enter and remain in the employer retirement plan system.

This legislation increases savings by allowing employees to contribute a portion of their paycheck to an individual retirement account (IRA) if their employer does not offer a pension plan. Automatic IRAs will help the 71 million workers that do not have employer-sponsored plans. It is a low-cost, sensible solution that provides a stepping stone toward employer-sponsored retirement plans. More workers are likely to contribute to an IRA if the contribution is deducted from their payroll. Automatic IRAs will help combat the inertia that is a factor in our low savings rate. The bill also provides a tax credit to help small businesses with the cost of implementation.

Women are often placed at a disadvantage in our retirement system because they cycle in and out of the work force. The Women's Retirement Security Act of 2006 addresses this issue by requiring employers that offer defined contribution plans to cover part-time employees that meet specific requirements.

Pension coverage needs to improve, particularly for small businesses. In 2004, only 26 percent of workers at firms with fewer than 25 employees participated in pension plans. Progress has been made on providing coverage to small businesses. Currently, more than 19 million workers are covered by small business retirement plans, but more than 36 million Americans work for firms with less than 25 employees.

The Women's Retirement Security Act of 2006 provides a start-up credit for new small business retirement contributions. In addition, it removes rules that discourage small employers from adopting deferral only plans.

By Mr. KERRY:

S. 3953. A bill to foster development of minority-owned small businesses; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, I rise today to introduce the Minority Entrepreneurship Development Act of 2006. It's especially appropriate that this bill be introduced during Hispanic Heritage Month. Millions of Latino Americans during this time reflect on their place in this country and the positive contributions they have made here. One area where we can be certain that the Hispanic community has made a significant contribution is in business. The principled and strong leadership of Hispanic Americans can be seen in corporate boards and sole proprietorships alike. As a Nation, we must support the development of the next generation of business leaders within the Latino community. I believe that this legislation will help in that effort.

This legislation is aimed at giving potential and burgeoning entrepreneurs the tools they need to realize their goals. Whether those goals include creating a small business that will employ people from the community or taking a small business and making it into a major enterprise, it's imperative that we develop the tools to help minority small business owners succeed.

I want to take a moment and tell you why it's so important to expand the numbers of entrepreneurs in the minority community. As the Ranking Member on the Senate Committee on Small Business and Entrepreneurship, I have received firsthand testimony and countless reports documenting the positive economic impact that occurs when we foster entrepreneurship in underserved communities. There are signs of significant economic returns when minority businesses are created and are able to grow in size and capacity. Between 1987 and 1997, revenue from minority owned firms rose by 22.5 percent, an increase equivalent to an annual growth rate of 10 percent. Employment opportunities within minority owned firms increased by 23 percent during that same period. There is a clear correlation between the growth of minority owned firms and the economic viability of the minority community.

Although, these economic numbers tell a significant part of the story, they don't tell the whole story of what these firms mean to the minority communities they serve and represent. Many of these business leaders are first generation immigrants; many are first generation business owners and many represent, for those in their communities, what hard work, determination and patience can do.

We must encourage those kinds of values in our minority communities and, quite frankly, in our nation as a whole. For generations, millions have come to our shores in search of a better life. Millions of others were brought here by force and for years were not given a voice in how their lives would turn out. But how ever we got here, we all have become branches of this great tree we call America. This tree is still nourished by roots planted by our forefathers more than 200 years ago. Those men and women planted the roots of hard work, innovation, faith and risk taking.

When you think about it, those words are the perfect description of an entrepreneur. It is the spirit of entrepreneurship that has made our nation great. And that is why it is absolutely imperative that we continue to support and develop that spirit in our minority communities. To that end, this legislation provides several tools to help minority entrepreneurs as they develop and grow their businesses.

First, this legislation will create an Office of Minority Small Business Development. One of its primary functions will be to increase the number of small business loans that minority businesses receive. Latinos, African-Americans, Asian-Americans and women have been receiving far fewer small business loans than they reasonably should.

To ensure that this trend is reversed and minorities begin to get a greater share of loan dollars, venture capital investments, counseling, and contracting opportunities, this bill will give the new office the authority to monitor the outcomes for programs under Capital Access, Entrepreneurial Development, and Government Contracting. It also requires the head of

the Office to work with SBA's partners, trade associations and business groups to identify more effective ways to market to minority business owners, and to work with the head of Field Operations to ensure that district offices have staff and resources to market to minorities.

Second, this legislation will create the Minority Entrepreneurship and Innovation Pilot Program. This program will offer a competitive grant to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions to create an entrepreneurship curriculum at these institutions and to open Small Business Development Centers on campus to serve local businesses.

The goal of this program is to target students in highly skilled fields such as engineering, manufacturing, science and technology, and guide them towards entrepreneurship as a career option. Traditionally, minority-owned businesses are disproportionately represented in the service sectors. Promoting entrepreneurial education to undergraduate students will help expand business ownership beyond the service sectors to higher yielding technical and financial sectors.

Third, this legislation will create the Minority Access to Information Distance Learning Pilot Program. This program will offer competitive grants to well established national minority non-profit and business organizations to create distance learning programs for small business owners who are interested in doing business with the federal government.

The goal of this program is to provide low cost training to the many small business owners who cannot afford to pay a consultant thousands of dollars for advice or training on how to prepare themselves to contract with the federal government. There are thousands of small businesses in this country that are excellent and efficient. They are primed to provide the goods and services that this nation needs to stay competitive. This program will help prepare them to do just that.

Finally, this legislation will extend the Socially and Economically Disadvantaged Business Program which expired in 2003. This program provides a Price Evaluation Adjustment for Socially and Economically Disadvantaged businesses as a way of increasing their competitiveness when bidding against larger firms. This is one more tool to increase opportunities for our minority small business owners.

I have outlined several ways that we can create a more positive environment for our minority small business community. These are reasonable steps that we ought to take without delay. Moreover, these are important steps that will help bolster a movement that is already underway. According to U.S. Census data, Hispanics are opening businesses 3 times faster than the national average. Also, business development and entrepreneurship have played a significant role in the expansion of the black middle class in this country for over a century. These business owners are embodying the entrepreneurial spirit that our forefathers carried with them as they established this nation.

With this legislation, we will help to extend that spirit to the next generation. Not only is this vital for our minority communities, but it is vital for America. I urge my colleagues to join with me in support of the Minority Entrepreneurship Development Act of 2006.

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

S. 3954. A bill to amend title XVIII of the Social Security Act to require monthly reporting regarding the number of individuals who have fallen into the part D donut hole and the amount such individuals are spending on covered part D drugs while in the donut hole; to the Committee on Finance.

Mr. KENNEDY. Mr. President, more and more seniors are waking each day and learning they've fallen into the dreaded ''donut hole''—the gap in prescription drug coverage that leaves them with large drug costs to pay by themselves until coverage resumes. As a result, millions of seniors can't afford the drugs they urgently need, even though they're paying for Medicare coverage.

It's important to have a full accounting of how many seniors are affected, so that Congress and the public can make sensible choices about Medicare. Senator MENENDEZ and I intend to introduce legislation to require Medicare to track and publicly report how many enrollees fall into the donut hole, and how much they are spending themselves for their needed prescriptions.

We wouldn't be facing this problem if the administration and the Republican Congress had cared more about seniors than about drug industry profits when Medicare prescription drug coverage was enacted. They refused to let Medicare negotiate drug prices, which the Veterans Administration is allowed to do for veterans. Instead of allocating adequate Federal funds to the drug benefit, they made sure that HMOs received large overpayments, which enable them to force Medicare beneficiaries into their plans by offering extra benefits, while still allowing the plans to make large profits.

It's long past time to correct this glaring defect in Medicare drug coverage. Once we have up-to-date information on the damage being done by the donut hole, we can correct the problem and give seniors the Medicare coverage they deserve.

I ask by 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. 3954

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 ''Honest Medicare Act of 2006''.

SEC. 2. MONTHLY REPORTING REGARDING THE NUMBER OF INDIVIDUALS WHO HAVE FALLEN INTO THE PART D DONUT HOLE AND THE AMOUNT SUCH INDIVIDUALS ARE SPENDING ON COVERED PART D DRUGS WHILE IN THE DONUT HOLE.

Section 1860D–1 of the Social Security Act (42 U.S.C. 1395w–101) is amended by adding at the end the following new subsection:

''(d) INFORMATION REGARDING INDIVIDUALS WHO HAVE REACHED THE INITIAL COVERAGE LIMIT.—Not later than the 15th of each month (beginning with February 2007), the Secretary shall make available to the public information on—

''(1) the number of individuals enrolled in a prescription drug plan or an MA–PD plan who have reached the initial coverage limit applicable under the plan but who have not reached the annual out-of-pocket threshold specified in section 1860D–2(b)(4)(B); and

''(2) the amount such individuals are spending on covered part D drugs after they have reached such limit and before they have reached such threshold.''.

By Mr. DEWINE:

S 3956. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective service agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, it is a well-known fact that people with disabilities face a great risk of abuse and victimization—in fact, studies indicate that disabled adults experience violence or abuse at least twice as often as those without disabilities. This shameful situation is made even worse by the fact that far too often these crimes are not reported, or if they are reported, they are not effectively prosecuted—with the result that crime victims with disabilities are left vulnerable to further victimization. This is a tragic situation and one which requires action.

The good news is that we have a model to follow, a response which works. Massachusetts has set up an excellent program to enhance cooperation and coordination between law enforcement and the State officials and programs which provide services and care to the disabled, and this coordination has greatly improved the ability of the criminal justice system to prosecute these offenders and protect those with disabilities from crime. In fact, since the implementation of the program, criminal referrals in these types of cases in Massachusetts went up from 32 before the program began to 880 in 2004, the most recent year for which we have statistics.

We should try to extend the success of the Massachusetts program around the country. Accordingly, today I am introducing the Crime Victims with Disabilities Act of 2006. This legislation would establish a $10 million Federal grant program to make money available to States and localities which are

interested in setting up similar programs to enhance training, coordination, and cooperation within the law enforcement and disabilities services communities order to address this problem.

The legislation would require a State or local government to design a cooperative plan to improve the reporting and prosecution of crimes against people with disabilities, including within the system at least one criminal justice agency and at least one agency or organization which provides services to individuals with disabilities. The legislation encourages local innovation; as long as the application meets the basic goals of protecting people with disabilities from crime and prosecuting those who attempt to victimize them, it can be designed in whatever way the applicants decide will work best in the affected community. The grants would be for a maximum of $300,000 over 2 years, with a potential for a one-time renewal.

I have worked closely with the creators of the Massachusetts program and many others who work in law enforcement and who provide services to crime victims and people with disabilities, and I believe this legislation will help States and localities create programs that can address the problem of violence against people with disabilities. This is a serious problem, and I encourage my colleagues to support this effort to help address it.

By Mr. INHOFE:

S. 3957. A bill to protect freedom of speech exercisable by houses of worship or mediation and affiliated organizations; to the Committee on Finance.

Mr. INHOFE. Mr. President, I rise today to introduce legislation which will protect the Constitutionally-guaranteed exercise of free speech and exercise of religion, the Religious Freedom Act of 2006.

The American people may be surprised to learn a few things about their government's relationship with religion. They may be surprised to learn that the Federal Government of the United States of America, in the land of the free, does not allow religious leaders in houses of worship of all religious orders to say anything that might be construed as political in nature. The American people may further be surprised to learn that the federal agency tasked with enforcing the absolute ban on political speech for houses of worship is the Internal Revenue Service. It is the IRS that reviews the content of sermons and homilies and threatens to revoke those institutions' tax-exempt status if they dare to speak out on the political matters of the day. Many times, the only evidence on which the IRS will base their case is a third-party complaint and may move forward with threatening letters and the revocation of their tax-exempt status even if the prohibited activities—the exercise of their First Amendment Rights—were incidental or unintentional. Furthermore, the IRS admits that it applies a ''coded language'' policy to political speech. That is, discussion of a moral issue, if it happens to be a matter discussed in our public debates, is a political issue and is consequently banned by the IRS. The American people may even be more surprised to learn that the IRS is stepping up the enforcement of the ban on political speech in houses of worship and has recently emphasized the ''coded language'' policy.

A skeptic might assert that something as serious as an IRS-enforced ban on political discourse in a church must have a tenured legislative history buttressed by decades of sound First Amendment jurisprudence. The American people may be surprised to learn that the exact opposite is true. The First Amendment freedoms of houses of worship were stripped away in 1954 by the ''Johnson Amendment,'' a floor amendment named for then-Senator Lyndon Johnson, which placed an absolute ban on political speech by tax exempt organizations. Although the legislative record is relatively silent on this matter, the amendment and its subsequent ban were enacted without a hearing, any debate, or any public comment. History also indicates that Senator Johnson enacted this ban as a means of silencing some anticommunist nonprofits that were mobilizing against his political campaign. It now silences important comment on the issues of the day. Although the Supreme Court has affirmed and reaffirmed a ''profound national commitment'' to the proposition that debate on issues should be ''uninhibited, robust, and wide-open,'' the debate has been unconstitutionally restricted for nearly 50 years.

Whereas the legislative history of the Johnson Amendment is dubious where it even exists, the history of the relationship between politics and the pulpit is a history of a positive force for change in momentous times in our history when we as a nation have reaffirmed our commitment to an open and tolerant society. From slavery to segregation, religious leaders in America clearly have been effective forces for good, and they are also for more modern issues such as abortion, assisted suicide, and human trafficking. Perhaps no one could better articulate an important aspect of the history of politics and the pulpit than Martin Luther King, Jr.: ''The church must be reminded that it is not the master or the servant of the state, but rather the conscience of the state. It must be the guide and the critic of the state, and never its tool . . . [or] it will become an irrelevant social club without moral or spiritual authority.'' The Johnson Amendment silences the ''conscience of the state.'' It's difficult to see how religious leaders can in any way continue to function as Martin Luther King Jr.'s ideal of the church as the ''conscience of the state,'' as the church has done so effectively during trying times for our state, when houses of worship are banned absolutely from discussing matters of the state.

The moral questions of the day are more often than not also fundamental social and political questions—questions that concern what we value as a nation. It is truly astounding that today, in America, religious leaders are banned from any comment on those moral issues. It is not partisan; this ban on speech makes no distinction between the ideological divide of left versus right in America: one church leader is investigated for publicly opposing abortion and another for discussing the morality of the Iraq War. Indeed, the American people may be surprised to learn this about their country.

The American people would allowing religious leaders, of all kinds, to speak their consciences on the issues facing our nation, and to do so without the threat of IRS punishment through the revocation of their tax-exempt status. This is why I am introducing legislation that will do just that. The Religious Freedom Act of 2006 simply states that religious leaders may discuss political matters, as a Constitutionally protected right, without the threat of an IRS investigation. Upon enactment, this bill will reaffirm the Supreme Court's holding that this country has a ''profound national commitment'' to a national debate that is ''uninhibited, robust, and wide-open.'' It will also reaffirm Martin Luther King, Jr.'s ideal of churches as the ''conscience of the state.'' I ask that the text of this statement be included in the CONGRESSIONAL RECORD by unanimous consent.

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. 3957

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 ''Religious Freedom Act of 2006''.

SEC. 2. PROTECTION OF FREEDOM OF SPEECH FOR HOUSES OF WORSHIP OR MEDITATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, no organization described in subsection (b) may be denied its Federal tax exemption under the Internal Revenue Code of 1986 by administrative or judicial action, nor shall donors to such organization be denied the deductibility of their contributions under such Code, because such organization engages in an activity that is protected by the United States Constitution, including comment on public issues, election contests, and pending legislation made in the theological or philosophical context of such organization.

(b) HOUSES OF WORSHIP OR MEDITATION AND AFFILIATED ORGANIZATIONS.—For purposes of subsection (a), an organization described in this subsection is a church, synagogue, mosque, temple, or other house of worship or meditation (including any organization affiliated with any of the foregoing)—

(1) with an established form of worship or meditation and a recognizable creed that minimally acknowledges the right of others to freely accept or reject such form and creed, and

(2) which meets 2 or more of the following indicia: definite and distinct ecclesiastical government; formal code of doctrine and discipline; distinct religious history; membership not axiomatically associated with any other organization; organization of ordained ministers; ordained ministers selected after completing prescribed courses of study; a literature of its own; established places of worship or meditation; regular congregations; regular religious services; classes for the religious instruction of youth or seniors or both; auxiliaries to provide relief and sustenance to the poor and deprived; and auxiliaries to provide youth with morally-structured community service and supervised opportunities to compete in sport and intellect-expanding activities as an alternative to destructive behavior such as crime and drug use.

(c) CONSTRUCTION.—This section shall not be construed so as to exempt any organization described in subsection (b) from the operation of any other law generally applicable to all organizations and individuals.

By Mrs. CLINTON (for herself, Mr. SPECTER, Mr. KENNEDY, and Ms. MIKULSKI):

S. 3958. A bill to establish the United States Public Service Academy; to the Committee on Homeland Security and Governmental Affairs.

Mrs. CLINTON. Mr. President, I rise today to introduce legislation that will create an undergraduate institution designed to cultivate a generation of young leaders dedicated to public service. The U.S. Public Service Academy Act, the PSA Act, will establish a national academy, modeled after the military service academies, to serve as an extraordinary example of effective, national public education.

The tragic events of September 11 and the devastation of natural disasters Hurricanes Katrina and Rita have demonstrated just how critical it is for our Nation to improve its ability to respond to future emergencies and to confront daily challenges. These events also underscore how much our Nation depends upon strong public institutions and competent civilian leadership at all levels of society.

Our country must improve its ability to groom future public servants to fill the pipeline as the baby boomer generation approaches retirement from critical public sector careers. Recent studies have shown that 2 million teachers are approaching retirement this decade alone, and more than 80 percent of law enforcement agencies are unable to fill positions due to a lack of qualified candidates.

The PSA Act will establish the U.S. Public Service Academy to provide a 4-year, federally subsidized college education for more than 5,000 students a year in exchange for a 5-year commitment to public service following graduation. Academy graduates will help to fill the void in public service our Nation will soon face by serving for 5 years in areas such as public education, public health, law enforcement, and the nonprofit sector.

Not only has the public service sector expressed a need for a young, talented, and high-qualified workforce, many college students today have already expressed a strong desire to serve. A recent study conducted by the Higher Education Research Institute found that more than two-thirds of the 2005 freshman class expressed a desire to serve others, the highest rate in a generation.

Unfortunately, as thousands of American youth seek to serve their Nation in a civilian capacity, many are often priced out of public service due to rising college debts. Over the past decade, the average debt burden for a college graduate has increased by 58 percent. Many of the students who want to serve our country owe more than $20,000 in student loans after graduating from college.

By providing a quality college education at no cost to the student, the U.S. Public Service Academy would tap into the renewed sense of patriotism and civic obligation among young people and create a corps of competent civilian leaders.

The establishment of a U.S. Public Service Academy is an innovative way to strengthen and protect America by creating a corps of well-trained, highly qualified civilian leaders. I am hopeful that my Senate colleagues from both sides of the aisle will join me today to move this legislation to the floor without delay.

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

S. 3959. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain combat zone compensation of civilian employees of the United States; to the Committee on Finance.

Mr. WARNER. Mr. President, I rise today along with my colleague Senator GEORGE ALLEN to introduce the Federal Employee Combat Zone Tax Parity Act, which would provide parity to civilian Federal employees by extending the tax credit currently received by military personnel in combat zones to the civilian Federal employees working along side them. My fellow Virginian, Congressman FRANK WOLF, has introduced a similar bill in the House of Representatives.

In addition, several Federal employee organizations, such as the American Federation of Government Employees (AFGE), the National Treasury Employees Union (NTEU), the Financial Management Association (FMA), the Senior Executives Association (SEA), the American Foreign Service Association (AFSA), and the National Federation of Federal Employees (NFFE), strongly support this legislation.

As of today, I have made eleven separate trips to Iraq and Afghanistan to see firsthand the work of our military personnel, which is essential to success in these regions. In addition, the work of our Federal civilian employees in these regions is significantly important.

At the moment, a majority of the work in the reconstruction of these countries is being done by the military and the Department of State (DOS). These dedicated men and women deserve our gratitude. However, as I have said on a number of occasions, our challenging task requires the coordination and work of Federal agencies across the spectrum.

Regardless of whether one is in the military or a civilian, there are certain risks and hardships associated with working overseas. As a result, the Federal Government provides certain incentives to individuals when they take on extremely challenging jobs. For example, those in the military working in a combat zone receive the Combat Zone Tax Credit.

This tax credit permits military personnel working in combat zones to exclude a certain amount of income from their Federal income taxes. This benefit for the military was established in 1913.

Private contractors working in Iraq and Afghanistan get a similar benefit. Under the Foreign Earned Income Tax Credit, contractors are allowed to exclude a portion of their income from taxes while they work abroad, like in Iraq and Afghanistan.

To date, however, no similar benefit exists for Federal employees serving in the same combat zones. I do not believe it is fair for our Federal employees to be excluded from the same benefits available to military personnel and private contractors in the same combat zone.

The Commonwealth of Virginia, of which I have been honored to serve for the last 28 years in the Senate, is home to over 200,000 Federal employees. I have long been a strong supporter of our Federal employees as I have been for our military personnel.

Our efforts in the war on terrorism can only be successful with a highly skilled and experienced workforce. I can personally attest to the dedication of civil service employees throughout the Federal Government. Since the September 11th attacks, Federal employees have been relocated, reassigned, and worked long hours under strenuous circumstances without complaints, proving time and again their loyalty to their country is first and foremost.

During my service as Secretary of the Navy during which I was privileged to have some 650,000 civilian employees working side by side with the uniformed Navy, I valued very highly the sense of teamwork between the civilian and uniformed members of the United States Navy. Teamwork is an intrinsic military value, in my judgment, and essential to mission accomplishment. A sense of parity and fairness is important for developing this teamwork.

In Iraq and Afghanistan, the teamwork of the entire Federal Government is essential to harness our overall efforts to secure a measure of democracy for the peoples of those countries, and

we need to make it easier for our Federal employees to participate.

I recently offered additional legislation to achieve this goal. My bill, S. 2600, would provide the heads of agencies other than DOS and the Department of Defense (DOD) with the authority, at their discretion, to give their employees who serve in Iraq and Afghanistan allowances, benefits, and gratuities comparable to those provided to State Department and DOD employees serving in those countries.

Currently, the agency heads of non-DOD and DOS agencies do not have such authority, and it is essential, as part of the U.S. effort to bring democracy and freedom to Iraq and Afghanistan, that agency heads be able to give their workers in those countries the same benefits as those they work beside.

In the last estimate, there are almost 2,000 Federal employees working a variety of jobs in Iraq and Afghanistan. I am grateful for their hard work in potentially dangerous situations. And, I know there are many other Federal employees who are anxious to serve their country and engage in these efforts, but it is a lot to risk.

Providing parity in this important tax credit would provide a significant incentive for individuals to take on this challenge—a challenge that America desperately needs Federal employees to undertake.

Throughout the world, America's civil servants are serving our government and our people, often in dangerous situations. They are on the ground in the war on terrorism taking over new roles to relieve military personnel of tasks civilian employees can perform. They are playing a vital role in the reconstruction of Iraq and Afghanistan.

We have a long tradition in Congress of recognizing the valuable contributions of our Federal employees in both the military service and in the civil service by providing fair and equitable treatment. This bill gives us the ability to continue this tradition while at the same time providing an important incentive to help America meet its needs.

I urge my colleagues to join with me in support of this legislation.

By Mr. STEVENS (for himself, Mr. INOUYE, Mr. LOTT, and Mr. LAUTENBERG):

S. 3961. A bill to provide for enhanced safety in pipeline transportation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I am pleased to introduce the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. I am joined by my colleagues from the Commerce, Science, and Transportation Committee, Senators INOUYE, LOTT and LAUTENBERG.

Pipelines are one of the safest forms of transportation, and in most cases their safety record has been steadily improving. Unfortunately however, as recent events in my State demonstrate, there is still much to be done. This bill addresses the problems that have occurred in Alaska and other safety issues that have been brought to the Committee's attention.

The bill reauthorizes the pipeline safety programs of the Pipeline and Hazardous Materials Safety Administration (PHMSA) for Fiscal Years 2007 through 2010.

Highlights of the bill include:

Increased Department of Transportation Resources Dedicated to Overseeing Pipeline Safety—The bill provides an additional 45 Federal inspectors (a 50 percent increase) over the 4 years of the bill at a cost of $6 million in Fiscal Year 2010. Currently PHMSA has 90 inspectors, but the DOT Inspector General has stated in the past that these relatively low staffing levels are a matter for concern. Ninety inspectors translate to one inspector for every 18,000 miles of pipeline in this country.

Strengthened Programs to Reduce Construction Related Damage to Pipelines—The bill includes new civil enforcement authority against excavators and pipeline operators responsible for third-party damage incidents and provides grants to states that have damage prevention programs in place. Construction related damage, such as damage caused by excavation for a highway project, is the greatest cause of pipeline accidents that result in death or injury. This occurs most often on the distribution systems that run through the neighborhoods where people live and work. These incidents have increased by 49 percent since 1996.

Applying DOT Safety Standards to the Currently Unregulated Low Stress Pipelines—On August 31, the DOT announced proposed rules to cover low stress pipelines in unusually sensitive areas. Pipeline operators will have to meet new safety requirements, including cleaning and continuous monitoring, along more than 1,200 miles of pipelines. However, low-stress lines that aren't in such sensitive areas would continue to be unregulated. The bill goes further than the regulation and requires DOT oversight of all low-stress pipelines.

Increased Accountability of Pipeline Company Officials—The bill includes a provision that would require senior officials at pipeline companies to certify that the information they are providing to regulators is accurate.

Enhanced Pipeline Research—The bill would also boost PHMSA's research and technology development budget for pipeline safety issues such as corrosion by $10 million over the length of the bill.

A Study of Pipelines Critical to Energy Supply—The bill includes a study of oil pipelines that are critical to the nation's energy supply in order to determine if there are sufficient safety regulations in place to ensure their safety.

The House Transportation and Infrastructure Committee and the House Energy and Commerce Committee are also working on pipeline safety legislation. I hope that our three Committees can work together over the next month while the Congress is out of session to develop a joint legislative product that we can pass and have signed into law when we return in November. Many of the provisions in the three bills are similar and we should have enough common ground to achieve this goal.

By Mr. DOMENICI (for himself and Mr. CRAIG):

S. 3962. A bill to enhance the management and disposal of spent nuclear fuel and high-level radioactive waste, to assure protection of public health and safety, to ensure the territorial integrity and security of the repository at Yucca Mountain, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I note the arrival on the floor of the distinguished Senator from Nevada. The legislation that I will be talking about is of significant interest to the Senator from Nevada. But it will take many months on the floor of the Senate before we finish.

Today my fellow Senators I am introducing legislation that I believe will place the Department of Energy's nuclear waste program back on track.

As we all know, the history of the Yucca Mountain project has been rocky at best. The Yucca Mountain project has a very long pedigree, starting back to the late 1950's when the National Academy of Sciences reported to the Atomic Energy Commission suggesting that burying radioactive high-level waste in geologic formations should receive consideration.

In the 1980s, when Congress decided to pursue a geologic repository, we were quite optimistic—so optimistic that we told the Department of Energy—DOE—to enter into contracts with utilities that promised that we would begin taking nuclear waste off their hands by 1998. Well, obviously that didn't happen. What did happen was that the courts found that the government is liable for its failure to meet its contractual obligation.

While moving more slowly than planned, DOE's nuclear waste program has made progress toward making the goal of a permanent geologic repository for nuclear waste a reality. In 2002, the President and Congress approved the Yucca Mountain site, and instructed DOE to file a license application for the repository with the Nuclear Regulatory Commission—NRC. That decision has been made.

With the siting decision made, it will now be up to the NRC to evaluate the scientific data and determine whether the repository will permanently, and safely, isolate nuclear waste.

Yucca Mountain is the cornerstone of our national comprehensive spent nuclear fuel management strategy for

this country. Let me be clear: We need Yucca Mountain. We must make this program work. I believe the bill introduced today will do that.

This bill will remove legal barriers that will allow DOE to meet its obligation to accept and store spent nuclear fuel as soon as possible, without prejudging the outcome of the NRC's repository licensing decision.

The bill I will introduce today authorizes the DOE to permanently withdraw 147,000 acres currently controlled by the Bureau of Land Management, the Air Force, and the Nevada Test Site, a license condition of the NRC.

This legislation will repeal the arbitrary 70,000 metric ton statutory limit on emplacement of radioactive material at Yucca Mountain. The capacity of the mountain will be determined by scientific and technical analysis.

The DOE may also begin construction of needed infrastructure for the repository and surface storage facilities as soon as they complete an environmental impact statement that evaluates these activities.

This legislation will begin to consolidate the defense waste and spent nuclear fuel at Yucca Mountain. The bill requires DOE to file for a permit to build a surface storage facility at the Nevada Test Site at the same time it files its license application for a repository at Yucca Mountain.

As soon as the department receives the permit for the surface storage facilities from the NRC, the department may begin moving defense fuel and waste to the Nevada Test Site. The spent nuclear fuel from our Navy and defense activities that kept us safe during the Cold War will be consolidated and secure at the site.

Only after the NRC issues a construction permit for Yucca Mountain, may the department begin moving civilian spent fuel to the Nevada Test Site.

This bill will withdraw the land for the rail route for Yucca, a vital transportation component. There is a provision that also provides that appropriations from the Nuclear Waste Fund will not count against the allocations for discretionary spending. The DOE will have access to the full funds in the Nuclear Waste Fund, monies collected from our constituents, to complete this project.

This bill compliments the short, medium, and long term components of the nuclear fuel cycle that I began to talk about this past summer. The thinking of how to handle nuclear spent fuel in the late 1970s and early 1980s and the way we approached its management is changing, we need to acknowledge that change.

In the short term, according to DOE's most optimistic schedule, the NRC's construction permit will not be issued until 2011. The Consolidated and Preparation ''CAP'' proposal in the Energy and Water Appropriations bill begins to enable DOE to fulfill its contractual liability for spent fuel storage before DOE can move spent fuel to Yucca Mountain by providing new authorities for DOE to accept and store civilian spent nuclear fuel within the states in which it was generated.

In the mid term, this legislation lays the foundation to integrate Yucca Mountain and Global Nuclear Energy Partnership—GNEP—by providing that before spent fuel is shipped to Nevada, the Secretary of Energy determines if it can be recycled within a reasonable amount of time. Current plans for GNEP do not include recycling all 55,000 metric tons of civilian spent fuel that has already been generated. This proposal will avoid moving waste to Nevada that should be shipped instead to a GNEP facility.

In the long term, this measure provides DOE with the authorities needed to execute the Yucca Mountain project, and to begin long term emplacement, while the GNEP program will reduce the volume of material to be emplaced in the mountain, eliminating the need for a second repository program.

The three pieces of the fuel cycle that I have discussed today—interim storage, GNEP and Yucca Mountain—will establish a comprehensive program that will provide confidence that our nation's nuclear waste will be managed safely both for current and future reactors.

We can solve this problem and I hope we can move forward together.

I send to the desk a bill which does all of the things that I have just spoken to. I am sure many Senators and their staffs will be interested. This will certainly not proceed in any hurry; it will take a while. But I intend to move it as best I can. There will be opportunities to stop the movement at every opportunity. I am just hopeful that we will carry all the way through, as we have in the past, and go to conference and take something to the President and see where we are.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I want to again express my appreciation to the distinguished Senator from New Mexico—I know this is a feeling shared by a lot of Senators—for his efforts and leadership over many years in the Senate but particularly in the energy area. He has been persistent.

We did pass a good energy policy bill last year. Obviously, he would like for it to have been, perhaps, even broader, but we got it done. It is making a contribution and will continue to have a positive contribution into more diverse energy policy in this country from which the American people will benefit.

I thank the Senator for his leadership on this particular area of the nuclear repository. We must deal with this issue. We can do it. His input was critical. I thank him.

Mr. DOMENICI. I thank the Senator. It is a pleasure working with him.

When I have legislation such as the legislation I just described, which is very difficult, and I know we are going to come to spots in the Senate, stopovers where we will have to vote because it is good for the country, I am counting in the column that if I have done my work, will this Senator vote for it, the Senator's name. I believe if we do our work and get our votes properly and line up what we propose, a Senator such as Senator LOTT will not be running around asking people what is going on in his State.

This matter deserves his attention, as it deserves my attention. I believe we will get that.

I thank the Senator.

Mr. CRAIG. Mr. President, I rise today to express my strong support for the Nuclear Fuel Management and Disposal Act introduced today by Senator PETE DOMENICI. Senator DOMENICI has long been a courageous supporter of dependable, emissions-free nuclear energy, and he is largely responsible for the current renaissance of nuclear power in this country—with upwards of 30 new nuclear reactors on the drawing board to be licensed in the next several years. Senator DOMENICI's landmark legislation will help assure the future of nuclear power in this country by providing the necessary legislation for moving forward on the long-stalled Yucca Mountain repository and authorizing much-needed interim storage for spent fuel and high-level waste that has been accumulating around the country. For used nuclear fuel that will eventually be recycled, the Senate Energy and Water Appropriations bill approved by the Appropriations Committee earlier this year provides for interim storage of commercial spent fuel at Consolidation and Preparation—CAP—facilities. Senator DOMENICI's legislation introduced today addresses defense spent fuel and high-level waste that cannot be recycled, so that these wastes will be sent to Yucca Mountain for storage and eventual disposal. In this way, this bill removes the final roadblock to developing new nuclear power in this country.

And let me say a few words about this ''roadblock'' to Yucca that has persisted for so many years. The Federal Government made a promise to take possession of spent nuclear fuel in order to safely and permanently dispose of it in a geologic repository. We promised to begin taking this fuel back in 1998—8 years ago. However, through concerted efforts by the state of Nevada and its congressional delegation, progress on Yucca has often slowed to a crawl. This is the classic NIMBY attitude—''not in my backyard.'' And yet my colleague from Nevada, Mr. REID, has repeatedly called for this Congress and the administration to do something to help reduce emissions of greenhouse gases because of his concerns about global warming.

This Congress and this administration have done a great deal to promote emission-free power generation. This Congress passed the Energy Policy Act last year, which provided financial incentives for new, emission-free sources

of energy, including wind, solar, clean coal—and nuclear. And earlier this year, this administration introduced the Advanced Energy Initiative—AEI—to support research and development of new energy sources—including nuclear power. In fact, the Global Nuclear Energy Partnership—GNEP—is one part of the AEI. One goal of GNEP is to reduce the amount and toxicity of nuclear waste ultimately destined for disposal at Yucca Mountain; another goal is to eventually help expand the deployment of emission-free nuclear power in developing countries that otherwise would need to depend on burning fossil fuels for their growing energy demands. Contrary to Senator REID's comments about doing nothing to help reduce greenhouse gas emissions, we have done a great deal to develop emission-free energy in this country and abroad. But the deployment of nuclear power requires that we manage the spent fuel from nuclear power plants in a safe and responsible manner. One aspect of that management strategy must be to open the Yucca Mountain repository as soon as possible.

As Senator DOMENICI has said, Yucca Mountain is the cornerstone of a comprehensive spent-fuel management strategy for this country, but Yucca alone cannot meet the government's spent-fuel obligations. Through GNEP we will also explore technologies that promise to reduce the volume and toxicity of spent fuel. Thus, GNEP, interim storage and Yucca Mountain together provide a comprehensive program for safely managing our Nation's Nuclear waste.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 588—TO EXPRESS THE SENSE OF THE SENATE THAT STATES SHOULD HAVE IN PLACE BACKUP SYSTEMS TO DEAL WITH ANY FAILURE OF ELECTRONIC VOTING EQUIPMENT DURING THE NOVEMBER 7, 2006, GENERAL ELECTION

Mr. FEINGOLD (for himself and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 588

Whereas widespread problems with new voting technology have been reported this year in primaries in Ohio, Arkansas, Illinois, Maryland, and elsewhere;

Whereas States such as Texas, Arkansas, and others have had to unexpectedly administer provisional ballots after electronic voting machines failed;

Whereas equipment malfunctions in the Arkansas district 16 State Senate primary race precipitated a recount that, in turn, produced a new winner;

Whereas computer problems in 4 southern Indiana counties required workers to manually enter the number of votes for each candidate in each precinct;

Whereas a deadline to test electronic voting machines in West Virginia was pushed back to the day before the May 9 primary election due to problems and delays with the new machines;

Whereas glitches in the electronic voter check-in system in Montgomery County, Maryland, resulted in polls remaining open for additional hours and required a recount of thousands of paper provisional ballots;

Whereas 40 percent of registered voters nationally are expected to cast ballots on new machines in the November 7 midterm elections;

Whereas the larger number of voters participating in the November 7 midterm elections may result in even more equipment failures than occurred in the primary elections;

Whereas millions of voters could be disenfranchised in the November 7 midterm elections, as thousands have already been in 2006 primary elections, due to the failure of electronic voting machines; and

Whereas former Attorney General Richard Thornburgh and former Ohio Governor Richard Celeste, co-chairs of the Committee to Study a Framework for Understanding Electronic Voting of the National Academies' National Research Council wrote recently: ''If major problems arise with unproven technology and new election procedures, the political heat will be high indeed. . . . Jurisdictions need to come up with contingency plans for such November problems, if they haven't done so already. One possible example: Make preparations to fall back to paper ballots if necessary.'': Now, therefore, be it

Resolved, That it is the sense of the Senate that each State and jurisdiction that uses electronic voting equipment should have in place for use in the November 7, 2006, general election a backup system, such as the use of paper ballots, in the case of any failure of the electronic voting equipment.

SENATE CONCURRENT RESOLUTION 119—EXPRESSING THE SENSE OF CONGRESS THAT PUBLIC POLICY SHOULD CONTINUE TO PROTECT AND STRENGTHEN THE ABILITY OF FARMERS AND RANCHERS TO JOIN TOGETHER IN COOPERATIVE SELF-HELP EFFORTS

Mrs. LINCOLN (for herself, Mr. CRAIG, Mr. CHAMBLISS, Mr. DORGAN, Mr. CONRAD, Mr. GRASSLEY, Mr. PRYOR, Mr. HARKIN, Mr. CRAPO, Mr. DEWINE, Mr. TALENT, Mr. BAUCUS, Mr. THUNE, Mr. BURNS, Mr. BOND, Mr. ENZI, Ms. STABENOW, Mr. COCHRAN, and Mr. JOHNSON) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 119

Whereas, the ability of farmers and ranchers in the United States to join together in cooperative self-help efforts is vital to their continued economic viability;

Whereas, Federal laws have long recognized the importance of protecting and strengthening the ability of farmers and ranchers to join together in cooperative self-help efforts, including to cooperatively market their products, ensure access to competitive markets, and help achieve other important public policy goals;

Whereas, farmer- and rancher-owned cooperatives play an important role in helping farmers and ranchers improve their income from the marketplace, manage their risk, meet their credit and other input needs, and compete more effectively in a rapidly changing global economy;

Whereas, farmer- and rancher-owned cooperatives also play an important role in providing consumers in the United States and abroad with a dependable supply of safe, affordable, high-quality food, fiber and related products;

Whereas, farmer- and rancher-owned cooperatives also help meet the energy needs of the United States, including through the production and marketing of renewable fuels such as ethanol and biodiesel;

Whereas, there are nearly 3,000 farmer- and rancher-owned cooperatives located throughout the United States with a combined membership representing a majority of the nearly 2 million farmers and ranchers in the United States; and

Whereas, farmer- and rancher-owned cooperatives also contribute significantly to the economic well being of rural America as well as the overall economy, including accounting for as many as 250,000 jobs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the Sense of the Congress that public policy should continue to protect and strengthen the ability of farmers and ranchers to join together in cooperative self-help efforts—

(1) to improve their income from the marketplace and their economic well-being;

(2) to capitalize on new market opportunities; and

(3) to help meet the food and fiber needs of consumers, provide for increased energy production, promote rural development, maintain and create needed jobs, and contribute to a growing United States economy.

SENATE CONCURRENT RESOLUTION 120—EXPRESSING THE SUPPORT OF CONGRESS FOR THE CREATION OF A NATIONAL HURRICANE MUSEUM AND SCIENCE CENTER IN SOUTHWEST LOUISIANA

Mr. VITTER submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 120

Whereas the Creole Nature Trail All-American Road District Board of Commissioners has begun to create and develop a National Hurricane Museum and Science Center in the southwest Louisiana area;

Whereas protecting, preserving, and showcasing the intrinsic qualities that make Louisiana a one-of-a-kind experience is the mission of the Creole Nature Trail All-American Road;

Whereas the horrific experience and the devastating long-term effects of Hurricanes Katrina and Rita will play a major role in the history of the United States;

Whereas a science center of this caliber will educate and motivate young and old in the fields of meteorology, environmental science, sociology, conservation, economics, history, communications, and engineering;

Whereas it is only appropriate that the effects of hurricanes and the rebuilding efforts be captured in a comprehensive center such as a National Hurricane Museum and Science Center to interpret the effects of hurricanes in and outside of Louisiana; and

Whereas it is critical that the history of past hurricanes be preserved so that all people in the United States can learn from this history: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports and encourages the creation of a National Hurricane Museum and Science Center in southwest Louisiana.