

The report by Lean Six Sigma concluded that off-site destruction would actually cost more and could result in as much as a five-year delay in chemical weapons destruction at Pueblo.

Given the conclusions of these recent studies on hydrolysate destruction, I am perplexed that the Department is conducting yet another study on the potential cost savings of hydrolysate destruction. It is unclear to me what questions remain unanswered. These studies clearly show that shipping hydrolysate off-site raises risks of permitting delays or litigation. With a 2017 deadline to meet, the Department of Defense can't afford a permitting delay that sets the project off course.

The bill I am introducing today is very simple. It prohibits the Secretary of Defense from shipping hydrolysate at the Pueblo Chemical Depot off-site for treatment. This will ensure that DOD can continue to proceed on its current path toward treating hydrolysate on-site. It will help the U.S. Government meet its legal obligation to complete chemical weapons destruction by 2017. And it will provide some certainty to the communities that have waited so long for these chemical weapons to be safely destroyed.

We need to put this potentially costly and dilatory issue behind us and proceed with the safe and swift destruction of our Nation's stockpile of chemical weapons.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 2658. A bill to amend the Servicemembers Civil Relief Act to extend from 90 days to one year the period after release of a member from the Armed Forces from active duty during which the member is protected from mortgage foreclosure; to the Committee on Veterans' Affairs.

Mr. KERRY. Mr. President, in the Congress and in Washington these last years, there has been a tragic disconnect between the words spoken about keeping faith with those who wear the uniform of our country, and the actions actually taken to make those words count.

From the tragic conditions at Walter Reed to the backlog of claims at the Veterans Administration, there has been a long list of problems unaddressed—and of problems that arose because someone, somewhere didn't plan ahead to prevent problems for those who sacrifice for all of us.

Today we know from VA estimates that nearly 200,000 veterans are homeless on any given night and that nearly 400,000 veterans experience homelessness over the course of a year—a national disgrace to consider that in the richest country on the planet perhaps one out of every three homeless men sleeping in a doorway, alley or box once wore the uniform of our country.

We also know from the Bush administration's own U.S. Labor Department,

that, for example, in 2006, the unemployment rate for young veterans of the wars in Iraq and Afghanistan was 15 percent, more than triple the national average back then. We know that too many unemployed veterans are National Guard or Reserve troops who were called to duty but found when they came home that their old jobs were gone, that they'd lost their place in line in the local economy, or that the small businesses they'd left behind to serve overseas were in dire straits when they came home.

We know these two challenges—the homeless rates for veterans and the unemployment numbers for veterans—demand big solutions, and we are working to provide them.

But we should also know by now that the least we can do is stop these problems from becoming worse. We have seen a wave of foreclosures send a ripple effect across the economy. By late 2007, 2.5 million mortgages were in default—a 40 percent increase from just 2 years earlier. Last month, foreclosures in Massachusetts alone were up 128 percent from the previous January. In fact, in 2007 alone 1.6 million Americans defaulted on their home loans, and as many as 3.5 million more are expected to do the same by mid-2010.

Every U.S. Senator would agree that the thought of our men and women in uniform being thrown out of their homes because of mortgage foreclosures is miles beyond unacceptable. The question is, in the middle of a national housing crisis and a subprime mortgage collapse, what can be done—done at a minimum—to ensure that Washington acts to shield veterans from becoming the faces of the foreclosure crisis, and from making today's Iraq and Afghanistan veterans the faces of tomorrow's homeless and jobless populations.

We know that the soaring and staggering foreclosure statistics are directly affecting Americans from all walks of life, and our military is not exempt from the pain. The least we can do today is make it clear that we will pay some small measure of respect to veterans by helping them avoid foreclosure. They need more time and greater flexibility as they return to civilian life. The Commission on the National Guard and Reserves has urged us to take preventative action. The Commission found that the transition from military to civilian life extends well beyond the current timelines which forces many service members to focus their attention on imminent foreclosure instead of first locating a competitive job or addressing any mental or physical health concerns that they may be facing.

That is why today I am introducing commonsense legislation that would protect servicemembers and veterans involved in the wars in Iraq and Afghanistan by securing a longer grace period for payment. My bill would extend the time from 90 days to 1 year the time period that a servicemember

is protected from foreclosure. By extending the deadline to 1 year, I hope we can take one small step to prevent future homelessness throughout the veteran's community.

If America's leaders truly support our troops, we owe them more than a polite thank you and best wishes. We owe them action. We cannot tolerate a pattern in Washington that has persisted for too long—provide lip service about supporting the troops but not the lifesaving body armor they need; talk a good game about veterans but cut funding for their healthcare. It is wrong, and it is time for it to end. We should act now to ensure that those saddled with the burden of the mortgage crisis are not those who have carried the greatest responsibility for America overseas in the fight for freedom. I urge my colleagues to support this legislation.

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

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

S. 2658

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

SECTION 1. EXTENSION OF MORTGAGE FORECLOSURE PROTECTION PERIOD FOR SERVICEMEMBERS.

(a) EXTENSION OF PROTECTION PERIOD.—Subsection (c) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533(c)) is amended by striking “90 days” and inserting “one year”.

(b) EXTENSION OF STAY OF PROCEEDINGS PERIOD.—Subsection (b) of such section (50 U.S.C. App. 533(b)) is amended by striking “90 days” and inserting “one year”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to individuals performing a period of military service (as that term is defined in section 101(3) of the Servicemembers Civil Relief Act (50 U.S.C. App. 511(3))) that begins on or after October 7, 2001.

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

S. 2660. A bill to amend the Federal Power Act to ensure that the mission and functions of Regional Transmission Organizations and Independent System Operators include keeping energy costs as low as reasonably possible for consumers, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SANDERS. Mr. President, today I am introducing legislation to help protect consumers from high electricity prices that have followed deregulation of electricity markets. I am honored to have many of my colleagues joining me in offering this legislation—Senator SNOWE, Senator KERRY, Senator COLLINS, Senator KENNEDY, and Senator LEAHY.

Market pricing of electricity promised to bring lower costs to consumers. Unfortunately, consumers in organized market regions—those that have a Regional Transmission Organization or

Independent System Operator, RTOs or ISOs as they are called—are experiencing just the opposite: substantial, across-the-board problems with spiraling costs, unaccountable governance, and a chronic lack of oversight. Increasingly, RTOs/ISOs are adopting questionable, unproven, and expensive market mechanisms, and there seems to be little interest at the Federal Energy Regulatory Commission, FERC, or the RTOs/ISOs to question any of the economic theories behind these mechanisms. I note that on February 21, 2008, FERC finally took a step toward acknowledging that the markets are not working by issuing a proposed rule that would address some concerns. I believe, however, that the legislation I am introducing today will focus FERC on consumer issues, which were not adequately addressed in the proposed rule.

The goal of lowering costs to consumers has been lost in the race to create competitive electricity markets. In fact, something as simple as keeping costs to consumers as low as reasonably possible is not even part of the mandate, or mission statement, of any of the Nation's ISOs or RTOs! In New England, we have seen what can happen—there have been several instances in which ISO-New England has implemented expensive market mechanisms, over the objection of significant segments of electric stakeholders, without either conducting a cost-benefit analysis or comparing the costs of the proposed initiative with alternative means of achieving the desired results.

Showing the strong interest in this issue in the New England region, the legislation is supported by the Northeast Public Power Association, the Vermont Public Power Supply Authority, the Burlington Electric Department, Kennebunk Light & Power District, the Massachusetts Municipal Wholesale Electric Company, Connecticut Municipal Electric Energy Cooperative, the Connecticut Office of Consumer Counsel, and the Pascoag Utility District. The Ohio Consumers' Counsel, the Maryland Office of People's Counsel, Electricity Consumers Resource Council, and the Utility Consumers' Action Network support the legislation as well.

The legislation I am introducing today would refocus FERC on the consumer cost impacts of RTO/ISO actions. Consistent with existing law, the bill makes explicit that, when FERC considers the lawfulness of RTO/ISO rates, it must assess whether those rates will ensure that consumer costs are as low as reasonably possible consistent with the provision of reliable service. Also, in recognition of the uniquely important roles played by RTOs and ISOs, this bill requires FERC to make both goals—cost minimization and reliability—a part of each RTO or ISO's mission. These changes clarify and amplify existing law as applied to these important organizations, but do not alter, diminish, or imply an ab-

sence of similar requirements with respect to other public utilities regulated by FERC.

I believe these simple, commonsense issues, when posed by FERC to an RTO/ISO that is seeking approval for a rate, charge, or rule, will instill a much stronger sense of cost accountability. The bottom line, as I see it, is that this simple bill will likely yield substantial benefits for consumers and for many regional economies.

I urge my colleagues to join me in pushing for adoption of the Consumer Protection and Cost Accountability Act.

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

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

S. 2660

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 "Consumer Protection and Cost Accountability Act".

SEC. 2. REQUIREMENTS RELATING TO TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—In this Act:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) LOWEST REASONABLE COST.—The term "lowest reasonable cost" means the lowest total delivered cost to consumers consistent with the provision of reliable service.

(3) TRANSMISSION ORGANIZATION.—The term "Transmission Organization" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(b) RATE AND CHARGES; SCHEDULES; SUSPENSION OF NEW RATES.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

"(g) REQUIREMENTS RELATING TO TRANSMISSION ORGANIZATIONS.—

"(1) DEFINITION OF LOWEST REASONABLE COST.—In this subsection, the term 'lowest reasonable cost' means the lowest total delivered cost to consumers consistent with the provision of reliable service.

"(2) CONSIDERATION OF TRANSMISSION ORGANIZATION RATES.—With respect to determining whether a rate or charge made, demanded, or received (including any rule or regulation promulgated by a Transmission Organization relating to a rate or charge made, demanded, or received) is consistent with each requirement described in subsection (a) or section 206, as applicable, the Commission shall consider whether the rate or charge (including each rule or regulation relating to the rate or charge) would enable the Transmission Organization to provide, or facilitate the provision of, reliable service to consumers at the lowest reasonable cost.

"(3) CONSIDERATION OF TRANSMISSION ORGANIZATION RATE CHANGES.—In determining whether any filing by a Transmission Organization to establish or change a rate or charge made, demanded, or received (including any rule or regulation promulgated by a Transmission Organization relating to a rate or charge made, demanded, or received) is consistent with each requirement described in subsection (a), the Commission shall consider whether the rate or charge (including each rule or regulation relating to the rate or charge) would—

"(A) provide consumer benefits that outweigh any anticipated direct or indirect

costs to consumers, as demonstrated by a cost-benefit analysis to be submitted by the Transmission Organization to the Commission; or

"(B) have only a de minimus impact on the total delivered costs to consumer.

"(4) BIENNIAL AUDITS.—The Commission shall ensure that each Transmission Organization is subject to biennial, independent audits that—

"(A) include—

"(i) an assessment of the performance of the Transmission Organization; and

"(ii) recommendations to lower the costs and improve the performance of the Transmission Organization; and

"(B) are made available to the public.".

(c) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commission shall submit to the appropriate committees of Congress a report describing each determination of the Commission with respect to whether each Transmission Organization provides, or facilitates the provision of, reliable service at the lowest reasonable cost to consumers.

By Ms. SNOWE (for herself, Mr. NELSON of Florida, and Mr. STEVENS):

S. 2661. A bill to prohibit the collection of identifying information on individuals by false, fraudulent, or deceptive means through the Internet, a practice known as "phishing", to provide the Federal Trade Commission the necessary authority to enforce such prohibition, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce legislation that focuses on eliminating online fraud and identity theft that is facilitated through the use of phishing schemes, as well as deceptive and misleading domain names. Phishing is a method of online identity theft that takes the form of fraudulent e-mails or fake Web sites in order to deceive the recipient into giving personal or financial account information. In addition to victimizing unsuspecting consumers, phishing scams maliciously exploit the trust that legitimate businesses have worked so hard to establish with consumers.

The Anti-Phishing Consumer Protection Act of 2008 would prohibit the practice of phishing—the deceptive solicitation of a consumer's personal information through the use of e-mails, instant messages, and misleading Web sites that trick recipients into divulging their information to identity thieves. The legislation would also prohibit related abuses, such as the practice of using fraudulent or misleading domain names, by defining them as deceptive practices under the FTC Act.

Additionally, the legislation seeks to solidify the integrity of domain name registration, a longtime goal for the Federal Trade Commission, by making it illegal for a domain name registrant to provide false or misleading identifying contact information in a WHOIS database when registering a domain name. Too often law enforcement officials have been hindered in their pursuit of phishers and other online scammers

because the person responsible is hiding behind the anonymity of false registration information—this legislation would put an end to that practice by requiring accurate registration information about those that own Web sites and domain names that are used to harm consumers.

The reason it is imperative to address this through legislation is because online fraud and, more specifically, phishing scams are running rampant. A December 2007 New York Times article reported that more than 3.5 million Americans lost money to phishing schemes and online identity theft over a 12-month period ending in August 2007—this is a 57-percent increase over the previous year. The total amount lost by the victims, \$3.2 billion dollars. The Anti-Phishing Working Group found, in November 2007, that 178 corporate identities and brands were hijacked and used for phishing scams, which is the highest number ever reported. All of these figures are very disconcerting and will only increase if we don't put greater effort on curtailing this online fraud.

Phishing and other forms of identity theft continue to have a detrimental effect on e-commerce by eroding consumers' confidence in online transactions. According to a 2007 Javelin Strategy & Research study, 80 percent of Internet users are concerned about being victims of online identity theft. What is more, a 2006 Zogby Interactive poll found that 78 percent of small business owners polled stated that a less reliable Internet would damage their business. While consumer confidence is critical in any commerce activity, it is paramount for online transactions. Phishing and other online fraud activities directly undermine that vital trust.

Phishing schemes aren't just isolated to individuals and e-commerce. Companies, organizations, and government agencies are also targets. A form of phishing known as spear phishing targets these entities to gain unauthorized access to the organization's computer system in order to steal financial information, trade secrets, or even top-secret military information. The security risks that phishing poses in the world of cyberterrorism is very significant.

But one doesn't have to look to some distant country to find the origin of traditional phishing schemes. The United States only until recently was consistently the top country that hosted the most phishing Web sites. While China now holds that claim, the United States is a very close second—hosting approximately 24 percent of phishing Web sites. So we can definitively do more within our borders to make the Internet notably safer.

Since President Bush signed the stimulus package into law earlier this month, millions of Americans will be expecting to receive tax rebate checks this May. But before those checks arrive, taxpayers should also expect to be

targets of numerous phishing schemes between now and then. Many of these scams involve official-looking e-mail messages that try to trick the recipient into entering their personal information at a fake IRS Web site by stating in the e-mail that they are eligible for a refund check. This is not the first time the IRS identity has been misused for phishing scams, and it will continue if we don't do more to go after phishers.

And this is what the Anti-Phishing Consumer Protection Act of 2008 does. It looks to make the Internet safer and more reliable. It also facilitates the restoration of trust and consumer confidence that has been eroded by the prevalence of deceptive e-mails and Web sites, which has, in part, mired the Internet from achieving its full potential. That is why I sincerely hope that my colleagues join Senators BILL NELSON, STEVENS, and me in supporting the critical legislation.

By Mr. BAUCUS (for himself and Mr. GREGG) (by request):

S. 2662, a bill to respond to a Medicare funding warning; to the Committee on Finance.

Mr. BAUCUS. Mr. President, under a provision of the 2003 Medicare bill, the Medicare trustees are required to determine the point at which general revenues will finance at least 45 percent of Medicare's total outlays. If for 2 consecutive years, the trustees predict that this 45 percent threshold will be exceeded in the next 6 years, they are required to issue a "Medicare Funding Warning," which they did last April. As a result, the law requires the President to submit and Congress to receive a legislative proposal to reduce general revenues as a share of total Medicare spending.

The President has now submitted proposed legislation to Congress in response to the funding warning, and I am therefore required to introduce the President's proposal. So today, Senator GREGG and I will introduce a bill to respond to a Medicare funding warning. But I do so while emphasizing that the President's proposal, contained in this very bill, is not the answer to the Medicare program's problems.

Everyone agrees that Medicare faces a serious long-term financing problem that must be addressed. But the challenge facing Medicare is not what share of its funding comes from general revenues—the problem is rising health care costs in the health care system as a whole. Medicare's costs are increasing because costs throughout the health care system are skyrocketing. Addressing the causes of these system-wide costs will be the key to addressing Medicare's long-term financing.

With health care costs increasing much faster than wages and inflation, Congress must find ways to control these rising costs in order to ensure the long-term financial viability of the Medicare program. We must also address current Medicare policies—such

as overpayments in the Medicare Advantage program—that exacerbate the problem.

While I am statutorily required to introduce the President's Medicare bill at this time, I still fully intend to pursue real Medicare reform legislation in the coming weeks. That bill will increase access to preventive benefits and primary care, and will improve the quality of care delivered under the program. I will also seek to help low-income seniors with the costs of rising Medicare premiums, and to offer timely, appropriate improvements for the prescription drug benefit.

Beyond advancing a more realistic Medicare reform bill this year, I also intend for the Finance Committee to launch an aggressive look at comprehensive health care reform. Working together, my colleagues and I will examine the underlying causes of rising health care costs in the entire health care system and explore solutions that can be the foundation for system-wide reform—the only way truly to control costs in the Medicare program.

I am required by law to introduce the White House's legislation on Medicare today, but I am compelled by my commitment to America's seniors to insist on better solutions. Where the President's bill cobbles together ill-conceived or premature proposals to check the box on curbing Medicare costs, I intend for the Senate to consider a carefully crafted, thoughtful package of real improvements to the Medicare program overall—and to spend the rest of this year preparing for a time when real health reform is within our grasp. Working together, we can do better by America's seniors.

By Mr. PRYOR (for himself, Mr. STEVENS, Mr. INOUE, Ms. COLLINS, Mr. NELSON of Florida, and Ms. KLOBUCHAR):

S. 2663, A bill to reform the Consumer Product Safety Commission to provide greater protection for children's products, to improve the screening of noncompliant consumer products, to improve the effectiveness of consumer product recall programs, and for other purposes; read the first time.

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

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

S. 2663

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "CPSC Reform Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of Consumer Product Safety Act.
Sec. 3. Reauthorization.
Sec. 4. Personnel.

- Sec. 5. Full Commission requirement; interim quorum.
- Sec. 6. Submission of copy of certain documents to congress.
- Sec. 7. Public disclosure of information.
- Sec. 8. Rulemaking.
- Sec. 9. Prohibition on stockpiling under other Commission-enforced statutes.
- Sec. 10. Third party certification of children's products.
- Sec. 11. Tracking labels for products for children.
- Sec. 12. Substantial product hazard reporting requirement.
- Sec. 13. Corrective action plans.
- Sec. 14. Identification of manufacturer by importers, retailers, and distributors.
- Sec. 15. Prohibited acts.
- Sec. 16. Penalties.
- Sec. 17. Preemption.
- Sec. 18. Sharing of information with Federal, State, local, and foreign government agencies.
- Sec. 19. Financial responsibility.
- Sec. 20. Enforcement by State attorneys general.
- Sec. 21. Whistleblower protections.
- Sec. 22. Ban on children's products containing lead; lead paint rule.
- Sec. 23. Alternative measures of lead content.
- Sec. 24. Study of preventable injuries and deaths of minority children related to certain consumer products.
- Sec. 25. Cost-benefit analysis under the Poison Prevention Packaging Act of 1970.
- Sec. 26. Inspector general reports.
- Sec. 27. Public internet website links.
- Sec. 28. Child-resistant portable gasoline containers.
- Sec. 29. Toy safety standard.
- Sec. 30. All-terrain vehicle safety standard.
- Sec. 31. Garage door opener standard.
- Sec. 32. Reducing deaths and injuries from carbon monoxide poisoning.
- Sec. 33. Completion of cigarette lighter rulemaking.
- Sec. 34. Consumer product registration forms.
- Sec. 35. Repeal.
- Sec. 36. Consumer Product Safety Commission presence at National Targeting Center of U.S. Customs and Border Protection.
- Sec. 37. Development of risk assessment methodology to identify shipments of consumer products that are likely to contain consumer products in violation of safety standards.
- Sec. 38. Seizure and destruction of imported products in violation of consumer product safety standards.
- Sec. 39. Database of manufacturing facilities and suppliers involved in violations of consumer product safety standards.

SEC. 2. AMENDMENT OF CONSUMER PRODUCT SAFETY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

SEC. 3. REAUTHORIZATION.

(a) IN GENERAL.—Section 32 (15 U.S.C. 2081) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) There are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this Act and any other provision of law the Commission is authorized or directed to carry out—

“(1) \$88,500,000 for fiscal year 2009;

“(2) \$96,800,000 for fiscal year 2010;

“(3) \$106,480,000 for fiscal year 2011;

“(4) \$117,128,000 for fiscal year 2012;

“(5) \$128,841,000 for fiscal year 2013;

“(6) \$141,725,000 for fiscal year 2014.

“(7) \$155,900,000 for fiscal year 2015.

“(b) There are authorized to be appropriated to the Commission for the Office of Inspector General—

“(1) \$1,600,000 for fiscal year 2009;

“(2) \$1,770,000 for fiscal year 2010;

“(3) \$1,936,000 for fiscal year 2011;

“(4) \$2,129,600 for fiscal year 2012;

“(5) \$2,342,560 for fiscal year 2013;

“(6) \$2,576,820 for fiscal year 2014; and

“(7) \$2,834,500 for fiscal year 2015.

“(c) There are authorized to be appropriated to the Commission for the purpose of renovation, repair, construction, equipping, and making other necessary capital improvements to the Commission's research, development, and testing facility (including bringing the facility into compliance with applicable environmental, safety, and accessibility standards), \$40,000,000 for fiscal years 2009 and 2010.

“(d) There are authorized to be appropriated to the Commission for research, in cooperation with the National Institute of Science and Technology, the Food and Drug Administration, and other relevant Federal agencies into safety issues related to the use of nanotechnology in consumer products, \$1,000,000 for fiscal years 2009 and 2010.”.

SEC. 4. PERSONNEL.

(a) PROFESSIONAL STAFF.—

(1) IN GENERAL.—The Consumer Product Safety Commission shall increase the number of fulltime personnel employed by the Commission to at least 500 by October 1, 2013, subject to the availability of appropriations.

(2) PORTS OF ENTRY; OVERSEAS INSPECTORS.—The Consumer Product Safety Commission shall hire at least 50 additional personnel to be assigned to duty stations at United States ports of entry, or to inspect overseas production facilities, by October 1, 2010, subject to the availability of appropriations.

(b) PROFESSIONAL CAREER PATH.—The Commission shall develop and implement a professional career development program for professional staff to encourage retention of career personnel and provide professional development opportunities for Commission employees.

SEC. 5. FULL COMMISSION REQUIREMENT; INTERIM QUORUM.

(a) NUMBER OF COMMISSIONERS.—

(1) IN GENERAL.—The Congress finds that it is necessary, in order for the Consumer Product Safety Commission to function effectively and carry out the purposes for which the Consumer Product Safety Act was enacted, for the full complement of 5 members of the Commission to serve and participate in the business of the Commission and urges the President to nominate members to fill any vacancy in the membership of the Commission as expeditiously as practicable.

(2) REPEAL OF LIMITATION.—Title III of Public Law 102-389 is amended by striking the first proviso in the item captioned “CONSUMER PRODUCT SAFETY COMMISSION, SALARIES AND EXPENSES” (15 U.S.C. 2053 note).

(b) TEMPORARY QUORUM.—Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Consumer Product Safety Commission, if they are not affiliated with the same political party, shall constitute a quorum for

the transaction of business for the 9-month period beginning on the date of enactment of this Act.

SEC. 6. SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO CONGRESS.

(a) IN GENERAL.—Notwithstanding any rule, regulation, or order to the contrary, the Commission shall comply with the requirements of section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)) with respect to budget recommendations, legislative recommendations, testimony, and comments on legislation submitted by the Commission to the President or the Office of Management and Budget after the date of enactment of this Act.

(b) REINSTATEMENT OF REQUIREMENT.—Section 3003(d) of Public Law 104-66 (31 U.S.C. 1113 note) is amended—

(1) by striking “or” after the semicolon in paragraph (31);

(2) by redesignating paragraph (32) as (33); and

(3) by inserting after paragraph (31) the following:

“(32) section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)); or”.

SEC. 7. PUBLIC DISCLOSURE OF INFORMATION.

Section 6 (15 U.S.C. 2055) is amended—

(1) by inserting “A manufacturer or private labeler shall submit any such mark within 15 calendar days after the date on which it receives the Commission's offer.” after “paragraph (2).” in subsection (a)(3);

(2) by striking “30 days” in subsection (b)(1) and inserting “15 days”;

(3) by striking “finds that the public” in subsection (b)(1) and inserting “publishes a finding that the public”;

(4) by striking “notice and publishes such a finding in the Federal Register,” in subsection (b)(1) and inserting “notice.”;

(5) by striking “10 days” in subsection (b)(2) and inserting “5 days”;

(6) by striking “finds that the public” in subsection (b)(2) and inserting “publishes a finding that the public”;

(7) by striking “notice and publishes such a finding in the Federal Register.” in subsection (b)(2) and inserting “notice.”;

(8) in subsection (b)—

(A) by striking “(3)” and inserting “(3)(A)”;

(B) by adding at the end thereof the following:

“(B) If the Commission determines that the public health and safety requires expedited consideration of an action brought under subparagraph (A), the Commission may file a request with the District Court for such expedited consideration. If the Commission files such a request, the District Court shall—

“(i) assign the matter for hearing at the earliest possible date;

“(ii) give precedence to the matter, to the greatest extent practicable, over all other matters pending on the docket of the court at the time;

“(iii) expedite consideration of the matter to the greatest extent practicable; and

“(iv) grant or deny the requested injunction within 30 days after the date on which the Commission's request was filed with the court.”;

(9) by striking “section 19 (related to prohibited acts);” in subsection (b)(4) and inserting “any consumer product safety rule or provision of this Act or similar rule or provision of any other Act enforced by the Commission.”;

(10) by striking “or” after the semicolon in subsection (b)(5)(B);

(11) by striking “disclosure.” in subsection (b)(5)(C) and inserting “disclosure; or”;

(12) by inserting in subsection (b)(5) after subparagraph (C) the following:

“(D) the Commission publishes a finding that the public health and safety requires public disclosure with a lesser period of notice than is required under paragraph (1).”;

(13) in the matter following subparagraph (D) of subsection (b)(5) (as added by paragraph (12) of this section), by striking “section 19(a),” and inserting “any consumer product safety rule or provision under this Act or similar rule or provision of any other Act enforced by the Commission,”; and

(14) by adding at the end of subsection (b) the following:

“(9) PUBLICLY AVAILABLE DATABASE OF REPORTED DEATHS, INJURIES, ILLNESS, AND RISK OF SUCH INCIDENTS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the CPSC Reform Act, the Commission shall establish and maintain a publicly available searchable database accessible on the Commission’s web site. The database shall include any reports of injuries, illness, death, or risk of such injury, illness, or death related to the use of consumer products received by the Commission from—

“(i) consumers;

“(ii) local, State, or Federal government agencies;

“(iii) health care professionals, including physicians, hospitals, and coroners;

“(iv) child service providers;

“(v) public safety entities, including police and fire fighters; and

“(vi) other non-governmental sources, other than information provided to the Commission by retailers, manufacturers, or private labelers pursuant to a voluntary or required submission under section 15 or other mandatory or voluntary program.

“(B) ADDITIONAL CONTENTS.—In addition to the reports described in subparagraph (A), the Commission may include in the database any additional information it determines to be in the public interest.

“(C) ORGANIZATION OF DATABASE.—The Commission shall categorize the information available on the database by date, product, manufacturer, the model of the product, and any other category the Commission determines to be in the public interest.

“(D) TIMING.—The Commission shall make such reports available on the Commission website no later than 15 days after the date on which they are received.

“(E) REMOVAL OF INACCURATE OR INCORRECT INFORMATION.—If the Commission determines, after investigation, that information made available on the database is incorrect the Commission shall promptly remove it from the database.

“(F) MANUFACTURER COMMENTS.—A manufacturer, private labeler, or retailer shall be given an opportunity to comment on any information involving a product manufactured by that manufacturer, or distributed by that private labeler or retailer, as the case may be. Any such comments may be included in the database alongside the information involving such product if requested by the manufacturer, private labeler, or retailer.

“(G) DISCLOSURE.—The Commission may not disclose the names or addresses of consumers pursuant to its authority under this subsection.

“(H) APPLICATION WITH OTHER PROVISIONS.—Subsection (a) and the preceding paragraphs of this subsection do not apply to the public disclosure of information received by the Commission under subparagraph (A) of this paragraph.”.

SEC. 8. RULEMAKING.

(a) ANPR REQUIREMENT.—

(1) IN GENERAL.—Section 9 (15 U.S.C. 2058) is amended—

(A) by striking “shall be commenced” in subsection (a) and inserting “may be commenced”;

(B) by striking “in the notice” in subsection (b) and inserting “in a notice”;

(C) by striking “unless, not less than 60 days after publication of the notice required in subsection (a), the” in subsection (c) and inserting “unless the”;

(D) by striking “an advance notice of proposed rulemaking under subsection (a) relating to the product involved,” in the third sentence of subsection (c) and inserting “the notice,”; and

(E) by striking “Register.” in the matter following paragraph (4) of subsection (c) and inserting “Register. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed consumer product safety standard.”.

(2) CONFORMING AMENDMENT.—Section 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by striking “an advance notice of proposed rulemaking or”.

(b) RULEMAKING UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—

(1) IN GENERAL.—Section 3(a) of the Federal Hazardous Substances Act (15 U.S.C. 1262(a)) is amended to read as follows:

“(a) RULEMAKING.—

“(1) IN GENERAL.—Whenever in the judgment of the Commission such action will promote the objectives of this Act by avoiding or resolving uncertainty as to its application, the Commission may by regulation declare to be a hazardous substance, for the purposes of this Act, any substance or mixture of substances, which it finds meets the requirements of section 2(f)(1)(A).

“(2) PROCEDURE.—Proceedings for the issuance, amendment, or repeal of regulations under this subsection and the admissibility of the record of such proceedings in other proceedings, shall be governed by the provisions of subsections (f) through (i) of this section.”.

(2) PROCEDURE.—Section 2(q)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(2)) is amended by striking “Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of sections 701(e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act: Provided, That if” and inserting “Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of subsections (f) through (i) of section 3 of this Act, except that if”.

(3) ANPR REQUIREMENT.—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended—

(A) by striking “shall be commenced” in subsection (f) and inserting “may be commenced”;

(B) by striking “in the notice” in subsection (g)(1) and inserting “in a notice”; and

(C) by striking “unless, not less than 60 days after publication of the notice required in subsection (f), the” in subsection (h) and inserting “unless the”.

(4) OTHER CONFORMING AMENDMENTS.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended—

(A) by striking paragraphs (c) and (d) of section 2 and inserting the following:

“(c) The term ‘Commission’ means the Consumer Product Safety Commission.”;

(B) by striking “Secretary” each place it appears and inserting “Commission” except—

(i) in section 10(b) (15 U.S.C. 1269(b));

(ii) in section 14 (15 U.S.C. 1273); and

(iii) in section 21(a) (15 U.S.C. 1276(a));

(C) by striking “Department” each place it appears, except in sections 5(c)(6)(D)(i) and

14(b) (15 U.S.C. 1264(c)(6)(D)(i) and 1273(b)) , and inserting “Commission”;

(D) by striking “he” and “his” each place they appear in reference to the Secretary and inserting “it” and “its”, respectively;

(E) by striking “Secretary of Health, Education, and Welfare” each place it appears in section 10(b) (15 U.S.C. 1269(b)) and inserting “Commission”;

(F) by striking “Secretary of Health, Education, and Welfare” each place it appears in section 14 (15 U.S.C. 1273) and inserting “Commission”;

(G) by striking “Department of Health, Education, and Welfare” in section 14(b) (15 U.S.C. 1273(b)) and inserting “Commission”;

(H) by striking “Consumer Product Safety Commission” each place it appears and inserting “Commission”;

(I) by striking “(hereinafter in this section referred to as the ‘Commission’)” in section 14(d) (15 U.S.C. 1273(d)) and section 20(a)(1) (15 U.S.C. 1275(a)(1)); and

(J) by striking paragraph (5) of section 18(b) (15 U.S.C. 1261 note).

(c) RULEMAKING UNDER FLAMMABLE FABRICS ACT.—

(1) IN GENERAL.—Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking “shall be commenced” in subsection (g) and inserting “may be commenced by a notice of proposed rulemaking or”;

(B) by striking “unless, not less than 60 days after publication of the notice required in subsection (g), the” in subsection (i) and inserting “unless the”.

(2) OTHER CONFORMING AMENDMENTS.—The Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking paragraph (i) of section 2 (15 U.S.C. 1191(i)) and inserting the following:

“(i) The term ‘Commission’ means the Consumer Product Safety Commission.”;

(B) by striking “Secretary of Commerce” each place it appears and inserting “Commission”;

(C) by striking “Secretary” each place it appears and inserting “Commission”, except in sections 9 and 14 (15 U.S.C. 1198 and 1201);

(D) by striking “he” and “his” each place they appear in reference to the Secretary and inserting “it” and “its”, respectively;

(E) by striking paragraph (5) of section 4(e) (15 U.S.C. 1193(e)) and redesignating paragraph (6) as paragraph (5);

(F) by striking “Consumer Product Safety Commission (hereinafter in this section referred to as the ‘Commission’)” in section 15 (15 U.S.C. 1202) and inserting “Commission”;

(G) by striking section 16(d) (15 U.S.C. 1203(d)) and inserting the following:

“(d) In this section, a reference to a flammability standard or other regulation for a fabric, related material, or product in effect under this Act includes a standard of flammability continued in effect by section 11 of the Act of December 14, 1967 (Public Law 90-189).”; and

(H) by striking “Consumer Product Safety Commission” in section 17 (15 U.S.C. 1204) and inserting “Commission”.

SEC. 9. PROHIBITION ON STOCKPILING UNDER OTHER COMMISSION-ENFORCED STATUTES.

Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

(1) by inserting “or to which a rule under any other law enforced by the Commission applies,” after “applies,”; and

(2) by striking “consumer product safety” the second, third, and fourth places it appears.

SEC. 10. THIRD PARTY CERTIFICATION OF CHILDREN'S PRODUCTS.

(a) IN GENERAL.—Section 14(a) (15 U.S.C. 2063(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (5);

(2) by striking “Every manufacturer” in paragraph (1) and inserting “Except as provided in paragraph (2), every manufacturer”;

(3) by designating the second and third sentences of subsection (a) as paragraphs (3) and (4), respectively;

(4) by inserting after paragraph (1) the following:

“(2) Beginning 60 days after the date on which the Commission publishes notice of an interim procedure designated under subsection (d)(2) of this section, every manufacturer, or its designee, of a children’s product (and the private labeler, or its designee, of such product if it bears a private label) manufactured or imported after such 60th day that is subject to a children’s product safety standard shall—

“(A) have the product tested by a third party laboratory qualified to perform such tests or testing programs; and

“(B) issue a certification which shall—

“(i) certify that such product meets that standard; and

“(ii) specify the applicable children’s product safety standard.”;

(5) by striking “Such certificate shall” in paragraph (3) as redesignated by paragraph (1) and inserting “A certificate required under this subsection shall”;

(6) in paragraph (5), as redesignated by paragraph (1)—

(A) by striking “required by paragraph (1) of this subsection,” and inserting “required by paragraph (1) or (2) (as the case may be),”; and

(B) by striking “requirement under paragraph (1)” and inserting “requirement under paragraph (1) or (2) (as the case may be)”.

(b) TESTING PROGRAMS.—Section 14(b) (15 U.S.C. 2063(b)) is amended—

(1) by inserting “(1)” before the first sentence;

(2) by designating the second sentence as paragraph (2); and

(3) in paragraph (2), as so designated, by striking “Any test or” and inserting “Except as provided in subsection (a)(2), any test or”.

(c) CHILDREN’S PRODUCTS; TESTING BY INDEPENDENT THIRD LABORATORIES; CERTIFICATION.—Section 14 (15 U.S.C. 2063) is amended by adding at the end the following:

“(d) APPLICATION TO OTHER CONSUMER PRODUCTS; CERTIFIER STANDARDS; AUDIT.—

“(1) IN GENERAL.—The Commission—

“(A) within 1 year after the date of enactment of the CPSC Reform Act shall by rule—

“(i) establish protocols and standards—

“(I) for acceptance of certification or continuing guarantees of compliance by manufacturers under this section; and

“(II) for verifying that products tested by third party laboratories comply with applicable standards under this Act and other Acts enforced by the Commission;

“(ii) prescribe standards for accreditation of third party laboratories, either by the Commission or by 1 or more independent standard-setting organizations to which the Commission delegates authority, to engage in certifying compliance under subsection (a)(2) for children’s products or products to which the Commission extends the certification requirements of that subsection;

“(iii) establish requirements, or delegate authority to 1 or more independent standard-setting organizations, for third party laboratory testing, as the Commission determines to be necessary to ensure compliance with any applicable rule or order, of random samples of products certified under this section

to determine whether they meet the requirements for certification;

“(iv) establish requirements for periodic audits of third party laboratories by an independent standard-setting organization as a condition for accreditation of such laboratories under this section; and

“(v) establish a program by which manufacturers may label products as compliant with the certification requirements of subsection (a)(2); and

“(B) may by rule extend the certification requirements of subsection (a)(2) to other consumer products or to classes or categories of consumer products.

“(2) INTERIM PROCEDURE.—Within 30 days after the date of enactment of the CPSC Reform Act, the Commission shall—

“(A) consider existing laboratory testing certification procedures established by independent standard-setting organizations; and

“(B) designate an existing procedure, or existing procedures, for manufacturers of children’s products to follow until the Commission issues a final rule under paragraph (1)(A).

“(e) DEFINITIONS.—In this section:

“(1) CHILDREN’S PRODUCT.—The term ‘children’s product’ means a product (other than a medication, drug, or food) designed or intended for use by, or care of, a child 7 years of age or younger that is introduced into the interstate stream of commerce. In determining whether a product is intended for use by a child 7 years of age or younger, the following factors shall be considered:

“(A) A statement by a manufacturer about the intended use of such product, including a label on such product, if such statement is reasonable.

“(B) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for children 7 years of age or younger.

“(C) Whether the product is commonly recognized by consumers as being intended for use by a child 7 years of age or younger.

“(D) The Age Determination Guidelines issued by the Commission in September 2002 and any subsequent version of such Guideline.

“(2) CHILDREN’S PRODUCT SAFETY STANDARD.—The term ‘children’s product safety standard’ means a consumer product safety rule or standard under this Act or any other Act enforced by the Commission, or a rule or classification under this Act or any other Act enforced by the Commission declaring a consumer product to be a banned hazardous product or substance.

“(3) THIRD PARTY LABORATORY.—

“(A) IN GENERAL.—The term ‘third party laboratory’ means a testing entity that—

“(i) is designated by the Commission, or by an independent standard-setting organization to which the Commission qualifies as capable of making such a designation, as a testing laboratory that is competent to test products for compliance with applicable safety standards under this Act and other Acts enforced by the Commission; and

“(ii) except as provided in subparagraph (C), is a non-governmental entity that is not owned, managed, or controlled by the manufacturer or private labeler.

“(B) TESTING AND CERTIFICATION OF ART MATERIALS AND PRODUCTS.—A certifying organization (as defined in appendix A to section 1500.14(b)(8) of title 16, Code of Federal Regulations) meets the requirements of subparagraph (A)(i) with respect to the certification of art material and art products required under this section or by regulations issued under the Federal Hazardous Substances Act.

“(C) FIREWALLED PROPRIETARY LABORATORIES.—Upon request, the Commission may certify a laboratory that is owned, managed,

or controlled by the manufacturer or private labeler as a third party laboratory if the Commission—

“(i) finds that certification of the laboratory would provide equal or greater consumer safety protection than the manufacturer’s use of an independent third party laboratory;

“(ii) establishes procedures to ensure that the laboratory is protected from undue influence, including pressure to modify or hide test results, by the manufacturer or private labeler; and

“(iii) establishes procedures for confidential reporting of allegations of undue influence to the Commission.

“(D) PROVISIONAL CERTIFICATION.—

“(i) IN GENERAL.—Upon application made to the Commission less than 1 year after the date of enactment of the CPSC Reform Act, the Commission may provide provisional certification of a laboratory described in subparagraph (C) of this paragraph, or a laboratory described in subparagraph (A) of this paragraph, upon a showing that the laboratory—

“(I) is certified under laboratory testing certification procedures established by an independent standard-setting organization; or

“(II) provides consumer safety protection that is equal to or greater than that which would be provided by use of an independent third party laboratory.

“(ii) DEADLINE.—The Commission shall grant or deny any such application within 45 days after receiving the completed application.

“(iii) EXPIRATION.—Any such certification shall expire 90 days after the date on which the Commission publishes final rules under subsections (a)(2) and (d).

“(iv) ANTI-GAP PROVISION.—Within 45 days after receiving a complete application for certification under the final rule prescribed under subsections (a)(2) and (d) of this section from a laboratory provisionally certified under this subparagraph, the Commission shall grant or deny the application if the application is received by the Commission no later than 45 days after the date on which the Commission publishes such final rule.

“(E) DECERTIFICATION.—The Commission, or an independent standard-setting organization to which the Commission has delegated such authority, may decertify a third party laboratory (including a laboratory certified as a third party laboratory under subparagraph (B) of this paragraph) if it finds, after notice and investigation, that a manufacturer or private labeler has exerted undue influence on the laboratory.”.

(d) CONFORMING AMENDMENTS.—Section 14(b) (15 U.S.C. 2063(b)) is amended—

(1) by striking “consumer products which are subject to consumer product safety standards” and inserting “a consumer product that is subject to a consumer product safety standard, a children’s product that is subject to a children’s product safety standard, or either such product that is subject to any other rule under this Act (or a similar rule under any other Act enforced by the Commission)”;

(2) by striking “, at the option of the person required to certify the product,” and inserting “be required by the Commission to”.

(e) LABEL AND CERTIFICATION.—Not later than 1 year after the date of enactment of this Act, the Consumer Product Safety Commission shall prescribe a rule in accordance with section 14(a)(5) and (d) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(5) and (d)) for children’s products (as defined in subsection (e) of such section).

(f) PROHIBITION ON IMPORTS OF CHILDREN’S PRODUCTS WITHOUT THIRD PARTY

TESTING CERTIFICATION.—Section 17(a) (15 U.S.C. 2066(a)) is amended—

(1) by striking “or” at the end of paragraph (4);

(2) by striking “(g).” in paragraph (5) and inserting a “(g); or”;

(3) by adding at the end the following:

“(6) is a children’s product, as that term is defined in section 14(e), or a product for which the Commission, under section 14(d)(1), has required certification under section 14(a)(2), that is not accompanied by a certificate from a third party as required by section 14(a)(2).”

(g) CPSC CONSIDERATION OF EXISTING REQUIREMENTS.—In establishing standards for laboratories certified to perform testing under section 14 of the Consumer Product Safety Act, as amended by this section, the Consumer Product Safety Commission may consider standards and protocols for certification of such laboratories by independent standard-setting organizations that are in effect on the date of enactment of this Act, but shall ensure that the final rule prescribed under subsections (a)(2) and (d) of that section incorporates, as the standard for certification, the most current scientific and technological standards and techniques available.

SEC. 11. TRACKING LABELS FOR PRODUCTS FOR CHILDREN.

(a) LABELING REQUIREMENT FOR INTERNET AND CATALOGUE ADVERTISING OF CERTAIN TOYS AND GAMES.—Section 24 of the Federal Hazardous Substances Act (15 U.S.C. 1278) is amended—

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

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

“(c) INTERNET, CATALOGUE, AND OTHER ADVERTISING.—

“(1) REQUIREMENT.—

“(A) CAUTIONARY STATEMENT.—Any advertisement posted by a manufacturer, retailer, distributor, private labeler, or licensor for any toy, game, balloon, small ball, or marble that requires a cautionary statement under subsections (a) and (b), including any advertisement on Internet websites or in catalogues or other distributed materials, shall include the appropriate cautionary statement required under such subsections in its entirety displayed on or immediately adjacent to such advertisement. A manufacturer, distributor, private labeler, or licensor that uses a retailer to advertise a product shall inform the retailer of any cautionary statement that may apply to such products in any communication to the retailer that contains information about the products to be advertised. The requirement imposed by the preceding sentence shall only apply to advertisements by the retailer if the manufacturer, importer, distributor, private labeler, or licensor affirmatively informs the retailer that such cautionary statement is required for the product.

“(B) DISPLAY.—The cautionary statement described in subparagraph (A) shall be prominently displayed—

“(i) in the primary language used in the advertisement, catalogue, or Internet website;

“(ii) in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in such advertisement; and

“(iii) in a manner consistent with part 1500 of title 16, Code of Federal Regulations.

“(C) DEFINITIONS.—In this paragraph, the terms ‘manufacturer, retailer, distributor, private labeler, and licensor’—

“(i) mean any individual who, by such individual’s occupation holds himself or herself out as having knowledge or skill pecu-

liar to consumer products, including any person who is in the business of manufacturing, selling, distributing, labeling, licensing, or otherwise placing in the stream of commerce consumer products; but

“(ii) do not include an individual whose selling activity is intermittent and does not constitute a trade or business.

“(2) ENFORCEMENT.—The requirement under paragraph (1) shall be treated as a consumer product safety standard promulgated under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056). The publication or distribution of any advertisement that is not in compliance with paragraph (1) shall be treated as a prohibited act under section 19 of such Act (15 U.S.C. 2068).”

(b) TRACKING LABELS FOR PRODUCTS FOR CHILDREN.—Section 14(a) of the Consumer Product Safety Act (15 U.S.C. 2063(a)), as amended by section 10(a) of this Act, is further amended by adding at the end thereof the following:

“(6) Effective 1 year after the date of enactment of the CPSC Reform Act, the manufacturer of a children’s product or other consumer product (as may be required by the Commission in its discretion after a rule-making proceeding) shall place distinguishing marks on the product and its packaging, to the extent practicable, that will enable the ultimate purchaser to ascertain the manufacturer, production time period, and cohort (including the batch, run number, or other identifying characteristic) of production of the product by reference to those marks.”

(c) ADVERTISING, LABELING, AND PACKAGING REPRESENTATION.—Section 14(c) (15 U.S.C. 2063(c)) is amended—

(1) by striking “(c) The” and inserting “(c)(1) The”;

(2) by striking “rule)—” and inserting “rule)”;

(3) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(4) by indenting the sentence beginning “Such labels” and inserting “(2)” before “Such labels”; and

(5) by adding at the end thereof the following:

“(4) If an advertisement, label, or package contains a reference to a consumer product safety standard, a statement with respect to whether the product meets all applicable requirements of that standard.”

SEC. 12. SUBSTANTIAL PRODUCT HAZARD REPORTING REQUIREMENT.

Section 15(b) (15 U.S.C. 2064(b)) is amended—

(1) by striking “consumer product distributed in commerce,” and inserting “consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act) distributed in commerce,”;

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

(3) by inserting after paragraph (1) the following:

“(2) fails to comply with any rule or standard promulgated by the Commission under this or any other Act.”

SEC. 13. CORRECTIVE ACTION PLANS.

Section 15(d) (15 U.S.C. 2064(d)) is amended—

(1) by inserting “(1)” after “(d)”;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(3) by striking “more (A)” in subparagraph (C), as redesignated, and inserting “more (i)”;

(4) by striking “or (B)” in subparagraph (C), as redesignated, and inserting “or (ii)”;

(5) by striking “whichever of the following actions the person to whom the order

is directed elects:” and inserting “any one or more of the following actions it determines to be in the public interest:”;

(6) by indenting the sentence beginning “An order” and inserting “(2)” before “An order”;

(7) by striking “satisfactory to the Commission,” and inserting “for approval by the Commission.”;

(8) by striking “described in paragraph (3).” and inserting “described in paragraph (1)(C).”; and

(9) by adding at the end the following:

“(3)(A) If the Commission approves an action plan, it shall indicate its approval in writing.

“(B) If the Commission finds that an approved action plan is not effective, or that the manufacturer, retailer, or distributor is not executing an approved action plan effectively, the Commission may by order amend, or require amendment of, the action plan.

“(C) If the Commission determines, after notice and opportunity for comment, that a manufacturer, retailer, or distributor has failed to comply substantially with its obligations under its action plan, the Commission may revoke its approval of the action plan. The manufacturer, retailer, or distributor to which the action plan applies may not distribute the product to which the action plan relates in commerce after receipt of notice of a revocation of the action plan.”

SEC. 14. IDENTIFICATION OF MANUFACTURER BY IMPORTERS, RETAILERS, AND DISTRIBUTORS.

Section 16 (15 U.S.C. 2065) is amended by adding at the end thereof the following:

“(c) Upon request by an officer or employee duly designated by the Commission—

“(1) every importer, retailer, or distributor of a consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act) shall identify the manufacturer of that product by name, address, or such other identifying information as the officer or employee may request to the extent that the information is known, or can be determined, by the importer, retailer, or distributor; and

“(2) every manufacturer shall identify by name, address, or such other identifying information as the officer or employee may request—

“(A) each retailer or distributor to which it directly supplied a given consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act);

“(B) each subcontractor involved in the production or fabrication of such product or substance; and

“(C) each subcontractor from which it obtained a component thereof.”

SEC. 15. PROHIBITED ACTS.

(a) SALE OF RECALLED PRODUCTS.—Section 19(a) (15 U.S.C. 2068(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, that is—

“(A) not in conformity with an applicable consumer product safety standard under this Act, or any similar rule under any such other Act;

“(B) subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public, but only if the seller, distributor, or manufacturer knew or should have known of such voluntary corrective action; or

“(C) subject to an order issued under section 12 or 15 of this Act, designated a banned

hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.);”;

(2) by striking “or” after the semicolon in paragraph (7);

(3) by striking “and” after the semicolon in paragraph (8);

(4) by striking “insulation.” in paragraph (9) and inserting “insulation);”;

(5) by striking “18(b).” in paragraph (10) and inserting “18(b); or”.

(b) EXPORT OF RECALLED PRODUCTS.—

(1) IN GENERAL.—Section 18 (15 U.S.C. 2067) is amended by adding at the end thereof the following:

“(c) Notwithstanding any other provision of law, the Commission may prohibit a person from exporting from the United States for purpose of sale any consumer product, or other product or substance that is regulated under this Act of any other Act enforced by the Commission, that the Commission determines, after notice to the manufacturer—

“(1) is not in conformity with an applicable consumer product safety standard under this Act or with a similar rule under any such other Act and does not violate applicable safety standards established by the importing country;

“(2) is subject to an order issued under section 12 or 15 of this Act or designated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.); or

“(3) is subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public and that would have been subject to mandatory corrective action under this Act or any other Act enforced by the Commission if voluntary corrective action had not been taken by the manufacturer, except that the Commission may permit such a product to be exported if it meets applicable safety standards established by the importing country.”.

(2) PENALTY.—Section 19(a) (15 U.S.C. 2068(a)), as amended by subsection (a) of this section, is further amended—

(A) by striking “or” after the semicolon in paragraph (10);

(B) by striking “37.” in paragraph (11) and inserting “37; or”; and

(C) by adding at the end thereof the following:

“(12) violate an order of the Commission under section 18(c).”.

(3) CONFORMING AMENDMENTS TO OTHER ACTS.—

(A) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(b)(3) of the Federal Hazardous Substances Act (15 U.S.C. 1264(b)(3)) is amended by striking “substance presents an unreasonable risk of injury to persons residing in the United States,” and inserting “substance is prohibited under section 18(c) of the Consumer Product Safety Act.”.

(B) FLAMMABLE FABRICS ACT.—Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended by adding at the end thereof the following:

“(d)(1) Notwithstanding any other provision of law, except as provided in paragraph (2), the Consumer Product Safety Commission may prohibit a person from exporting from the United States for purpose of sale any fabric, related material, or product that the Commission determines, after notice to the manufacturer—

“(A) is not in conformity with an applicable consumer product safety standard under the Consumer Product Safety Act or with a rule under this Act;

“(B) is subject to an order issued under section 12 or 15 of the Consumer Product Safety Act or designated as a banned hazardous substance under the Federal Haz-

ardous Substances Act (15 U.S.C. 1261 et seq.); or

“(C) is subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public and that would have been subject to mandatory corrective action under this or another Act enforced by the Commission if voluntary corrective action had not been taken by the manufacturer.

“(2) The Commission may permit the exportation of a fabric, related material, or product described in paragraph (1) if it meets applicable safety standards of the country to which it is being exported.”.

(c) FALSE CERTIFICATION OF COMPLIANCE WITH TESTING LABORATORY STANDARD.—Section 19(a) (15 U.S.C. 2068(a)), as amended by subsection (b)(2) of this section, is further amended—

(1) by striking “or” after the semicolon in paragraph (11);

(2) by striking “18(c).” in paragraph (12) and inserting “18(c); or”; and

(3) by adding at the end thereof the following:

“(13) sell, offer for sale, distribute in commerce, or import into the United States any consumer product bearing a registered safety certification mark owned by an accredited conformity assessment body, which mark is known, or should have been known, by such person to be used in a manner unauthorized by the owner of that certification mark.”.

(d) MISREPRESENTATION OF INFORMATION IN INVESTIGATION.—Section 19(a) (15 U.S.C. 2068(a)), as amended by subsection (c) of this section, is further amended—

(1) by striking “or” after the semicolon in paragraph (12);

(2) by striking “false.” in paragraph (13) and inserting “false; or”; and

(3) by adding at the end thereof the following:

“(14) misrepresent to any officer or employee of the Commission the scope of consumer products subject to an action required under section 12 or 15, or to make a material misrepresentation to such an officer or employee in the course of an investigation under this Act or any other Act enforced by the Commission.”.

(e) CERTIFICATES OF COMPLIANCE WITH MANDATORY STANDARDS.—Section 19(a)(6) (15 U.S.C. 2068(a)(6)) is amended to read as follows:

“(6) fail to furnish a certificate required by this Act or any other Act enforced by the Commission, or to issue a false certificate if such person in the exercise of due care has reason to know that the certificate is false or misleading in any material respect; or to fail to comply with any rule under section 14(c).”.

(f) UNDUE INFLUENCE ON THIRD PARTY LABORATORIES.—Section 19(a) (15 U.S.C. 2068(a)), as amended by subsection (d) of this section, is further amended—

(1) by striking “or” after the semicolon in paragraph (13);

(2) by striking “Commission.” in paragraph (14) and inserting “Commission; or”; and

(3) by adding at the end thereof the following:

“(15) exercise, or attempt to exercise, undue influence on a third party laboratory (as defined in section 14(e)(2)) with respect to the testing, or reporting of the results of testing, of any product for compliance with a standard under this Act or any other Act enforced by the Commission.”.

SEC. 16. PENALTIES.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Section 20(a) (15 U.S.C. 2069(a)) is amended—

(A) by striking “\$5,000” and inserting “\$250,000”;

(B) by striking “\$1,250,000” each place it appears and inserting “\$20,000,000”; and

(C) by striking “December 1, 1994,” in paragraph (3)(B) and inserting “December 1, 2011.”.

(2) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(c) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)) is amended—

(A) by striking “\$5,000” in paragraph (1) and inserting “\$250,000”;

(B) by striking “\$1,250,000” each place it appears in paragraph (1) and inserting “\$20,000,000”; and

(C) by striking “December 1, 1994,” in paragraph (6)(B) and inserting “December 1, 2011.”.

(3) FLAMMABLE FABRICS ACT.—Section 5(e) of the Flammable Fabrics Act (15 U.S.C. 1194(e)) is amended—

(A) by striking “\$5,000” in paragraph (1) and inserting “\$250,000”;

(B) by striking “\$1,250,000” in paragraph (1) and inserting “\$20,000,000”; and

(C) by striking “December 1, 1994,” in paragraph (5)(B) and inserting “December 1, 2011.”.

(4) MAXIMUM PENALTY FOR CERTAIN VIOLATIONS.—Section 20(a)(1) (15 U.S.C. 2069(a)), section 5(c)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)), and section 5(e)(1) of the Flammable Fabrics Act (15 U.S.C. 1194(e)) are each amended by inserting “The Commission shall impose civil penalties exceeding \$10,000,000 under this paragraph only when issuing a finding of aggravated circumstances.” after “violations.”.

(b) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Section 21(a) (15 U.S.C. 2070(a)) is amended to read as follows:

“(a) Violation of section 19 of this Act is punishable by—

“(1) imprisonment for not more than 5 years for a knowing and willful violation of that section;

“(2) a fine determined under section 3571 of title 18, United States Code; or

“(3) both.”.

(2) DIRECTORS, OFFICERS, AND AGENTS.—Section 21(b) (15 U.S.C. 2070(b)) is amended by striking “19, and who has knowledge of notice of noncompliance received by the corporation from the Commission,” and inserting “19”.

(3) UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(a) of the Federal Hazardous Substances Act (15 U.S.C. 1264(a)) is amended by striking “one year, or a fine of not more than \$3,000, or both such imprisonment and fine.” and inserting “5 years, a fine determined under section 3571 of title 18, United States Code, or both.”.

(4) UNDER THE FLAMMABLE FABRICS ACT.—Section 7 of the Flammable Fabrics Act (15 U.S.C. 1196) is amended to read as follows:

“PENALTIES

“SEC. 7. Violation of section 3 or 8(b) of this Act, or failure to comply with section 15(c) of this Act, is punishable by—

“(1) imprisonment for not more than 5 years for a knowing and willful violation of that section;

“(2) a fine determined under section 3571 of title 18, United States Code; or

“(3) both.”.

(c) CIVIL PENALTY CRITERIA.—Within 1 year after the date of enactment of this Act, the Consumer Product Safety Commission shall initiate a rulemaking in accordance with section 553 of title 5, United States Code, to establish criteria for the imposition of civil penalties under section 20 of the Consumer Product Safety Act (15 U.S.C. 2069) and any other Act enforced by the Commission, including factors to be considered in establishing the amount of such penalties, such as

repeat violations, the precedential value of prior adjudicated penalties, the factors described in section 20(b) of the Consumer Product Safety Act (15 U.S.C. 2069(b)), and other circumstances.

(d) **CRIMINAL PENALTIES TO INCLUDE ASSET FORFEITURE.**—Section 21 (15 U.S.C. 2070) is amended by adding at the end thereof the following:

“(c)(1) In addition to the penalties provided by subsection (a), the penalty for a criminal violation of this Act or any other Act enforced by the Commission may include the forfeiture of assets associated with the violation.

“(2) In this subsection, the term ‘criminal violation’ means a violation of this Act or any other Act enforced by the Commission for which the violator is sentenced to pay a fine, be imprisoned, or both.”.

SEC. 17. PREEMPTION.

The provisions of sections 25 and 26 of the Consumer Product Safety Act (15 U.S.C. 2074 and 2075, respectively), section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261 note), section 16 of the Flammable Fabrics Act (15 U.S.C. 1203), and section 7 of the Poison Packaging Prevention Act of 1970 (15 U.S.C. 1476) establishing the extent to which those Acts preempt, limit, or otherwise affect any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law may not be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation thereunder, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation.

SEC. 18. SHARING OF INFORMATION WITH FEDERAL, STATE, LOCAL, AND FOREIGN GOVERNMENT AGENCIES.

Section 29 (15 U.S.C. 2078) is amended by adding at the end thereof the following:

“(f)(1) The Commission may make information obtained by the Commission under section 6 available to any Federal, State, local, or foreign government agency upon the prior certification of an appropriate official of any such agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement or consumer protection purposes, if—

“(A) the agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

“(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

“(i) laws regulating the manufacture, importation, distribution, or sale of defective or unsafe consumer products, or other practices substantially similar to practices prohibited by any law administered by the Commission;

“(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

“(iii) with respect to a foreign law enforcement agency, with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency’s government; and

“(C) the foreign government agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act

of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

“(2) Except as provided in paragraph (3) of this subsection, the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

“(A) any material obtained from a foreign government agency, if the foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

“(B) any material reflecting a consumer complaint obtained from any other foreign source, if the foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

“(C) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign government agencies.

“(3) Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.

“(4) The Commission may terminate a memorandum of understanding or other agreement with another agency if it determines that the other agency has not handled information made available by the Commission under paragraph (1) or has failed to maintain confidentiality with respect to the information.

“(5) In this subsection, the term ‘foreign government agency’ means—

“(A) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

“(B) any multinational organization, to the extent that it is acting on behalf of an entity described in subparagraph (A).”.

SEC. 19. FINANCIAL RESPONSIBILITY.

(a) **IN GENERAL.**—The Act (15 U.S.C. 2051 et seq.) is amended by adding at the end thereof the following:

“FINANCIAL RESPONSIBILITY

“SEC. 39. (a) The Commission, in a rule-making proceeding, may establish procedures to require the posting of an escrow, proof of insurance, or security acceptable to the Commission by—

“(1) a person that has committed multiple significant violations of this Act or any rule or Act enforced by the Commission;

“(2) the manufacturer or distributor of a category or class of consumer products; or

“(3) the manufacturer or distributor of any consumer product or any product or substance regulated under any other Act enforced by the Commission.

“(b) **AMOUNT.**—The escrow, proof of insurance, or security required by the Commission under subsection (a) shall be in an amount sufficient—

“(1) to cover the costs of an effective recall of the product or substance; or

“(2) to cover the costs of holding the product and the destruction of the product should such action be required by the Commission under this Act or any other act enforced by the Commission.”.

(b) **CONFORMING AMENDMENTS.**—

(1) The table of contents is amended by striking the item relating to section 10 and inserting the following:

“Sec. 10. [Repealed].”.

(2) The table of contents is amended by inserting after the item relating to section 34 the following:

“Sec. 35. Interim cellulose insulation safety standard.

“Sec. 36. Congressional veto of consumer product safety rules.

“Sec. 37. Information reporting.

“Sec. 38. Low-speed electric bicycles.

“Sec. 39. Financial responsibility.”.

SEC. 20. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) **IN GENERAL.**—The Act (15 U.S.C. 2051 et seq.) is amended by inserting after section 26 the following:

“ENFORCEMENT BY STATE ATTORNEYS GENERAL

“SEC. 26A. (a) Except as provided in subsection (f), whenever the attorney general of a State has reason to believe that the interests of the residents of that State have been, or are being, threatened or adversely affected by a violation of any consumer product safety rule, regulation, standard, certification or labeling requirement, or order prescribed under this Act or any other Act enforced by the Commission (including the sale of a voluntarily or mandatorily recalled product or of a banned hazardous substance or product), the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to obtain injunctive relief provided under such Act.

“(b) The State shall serve written notice to the Commission of any civil action under subsection (a) at least 60 days prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide notice immediately upon instituting such civil action.

“(c) Upon receiving the notice required by subsection (b), the Commission may intervene in such civil action and upon intervening—

“(1) be heard on all matters arising in such civil action; and

“(2) file petitions for appeal of a decision in such civil action.

“(d) Nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State. Nothing in this section shall prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

“(e) In a civil action brought under subsection (a)—

“(1) the venue shall be a judicial district in which—

“(A) the manufacturer, distributor, or retailer operates; or

“(B) the manufacturer, distributor, or retailer is authorized to do business;

“(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

“(3) a person who participated with a manufacturer, distributor, or retailer in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

“(f) If the Commission has instituted a civil action or an administrative action for violation of this Act or any other Act enforced by the Commission, no State attorney

general, or other official or agency of a State, may bring an action under this section during the pendency of that action against any defendant named in the complaint of the Commission for any violation of this Act alleged in the complaint.

“(g) If the attorney general of the State prevails in any civil action under subsection (a), it can recover reasonable costs and attorney fees from the manufacturer, distributor, or retailer.”

(b) CONFORMING AMENDMENT.—The table of contents is amended by inserting after the item relating to section 26 the following:

“Sec. 26A. Enforcement by state attorneys general.”

SEC. 21. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 19, is further amended by adding at the end the following:

“WHISTLEBLOWER PROTECTION

“SEC. 40. (a) No manufacturer, private labeler, distributor, or retailer, nor any Federal, State, or local government agency, may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee’s initiative or in the ordinary course of the employee’s duties (or any person acting pursuant to a request of the employee)—

“(1) provided, caused to be provided, or is absent to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of an order, regulation, rule, or other provision of this Act or any other Act enforced by the Commission;

“(2) testified or is about to testify in a proceeding concerning such violation;

“(3) assisted or participated or is about to assist or participate in such a proceeding; or

“(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of an order, regulation, rule, or other provision of this Act or any other Act enforced by the Commission.

“(b)(1) A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

“(2)(A) Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the

Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(B)(i) The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3)(A) Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

“(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys’ fee, not exceeding \$1,000, to be paid by the complainant.

“(4) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B). The court shall have jurisdiction to grant all appropriate relief to the employee available by law or equity, including injunctive relief, compensatory and consequential damages, reasonable attorneys and expert witness fees, court costs, and punitive damages up to \$250,000.

“(5)(A) Any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(6) Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(7)(A) A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys’ and expert witness fees) to any party whenever the court determines such award is appropriate.

“(c) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(d) Subsection (a) shall not apply with respect to an employee of a manufacturer, private labeler, distributor, or retailer who, acting without direction from such manufacturer, private labeler, distributor, or retailer (or such person’s agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, regulation, or consumer product safety standard under this Act or any other law enforced by the Commission.”

(b) CONFORMING AMENDMENT.—The table of contents, as amended by section 19 of this Act, is further amended by inserting after the item relating to section 39 the following: “Sec. 40. Whistleblower protection.”

SEC. 22. BAN ON CHILDREN'S PRODUCTS CONTAINING LEAD; LEAD PAINT RULE.

(a) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of this Act, any children's product (as defined in section 14(e) of the Consumer Product Safety Act (15 U.S.C. 2063(e))) that contains lead shall be treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.).

(b) TRACE AMOUNTS OF LEAD.—

(1) INITIAL STANDARD.—For purposes of subsection (a), a children's product shall be considered to contain lead if any part of the product contains lead or lead compounds and the lead content of such part (calculated as lead metal) is greater than 0.03 percent by weight of the total weight of such part (or such lesser amount as may be established by the Commission by regulation).

(2) REDUCED THRESHOLD.—

(A) IN GENERAL.—Beginning on the date that is 3 years after the date of enactment of this Act, paragraph (1) shall be applied by substituting "0.01 percent" for "0.03 percent" unless the Consumer Product Safety Commission determines that a standard of 0.01 percent is not technologically feasible. The Commission may make such a determination only after notice and a hearing and after analyzing the public health protections associated with substantially reducing lead in children's products.

(B) ALTERNATIVE REDUCTION.—If the Commission determines under subparagraph (A) that the 0.01 percent standard is not technologically feasible, the Commission shall, by regulation, establish a lesser amount that is the lowest amount of lead, lower than 0.03 percent by weight, the Commission determines to be technologically feasible to achieve. The amount of lead established by the Commission under the preceding sentence shall be substituted for the 0.03 percent standard under paragraph (1) beginning on the date that is 3 years after the date of enactment of this Act.

(c) EXCEPTIONS.—

(1) INACCESSIBLE COMPONENTS.—After notice and a hearing, the Commission may determine that subsection (a) does not apply to a component of a children's product that is not accessible to a child because it is not physically exposed by reason of a sealed covering or casing and will not become physically exposed through normal and reasonably foreseeable use and abuse of the product. In making its determination under this paragraph, the Commission may not consider paint, coatings, or electroplating to be a barrier that would render lead in the substrate inaccessible to a child through normal and reasonably foreseeable use and abuse of the product.

(2) ELECTRONICS.—If the Commission determines that it is not feasible for certain electronic devices, including batteries, to comply with subsection (a) at the time the regulations take effect, the Commission shall, by regulation—

(A) issue standards to reduce the exposure of and accessibility to lead in such electronic devices; and

(B) establish a schedule by which such electronic devices shall be in full compliance with the regulations prescribed under subsection (a).

(d) REGULATIONS.—Notwithstanding the provisions of subsection (b), the Commission may by regulation establish such lower thresholds for lead content in children's products than those set forth in subsection (b) as the Commission finds to be technologically feasible.

(e) PAINT STANDARD FOR ALL PRODUCTS.—Effective on the date that is 1 year after the date of enactment of this Act, the Consumer Product Safety Commission shall modify

section 1303.1 of its regulations (16 C.F.R. 1303.1) by substituting "0.009 percent" for "0.06 percent" in subsection (a) of that section.

(f) APPLICATION WITH ASTM F963.—To the extent that any standard or rule promulgated by the Consumer Product Safety Commission under this section (or any section of the Consumer Product Safety Act or any other Act enforced by the Commission, as such Acts are affected by this section) is inconsistent with the ASTM F963 standard, such promulgated standard or rule shall supersede the ASTM F963 standard to the extent of the inconsistency.

SEC. 23. ALTERNATIVE MEASURES OF LEAD CONTENT.

The Consumer Product Safety Commission, in cooperation with the National Academy of Sciences and the National Institute of Standards and Technology, shall study the feasibility of establishing a measurement standard based on a units-of-mass-per-area standard (similar to existing measurement standards used by the Department of Housing and Urban Development and the Environmental Protection Agency to measure for metals in household paint and soil, respectively) that is statistically comparable to the parts-per-million measurement standard currently used in laboratory analysis.

SEC. 24. STUDY OF PREVENTABLE INJURIES AND DEATHS OF MINORITY CHILDREN RELATED TO CERTAIN CONSUMER PRODUCTS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Government Accountability Office shall initiate a study to assess disparities in the risks and incidence of preventable injuries and deaths among children of minority populations, including Black, Hispanic, American Indian, Alaskan Native, and Asian/Pacific Islander children in the United States.

(b) REQUIREMENTS.—The study shall examine the racial disparities of the rates of preventable injuries and deaths related to suffocation, poisonings, and drowning including those associated with the use of cribs, mattresses and bedding materials, swimming pools and spas, and toys and other products intended for use by children.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall report its findings to the Senate Commerce, Science, and Transportation Committee and the House of Representatives Energy and Commerce Committee. The report shall include—

(1) the Commission's findings on the incidence of preventable risks of injury and death among children of minority populations and recommendations for minimizing such increased risks;

(2) recommendations for public outreach, awareness, and prevention campaigns specifically aimed at racial minority populations; and

(3) recommendations for education initiatives that may reduce current statistical disparities.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Commission \$500,000 for purposes of carrying out this section for fiscal year 2009.

SEC. 25. COST-BENEFIT ANALYSIS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970.

Section 3 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472) is amended by adding at the end thereof the following:

"(e) Nothing in this Act shall be construed to require the Secretary, in establishing a standard under this section, to prepare a comparison of the costs that would be incurred in complying with such standard with the benefits of such standard."

SEC. 26. INSPECTOR GENERAL REPORTS.

(a) IMPLEMENTATION BY THE COMMISSION.—

(1) IN GENERAL.—The Inspector General of the Consumer Product Safety Commission shall conduct reviews and audits of implementation of the Consumer Product Safety Act by the Commission, including—

(A) an assessment of the ability of the Commission to enforce subsections (a)(2) and (d) of section 14 of the Act (15 U.S.C. 2063), as amended by section 10 of this Act, including the ability of the Commission to enforce the prohibition on imports of children's products without third party testing certification under section 17(a)(6) of the Act (15 U.S.C. 2066(a)(6)), as added by section 10 of this Act;

(B) an assessment of the ability of the Commission to enforce section 14(a)(6) of the Act (15 U.S.C. 2063(a)(6)), as added by section 11 of this Act, and section 16(c) of the Act, as added by section 14 of this Act; and

(C) an audit of the Commission's capital improvement efforts, including construction of a new testing facility.

(2) ANNUAL REPORT.—The Inspector General shall submit an annual report, setting forth the Inspector General's findings, conclusions, and recommendations from the reviews and audits under paragraph (1), for each of fiscal years 2009 through 2015 to the Commission, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce.

(b) EMPLOYEE COMPLAINTS.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Inspector General shall conduct a review of—

(A) complaints received by the Inspector General from employees of the Commission about violations of rules or regulations of the Consumer Product Safety Act or any other Act enforced by the Commission; and

(B) the process by which corrective action plans are negotiated with such employees by the Commission, including an assessment of the length of time for these negotiations and the effectiveness of the plans.

(2) REPORT.—The Inspector General shall submit a report, setting forth the Inspector General's findings, conclusions, and recommendations, to the Commission, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce.

(c) LEAKS.—

(1) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Inspector General shall—

(A) conduct a review of whether, and to what extent, there have been unauthorized and unlawful disclosures of information by Members, officers, or employees of the Commission to persons not authorized to receive such information; and

(B) to the extent that such unauthorized and unlawful disclosures have occurred, determine—

(i) what class or kind of information was most frequently involved in such disclosures; and

(ii) how frequently such disclosures have occurred.

(2) REPORT.—The Inspector General shall submit a report, setting forth the Inspector General's findings, conclusions, and recommendations, to the Commission, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Energy and Commerce.

SEC. 27. PUBLIC INTERNET WEBSITE LINKS.

Not later than 30 days after the date of enactment of this Act, the Consumer Product Safety Commission shall establish and maintain—

(1) a direct link on the homepage of its Internet website to the Internet website of the Commission's Office of Inspector General; and

(2) a mechanism on the homepage of the Office of Inspector General's Internet website by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Commission.

SEC. 28. CHILD-RESISTANT PORTABLE GASOLINE CONTAINERS.

(a) CONSUMER PRODUCT SAFETY RULE.—

(1) ESTABLISHMENT.—There is established, as a consumer product safety rule promulgated by the Commission in accordance with section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), a requirement that each portable gasoline container for sale in the United States shall conform to the child-resistance requirements for closures on portable gasoline containers specified in the standard ASTM F2517-05, issued by ASTM International.

(b) REVISION OF RULE.—

(1) IN GENERAL.—Except as provided in paragraph (2), if, after the date of the enactment of this Act, ASTM International proposes to revise the child resistance requirements of ASTM F2517-05—

(A) ASTM International shall notify the Commission of the proposed revision; and

(B) the proposed revision shall be incorporated in the consumer product safety rule established by subsection (a).

(2) EXCEPTION.—If, not later than 60 days after the date of the notice described in paragraph (1)(A), the Commission notifies ASTM International that the Commission has determined that such revision is inconsistent with subsection (a), the requirement of paragraph (1)(B) shall not apply.

(c) IMPLEMENTING REGULATIONS.—With respect to the promulgation of any regulations by the Commission to implement the requirements of this section—

(1) section 553 of title 5, United States Code, shall apply; and

(2) sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056 and 2058) shall not apply.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce a report on—

(1) the degree of industry compliance with the consumer product safety rule established by subsection (a);

(2) any enforcement actions brought by the Commission to enforce such rule; and

(3) incidents involving children interacting with portable gasoline containers (including both those that are and are not in compliance with the rule established by subsection (a)).

(e) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Consumer Product Safety Commission.

(2) PORTABLE GASOLINE CONTAINER.—The term “portable gasoline container” means any portable gasoline container intended for use by consumers.

(f) EFFECTIVE DATE.—The rule established by subsection (a) shall apply to portable gasoline containers manufactured on or after the date that is 6 months after the date of enactment of this Act.

SEC. 29. TOY SAFETY STANDARD.

(a) IN GENERAL.—Beginning 60 days after the date of enactment of this Act, ASTM-International Standard F963-07, Consumer Safety Specifications for Toy Safety, as it exists on the date of enactment of this Act shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(b) REVISIONS.—If more than 60 days after the date of enactment of this Act, ASTM-International proposes to revise Standard F963-07, Consumer Safety Specifications for Toy Safety, or a successor standard, it shall notify the Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule. The revised standard shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 30 days after the date on which ASTM-International notifies the Commission of the revision unless, within 60 days after receiving that notice, the Commission notifies ASTM-International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. If the Commission so notifies ASTM-International with respect to a proposed revision of the standard, the existing standard shall continue to be considered to be a consumer product safety rule without regard to the proposed revision.

SEC. 30. ALL-TERRAIN VEHICLE SAFETY STANDARD.

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 21 of this Act, is further amended by adding at the end thereof the following:

“ALL-TERRAIN VEHICLE SAFETY STANDARD

“SEC. 41. (a) IN GENERAL.—

“(1) MANDATORY STANDARD.—Notwithstanding any other provision of law, within 90 days after the date of enactment of the CPSC Reform Act the Commission shall publish in the Federal Register as a mandatory consumer product safety standard the American National Standard for Four Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA-1-2007). The standard shall take effect 150 days after it is published.

“(2) COMPLIANCE WITH STANDARD.—After the standard takes effect, it shall be unlawful for any manufacturer or distributor to import into or distribute in commerce in the United States any new assembled or unassembled all-terrain vehicle unless—

“(A) the vehicle complies with each applicable provision of the standard;

“(B) the vehicle is subject to an ATV action plan filed with the Commission before the date of enactment of the CPSC Reform Act, or subsequently filed with and approved by the Commission, and bears a label certifying such compliance and identifying the manufacturer, importer or private labeler and the ATV action plan to which it is subject; and

“(C) the manufacturer or distributor is in compliance with all provisions of the applicable ATV action plan.

“(3) VIOLATION.—The failure to comply with any requirement of paragraph (2) shall be deemed to be a failure to comply with a consumer product safety rule under this Act and subject to all of the penalties and remedies available under this Act.

“(4) COMPLIANT MODELS WITH ADDITIONAL FEATURES.—Paragraph (2) shall not be construed to prohibit the distribution in interstate commerce of new all-terrain vehicles that comply with the requirements of that paragraph but also incorporate characteristics or components that are not covered by those requirements. Any such characteristics or components shall be subject to the requirements of section 15 of this Act.

“(b) MODIFICATION OF ALL-TERRAIN VEHICLE SAFETY STANDARD.—

“(1) ANSI REVISIONS.—If the American National Standard ANSI/SVIA-1-2007 is revised

through the applicable consensus standards development process after the date on which the product safety standard for all-terrain vehicles is published in the Federal Register, the American National Standards Institute shall notify the Commission of the revision.

“(2) COMMISSION ACTION.—Within 120 days after it receives notice of such a revision by the American National Standards Institute, the Commission shall issue a notice of proposed rulemaking in accordance with section 553 of title 5, United States Code, to amend the product safety standard for all-terrain vehicles to include any such revision that the Commission determines is reasonably related to the safe performance of all-terrain vehicles, and notify the Institute of any provision it has determined not to be so related. The Commission shall promulgate an amendment to the standard for all-terrain vehicles within 180 days after the date on which the notice of proposed rulemaking for the amendment is published in the Federal Register.

“(3) UNREASONABLE RISK OF INJURY.—Notwithstanding any other provision of this Act, the Commission may, pursuant to sections 7 and 9 of this Act, amend the product safety standard for all-terrain vehicles to include any additional provision that the Commission determines is reasonably necessary to reduce an unreasonable risk of injury associated with the performance of all-terrain vehicles.

“(4) CERTAIN PROVISIONS NOT APPLICABLE.—Sections 7, 9, 11, and 30(d) of this Act shall not apply to promulgation of any amendment of the product safety standard under paragraph (2). Judicial review of any amendment of the standard under paragraph (2) shall be in accordance with chapter 7 of title 5, United States Code.

“(c) REQUIREMENTS FOR 3-WHEELED ALL-TERRAIN VEHICLES.—Until a mandatory consumer product safety rule applicable to 3-wheeled all-terrain vehicles promulgated pursuant to this Act is in effect, new 3-wheeled all-terrain vehicles may not be imported into or distributed in commerce in the United States. Any violation of this subsection shall be considered to be a violation of section 19(a)(1) of this Act and may also be enforced under section 17 of this Act.

“(d) FURTHER PROCEEDINGS.—

“(1) DEADLINE.—The Commission shall issue a final rule in its proceeding entitled ‘Standards for All Terrain Vehicles and Ban of Three-wheeled All Terrain Vehicles’.

“(2) CATEGORIES OF YOUTH ATVs.—In the final rule, the Commission may provide for a multiple factor method of categorization that, at a minimum, takes into account—

“(A) the weight of the vehicle;

“(B) the maximum speed of the vehicle;

“(C) the velocity at which a vehicle of a given weight is traveling at the maximum speed of the vehicle;

“(D) the age of children for whose operation the vehicle is designed or who may reasonably be expected to operate the vehicle; and

“(E) the average weight of children for whose operation the vehicle is designed or who may reasonably be expected to operate the vehicle.

“(e) DEFINITIONS.—In this section:

“(1) ALL-TERRAIN VEHICLE OR ATV.—The term ‘all-terrain vehicle’ or ‘ATV’ means—

“(A) any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, having a seat designed to be straddled by the operator and handlebars for steering control; but

“(B) does not include a prototype of a motorized, off-highway, all-terrain vehicle or other motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.

“(2) **ATV ACTION PLAN.**—The term ‘ATV action plan’ means a written plan or letter of undertaking that describes actions the manufacturer or distributor agrees to take to promote ATV safety, including rider training, dissemination of safety information, age recommendations, other policies governing marketing and sale of the vehicles, the monitoring of such sales, and other safety related measures, and that is substantially similar to the plans described under the heading ‘The Undertakings of the Companies in the Commission Notice published in the Federal Register on September 9, 1998 (63 FR 48199-48204).’”

(b) **GAO STUDY.**—The Comptroller General shall conduct a study of the utility, recreational, and other benefits of all-terrain vehicles to which section 38 of the Consumer Product Safety Act (15 U.S.C. 2085) applies, and the costs associated with all-terrain vehicle-related accidents and injuries.

(c) **CONFORMING AMENDMENT.**—The table of contents, as amended by section 21 of this Act, is further amended by inserting after the item relating to section 40 the following: “Sec. 41. All-terrain vehicle safety standard.”

(d) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 90 days after the date of enactment of this Act.

SEC. 31. GARAGE DOOR OPENER STANDARD.

Notwithstanding section 203(b) of the Consumer Product Safety Improvement Act of 1990 (15 U.S.C. 2056 note) or any amendment by the American National Standards Institute and Underwriters Laboratories, Inc. of its Standards for Safety—UL 325, all automatic garage door openers that directly drive the door in the closing direction that are manufactured more than 6 months after the date of enactment of this Act shall include an external secondary entrapment protection device that does not require contact with a person or object for the garage door to reverse.

SEC. 32. REDUCING DEATHS AND INJURIES FROM CARBON MONOXIDE POISONING.

(a) **IN GENERAL.**—The Consumer Product Safety Commission shall issue a final rule in its proceeding entitled “Portable Generators” for which the Commission issued an advance notice of proposed rulemaking on December 12, 2006 (71 Fed. Reg. 74472), no later than 18 months after the date of enactment of this Act.

(b) **REPORT.**—Not later than 120 days after the date of enactment of this Act, the Consumer Product Safety Commission shall submit a report to the Senate Committee on Commerce, Science, and Transportation that—

(1) reviews the effectiveness of its labeling requirements for charcoal briquettes (16 C.F.R. 1500.14(b)(6)) during the windstorm that struck the Pacific Northwest beginning on December 14, 2006;

(2) identifies any specific challenges faced by non-English speaking populations with use of the current standards; and

(3) contains recommendations for improving the labels on charcoal briquettes.

SEC. 33. COMPLETION OF CIGARETTE LIGHTER RULEMAKING.

The Consumer Product Safety Commission shall issue a final rule mandating general safety standards for cigarette lighters in its proceedings entitled “Safety Standard for cigarette Lighters” for which the Commission issued an advance notice of proposed rulemaking on April 11, 2005 (68 Fed. Reg. 11339) no later than 24 months after the date of enactment of this Act.

SEC. 34. CONSUMER PRODUCT REGISTRATION FORMS.

(a) **CONSUMER PRODUCT REGISTRATION FORMS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Commission shall, pursuant to its authority under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)), promulgate final consumer product safety rules that require manufacturers of durable infant or toddler products—

(A) in accordance with paragraph (2), to provide consumers with postage-paid consumer registration forms with each such product;

(B) in accordance with paragraph (5), to maintain a record of the names, addresses, e-mail addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and

(C) to place permanently the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(2) **REQUIREMENTS FOR REGISTRATION FORMS.**—

(A) **IN GENERAL.**—The registration forms required by paragraph (1)(A) shall provide space sufficiently large to permit easy, legible recording of the information specified in subparagraph (B)(i).

(B) **ELEMENTS.**—Such forms shall include the following:

(i) Spaces for a consumer to provide the following:

- (I) The consumer’s name.
- (II) The consumer’s postal address.
- (III) The consumer’s telephone number.
- (IV) The consumer’s e-mail address.

(ii) The manufacturer’s name.

(iii) The model name and number for the product.

(iv) The date of manufacture of the product.

(v) A message that—

(I) explains the purpose of the registration; and

(II) is designed to encourage consumers to complete the registration.

(vi) A statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

(vii) A message that explains the option to register via the Internet, as required by paragraph (4).

(C) **PLACEMENT.**—Such form shall be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer will notice and handle the form after purchasing the product.

(3) **TEXT AND FORMAT OF REGISTRATION FORMS.**—In promulgating regulations under paragraph (1), the Commission may prescribe the exact text and format of such form.

(4) **INTERNET REGISTRATION.**—In promulgating regulations under paragraph (1), the Commission shall require manufacturers of durable infant or toddler products to provide a mechanism for consumers to submit to the manufacturer via the Internet electronic versions of the registration forms required by paragraph (1)(A).

(5) **RECORD KEEPING AND NOTIFICATION REQUIREMENTS.**—

(A) **IN GENERAL.**—The rules promulgated under paragraph (1) shall require each manufacturer of a durable infant or toddler product—

(i) to maintain a record of consumers who register for such product that includes all of the information provided by such consumers; and

(ii) to use such information to notify such consumers in the event of a voluntary or involuntary recall of, or safety alert regarding, such product.

(B) **PERIOD OF MAINTENANCE.**—Such rules shall require such manufacturers of durable infant or toddler products to maintain the records described in subparagraph (A)(i) for a period of not less than 6 years after the date of manufacture of the product concerned.

(C) **LIMITATION ON USE OF INFORMATION COLLECTED.**—The rules promulgated under paragraph (1) shall prohibit manufacturers from using or disseminating to any other party the information collected by the manufacturer under this subsection for any purpose other than notification to the consumer concerned in the event of a product recall or safety alert regarding the product concerned.

(D) **RESERVATION.**—Nothing in this section requires a manufacturer to collect, retain, or use any information unless it is provided by the consumer.

(b) **REPORT AND STUDY.**—Not later than 4 years after the date of enactment of this Act, the Commission shall—

(1) conduct a study on the effectiveness of the rules promulgated under subsection (a) in facilitating product recalls; and

(2) submit to Congress a report on the findings of the Commission with respect to the study required by paragraph (1).

(c) **DEFINITIONS.**—In this section:

(1) **COMMISSION.**—The term “Commission” means the Consumer Product Safety Commission.

(2) **DURABLE INFANT OR TODDLER PRODUCT.**—The term “durable infant or toddler product” means a durable product intended for use by, or that may be reasonably expected to be used by, children younger than the age of 5 years, including the following:

- (A) Full-size cribs and nonfull-size cribs.
- (B) Toddler beds.
- (C) High chairs, booster chairs, and hook-on chairs.
- (D) Bath seats.
- (E) Gates and other enclosures for confining a child.
- (F) Play yards.
- (G) Stationary activity centers.
- (H) Infant carriers.
- (I) Strollers.
- (J) Walkers.
- (K) Swings.
- (L) Bassinets and cradles.

SEC. 35. REPEAL.

Section 30 (15 U.S.C. 2079) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 36. CONSUMER PRODUCT SAFETY COMMISSION PRESENCE AT NATIONAL TARGETING CENTER OF U.S. CUSTOMS AND BORDER PROTECTION.

(a) **IN GENERAL.**—Except as provided in subsection (c), not later than 6 months after the date of the enactment of this Act, the Consumer Product Safety Commission shall enter into a memorandum of understanding with the Secretary of Homeland Security for the assignment by the Commission of not less than 1 full-time equivalent personnel to work at the National Targeting Center of U.S. Customs and Border Protection.

(b) **RESPONSIBILITIES.**—Any personnel assigned under subsection (a) shall, in cooperation with other personnel working at the National Targeting Center, identify products, before such products are imported into the customs territory of the United States, that—

(1) are intended for importation into such customs territory; and

(2) pose a high risk to consumer safety.

(c) **WAIVER.**—The Consumer Product Safety Commission may waive the requirement of subsection (a) if the Commission determines that an assignment under subsection (a) would not improve the effectiveness of the Commission in identifying products described in subsection (b) before such products

are imported into the customs territory of the United States.

SEC. 37. DEVELOPMENT OF RISK ASSESSMENT METHODOLOGY TO IDENTIFY SHIPMENTS OF CONSUMER PRODUCTS THAT ARE LIKELY TO CONTAIN CONSUMER PRODUCTS IN VIOLATION OF SAFETY STANDARDS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Consumer Product Safety Commission shall develop a risk assessment methodology for identification of shipments of consumer products that are—

(1) intended for import into the customs territory of the United States; and

(2) are likely to include consumer products that would be refused admission into such customs territory under section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)).

(b) USE OF INTERNATIONAL TRADE DATA SYSTEM.—The methodology developed under subsection (a) shall, as far as practicable, use the International Trade Data System (ITDS) established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States before such shipments enter such customs territory.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 38. SEIZURE AND DESTRUCTION OF IMPORTED PRODUCTS IN VIOLATION OF CONSUMER PRODUCT SAFETY STANDARDS.

(a) LIST OF PRODUCT DEFECTS THAT CONSTITUTE A SUBSTANTIAL PRODUCT HAZARD.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Consumer Product Safety Commission shall publish a list of product defects that constitute a substantial product hazard (as defined in section 15 of the Consumer Product Safety Act (15 U.S.C. 2064)).

(2) UPDATES.—The Consumer Product Safety Commission shall, as the Commission considers appropriate—

(A) update the list required by paragraph (1); and

(B) provide a copy of the updated list to the Secretary of Homeland Security.

(b) DESTRUCTION OF NONCOMPLIANT IMPORTED PRODUCTS.—Section 17(e) (15 U.S.C. 2066(e)) is amended to read as follows:

“(e) PRODUCT DESTRUCTION.—The Secretary of Homeland Security shall ensure the destruction of any product refused admission into the customs territory of the United States under this section unless such product is exported, under regulations prescribed by the Secretary or the Commission, as appropriate, within 90 days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations.”

(c) INSPECTION AND RECORDKEEPING REQUIREMENTS AS CONDITIONS ON IMPORTATION.—Section 17(g) (15 U.S.C. 2066(g)) is amended by striking “Commission may” and inserting “Commission shall”.

(d) PROVISION OF INFORMATION TO COOPERATING AGENCIES.—Section 17(h)(2) (15 U.S.C. 2066(h)(2)) is amended by striking “Commission may” and inserting “Commission shall”.

(e) CONSTRUCTION.—Section 17 (15 U.S.C. 2066) is amended by adding at the end the following:

“(i) CONSTRUCTION.—Nothing in this section shall be construed to prevent the Secretary of Homeland Security from prohibiting entry or directing the destruction or export of a consumer product under any other provision of law.”

(f) CONFORMING AMENDMENTS.—Such section 17 is further amended—

(1) in subsection (a), by striking “Any consumer” and inserting “REFUSAL OF ADMISSION.—Any consumer”;

(2) in subsection (b), by striking “The” in the first sentence and inserting “SAMPLES.—The”;

(3) in subsection (c), by striking “If” and inserting “MODIFICATION.—If”;

(4) in subsection (d), by striking “All actions” in the first sentence and inserting “SUPERVISION OF MODIFICATIONS.—All actions”;

(5) in subsection (f), by striking “All expenses” in the first sentence and inserting “PAYMENT OF EXPENSES OCCASIONED BY REFUSAL OF ADMISSION.—All expenses”;

(6) in subsection (g), by striking “The Commission” and inserting “IMPORTATION CONDITIONED UPON MANUFACTURER’S COMPLIANCE.—The Commission”;

(7) in subsection (h), by striking “(h)(1) The Commission” and inserting “(h) PRODUCT SURVEILLANCE PROGRAM.—(1) The Commission”.

(g) TECHNICAL AMENDMENTS.—Such section 17 is further amended—

(1) by striking “Secretary of the Treasury” each place it occurs and inserting “Secretary of Homeland Security”; and

(2) by striking “Department of the Treasury” each place it occurs and inserting “Department of Homeland Security”.

SEC. 39. DATABASE OF MANUFACTURING FACILITIES AND SUPPLIERS INVOLVED IN VIOLATIONS OF CONSUMER PRODUCT SAFETY STANDARDS.

(a) DOCUMENTATION OF ACTS AND OMISSIONS.—If the Consumer Product Safety Commission discovers evidence that a violation of a consumer product safety rule was the result of an act or omission by a manufacturing facility or supplier, the Commission shall document the following:

(1) The date on which the violation occurred.

(2) A description of the violation and the circumstances that led to the violation.

(3) Details of the act or omission and the relation of such act or omission to the violation.

(4) Identifying information about the manufacturing facility or supplier, including the name and address of such manufacturing facility or supplier.

(b) DATABASE.—The Consumer Product Safety Commission shall establish and maintain a database that contains the following:

(1) All of the information documented under subsection (a).

(2) Any information submitted under subsection (d).

(c) NOTICE.—The Commission shall take reasonable steps to provide notice to each manufacturing facility or supplier documented in the database required by subsection (b) of the inclusion of such manufacturing facility or supplier in such database and the reasons for such inclusion.

(d) COMMENTS.—The Commission shall establish a process by which a manufacturing facility or supplier included in the database required by subsection (b) for an act or omission described in subsection (a) may submit information to the Commission for inclusion in the database. Such information may consist of—

(1) evidence refuting evidence contained in the database that a violation described in subsection (a) was the result of an act or omission by such manufacturing facility or supplier; and

(2) evidence of remedial measures taken by such manufacturing facility or supplier to correct such act or omission.

Information submitted under this subsection shall be treated the same as informa-

tion in the database for purposes of subsections (g) and (h).

(e) AVAILABILITY OF DATABASE TO U.S. CUSTOMS AND BORDER PROTECTION.—The Consumer Product Safety Commission shall make the database established under subsection (b) available on a real-time basis to the Commissioner responsible for the U.S. Customs and Border Protection of the Department of Homeland Security.

(f) USE OF DATABASE BY U.S. CUSTOMS AND BORDER PROTECTION.—The Commissioner responsible for the U.S. Customs and Border Protection of the Department of Homeland Security shall use the information stored in the database required by subsection (b) in determining—

(1) whether a container being imported into the United States contains consumer products that are in violation of a consumer product safety standard of the Commission; and

(2) whether action should be taken with respect to any consumer products in such container under section 17 of the Consumer Product Safety Act (15 U.S.C. 2066).

(g) LIMITATION ON DISCLOSURE OF INFORMATION IN DATABASE.—

(1) IN GENERAL.—The Consumer Product Safety Commission and the Commissioner responsible for the U.S. Customs and Border Protection of the Department of Homeland Security shall not disclose any information contained in or provide access to the database required by subsection (b) to any person except as provided in paragraph (2), provided that this limitation does not apply to the disclosure of information that was collected, received, or maintained by the Commission for purpose other than inclusion in the database.

(2) EXCEPTION FOR LAW ENFORCEMENT AND NATIONAL SECURITY.—The Consumer Product Safety Commission and the Commissioner responsible for the U.S. Customs and Border Protection of the Department of Homeland Security may disclose information contained in and provide access to the database required by subsection (b) to a law enforcement agency or an intelligence agency of the United States if the Commission or the Commissioner determine that such disclosure is necessary—

(A) to prevent a crime; or

(B) to detect, prevent, or respond to a threat to national security.

(3) EXEMPTION FROM FREEDOM OF INFORMATION ACT DISCLOSURE REQUIREMENTS.—The database required by subsection (b) shall not be subject to the disclosure requirements of section 552 or 552A of title 5, United States Code.

(h) LIMITATION ON USE OF INFORMATION IN DATABASE FOR CERTAIN CIVIL OR CRIMINAL PENALTIES.—

(1) PROHIBITION ON IMPOSITION BY CONSUMER PRODUCT SAFETY COMMISSION OF PENALTIES SOLELY ON BASIS OF DATABASE.—The Consumer Product Safety Commission may not impose any penalty under section 20 or 21 of the Consumer Product Safety Act (15 U.S.C. 2069, 2070) on any person solely on the inclusion of information on a person in the database required by subsection (b).

(2) PROHIBITION ON IMPOSITION BY U.S. CUSTOMS AND BORDER PROTECTION OF PENALTIES SOLELY ON BASIS OF DATABASE.—Notwithstanding any other provision of law, the Commissioner responsible for the U.S. Customs and Border Protection of the Department of Homeland Security may not impose any civil or criminal penalty on any person solely on the inclusion of information on a person in the database required by subsection (b).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

By Mr. REID:

S. 2664. A bill to extend the provisions of the Protect America Act of 2007; read the first time.

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

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

S. 2664

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 "Protect America Short-term Extension Act".

SEC. 2. EXTENSION OF THE PROTECT AMERICA ACT OF 2007.

Subsection (c) of section 6 of the Protect America Act of 2007 (Public Law 110-55; 121 Stat. 557; 50 U.S.C. 1803 note), as amended by section 1 of the Act to Extend the Protect America Act of 2007 for 15 Days (Public Law 110-182), is amended by striking "195 days after the date of the enactment of this Act" and inserting "on the date that is 30 days after the date of the enactment of the Protect America Short-term Extension Act".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect as if enacted on February 15, 2008.

By Mr. REID:

S. 2665. A bill to extend the provisions of the Protect America Act of 2007 until July 1, 2009; read the first time.

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

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

S. 2665

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 "Protect America Long-term Extension Act".

SEC. 2. EXTENSION OF THE PROTECT AMERICA ACT OF 2007.

Subsection (c) of section 6 of the Protect America Act of 2007 (Public Law 110-55; 121 Stat. 557; 50 U.S.C. 1803 note), as amended by section 1 of the Act to Extend the Protect America Act of 2007 for 15 Days (Public Law 110-182), is amended by striking "195 days after the date of the enactment of this Act" and inserting "on July 1, 2009".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect as if enacted on February 15, 2008.

By Ms. CANTWELL (for herself, Mr. SMITH, Mr. KERRY, Mr. COLEMAN, and Mr. SALAZAR):

S. 2666. A bill to amend the Internal Revenue Code of 1986 to encourage investment in affordable housing, and for other purposes; to the Committee on Finance.

Ms. CANTWELL. Mr. President, the issues of housing are very much on the minds of the American people and those of us in Congress. While we focus on the challenges that homeowners currently are facing, we must not fail to recognize that there are a lot of families that dare not dream of owning

their own home; they dream simply of having access to safe, affordable rental housing in our communities.

Today, I am pleased to introduce the Affordable Housing Investment Act, a bill that will update and modernize the low-income housing tax credit program—a program that we all know has been tremendously successful in helping construct needed affordable housing in communities across our country.

We often find ourselves reacting to Government programs that are broken; this bill is about a Government program that works but can be improved upon. The low-income housing tax credit program was created as part of the Tax Reform Act of 1986 and made permanent in 1993. Designed as a public/private funding partnership, largely administered by the States, this program has become the most successful housing production program in existence.

These tax credits make it attractive for investors to forego highly profitable luxury residences, in order to provide housing for those most in need. Without affordable housing, many low-income Americans would find themselves on the street. Instead, these families can provide shelter to their children and have a secure place to live near where they work and go to school.

State agencies award housing tax credits to housing developers, who turn the credits into construction funds by selling them to investors. There funds allow developers to borrow less money and pass through the savings in lower rental rates for low-income tenants. Investors, in turn, receive a 10-year tax credit based on the cost of constructing or rehabilitating apartments that cannot be rented to anyone whose median income is higher than 60 percent of the median income in the area.

Each State's annual housing credit allocation is capped. In 2007, the cap is \$1.95 per capita, with a minimum of \$2.275 million. States put each development through three separate, rigorous evaluations to make sure it receives only enough housing credits to make it viable as low-income housing for the long term.

Since its inception, this program has created nearly 2 million homes for low-income families at restricted rents for terms of at least 30 years—housing that would not have occurred without the tax credit.

The credit is responsive to the needs of local communities. It works for new construction, rehabilitation, and preservation of affordable housing. It works in cities, suburbs, and rural areas. It revitalizes low-income communities. It serves families, the elderly, the disabled, and the homeless. Each State sets its own housing priorities, and developers compete aggressively to meet these priorities.

The program is cost efficient and has a high compliance rate. The marketplace imposes discipline on the program so that taxpayers' dollars are well-spent. Investors receive their tax

credits only if housing is built on time and on budget, operates successfully within local housing markets, and is well maintained over time. The annual failure rate for housing credit properties is 0.02 percent annually, well below that for other housing or commercial real estate.

As successful as the housing tax credit program is, it could benefit significantly from updating.

The Affordable Housing Investment Act of 2008, which I am introducing with Senators SMITH, KERRY, COLEMAN and SALAZAR, modernizes the tax credit rules in order to make it even more useful.

First, it eliminates the penalties for combining housing credits with other Federal housing programs. The bill proposes to remove various restrictions that make it hard to coordinate housing credits with other Federal policies and programs. These restrictions frustrate efforts to address local needs and add unnecessary legal and accounting costs. In some cases, these restrictions were set many years ago to prevent properties from receiving excessive subsidies. Such restrictions are no longer needed because States examine each project at three points to ensure that it needs the amount of housing credits allocated to it. In addition, the high demand for housing credits and other subsidies motivates all subsidy providers to limit subsidies to the minimum amount necessary.

Second, the bill helps foster low-income community revitalization by facilitating the construction of child care, primary health care, recreation and other community service facilities and aiding with the specific needs for housing in rural areas.

Third, the bill preserves existing affordable housing by easing restrictions on rehabilitation of older properties.

Finally, the bill eliminates unneeded inefficiencies in the tax laws that serve no public policy purpose.

The legislation has been endorsed by the National Council of State Housing Agencies, the Affordable Housing Tax Credit Coalition, the Housing Development Consortium, Local Initiatives Support Corporation and Impact Capital, National Association of State and Local Equity Funds, Seattle Housing Authority, and the Washington State Housing Finance Commission.

The tax credit program may be invisible to the people that now have a roof over their head, but it is indispensable to our ability to meet the growing demand—and diminishing supply—for affordable housing.

For example, Port Orchard Vista—a 42-unit apartment building for low-income seniors—would not have been built without the tax credit program. One resident, a 62-year-old grandmother named Jackie, would be homeless if this project had not been built. Jackie's Social Security check is \$600 per month. Her rent was \$605, not including utilities—or groceries! She was selling her furniture and her mom's old

cookbooks to make up the difference. She was just a few months away from being homeless.

Thanks to the tax credits, the Kitsap County Consolidated Housing Authority was able to get this project built and keep Jackie off the street. Today, Jackie's rent is \$200—including utilities.

The Village at Overlake Station in Redmond, Washington, was built in 2001 and offers beautiful public spaces and apartment homes. Sarah, a single mother, came to Overlake Station in late 2005 after spending that summer and fall living out of her vehicle with her two children. She was extremely grateful to find a suitable, affordable apartment before the cold weather came. She and her children were forced to huddle together in the backseat of her car to stay warm as they slept and she was concerned about their safety. Though she tried to be cautious, she just knew she should find a better way to take care of her children.

Sarah and her children have proudly lived at Overlake for 2 years. Soon they will move into a new house, thanks to Habitat for Humanity. In two years, Sarah has gone from homelessness to homeownership—thanks to the Low-Income Housing Tax Credit program.

These stories can be replicated in every community in my State and across the country.

In 2002, the Millennial Housing Commission said in its final report to the Congress:

Securing access to decent, affordable housing is fundamental to the American Dream. All Americans want to live in good-quality homes they can afford without sacrificing other basic needs. All Americans want to live in safe communities with ready access to job opportunities, good schools, and amenities. All parents want their children to grow up with positive role models and peer influences nearby. And the overwhelming majority of Americans want to purchase a home as a way to build wealth.

By leveraging private capital to build affordable housing units, we are also helping our local communities. People left with no affordable housing options join the ranks of the homeless and then become the responsibility of our cash-strapped communities. We can alleviate some of the community responsibilities of caring for the homeless, the disabled, and other vulnerable low-income families by helping to provide these people an affordable place to call home. I encourage my colleagues to join me in this effort.

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

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

S. 2666

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

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the “Affordable Housing Investment Act of 2008”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

TITLE I—FACILITATE DEVELOPMENT OF HOUSING CREDIT PROPERTY

Sec. 101. Renaming the low-income housing credit as the affordable housing credit.

Sec. 102. Modification of rules for determining applicable percentage.

Sec. 103. Increase in credit for buildings in State designated areas.

Sec. 104. Modification of scattered site rule.

Sec. 105. Treatment of rural projects.

Sec. 106. Expansion of allowable basis for community service facilities.

TITLE II—IMPROVE COORDINATION WITH OTHER FEDERAL HOUSING PROGRAMS

Sec. 201. Affordable housing credits allowed for section 8 moderate rehabilitation developments.

Sec. 202. Modification to low-income housing credit rules for reduction of eligible basis by grants received.

TITLE III—FACILITATE PRIVATE INVESTMENT CAPITAL TO INCREASE THE EFFICIENCY OF AFFORDABLE HOUSING INVESTMENT

Sec. 301. Repeal of recapture bond rule.

Sec. 302. Affordable housing credit allowed against alternative minimum tax.

Sec. 303. Interest on qualified mortgage bonds, qualified veterans' mortgage bonds, and qualified residential rental project exempt facility bonds exempt from alternative minimum tax.

TITLE IV—HELP PRESERVE EXISTING AFFORDABLE HOUSING

Sec. 401. Repeal of 10-year rule for acquisition housing credits.

Sec. 402. Modification of related person rule for affordable housing credit.

TITLE V—SIMPLIFY ADMINISTRATION OF THE HOUSING CREDIT PROGRAM

Sec. 501. Elimination of certain annual recertifications of tenant incomes.

TITLE VI—CONFORM MULTIFAMILY HOUSING BOND RULES TO HOUSING CREDIT RULES

Sec. 601. Coordination of certain rules applicable to affordable housing credit and qualified residential rental project exempt facility bonds.

TITLE VII—IMPROVE THE MORTGAGE REVENUE BOND PROGRAM

Sec. 701. Special rule for use of mortgage bonds for disaster victims, single parents, and homemakers.

Sec. 702. Repeal of required use of certain principal repayments on qualified mortgage issues to redeem bonds.

TITLE VIII—EFFECTIVE DATE

Sec. 801. Effective date.

TITLE I—FACILITATE DEVELOPMENT OF HOUSING CREDIT PROPERTY

SEC. 101. RENAMING THE LOW-INCOME HOUSING CREDIT AS THE AFFORDABLE HOUSING CREDIT.

(a) IN GENERAL.—The heading of section 42 (relating to low-income housing credit) is

amended by striking “low-income” and inserting “affordable”.

(b) CONFORMING AMENDMENTS.—

(1) Sections 38(b)(5), 42(a), 772(a)(7), and 772(d)(5) are each amended by striking “low-income” and inserting “affordable”.

(2) The headings of subparagraphs (3)(D) and (6)(B) of section 469(i) are each amended by striking “LOW-INCOME” and inserting “AFFORDABLE”.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 42 and inserting the following:

“Sec. 42. Affordable housing credit.”.

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

SEC. 102. MODIFICATION OF RULES FOR DETERMINING APPLICABLE PERCENTAGE.

(a) IN GENERAL.—Subsection (b) of section 42 is amended—

(1) by striking the semicolon and all that follows to the period in the heading,

(2) by striking paragraph (1) and inserting the following new paragraph:

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable percentage’ means the greater of the alternative applicable percentage determined under paragraph (2) or—

“(A) 9 percent in the case of any building to which subparagraph (B) does not apply, and

“(B) 4 percent in the case of—

“(i) any existing building, and

“(ii) any new building if, at any time during the taxable year or any prior taxable year, there is or was outstanding any obligation—

“(I) not taken into account under section 146,

“(II) which is exempt from tax under section 103, and

“(III) the proceeds of which are or were used (directly or indirectly) with respect to such building or the operation thereof.”.

(3) by striking “BUILDINGS PLACED IN SERVICE AFTER 1987” in the heading for paragraph (2) and inserting “ALTERNATIVE APPLICABLE PERCENTAGE”, and

(4) by striking “In the case of any qualified low-income building placed in service by the taxpayer after 1987, the term ‘applicable percentage’ means” in paragraph (2)(A) and inserting “For purposes of paragraph (1), the term ‘alternative applicable percentage’ means”.

(b) MODIFICATION OF RULES RELATED TO FEDERAL SUBSIDIES.—

(1) IN GENERAL.—Paragraph (2) of section 42(i) (relating to determination of whether building is Federally subsidized) is amended to read as follows:

“(2) EXCEPTIONS FOR CERTAIN NEW BUILDINGS OTHERWISE SUBJECT TO 4 PERCENT CREDIT LIMITATION.—

“(A) ELECTION TO REDUCE ELIGIBLE BASIS BY PROCEEDS OF OBLIGATIONS.—A tax-exempt obligation shall not be taken into account under subsection (b)(1)(B)(ii) if the taxpayer elects to exclude the proceeds of such obligation from the eligible basis of the building for purposes of subsection (d).

“(B) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—A tax-exempt obligation used to provide construction financing for any building shall not be taken into account under subsection (b)(1)(B)(ii) if—

“(i) such obligation (when issued) identified the building for which the proceeds of such obligation would be used, and

“(ii) such obligation is redeemed before such building is placed in service.”.

(2) CONFORMING AMENDMENT.—Section 1400N(c)(6) is amended by striking “December 31, 2010” and inserting “the date of the enactment of the Affordable Housing Investment Act of 2008”.

SEC. 103. INCREASE IN CREDIT FOR BUILDINGS IN STATE DESIGNATED AREAS.

(a) IN GENERAL.—Clause (i) of section 42(d)(5)(C) (relating to increase in credit for buildings in high cost areas) is amended by striking “or difficult development area” and inserting “, difficult development area, or State designated project”.

(b) STATE DESIGNATED PROJECT.—Subparagraph (C) of section 42(d)(5) is amended by adding at the end the following new clause:

“(v) STATE DESIGNATED PROJECT.—For purposes of this subparagraph, the term ‘State designated project’ means any project published as part of a State’s qualified allocation plan (as defined in subsection (m)(1)(B)) and designated by the housing credit agency as meeting such criteria for designation under this clause as the State in which such project is located may specify. The rules of clauses (ii)(II) and (iii)(II) shall not apply for purposes designations made under this clause.”.

(c) CONFORMING AMENDMENT.—The heading of subparagraph (C) of section 42(d)(5) is amended by striking “BUILDINGS IN HIGH COST AREAS” and inserting “CERTAIN BUILDINGS”.

SEC. 104. MODIFICATION OF SCATTERED SITE RULE.

Paragraph (7) of section 42(g) (relating to scattered site projects) is amended to read as follows:

“(7) SCATTERED SITE PROJECTS.—Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if the rent-restricted (within the meaning of paragraph (2)) residential units of such project are distributed among such buildings in proportion to the number of residential units in each building.”.

SEC. 105. TREATMENT OF RURAL PROJECTS.

Section 42(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

“(8) TREATMENT OF RURAL PROJECTS.—For purposes of this section, in the case of any project for residential rental property located in a rural area (as defined in section 520 of the Housing Act of 1949), any income limitation measured by reference to area median gross income shall be measured by reference to the greater of area median gross income or national non-metropolitan median income.”.

SEC. 106. EXPANSION OF ALLOWABLE BASIS FOR COMMUNITY SERVICE FACILITIES.

Section 42(d)(4)(C) (relating to inclusion of basis of property used to provide services for certain nontenants) is amended—

(1) by striking “10 percent of the eligible basis” in clause (ii) and inserting “20 percent of the first \$5,000,000 in eligible basis plus 10 percent of the remaining eligible basis”, and

(2) by adding at the end the following new flush sentences:

“For each calendar year beginning after 2008, the dollar amount in clause (ii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3), determined by substituting ‘calendar year 2007’ for ‘calendar year 1992’ in subparagraph (B) thereof. If any amount adjusted under the preceding sentence is not a multiple of \$100,000, such amount shall be rounded to the next lowest multiple of \$100,000.”.

TITLE II—IMPROVE COORDINATION WITH OTHER FEDERAL HOUSING PROGRAMS**SEC. 201. AFFORDABLE HOUSING CREDITS ALLOWED FOR SECTION 8 MODERATE REHABILITATION DEVELOPMENTS.**

Paragraph (2) of section 42(c) (relating to qualified low-income building) is amended by striking the last sentence.

SEC. 202. MODIFICATION TO LOW-INCOME HOUSING CREDIT RULES FOR REDUCTION OF ELIGIBLE BASIS BY GRANTS RECEIVED.

(a) IN GENERAL.—The Secretary of the Treasury shall modify Treasury Regulations section 1.42-16(b) to provide that none of the following shall be considered a grant made with respect to a building or its operation for purposes of section 42(d)(5)(A) of the Internal Revenue Code of 1986:

(1) Rental assistance under section 521 of the Housing Act of 1949 (42 U.S.C. 1490a).

(2) Assistance under section 538(f)(5) of the Housing Act of 1949 (42 U.S.C. 1490p-2(f)(5)).

(3) Interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1).

(4) Rental assistance under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

(5) Rental assistance under section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

(6) Modernization, operating, and rental assistance pursuant to section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132).

(7) Assistance under title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.).

(8) Tenant-based rental assistance under section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742).

(9) Assistance under the AIDS Housing Opportunity Act (42 U.S.C. 12901 et seq.).

(10) Per diem payments under section 2012 of title 38, United States Code.

(11) Rent supplements under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(12) Assistance under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r).

(13) Any other ongoing payment used to enable the property to be rented to low-income tenants.

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

(c) NO INFERENCE.—Nothing contained in subsection (a) may be construed to create any inference with respect to the consideration of any program specified under subsection (a) as a grant made with respect to a building or its operation for purposes of section 42(d)(5)(A) of the Internal Revenue Code of 1986 as in effect on the day before such date of enactment.

TITLE III—FACILITATE PRIVATE INVESTMENT CAPITAL TO INCREASE THE EFFICIENCY OF AFFORDABLE HOUSING INVESTMENT**SEC. 301. REPEAL OF RECAPTURE BOND RULE.**

(a) IN GENERAL.—Paragraph (6) of section 42(j) (relating to recapture of credit) is amended to read as follows:

“(6) NO RECAPTURE ON DISPOSITION OF BUILDING (OR INTEREST THEREIN) REASONABLY EXPECTED TO CONTINUE AS A QUALIFIED LOW-INCOME BUILDING.—

“(A) IN GENERAL.—In the case of a disposition of a building or an interest therein, the taxpayer shall be discharged from liability for any additional tax under this subsection by reason of such disposition if it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

“(B) STATUTE OF LIMITATIONS.—

“(i) EXTENSION OF PERIOD.—The period for assessing a deficiency attributable to the application of subparagraph (A) with respect to a building (or interest therein) during the compliance period with respect to such building shall not expire before the expiration of 3 years after the end of such compliance period.

“(ii) ASSESSMENT.—Such deficiency may be assessed before the expiration of the 3-year period referred to in clause (i) notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.”.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050V the following new section:

“SEC. 6050W. RETURNS RELATING TO PAYMENT OF LOW-INCOME HOUSING CREDIT REPAYMENT AMOUNT.

“(a) REQUIREMENT OF REPORTING.—Every person who, at any time during the taxable year, is an owner of a building (or an interest therein)—

“(1) which is in the compliance period at any time during such year, and

“(2) with respect to which recapture is required by section 42(j),

shall, at such time as the Secretary may prescribe, make the return described in subsection (b).

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of each person who, with respect to such building or interest, was formerly an investor in such owner at any time during the compliance period,

“(B) the amount (if any) of any credit recapture amount required under section 42(j), and

“(C) such other information as the Secretary may prescribe.

“(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

“(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished on or before March 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(d) COMPLIANCE PERIOD.—For purposes of this section, the term ‘compliance period’ has the meaning given such term by section 42(i).”.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) (relating to definitions) is amended by inserting after clause (xxi) the following new clause:

“(xxii) section 6050W (relating to returns relating to payment of low-income housing credit repayment amount).”.

(B) Paragraph (2) of section 6724(d) is amended by striking “or” at the end of subparagraph (BB), by striking the period at the end of subparagraph (CC) and inserting “, or”, and by adding after subparagraph (CC) the following new subparagraph:

“(DD) section 6050W (relating to returns relating to payment of low-income housing credit repayment amount).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

“Sec. 6050W. Returns relating to payment of low-income housing credit repayment amount.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to any liability for the credit recapture amount under section 42(j) of the Internal Revenue Code of 1986 that arises after the date of the enactment of this Act.

(2) SPECIAL RULE FOR LOW-INCOME HOUSING BUILDINGS SOLD BEFORE DATE OF ENACTMENT OF THIS ACT.—In the case of a building disposed of before the date of the enactment of this Act with respect to which the taxpayer posted a bond (or alternative form of security) under section 42(j) of the Internal Revenue Code of 1986 (as in effect before such date of enactment), the taxpayer may elect (by notifying the Secretary of the Treasury in writing)—

(A) to cease to be subject to the bond requirements under section 42(j)(6) of such Code, as in effect before such date of enactment, and

(B) to be subject to the requirements of section 42(j) of such Code, as amended by this section.

SEC. 302. AFFORDABLE HOUSING CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4) (relating to special rules for specified credits) is amended by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively, and by inserting after clause (i) the following new clause:

“(ii) the credit determined under section 42(a).”.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 303. INTEREST ON QUALIFIED MORTGAGE BONDS, QUALIFIED VETERANS' MORTGAGE BONDS, AND QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS EXEMPT FROM ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Clause (ii) of section 57(a)(5)(C) (relating to exception for qualified 501(c)(3) bonds) is amended to read as follows:

“(ii) EXCEPTION FOR CERTAIN BONDS.—For purposes of clause (i), the term ‘private activity bond’ shall not include—

“(I) any qualified 501(c)(3) bond (as defined in section 145);

“(II) any qualified mortgage bond (as defined in section 143(a));

“(III) any qualified veterans’ mortgage bond (as defined in section 143(b)); and

“(IV) any exempt facility bond (as defined in section 142(a)) issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds originally issued after the date of the enactment of this Act.

TITLE IV—HELP PRESERVE EXISTING AFFORDABLE HOUSING

SEC. 401. REPEAL OF 10-YEAR RULE FOR ACQUISITION HOUSING CREDITS.

(a) IN GENERAL.—Subparagraph (B) of section 42(d)(2) (relating to existing buildings) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(b) CONFORMING AMENDMENT.—Section 42(d) is amended by striking paragraph (6) and by redesignating paragraph (7) as paragraph (6).

SEC. 402. MODIFICATION OF RELATED PERSON RULE FOR AFFORDABLE HOUSING CREDIT.

(a) IN GENERAL.—Clause (iii) of section 42(d)(2)(D) (related to related person, etc.) is amended to read as follows:

“(iii) RELATED PERSON.—For purposes of subparagraph (B)(iii), a person (hereinafter in this subclause referred to as the ‘related person’) is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52.”.

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

TITLE V—SIMPLIFY ADMINISTRATION OF THE HOUSING CREDIT PROGRAM

SEC. 501. ELIMINATION OF CERTAIN ANNUAL RECERTIFICATIONS OF TENANT INCOMES.

Paragraph (8) of section 42(g) (relating to qualified low-income housing project) is amended—

(1) by striking “may waive” in the matter preceding subparagraph (A);

(2) by inserting “may waive” before “any recapture” in subparagraph (A); and

(3) by inserting “shall waive” before “any annual recertification” in subparagraph (B).

TITLE VI—CONFORM MULTIFAMILY HOUSING BOND RULES TO HOUSING CREDIT RULES

SEC. 601. COORDINATION OF CERTAIN RULES APPLICABLE TO AFFORDABLE HOUSING CREDIT AND QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS.

(a) DETERMINATION OF NEXT AVAILABLE UNIT.—Paragraph (3) of section 142(d) (relating to current income determinations) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION FOR PROJECTS WITH RESPECT TO WHICH AFFORDABLE HOUSING CREDIT IS ALLOWED.—In the case of a project with respect to which credit is allowed under section 42, the second sentence of subparagraph (B) shall be applied by substituting ‘building (within the meaning of section 42)’ for ‘project.’.”.

(b) STUDENTS.—Paragraph (2) of section 142(d) (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

“(C) STUDENTS.—Students (as defined in section 152(f)(2)) shall not be treated as satisfying the requirements of subparagraph (A) or (B) of paragraph (1) except under rules similar to the rules of 42(i)(3)(D).”.

(c) SINGLE-ROOM OCCUPANCY UNITS.—Paragraph (2) of section 142(d) (relating to definitions and special rules), as amended by this Act, is further amended by adding at the end the following new subparagraph:

“(D) SINGLE-ROOM OCCUPANCY UNITS.—A unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit (within the meaning of section 42).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations of the status of qualified residential rental projects for periods beginning after the date of the enactment of this Act, with respect to bonds issued before, on, or after such date.

TITLE VII—IMPROVE THE MORTGAGE REVENUE BOND PROGRAM

SEC. 701. SPECIAL RULE FOR USE OF MORTGAGE BONDS FOR DISASTER VICTIMS, SINGLE PARENTS, AND HOMEMAKERS.

(a) IN GENERAL.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended by striking “and” at the end of subparagraph (C) and by inserting after subparagraph (D) the following new subparagraphs:

“(E) financing of residences for individuals with an ownership interest in a principal residence which—

“(i) is located in an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and

“(ii) has been rendered uninhabitable by reason of the major disaster,

“(F) financing of residences for individuals who—

“(i) are not married, and

“(ii) have one or more qualifying children (within the meaning of section 152), and

“(G) financing of residences for displaced homemakers.”.

(b) DISPLACED HOMEMAKERS.—Section 143(d) is amended by adding at the end the following new paragraph:

“(4) DISPLACED HOMEMAKER.—For purposes of paragraph (2)(G), the term ‘displaced homemaker’ means any individual who is—

“(A) over 18 years of age,

“(B) is not employed or underemployed and is experiencing difficulty in obtaining or upgrading employment, and

“(C) has not worked full-time full-year in the labor force for a number of years before the date on which financing for a residence is supplied, but has, during such years, worked primarily without remuneration to care for the home and family.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 702. REPEAL OF REQUIRED USE OF CERTAIN PRINCIPAL REPAYMENTS ON QUALIFIED MORTGAGE ISSUES TO REDEEM BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 143(a)(2) (relating to qualified mortgage issue defined) is amended by inserting “and” at the end of clause (ii), by striking “, and” at the end of clause (iii) and inserting a period, and by striking clause (iv) and the last sentence.

(b) CONFORMING AMENDMENT.—Clause (ii) of section 143(a)(2)(D) is amended by striking “(and clause (iv) of subparagraph (A))”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to repayments received after the date of the enactment of this Act.

TITLE VIII—EFFECTIVE DATE

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall apply to—

(1) housing credit dollar amounts allocated after the date of the enactment of this Act, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 458—EXPRESSING THE CONDOLENCES OF THE SENATE TO THOSE AFFECTED BY THE DEVASTATING SHOOTING INCIDENT OF FEBRUARY 14, 2008, AT NORTHERN ILLINOIS UNIVERSITY IN DEKALB, ILLINOIS

Mr. DURBIN (for himself, Mr. OBAMA, and Mr. HATCH) submitted the following resolution; which was considered and agreed to:

S. RES. 458

Whereas, on Thursday, February 14, 2008, a gunman entered a lecture hall on the campus